



600 NE Grand Ave.  
Portland, OR 97232-2736

## Council work session agenda

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Tuesday, September 19, 2017

2:00 PM

Metro Regional Center, Council Chamber

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**2:00 Call to Order and Roll Call**

**2:05 Chief Operating Officer Communication**

**Work Session Topics:**

2:10 Material Recovery Facility/Conversion Technology Project [17-4866](#)  
Update

Presenter(s): Paul Slyman, Metro  
Dan Blue, Metro

Attachments: [Work Session Worksheet](#)  
[Proposed Amendments to Metro Code Title V \(Chapter 5.00\)](#)  
[Proposed Amendments to Metro Code Title V \(Chapter 5.01\)](#)

2:40 Governance Options for Columbia River Levee System [17-4867](#)

Presenter(s): Andy Cotugno, Metro  
Jim Middaugh, Metro  
Scott Robinson, Metro

Attachments: [Work Session Worksheet](#)  
[Attachment A](#)  
[Attachment B](#)

**3:25 Councilor Liaison Updates and Council Communication**

**3:35 Adjourn**

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ការគោរពសិទ្ធិពលរដ្ឋរបស់ ។ សំរាប់ព័ត៌មានអំពីកម្មវិធីសិទ្ធិពលរដ្ឋរបស់ Metro ឬដើម្បីទទួលបានកម្មប្រព័ន្ធរើសអើងសូមចូលទស្សនាគេហទំព័រ [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights)។ បើលោកអ្នកត្រូវការអ្នកបកប្រែភាសានៅពេលអង្គប្រជុំសាធារណៈ សូមទូរស័ព្ទមកលេខ 503-797-1700 (ម៉ោង 8 ព្រឹកដល់ម៉ោង 5 ល្ងាច ថ្ងៃធ្វើការ) ប្រាំពីរថ្ងៃ ថ្ងៃធ្វើការ មុនថ្ងៃប្រជុំដើម្បីអាចឲ្យគេសម្រួលតាមសំណើរបស់លោកអ្នក ។

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**PROPOSED CODE AMENDMENTS RELATED TO MATERIAL  
RECOVERY FACILITY & CONVERSION TECHNOLOGY  
FACILITY REGULATION**

Metro Council Work Session  
Tuesday, September 19, 2017  
Metro Regional Center, Council Chamber

# METRO COUNCIL

## Work Session Worksheet

**PRESENTATION DATE:** September 19, 2017

**LENGTH:** 20 Minutes

**PRESENTATION TITLE:** Material Recovery Facility/Conversion Technology Project Update

**DEPARTMENT:** PES - SWICC

**PRESENTER(S):** Paul Slyman x1510 [Paul.Slyman@oregonmetro.gov](mailto:Paul.Slyman@oregonmetro.gov),  
Dan Blue x1863 [Dan.Blue@oregonmetro.gov](mailto:Dan.Blue@oregonmetro.gov)

### WORK SESSION PURPOSE & DESIRED OUTCOMES

- **Purpose:** Review proposed amendments to Metro Code Title V related to licensing and oversight of certain material recovery and conversion technology facilities that receive source-separated recyclable materials. Staff will also provide an overview of the extensive public engagement process.
- **Outcome:** Direction on whether to bring the proposed code changes before Metro Council for formal consideration in October.

### TOPIC BACKGROUND & FRAMING THE WORK SESSION DISCUSSION

Metro is tasked with planning, oversight, and management of the region's solid waste system. As such Metro has an obligation to make certain that the materials intended for reuse, recycling, and other purposes are handled properly and sent to appropriate and legitimate markets. Certain processing facilities have been largely exempted from Metro's licensing and oversight, creating different rules for similar types of facilities and limiting Metro's ability to ensure that solid waste, including source-separated recyclable materials, are handled properly. Metro is also obligated to ensure that solid waste facilities operate in a way that protects the health and safety of the public, local communities, and the environment.

At a work session held in October 2015, staff presented information on a wide range of potential code changes. Metro Council directed staff to implement a more rigorous process for considering substantive changes to Metro's solid waste code (Attachment A) and seek additional public input on the proposed changes. Council also requested that Metro's Solid Waste Alternative Advisory Committee (SWAAC) establish two subcommittees to separately consider: (1) Metro regulation of material recovery and conversion technology facilities that process source-separated recyclables; and (2) Metro's existing solid waste fee and tax exemption policies. The purpose of this work session topic is to provide an overview of proposed code amendments related to the regulation of material recovery and conversion technology facilities.

**Public Outreach and Input:** Staff conducted public outreach and solicited input on the proposed changes. Metro staff has provided status reports at two prior Council work session meetings. Following the direction given to staff at the October 2015 Metro Council work session, the public outreach for the proposed code changes included:

- SWAAC Review and SWAAC Subcommittee review :
  - December 2015 – SWAAC commissions subcommittee. Seven subcommittee meetings were held between January and October 2016.
  - October 2016 – Presented subcommittee recommendations and received endorsement from SWAAC.

- May 2017- Presented draft code changes and received SWAAC’s endorsement to publish for public review.
- August 2017– Reviewed public comments, Metro’s responses, and proposed revisions. Received SWAAC’s endorsement to present to Council at work session.
- Public Review and Comment Period:
  - 60-day public review and comment period open from May 15 through July 14, 2017.
  - Public workshops were held on May 31 and June 13 to review the proposals and answer questions.
  - Three public responses were received related to the proposed code changes.
  - Staff response to comments prepared for stakeholders and public (Attachment B).
- Other outreach:
  - Dedicated Metro web page used for proposed Code change information and related documents at <http://www.oregonmetro.gov/regional-leadership/metro-advisory-committees/solid-waste-alternatives-advisory-committee/material>
  - Routine status updates and other correspondence sent to interested parties via email.

**Overview of Proposed amendments to Metro Code Chapters 5.00 and 5.01:**

The proposed amendments to code are shown in **Attachment A – Proposed Amendments to Metro Code Title V (Chapters 5.00 and 5.01)**. A summary of the proposed changes is provided below.

- 1. Metro Code Chapter 5.00 (Definitions):**
  - Add a definition for “conversion technology”
  - Add a definition for “specific material recycler”
- 2. Metro Code Chapter 5.01 (Facility Regulation):**
  - Removes licensing exemption for certain facilities that receive source-separated recyclable material
  - Establishes new exemption for “specific material recycler”
  - Establishes new exemption for certain conversion technology facilities
  - Updates references to “administrative rules”
- 3. Other non-substantive general housekeeping changes to Chapter 5.01**

**QUESTIONS FOR COUNCIL CONSIDERATION**

- Does the Metro Council have comments on the process used or general content of the proposed code changes?
- Should staff proceed and bring the proposed code changes to Council for formal consideration at the October 5<sup>th</sup> council meeting?

**PACKET MATERIALS**

- Would legislation be required for Council action  Yes  No
- If yes, is draft legislation attached?  Yes  No
- What other materials are you presenting today? **Public Comments and Staff Responses, Proposed Amendments to Metro Code Chapters 5.00 & 5.01**

## 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 have the meaning indicated:

**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. This term does not include operations or functions that serve to support the primary activity, such as segregation.

**Agronomic application rate** means land application of no more than the optimum quantity per acre of compost, sludge or other materials. In no case may the application adversely impact the waters of the State. The application must be designed to:

- (1) Provide the amount of nutrient, usually nitrogen, needed by crops or other plantings, to prevent controllable loss of nutrients to the environment;
- (2) Condition and improve the soil comparable to that attained by commonly used soil amendments; or
- (3) Adjust soil pH to desired levels.

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

**Authorized official** means a person authorized to issue citations under Chapter 5.09.

**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.

**Business recycling service customer** means a person who enters into a service agreement with a waste hauler or recycler for business recycling services.

**Chief Operating Officer** means the Metro Chief Operating Officer or the Chief Operating Officer's designee.

**Clean fill** means material consisting of soil, rock, concrete, brick, building block, tile or asphalt paving that does not contain contaminants that could adversely impact the waters of the State or public health. This term does not include putrescible waste, cleanup material, construction and demolition waste, or industrial waste.

**Cleanup material** means solid waste resulting from the excavation or cleanup of releases of hazardous substances into the environment, including street sweeping waste, non-hazardous contaminated soils that do not qualify as clean fill (such as petroleum contaminated soils) and contaminated debris resulting from the cleanup of chemical spills or releases. This term does not include solid waste generated by manufacturing or industrial processes.

**Closure** means restoring a solid waste facility or a disposal site to its condition before licensed or franchised solid waste activities began at the site. Closure includes, but is not limited to, the removal of all accumulations of solid waste and recyclable materials from the site.

**Code** means the Metro Code.

**Community enhancement fee** or **enhancement fee** means the fee collected in addition to general disposal rates that pays for rehabilitation and enhancement projects in the areas surrounding solid waste facilities and disposal sites.

**Compost** means the stabilized product of composting.

**Composting** means the controlled biological decomposition of organic material.

**Conditionally exempt generator (CEG)** means a conditionally exempt small quantity generator as defined in 40 CFR 261.5.

**NEW: Conversion technology facility** means a facility that uses primarily chemical or thermal processes other than melting (changing from solid to liquid through heating without changing chemical composition) to produce fuels, chemicals, or other useful products from solid waste. These chemical or thermal processes include, but are not limited to, distillation, gasification, hydrolysis, pyrolysis, thermal depolymerization, transesterification and animal rendering, but do not include direct combustion, composting, anaerobic digestion, melting, or mechanical recycling. Mills that primarily use mechanical recycling or melting to recycle materials back into similar materials are not considered to be conversion technology facilities, even if they use some chemical or thermal processes in the recycling process.

**Council** means the Metro Council.

**DEQ** means the Department of Environmental Quality of the State of Oregon.

**Department** means Metro's Property and Environmental Services Department.

**Designated facility** means a facility in the system of solid waste facilities and disposal sites that Metro authorizes under Chapter 5.05 to accept waste generated within the jurisdiction of Metro.

**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 Chapter 5.01.

**Disposal fee** means a fee that pays the direct unit costs of transportation and disposal of general purpose solid waste.

**Disposal site** means the land, buildings, and equipment used for the disposal of solid waste whether or not open to the public. This term does not include a solid waste facility.

**Electronic device** means:

- (1) A computer monitor of any type having a viewable area greater than four inches measured diagonally;
- (2) A desktop computer or portable computer;
- (3) A television of any type having a viewable area greater than four inches measured diagonally; or
- (4) Any part of a clothes washer, clothes dryer, refrigerator, freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier or air purifier.

**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 another form of energy.

**Facility** means the land, buildings, and equipment used for an activity.

**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 authorization under Chapter 5.01.

**Franchisee** means the holder of a current, validly issued franchise granted by the Council under Chapter 5.01.

**Franchise fee** means the fee Metro charges the franchisee for the administration of the franchise.

**Hazardous substance** means any substance defined as a hazardous substance pursuant to Section 101(14) of the federal Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 USC 9601 et seq., oil, as defined in ORS 465.200, and any substance designated by DEQ under ORS 465.400.

**Hazardous waste** has the meaning provided in ORS 466.005.

**Hearings officer** means a person that Metro designates to hear and decide cases under this title.

**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.



**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.

**License** means the permission given by the Council or Chief Operating Officer to operate a solid waste facility not otherwise exempted or requiring a franchise under Chapter 5.01.

**Licensee** means the holder of a current, validly issued license granted by the Council or Chief Operating Officer under Chapter 5.01.

**Limited capacity landfill** means a landfill that has sought a site development plan amendment for expansion of the landfill capacity from the Oregon Department of Environmental Quality, and has not received approval from the Department by May 25, 2017, or the equivalent determination in another state. [Ord. 17-1401, Sec. 2.]

**Local government** means any city or county that is within Metro's jurisdiction, including the unincorporated areas of Clackamas, Multnomah, and Washington Counties.

**Local government action** means adoption of any ordinance, order, regulation, contract, or program affecting solid waste management.

**Material recovery** means a type of resource recovery that is limited to manual or mechanical methods of obtaining material from solid waste that still has useful physical or chemical properties and can be reused, recycled, or composted for some purpose. Material recovery includes obtaining material from solid waste that is used in the preparation of fuel, but excludes the extraction of heat content or other forms of energy from the material.

**Medical waste** means solid waste that is generated as a result of patient diagnosis, treatment or immunization of human beings or animals.

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

**Metro South Station** is the Metro solid waste transfer and recycling station located at 2001 Washington Street, Oregon City, Oregon 97045.

**New landfill** means a landfill that receives its initial permission from DEQ to receive solid waste on or after May 25, 2017, or the equivalent determination in another state. [Ord. 17-1401, Sec. 2.]

**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.

**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 term includes construction and demolition waste. This term does not include cleanup material, source-separated recyclable materials, special waste, land clearing debris or yard debris.

**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 if the facility is not part of the system.

**Non-system license** means the permission given by the Council or Chief Operating Officer to transport solid waste generated within the Metro boundary to a non-system facility.

**Person** has the same meaning as in Metro Code Section 1.01.040. For any person other than an individual, the acts of the person's employees, contractors, and authorized agents are considered the acts of the person.

**Petroleum contaminated soil** means soil into which hydrocarbons, including gasoline, diesel fuel, bunker oil or other petroleum products have been released. This term does not include soil that is contaminated with petroleum products but also contaminated with hazardous waste or radioactive waste.

**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. This term does not include incineration or mechanical volume reduction techniques such as baling and compaction.

**Processing facility** means a facility where or by which solid wastes are processed. This term 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.

**Processing residual** means the solid waste that remains after resource recovery has occurred and which is intended for disposal.

**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.

**Putrescible waste** means waste containing putrescible material.

**Radioactive waste** means the same as defined in ORS 469.300.

**Rate** means the amount that Metro approves and that the franchisee charges, excluding the regional system fee and franchise fee.

**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. This term does not include mass burning, incineration in refuse derived fuel facilities, and similar methods of extracting energy from mixed solid wastes.

**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).

**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.

**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. This term does not include a facility that processes source-separated recyclable materials.

**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.

**Regional system fee** means a fee that pays the costs for all associated Metro solid waste services related to management of the entire recycling, processing and disposal system.

**Reload** means the activity of receiving solid waste for the purpose of consolidating and transferring it to a solid waste facility.

**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.

**Residence** means the place where a person lives.

**Resource recovery** means a process by which useful material or energy resources are obtained from solid waste.

**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.

**RSWMP requirement** means the portions of the Regional Solid Waste Management Plan that are binding on local governments as set forth in Chapter 5.10.

**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.

**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; and other such wastes, including without limitation cleanup materials, commingled recyclable material, petroleum

contaminated soil, special waste, source-separated recyclable material, land clearing debris and yard debris. This term does not include:

- (1) Hazardous wastes;
- (2) Radioactive wastes;
- (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.

**Solid waste disposal transaction** means a customer's use of a Metro transfer station disposal facility, hazardous waste facility, or household hazardous waste collection event, 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). A solid waste disposal transaction occurs when a customer enters a Metro transfer station facility, hazardous waste facility, or household hazardous waste collection event.

**Solid waste facility** means a facility at which solid waste is received for transfer, resource recovery, and/or processing. The term does not include disposal sites.

**Solid waste system facility** means a facility that Metro designates as part of Metro's system for the management and disposal of solid and liquid waste. This term includes, but is 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.

**Source separate** or **source separated** or **source separation** means that the person who last uses recyclable material separates the recyclable material from solid waste.

**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.

**Special waste** means any waste (even though it may be part of a delivered load of waste) that falls within one or more of the following categories:

- (1) Containerized waste (e.g., a drum, barrel, portable tank, box, pail, etc.) of a type listed in 3 through 9 or 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) that once held commercial products or chemicals, unless the containers (or drums) are empty as provided in 40 CFR 261.7(b)(1).
- (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 such 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.

**NEW** **Specific material recycler** means a facility that processes a single type of non-putrescible recyclable material that holds intrinsic value in established reuse or recycling markets. These materials include, but are not limited to, scrap metal, plastic, paper, or other similar commodities. This term does not include a facility that processes commingled

source-separated recyclables collected through curbside residential or commercial collection programs.

**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.

**State** means the State of Oregon.

**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.

**System** means all facilities that Metro designates as part of its system for the management and disposal of solid and liquid waste. This includes, but is not limited to, the following:

- (1) Recycling and other volume reduction facilities;
- (2) Landfills, or other disposal means;
- (3) Resource recovery facilities (including steam production and electrical generating facilities using solid waste as fuel);
- (4) Recycling and transfer stations;
- (5) Roads, water lines, wastewater lines and treatment facilities to the extent used to carry out the provisions of ORS chapter 268 and other applicable laws of the state of Oregon;
- (6) All buildings, fixtures, equipment, real property and personal property that Metro owns, leases, operates or uses to dispose of solid and liquid waste;
- (7) Designated facilities as provided in Chapter 5.05.

**Transaction charge** means the fee that Metro imposes for each transaction at a Metro transfer station to pay for related scalehouse costs.

**Transfer** means the activity of receiving solid waste for purposes of transferring it 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. This term does not include resource recovery or other processing of solid waste.

**Transfer station** means a solid waste facility whose primary activity includes, but is not limited to, the transfer of solid waste to a disposal site.

**Unacceptable waste** means waste that is either:

- (1) Prohibited from disposal at a disposal site by state or federal law, regulation, rule, code, permit or permit condition; or
- (2) Special waste without an approved special waste permit.

**Useful material** means material that still has 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). For purposes of this Code, cleanup materials are not useful materials. Types of useful materials include, but are not limited to:

- (1) Material that can be reused;
- (2) Recyclable material;
- (3) Organic material(s) suitable for controlled biological decomposition (such as for making compost);
- (4) Material used in the preparation of fuel;
- (5) Material intended to be used, and which is in fact used, for construction or land reclamation (such as inert material for fill);
- (6) Material intended to be used, and which is in fact used, productively in landfill operations (such as roadbeds or alternative daily cover).

**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.

**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” also includes any such material even if it is broken, recoverable, or recyclable.

**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 by such person or others within the Metro boundary.

**Waste 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.

**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.

**Yard debris** means vegetative and woody material generated from residential or commercial landscaping activities. Yard debris includes landscape waste, grass clippings, leaves, hedge trimmings, branches, sod, scrapings, stumps and other vegetative waste having similar properties. This term does not include other solid waste such as soil, demolition debris, painted or treated wood waste. [Ord. 81 111, Sec. 2; Ord. 82-146, Sec. 2; Ord. 86-210, Sec. 1; Ord. 88-257, Sec. 2; Ord. 88-278, Sec. 1; Ord. 89-269, Sec. 2; Ord. 89-295, Sec. 1; Ord. 89-319; Ord. 90-337, Sec. 2; Ord. 90-372, Sec. 1; Ord. 91-386C, Sec. 2; Ord. 91-388, Secs. 1 and 8; Ord. 91 422B, Sec. 1; Ord. 92-455B, Sec. 1; Ord. 92-473A, Sec. 1; Ord. 93-482, Sec. 1; Ord. 94-531, Sec. 2; Ord. 94-557; Ord. 95-597, Sec. 1; Ord. 95-621A, Sec. 2; Ord. 97-681B, Sec. 1; Ord. 98-720A, Sec. 2; Ord. 98 762C, Secs. 1 and 54; Ord. 00 866, Sec. 1; Ord. 00-867, Secs. 1-2; Ord. 00-873, Sec. 1; Ord. 00-876A, Sec. 1; Ord. 01-907A, Sec. 1; Ord. 01 914, Sec. 1; Ord. 01 916C, Sec. 1; Ord. 01-917, Sec. 1; Ord. 02-937A, Sec. 3; Ord. 02-951B, Sec. 1; Ord. 02 974, Sec. 1; Ord. 03 1018A, Sec. 1; Ord. 03-1019, Sec. 1; Ord. 06 1101; Ord. 06-1103, Sec. 1; Ord. 06-1107; Ord. 07-1147B, Secs. 1, 5 and 9; Ord. 08-1183A; Ord. 08-1200; Ord. 12-1272, Secs. 1-2; Ord. 12-1277, Sec. 4; Ord. 13-1306, Sec. 1; Ord. 13-1311; Ord. 14-1323, Sec. 6; Ord. 14-1331; Ord. 16-1386.]



## CHAPTER 5.01

### SOLID WASTE FACILITY REGULATION

#### DRAFT CHANGES FOR MRF/CT

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- 5.01.230 – Additional Provisions Relating to the Licensing of Yard Debris Processing  
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(Repealed Ord. 98-762C Sec. 29)
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(Repealed Ord. 12-1272 Sec. 4)
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(Repealed Ord. 98-762C Sec. 42)
- 5.01.210 Acceptance of Tires at a Disposal Site  
(Repealed Ord. 98-762C Sec. 48)
- 5.01.220 Additional Provisions Relating to Issuance of a Franchise for a Facility  
Processing Petroleum Contaminated Soil  
(Repealed Ord. 98-762C Sec. 48)
- 5.01.400 Treatment of Existing Licenses and Franchises  
(Repealed Ord. 03-1018A Sec. 23)

## **GENERAL PROVISIONS**

### **5.01.010 Purpose**

- (a) This chapter governs the regulation of solid waste disposal sites and solid waste facilities within Metro. The purposes of this chapter are to:
  - (1) Protect and preserve the health, safety and welfare of Metro's residents;
  - (2) Implement the Regional Solid Waste Management Plan cooperatively with federal, state and local agencies;
  - (3) Provide a coordinated regional disposal and resource recovery program and a solid waste management plan to benefit all citizens of Metro; and
  - (4) Reduce the volume of solid waste disposal through source reduction, recycling, reuse and resource recovery.
- (b) The provisions of this chapter shall be liberally construed to accomplish these purposes. [Ord. 81-111, Sec. 3; Ord. 95-621A, Sec. 2; Ord. 98-762C, Secs. 2-3; Ord. 02-974; Ord. 16-1387.]

### **5.01.020 Authority and Jurisdiction**

- (a) Metro's solid waste regulatory authority is derived from the Oregon Constitution, ORS Chapter 268 for solid waste and the Metro Charter. It includes authority to regulate solid waste generated or disposed within Metro and all solid waste facilities located within Metro.
- (b) All solid waste regulation is 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. [Ord. 98-762C, Secs. 4-5; Ord. 02-974; Ord. 16-1387.]

### **5.01.030 Prohibited Activities**

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

- (a) 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) 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) A licensee or franchisee to receive, process or dispose of any solid waste unless authorized by the license or franchise.

- (d) Any person to 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 licensee or franchisee or is otherwise exempt under Section 5.01.040.
- (e) A licensee or franchisee to violate or fail to meet the rules, performance standards, procedures, and forms adopted pursuant to Section 5.01.280.
- (f) Any person to treat or dispose of petroleum contaminated soil by ventilation or aeration except at the site of origin.
- (g) Any person to store electronic device waste uncovered and outside of a roofed structure. [Ord. 81-111, Sec. 4; Ord. 87-217, Sec. 1; Ord. 95-621A, Sec. 3; Ord. 98-762C, Sec. 6; Ord. 02-974; Ord. 03-1018A, Sec. 2; Ord. 06-1102, Sec. 1; Ord. 16-1387.]

### 5.01.040 Exemptions to Prohibited Activities

- (a) The provisions of this chapter do 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, except that Metro must pay regional system fees per Section 5.01.300.
  - ~~(3) Facilities that (A) exclusively receive non-putrescible source-separated recyclable materials, and (B) reuse or recycle those materials, or transfer, transport or deliver those materials to a person or facility that will reuse or recycle them.~~
  - ~~(3)~~ Facilities that exclusively receive, process, transfer or dispose of inert waste.
  - ~~(4)~~ Conversion technology facilities that exclusively receive non-putrescible waste for use as feedstock that has been (A) extracted from other solid waste and (B) processed to meet prescribed specifications for direct introduction into a conversion technology process.
  - ~~(5)~~ Specific material recyclers that receive and process a single type of non-putrescible recyclable material that holds intrinsic value in established reuse and recycling markets such as scrap metal, plastic, paper, or other similar commodities.
  - ~~(4)(6)~~ Persons who generate and maintain residential compost piles for residential garden or landscaping purposes.
  - ~~(5)(7)~~ Residences, parks, community gardens and homeowner associations.
  - ~~(6)(8)~~ 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.
  - ~~(7)(9)~~ An operation or facility that processes wood wastes, unless:

- (A) The wood wastes are processed for composting; or
- (B) The operation or facility is other-wise regulated under this chapter.

~~(8)~~(10) 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, provided that Metro finds an emergency situation exists.

~~(9)~~(11) 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 must comply with Sections 5.01.030(a), (b), (d) and (f).
- (c) The provisions of Section 5.01.290 apply to the activities and facilities described in Sections 5.01.040(a)(3) through 5.01.040(a)(10). [Ord. 81-111, Sec. 5; Ord. 82-136, Sec. 1; Ord. 91-422B, Sec. 2; Ord. 95-621A, Sec. 4; Ord. 98-762C, Sec. 7; Ord. 00-866, Sec. 2; Ord. 02-933, Sec. 1; Ord. 02-974; Ord. 03-1018A, Sec. 3; Ord. 06-1102, Sec. 2; Ord. 07-1147B, Sec. 2; Ord. 16-1387.]

## **APPLICATIONS FOR SOLID WASTE FACILITY LICENSES**

### **5.01.050 License Requirements and Fees**

- (a) A Metro solid waste license is required of any person owning or controlling a facility at which the person performs any of the following activities:
  - (1) Processing non-putrescible waste.
  - (2) Processing 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 of yard debris or yard debris mixed with residential food waste.
  - (4) Reloading solid waste.
  - (5) Processing wood waste for use as an industrial fuel if such facility is otherwise regulated under this chapter.
- (b) The annual fee for a solid waste license may not exceed \$300.00.
- (c) The application fee for a new or renewal license is \$300.00. The application fee is due at the time of filing.
- (d) The annual solid waste license fee is in addition to any other fee, tax or charge imposed upon a licensee.
- (e) The licensee must pay the license fee in the manner and at the time required by the Chief Operating Officer. [Ord. 81-111, Sec. 15; Ord. 98-762C, Secs. 8-9; Ord. 98-762C, Sec. 40; Ord. 98-767, Sec. 5; Ord. 00-866, Sec. 3; Ord. 02-933, Sec. 2; Ord. 02-974; Ord. 03-1018A, Sec. 4; Ord. 14-1332; Ord. 16-1387.]

### **5.01.060 Pre-Application Conference for Licenses**

- (a) An applicant for a new license must attend a pre-application conference. The purpose of the conference is to provide the applicant with information regarding the requirements for the proposed facility and to have the applicant describe the proposed facility's location, site conditions and operations.
- (b) If an applicant for a new license does not file an application for a license within one year from the date of the pre-application conference, the applicant must attend a subsequent pre-application conference before filing another application. [Ord. 98-762C, Secs. 11-12; Ord. 02-974; Ord. 14-1332; Ord. 16-1387.]

### **5.01.070 Applications for Licenses**

- (a) An applicant for a new or renewal license must file the application on forms or in the format required by the Chief Operating Officer.
- (b) The applicant must include a description of the activities the applicant proposes to conduct and a description of the waste it seeks to accept.
- (c) A license application must also include the following information:
  - (1) Proof that the applicant can obtain the types of insurance specified by the Chief Operating Officer during the license term;
  - (2) A copy of all applications for necessary DEQ permits, any other information required by or submitted to DEQ, and a copy of any DEQ permits;
  - (3) A copy of any closure plan that DEQ requires, including documents demonstrating financial assurance for the costs of closure. If DEQ does not require a closure plan, the applicant must provide a closure document describing closure protocol for the solid waste facility at any point in its active life;
  - (4) Signed consent by the property owner(s) agreeing to the proposed property use. The consent must also disclose the applicant's property interest and the duration of that interest. The consent must include a statement that the property owner(s) have read and agree to be bound by the provisions of Section 5.01.320(f) if Metro revokes the license or refuses any license renewal;
  - (5) Proof that the applicant has received proper land use approval; or, if the applicant has not obtained land use approval, then 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. The 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

- (6) Any current permit and a list of anticipated permits that a governmental agency may require. If the applicant has previously applied for a permit, the applicant must provide a copy of that permit application and any permit that any other government agency granted. [Ord. 81-111, Sec. 7; Ord. 82-136, Sec. 2; Ord. 91-422B, Sec. 3; Ord. 95-621A, Sec. 5; Ord. 98-762C, Sec. 13; Ord. 00-866, Sec. 4; Ord. 02-974; Ord. 03-1018A, Sec. 5; Ord. 04-1056, Sec. 1; Ord. 05-1093, Sec. 1; Ord. 06-1098B, Sec. 1; Ord. 06-1101; Ord. 07-1139, Sec. 1; Ord. 07-1161, Sec. 1; Ord. 14-1332; Ord. 16-1387.]

### **5.01.080 License Issuance**

- (a) The Chief Operating Officer may approve or deny license applications and impose conditions on any approved license as the Chief Operating Officer considers appropriate.
- (b) The Chief Operating Officer may make any investigation regarding the application information as the Chief Operating Officers considers appropriate. This includes the right of entry onto the applicant's proposed site.
- (c) Before approving or denying a license application, the Chief Operating Officer must provide public notice and an opportunity for public comment on the license application.
- (d) The Chief Operating Officer will determine if the proposed license meets the requirements of Section 5.01.070 based on the:
- (1) Submitted application,
  - (2) Chief Operating Officer's investigation regarding the application information, and
  - (3) Public comments.
- (e) If the Chief Operating Officer does not approve or deny a new license application within 180 days after the applicant files a complete application, the license is deemed granted for the solid waste facility or activity requested in the application. The deadline for the Chief Operating Officer to approve or deny an application may be extended as provided in this section. If a license is issued pursuant to the subsection, then the license will contain the standard terms and conditions included in other comparable licenses issued by Metro.
- (f) At any time after an applicant files a complete license application, the deadline for the Chief Operating Officer to approve or deny the application is extended if:
- (1) The applicant substantially modifies the application during the review period, in which case the 180 days review period for the Chief Operating Officer to act is restarted as of the date Metro receives the applicant's modifications; or
  - (2) The applicant and Chief Operating Officer mutually agree to extend the deadline for a specified time period.
- (g) An applicant may withdraw its application at any time before the Chief Operating Officer's decision and may submit a new application at any time thereafter.

- (h) If the Chief Operating Officer denies a license request, the applicant may not file a new application for the same or substantially similar license for at least six months from the denial date. [Ord. 98-762C, Secs. 16-17; Ord. 02-974; Ord. 03-1018A, Sec. 8; Ord. 06-1098B, Sec. 2; Ord. 07-1138, Sec. 1; Ord. 07-1139, Sec. 2; Ord. 14-1332; Ord. 16-1387.]

### **5.01.090 License Contents**

- (a) A license will specify authorized activities, the types and amounts of wastes the solid waste facility may accept, and any other conditions the Chief Operating Officer imposes.
- (b) In addition to this section's requirements, if a license authorizes the licensee to accept mixed non-putrescible waste for the purpose of conducting material recovery or reloading, the license is subject to the rules, procedures, performance standards, design requirements, and operating requirements adopted pursuant to Section 5.01.280.
- (c) The license must require that the facility operate in a manner that meets the following general performance goals:
  - (1) Environment. It is designed and operated to avoid 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. It is designed and operated to avoid conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.
  - (3) Nuisances. It is designed and operated to avoid nuisance conditions including, but not limited to, litter, dust, odors, and noise.
  - (4) Material Recovery. Facilities that conduct material recovery on non-putrescible waste must be designed and operated to recover materials in a timely manner, to meet standards in Section 5.01.260, and to protect the quality of non-putrescible waste that has not yet undergone material recovery.
  - (5) Reloading. Facilities that reload non-putrescible waste must be designed and operated to rapidly and efficiently reload and transfer that waste to a Metro authorized processing facility while protecting the quality of non-putrescible waste that has not yet undergone material recovery.
  - (6) Record-keeping. A licensee must maintain complete and accurate records of the amount of all solid waste and recyclable materials that it receives, recycles, reloads or disposes.
- (d) A license term may not exceed five years, except that the Chief Operating Officer may extend the license term for up to one year. [Ord. 98-762C, Secs. 16-17; Ord. 02-974; Ord. 03-1018A, Sec. 8; Ord. 06-1098B, Sec. 2; Ord. 07-1138, Sec. 1; Ord. 07-1139, Sec. 2; Ord. 14-1332; Ord. 16-1387.]



### **5.01.100 Record-keeping and Reporting for Licenses**

- (a) A licensee must maintain accurate records of the information that the Chief Operating Officer requires. A licensee must report the required information on the forms, in the format and within the reporting periods and deadlines that the Chief Operating Officer establishes. The licensee or its authorized representative must sign the report and certify it as accurate.
- (b) A licensee must provide copies of any correspondence with any federal, state or local government agency related to the regulation of a solid waste facility within five days of the correspondence.
- (c) A licensee must maintain records of any written complaints received from the public or a customer and retain them for not less than one year. This includes, but is not limited to, information regarding the nature of the complaint, the complainant's name, address and phone number, the date the licensee received the complaint, and any response by the licensee to the complaint.
- (d) A licensee must retain all records required by this chapter for three years (except for the complaint records in subsection (c)) and make them available for inspection by the Chief Operating Officer.
- (e) Any information the licensee submits to Metro is public record and subject to disclosure pursuant to the Oregon Public Records Act, except that portion of the information that the licensee requests exception from disclosure consistent with Oregon Law. [Ord. 98-762C, Secs. 38-39; Ord. 02-974; Ord. 14-1332; Ord. 16-1387.]

### **5.01.110 License Renewal**

- (a) The Chief Operating Officer is responsible for approving or denying a solid waste facility license renewal. The Chief Operating Officer will approve or deny a license renewal consistent with this section.
- (b) A licensee must request a renewal license not less than 120 days before the license's expiration date. The Chief Operating Officer is not obligated to renew a license 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.
- (c) A licensee requesting a license renewal must:
  - (1) File a completed application for renewal;
  - (2) Pay a \$300.00 application fee; and
  - (3) Provide a statement of proposed material changes from the previous license application, along with any other information the Chief Operating Officer requires.
- (d) The Chief Operating Officer must approve a solid waste facility license renewal unless the Chief Operating Officer determines that the proposed renewal is not in the public interest. The Chief Operating Officer may attach conditions to any

renewed license. [Ord. 98-762C, Secs. 22-23; Ord. 98-767, Sec. 3; Ord. 02-974; Ord. 03-1018A, Sec. 11; Ord. 14-1332; Ord. 16-1387.]

#### **5.01.120 Transfer of Ownership or Control of Licenses**

- (a) A licensee must notify Metro within 10 days if the licensee leases, assigns, mortgages, sells or otherwise transfers control of the license to another person, whether whole or in part. The transferee of a license must meet the requirements of this chapter.
- (b) The term for any transferred license is for the remainder of the original term unless the Chief Operating Officer establishes a different term. [Ord. 81-111, Sec. 10; Ord. 98-762C, Sec. 24; Ord. 02-974; Ord. 03-1018A, Sec. 12; Ord. 14-1332; Ord. 16-1387.]

#### **5.01.130 Change of Authorizations for Licenses**

- (a) A licensee must submit an application pursuant to Section 5.01.070 when the licensee requests authority to:
  - (1) Accept wastes other than those the license authorizes, or
  - (2) Perform activities other than those the license authorizes, or
  - (3) Modify other limiting conditions of the applicant's license.
- (b) The licensee must file an application for a change in authorization or limits 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 does not substitute for an application that Metro would otherwise require under Section 5.01.050.
- (d) A licensee must notify Metro in writing when the licensee proposes to cease accepting authorized wastes or cease performing authorized activities at the solid waste facility or disposal site.
- (e) The application fee for changes of authorizations or limits is \$100.00. [Ord. 98-762C, Secs. 25-26; Ord. 98-767, Sec. 4; Ord. 02-974; Ord. 03-1018A, Sec. 13; Ord. 14-1332; Ord. 16-1387.]

#### **5.01.140 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 to protect public health, safety and welfare.
- (b) In order to grant a variance, the Chief Operating Officer must find that the licensee or applicant can achieve the purpose and intent of the particular license requirement without compliance and that compliance with the particular requirement:
  - (1) Is inappropriate because of conditions beyond the applicant's or licensee's control; or

- (2) Would be rendered extremely burdensome or highly impractical due to special physical conditions or causes.
- (c) A licensee or applicant must request a variance in writing and must concisely state why the Chief Operating Officer should grant the variance. The Chief Operating Officer may investigate the request as the Chief Operating Officer considers necessary.
- (d) The Chief Operating Officer must approve or deny the variance request within 60 days.
- (e) A request for a variance does not substitute for an application that Metro would otherwise require under Section 5.01.050.
- (f) If the Chief Operating Officer denies a variance request, the Chief Operating Officer must notify the person requesting the variance of the right to a contested case hearing pursuant to Code Chapter 2.05.
- (g) If the Chief Operating Officer denies a request for a variance, the requesting party may not file a new application for the same or substantially similar variance for at least six months from the date of denial. [Ord. 81-111, Sec. 12; Ord. 98-762C, Sec. 27; Ord. 02-974; Ord. 14-1332; Ord. 16-1387.]

## **APPLICATIONS FOR SOLID WASTE FACILITY FRANCHISES**

### **5.01.150 Franchise Requirements and Fees**

- (a) A Metro solid waste franchise is required of any person owning or controlling a facility at which the person performs any of the following activities:
  - (1) Processing putrescible waste other than yard debris and yard debris mixed with residential food waste.
  - (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 is \$500.00.
- (c) The franchise fee is in addition to any other fee, tax or charge imposed upon a franchisee.
- (d) The franchisee must pay the franchise fee in the manner and at the time required by the Chief Operating Officer.
- (e) The application fee for a new or renewal franchise is \$500.00. The application fee is due at the time of filing. [Ord. 98-762C, Secs. 8-9. Ord. 00-866, Sec. 3; Ord. 02-933, Sec. 2; Ord. 03-1018A, Sec. 4; Ord. 14-1332; Ord. 16-1387.]

### **5.01.160 Pre-Application Conference for Franchises**

- (a) An applicant for a new franchise must attend a pre-application conference. The purpose of the conference is to provide the applicant with information regarding the requirements for the proposed facility and to have the applicant describe the proposed facility's location, site conditions and operations.
- (b) If an applicant for a new franchise does not file an application for a franchise within one year from the date of the pre-application conference, the applicant must attend a subsequent pre-application conference before filing any application. [Ord. 98-762C, Secs. 11-12; Ord. 02-974; Ord. 14-1332; Ord. 16-1387.]

### **5.01.170 Applications for Franchises**

- (a) An applicant for a new or renewal franchise must file the application on forms or in the format required by the Chief Operating Officer.
- (b) The applicant must include a description of the activities the applicant proposes to conduct and a description of the waste it seeks to accept.
- (c) An application for a franchise must include the following information:
  - (1) Proof that the applicant can obtain the types of insurance specified by the Chief Operating Officer during the franchise term;
  - (2) A copy of all applications for necessary DEQ permits, any other information required by or submitted to DEQ, and a copy of any DEQ permits;
  - (3) A copy of any closure plan that DEQ requires, including documents demonstrating financial assurance for the cost of closure. If DEQ does not require a closure plan, the applicant must provide a closure document describing closure protocol for the solid waste facility at any point in its active life;
  - (4) Signed consent by the property owner(s) agreeing to the property's proposed use. The consent must also disclose the applicant's property interest and the duration of that interest. The consent must include a statement that the property owner(s) have read and agree to be bound by the provisions of Section 5.01.320(f) if Metro revokes the franchise or refuses any franchise renewal;
  - (5) Proof that the applicant has received proper land use approval; or, if the applicant has not obtained land use approval, then 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. The 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

- (6) Any current permit and a list of anticipated permits that any other governmental agency may require. If the applicant has previously applied for other permits, the applicant must provide a copy of the permit application and any permit that another governmental agency granted as a result.
- (d) An analysis of the factors described in Section 5.01.180(f) must accompany an application for a franchise. [Ord. 81-111, Sec. 7; Ord. 82-136, Sec. 2; Ord. 91-422B, Sec. 3; Ord. 95-621A, Sec. 5; Ord. 98-762C, Sec. 13; Ord. 00-866, Sec. 4; Ord. 02-974; Ord. 03-1018A, Sec. 5; Ord. 04-1056, Sec. 1; Ord. 05-1093, Sec. 1; Ord. 06-1098B, Sec. 1; Ord. 06-1101; Ord. 07-1139, Sec. 1; Ord. 07-1161, Sec. 1; Ord. 14-1332; Ord. 16-1387.]

### **5.01.180 Franchise Issuance**

- (a) The Chief Operating Officer will review franchise applications filed under Section 5.01.170. Council may approve or deny the franchise application.
- (b) The Chief Operating Officer may make any investigation regarding the application information as the Chief Operating Officer considers appropriate. This includes the right of entry onto the applicant's proposed site.
- (c) Upon the basis of the application, evidence submitted and results of the investigation, the Chief Operating Officer will make a recommendation regarding whether the:
  - (1) Applicant is qualified;
  - (2) Proposed franchise complies with the Regional Solid Waste Management Plan;
  - (3) Proposed franchise meets the requirements of Section 5.01.170; and
  - (4) Applicant has complied or can comply with all other applicable regulatory requirements.
- (d) The Chief Operating Officer will provide the recommendations required by subsection (c) to the Council, together with the Chief Operating Officer's recommendation regarding whether Council should grant or deny the application. If the Chief Operating Officer recommends that Council grant the application, the Chief Operating Officer may also recommend specific conditions of the franchise.
- (e) After Council receives the Chief Operating Officer's recommendation, the Council will 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, the order is effective immediately.
- (f) The Council will consider the following factors when determining whether to issue a franchise:
  - (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 will have on the cost of solid waste disposal and recycling services for the citizens of the region;
  - (3) Whether granting a franchise is likely to adversely affect the health, safety and welfare of Metro's residents in an unreasonable manner;
  - (4) Whether granting a franchise is likely to adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood in an unreasonable manner;
  - (5) Whether the applicant has demonstrated the strong likelihood that it will comply with all requirements and standards of this chapter, the administrative rules and performance standards adopted pursuant to Section 5.01.280 and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed franchise.
- (g) If the Council does not approve or deny a new franchise application within 180 days after the applicant files a complete application the franchise is deemed granted for the solid waste facility or disposal site requested in the application. The deadline for the Council to approve or deny an application may be extended as provided in this section. If a franchise is issued pursuant to the subsection, then the franchise will contain the standard terms and conditions included in other comparable franchises issued by Metro.
  - (h) At any time after an applicant files a complete franchise application, the deadline for the Council to approve or deny the application is extended if:
    - (1) The Council extends the deadline for up to an additional 60 days, which the Council may do only once for any single application;
    - (2) The applicant substantially modifies the application during the review period, in which case the 180 days review period for the Council to act is restarted as of the date Metro receives the applicant's modifications; or
    - (3) The applicant and Chief Operating Officer mutually agree to extend the deadline for a specified time period.
  - (i) An applicant may withdraw its application at any time before the Council's decision and may submit a new application at any time thereafter.
  - (j) If the Council denies a franchise request, the applicant may not file a new application for the same or substantially similar franchise for at least six months from the denial date.
  - (k) A franchise term may not exceed five years, except that the Chief Operating Officer may extend the term of a franchise for up to one year. [Ord. 98-762C, Secs. 19-20; Ord. 02-974; Ord. 03-1018A, Sec. 10; Ord. 07-1138, Sec. 2; Ord. 14-1332; Ord. 16-1387.]

### 5.01.190 Franchise Contents

- (a) The franchise is the Council's grant of authority to accept the waste and perform the activity or activities described in the franchise, the conditions under which these activities may take place and the conditions under which Metro may revoke the authority.
- (b) Franchises must be in writing and include:
  - (1) The term of the franchise;
  - (2) The specific activities the franchisee may perform and the types and amounts of waste the franchisee may accept at the solid waste facility;
  - (3) Any other conditions the Council considers necessary to ensure the franchisee complies with the intent and purpose of this chapter; and
  - (4) Indemnification of Metro in a form acceptable to the Metro Attorney.
- (c) A franchise that authorizes a franchisee to accept mixed non-putrescible waste for the purpose of conducting material recovery or reloading is subject to the rules, procedures, performance standards, design requirements, and operating requirements adopted pursuant to Section 5.01.280. The franchise must require that the facility operate in a manner that meets the following general performance goals:
  - (1) Environment. It is designed and operated to avoid 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. It is designed and operated to avoid conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.
  - (3) Nuisances. It is designed and operated to avoid nuisance conditions including, but not limited to, litter, dust, odors, and noise.
  - (4) Material Recovery. Facilities that conduct material recovery on non-putrescible waste must be designed and operated to recover materials in a timely manner, to meet standards in Section 5.01.260, and to protect the quality of non-putrescible waste that has not yet undergone material recovery.
  - (5) Reloading. Facilities that reload non-putrescible waste must be designed and operated to rapidly and efficiently reload and transfer that waste to a Metro authorized processing facility while protecting the quality of non-putrescible waste that has not yet undergone material recovery.
  - (6) Record-keeping. A franchisee must maintain complete and accurate records of the amount of all solid waste and recyclable materials that it receives, recycles, reloads or disposes. [Ord. 98-762C, Secs. 19-20; Ord. 02-974; Ord. 03-1018A, Sec. 10; Ord. 07-1138, Sec. 2; Ord. 14-1332; Ord. 16-1387.]

### **5.01.200 Record-keeping and Reporting for Franchises**

- (a) A franchisee must maintain accurate records of the information the Chief Operating Officer requires and report that information on the forms or in the format and within the reporting periods and deadlines that the Chief Operating Officer establishes. A franchisee's authorized representative must sign the report and certify it as accurate.
- (b) A franchisee must provide copies of any correspondence with any federal, state or local government agency related to the regulation of a solid waste facility within five days of the correspondence.
- (c) A franchisee must maintain records of any written complaints received from the public or a customer and retain them for not less than one year. This includes, but is not limited to, information regarding the nature of the complaint, the complainant's name, address and phone number, the date the franchisee received the complaint, and any response by the franchisee to the complaint.
- (d) A franchisee must retain all records required by this chapter (except for the complaint records in subsection (c)) for three years and allow the Chief Operating Officer to inspect them.
- (e) All information that the franchisee submits to Metro is public record and subject to disclosure pursuant to the Oregon Public Records Act, except that portion of the information that the franchisee requests exception from disclosure consistent with Oregon Law. [Ord. 14-1332; Ord. 16-1387.]

### **5.01.210 Franchise Renewal**

- (a) The Council approves or denies solid waste facility franchise renewals. A franchisee seeking renewal of a franchise must:
  - (1) File a completed application for renewal;
  - (2) Pay a \$500.00 application fee not less than 120 days before the franchise term expires; and
  - (3) Provide a statement of proposed material changes from its initial application for the franchise, along with any other information the Chief Operating Officer or the Council requires.
- (b) The Chief Operating Officer will make a recommendation regarding whether the renewal meets the criteria in Section 5.01.180. The Council must 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 outlined in Section 5.01.180. The Council may attach conditions or limitations to the renewed franchise.
- (c) The Council is not obligated to renew a franchise earlier than the franchise's expiration date even if the franchisee files a renewal request more than 120 days before the existing franchise expires. [Ord. 98-762C, Secs. 22-23; Ord. 98-767, Sec. 3; Ord. 02-974; Ord. 03-1018A, Sec. 11; Ord. 14-1332; Ord. 16-1387.]



### **5.01.220 Transfer of Ownership or Control of Franchises**

- (a) A franchisee must notify Metro within 10 days if the franchisee leases, assigns, mortgages, sells or otherwise transfers control of the franchise to another person, whether whole or in part. The transferee of a franchise must meet the requirements of this chapter.
- (b) The term for any transferred franchise is for the remainder of the original term unless the Council establishes a different term. [Ord. 81-111, Sec. 10; Ord. 98-762C, Sec. 24; Ord. 02-974; Ord. 03-1018A, Sec. 12; Ord. 14-1332; Ord. 16-1387.]

### **5.01.230 Change of Authorizations for Franchises**

- (a) A franchisee must submit an application pursuant to Section 5.01.170 when the franchisee requests authority to:
  - (1) Accept wastes other than those the franchise authorizes, or
  - (2) Perform activities other than those the franchise authorizes, or
  - (3) Modify other limiting conditions of the applicant's franchise.
- (b) The franchisee must file an application for a change in authorization or limits on forms or in the format provided by the Chief Operating Officer.
- (c) An application for a change in authorization or limits to the applicant's franchise does not substitute for an application that Metro would otherwise require under Section 5.01.150.
- (d) A franchisee must notify Metro in writing when the franchisee proposes to cease accepting authorized wastes or cease performing authorized activities at the solid waste facility or disposal site.
- (e) The application fee for changes of authorizations or limits is \$100.00. [Ord. 98-762C, Secs. 25-26; Ord. 98-767, Sec. 4; Ord. 02-974; Ord. 03-1018A, Sec. 13; Ord. 14-1332; Ord. 16-1387.]

### **5.01.240 Variances for Franchises**

- (a) Upon the Chief Operating Officer's recommendation, the Council may grant specific variances from particular requirements of this chapter to applicants for franchises or to franchisees upon conditions the Council considers necessary to protect public health, safety and welfare.
- (b) In order to grant a variance, the Council must find that the franchisee can achieve the purpose and intent of the particular franchise requirement without compliance and that compliance with the particular requirement:
  - (1) Is inappropriate because of conditions beyond the applicant's or franchisee's control; or
  - (2) Would be rendered extremely burdensome or highly impractical due to special physical conditions or causes.

- (c) A franchisee or applicant must request a variance in writing and must concisely state why Council should grant the variance. The Chief Operating Officer may make an investigation as the Chief Operating Officer considers necessary.
- (d) The Chief Operating Officer must recommend to the Council whether to approve or deny the variance within 120 days after Metro receives the variance request.
- (e) A request for a variance does not substitute for an application that Metro would otherwise require under Section 5.01.150.
- (f) If the Council denies a variance request, the Chief Operating Officer must notify the person requesting the variance of the right to a contested case hearing pursuant to Code Chapter 2.05.
- (g) If the Council denies a request for a variance, the requesting party may not file a new application for the same or substantially similar variance for at least six months from the denial date. [Ord. 81-111, Sec. 12; Ord. 98-762C, Sec. 27; Ord. 02-974; Ord. 14-1332; Ord. 16-1387.]

## **OBLIGATIONS AND LIMITATIONS FOR SOLID WASTE FACILITIES**

### **5.01.250 General Obligations of All Regulated Parties**

All persons regulated by this chapter must:

- (a) Allow the Chief Operating Officer 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 rules adopted pursuant to Section 5.01.280.
- (b) Ensure that solid waste transferred from the facility goes to the appropriate destination under Section 5.01.280, under Metro Code Chapter 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.
- (c) Maintain insurance during the license or franchise term in the amounts specified in the license or franchise or any other amounts as state law may require for public contracts, and to give 30 days' written notice to the Chief Operating Officer of any lapse or proposed cancellation of insurance coverage or performance bond.
- (d) Indemnify and save harmless Metro, the Council, the Chief Operating Officer, Metro employees and Metro agents 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) Agree to no recourse whatsoever against Metro or its officials, agents or employees for any loss, costs, expense or damage arising out of:
  - (1) Any provision or requirement of the license or franchise;
  - (2) Metro's enforcement of the license or franchise; or

- (3) Any determination that a license or franchise or any part thereof is invalid.  
[Ord. 81-111, Sec. 13; Ord. 98-762C, Sec. 28; Ord. 02-974; Ord. 03-1018A, Sec. 15; Ord. 16-1387.]

### 5.01.260 Obligations and Limits for Selected Types of Activities

~~(a) (a) A solid waste material recovery facility that receives non-putrescible waste and is subject to licensing or franchising under this chapter must licensee or transfer station franchisee must~~

~~(b) 1. Pperform material recovery from non-putrescible waste that it accepts at the facility as specified in this section or as otherwise specified in its license or franchise, or it~~

~~(a) 2. must Ddeliver the non-putrescible waste to a solid waste facility authorized by Metro to recover useful materials from solid waste.~~

~~(b) Notwithstanding subsection (a) above, a facility that exclusively receives non-putrescible source-separated recyclable material is not subject to the requirements of this section).~~

~~(b) A licensee or franchisee subject to subsection (a) must 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 excludes 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 is a violation enforceable under Metro Code Sections 5.01.320 and 5.01.330. After December 31, 2008, the requirements of this subsection are not applicable to licensees or franchisees unless the Council determines that this standard should be reinstated to replace the processing residual standard established in 5.01.260(c).~~

~~(c) Effective January 1, 2009, A~~ licensee or franchisee subject to subsection (a) must:

(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. The processing residual may not contain more than 15 percent, by total combined weight, of cardboard or wood pieces of greater than 12 inches in size in any dimension and metal pieces greater than eight inches in size in any dimension.

(2) Take quarterly samples of processing residual that are statistically valid and representative of the facility's residual (not less than a 300-pound sample) and provide results of the sampling to Metro in the monthly report due the month following the end of that quarter.

(d) Based on observation, audits, inspections and reports, Metro inspectors will conduct or require additional analysis of waste residual at the facility in accordance with Section 5.01.290(c). Failure to maintain the recovery level specified in Section

5.01.260(c)(1) is a violation enforceable under Metro Code. Metro will not impose a civil penalty on the first two violations of this subsection by a single licensee or franchisee.

- (e) Failure to meet the reporting requirements in subsection (c)(2) is a violation enforceable under Metro Code.
- (f) A transfer station franchisee:
  - (1) Must 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) Must not accept hazardous waste unless the franchisee provides written authorization from the DEQ or evidence of exemption from such requirement.
  - (3) Is limited in accepting putrescible waste during any year to an amount of putrescible waste as established by the Council in approving the transfer station franchise application.
  - (4) Must 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.
- (g) A reload facility licensee must deliver all non-putrescible waste received at the facility to a solid waste facility authorized by Metro to recover useful materials from solid waste.
- (h) A solid waste facility licensee or franchisee cannot crush, grind or otherwise reduce the size of non-putrescible waste unless the:
  - (1) Size reduction is a specific step in the facility's material recovery operations, reload operations, or processing residual consolidation or loading operations; and
  - (2) Licensee or franchisee described the size reduction in a Metro-approved operating plan. [Ord. 98-762C, Secs. 30-31; Ord. 00-866, Sec. 5; Ord. 01-916C, Sec. 4; Ord. 02-952A, Sec. 1; Ord. 03-1018A, Sec. 16; Ord. 07-1147B, Sec. 3; Ord. 12-1272, Sec. 3; Ord. 13-1306, Sec. 3; Ord. 16-1387.]

### **5.01.270 Direct Haul of Putrescible Waste**

A franchisee authorized by Metro to deliver putrescible waste directly to a disposal site must:

- (a) Deliver the putrescible waste to Metro's contract operator for disposal of putrescible waste;
- (b) Comply with the performance standards for management of unacceptable waste adopted by the Chief Operating Officer pursuant to Section 5.01.280; and

- (c) Provide transportation or arrange for transportation by a transportation service provider that complies with the following performance standards for long-haul transportation by highway:
- (1) All solid waste transported through the city limits of Arlington, Oregon, is subject to any routing, timing, parking or other operational requirements established by the city of Arlington.
  - (2) All equipment satisfies all federal, state, and local regulations. In addition, the use of exhaust brakes is prohibited.
  - (3) All solid waste is transported in completely sealed containers with leak-proof design considered wind-, water-, and odor-tight, and is 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 is not less than 25 tons.
  - (5) Any staging areas used is located in areas outside or excluded from the Columbia River Gorge National Scenic Area (NSA).
  - (6) All transport vehicles 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 is limited to cases of emergency.
  - (8) Transportation is prohibited 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 is 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 is transported by use of vehicles and equipment that is suitably painted and presents an acceptable appearance.
  - (11) A franchisee representative and its transportation carrier must annually meet with the gorge communities and interested parties to receive input and discuss issues related to transportation of solid waste.
  - (12) The franchisee must report to Metro any accidents, citations, and vehicle inspections involving vehicles of the franchisee's transportation carrier during the transporting of solid waste on behalf of the franchisee.

- (13) A franchisee representative and its transportation carrier must meet monthly with Metro to discuss operational problems, complaints and any extraordinary occurrences.
- (14) The franchisee must immediately report any violations of this subsection to Metro. [Ord. 98-762C, Secs. 32-33; Ord. 02-974; Ord. 16-1387.]

## **REGULATORY ADMINISTRATION OF SOLID WASTE FACILITIES**

### **5.01.280 Authority of Chief Operating Officer to Adopt and Amend Rules, Standards, and Forms**

- (a) The Chief Operating Officer may adopt or amend rules, performance standards, and forms to implement any provision of this chapter. Any rule, performance standard, or form adopted or amended under this section has the same force and effect as any other chapter provision.
- (b) Before the Chief Operating Officer adopts or amends a rule or performance standard under this section, the Chief Operating Officer will provide an opportunity for public comment for a period of at least 30 days. The Chief Operating Officer will provide notice of the public comment period in a manner reasonably calculated to reach interested parties. The notice will include a brief description of the proposed rule or performance standard; the location at which a person may obtain a copy of the full text of the proposed rule or performance standard; the method for submitting public comments; and the deadline for submitting public comments.
- (c) In addition to public comments, the Chief Operating Officer will also hold a public hearing on any proposed rule or performance standard or amendment to an existing rule or performance standard. The public hearing will take place not less than 14 days from the deadline for submitting public comments. The Chief Operating Officer will give public notice of the hearing not less than 10 days nor more than 30 days before the hearing. The notice will include the time, place, and purpose of the public hearing, a brief description of the proposed rule or performance standard, and the location at which a person may obtain copies of the full text of the proposed rule or performance standard.
- (d) During the public hearing, the Chief Operating Officer will receive any offered written or oral testimony regarding the proposed rule, including any written comments received during the public comment period.
- (e) After the public hearing is closed, the Chief Operating Officer may adopt the rule as originally proposed, adopt a modified version of the proposed rule, or reject the proposed rule. If the Chief Operating Officer intends to adopt a substantially modified version of the proposed rule, the Chief Operating Officer must mail a notice of opportunity to comment on the proposed modifications along with a copy of the text of the new proposed changes to each person who has either submitted written comments on the proposal, testified at the public hearing, or asked to receive a notice of proposed modifications. Metro must also post the notice on its website. The public has 15 days from the mailing date to provide written comment on the

proposed modifications, but no further public hearing is required. After the 15-day comment period ends, the Chief Operating Officer may adopt the proposed rule.

- (f) Any rule or performance standard adopted under this section takes effect 30 days after the Chief Operating Officer adopts it, unless the Chief Operating Officer specifies a later effective date.
- (g) Notwithstanding subsections (b) and (c), the Chief Operating Officer may adopt an interim rule or performance standard without prior public notice, comment or hearing upon a written finding that a failure to act promptly will result in serious prejudice to the public interest or the interest of an affected party. The Chief Operating Officer must include the specific reasons for the serious prejudice. Any rule or performance standard adopted pursuant to this subsection expires no later than 180 days from its effective date.
- (h) If the Metro Council enacts an ordinance establishing rulemaking procedures that are applicable agency-wide, then the rulemaking procedures set forth in this chapter are superseded by the agency-wide procedures. However, the procedures set forth in this chapter will still apply to the adoption or amendment of performance standards and forms.
- (i) Any form, performance standard, or administrative rule (formerly known as an “administrative procedure”) that is in effect on the date of this ordinance’s adoption remains in effect unless otherwise repealed or amended.
- (j) For purposes of ORS 34.020, any rule adopted by the Chief Operating Officer under this section is considered a final decision. [Ord. 98-762C, Secs. 34-35; Ord. 01-916C, Sec. 5; Ord. 02-974; Ord. 07-1138, Sec. 3; Ord. 12-1272, Sec. 5; Ord. 16-1387.]

### **5.01.290 Inspections, Audits, and other Investigations of Solid Waste Facilities**

- (a) The Chief Operating Officer is authorized to make such inspection, audit, or other investigation as the Chief Operating Officer considers appropriate to ensure compliance with this chapter, the Code, the franchise or license, and administrative rules and performance standards adopted pursuant to Section 5.01.280. Licensed or franchised facilities must allow access to the facility premises, and all other solid waste facilities, at all reasonable times during business hours with or without notice, and during non-business hours with 24 hours notice.
- (b) Inspections, audits, or other investigations authorized under subsection (a) will occur regularly and as the Chief Operating Officer determines necessary. The Chief Operating Officer will report the results of each inspection, audit, or other investigation in the format approved by the Chief Operating Officer.
- (c) The Chief Operating Officer may access and examine any records during the inspections, audits, or other investigations if the Chief Operating Officer considers the records pertinent to the license or franchise, or to the provisions of this chapter. These records include but are not limited to the licensee’s, franchisee’s or solid waste facility operator’s books, papers, records, equipment, blueprints, operation and maintenance records, logs and operating rules and procedures. As part of the

inspections, audits, or other investigations, the Chief Operating Officer may take samples and conduct 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 will coordinate any sampling or follow-up activities with DEQ or local jurisdictions as necessary to avoid redundant requirements on operations.

- (d) Any violation discovered by an inspection, audit, or other investigation is subject to the penalties provided in Section 5.01.330. [Ord. 98-762C, Secs. 36-37; Ord. 02-974; Ord. 03-1018A, Sec. 18; Ord. 07-1147B, Sec. 4; Ord. 16-1387.]

### **5.01.300 Regional System Fees**

- (a) Pursuant to Chapter 5.02, regional system fees apply to solid waste facilities and disposal sites that Metro owns, operates, licenses or franchises, or which are liable for payment of the fees pursuant to a special agreement with Metro.
- (b) Regional system fees are in addition to any other fee, tax or charge imposed upon a solid waste facility or disposal site.
- (c) Regional system fees must be separately stated upon records of the solid waste facility or disposal site.
- (d) Regional system fees and finance charges on those fees must be paid as specified in Metro Code Chapter 5.02. [Ord. 81-111, Sec. 16; Ord. 86-214, Sec. 1; Ord. 91-422B, Sec. 4; Ord. 93-509, Sec. 2; Ord. 95-621A, Sec. 7; Ord. 98-762C, Sec. 41; Ord. 00-866, Sec. 6; Ord. 02-974; Ord. 03-1018A, Sec. 19; Ord. 14-1332; Ord. 16-1387.]

### **5.01.310 Determination of Rates**

- (a) The Council may establish facility rates if it finds that setting facility rates is in the public interest as a matter of metropolitan concern.
- (b) Notwithstanding any other provision of this section:
  - (1) Licensees are exempt from all rate setting; and
  - (2) Franchisees are exempt from rate setting unless Metro requires rate setting as a franchise condition. [Ord. 81-111, Sec. 19; Ord. 82-136, Sec. 4; Ord. 91-436A, Sec. 2; Ord. 98-762C, Sec. 43-44; Ord. 03-1018A, Sec. 20; Ord. 16-1387.]

## **ENFORCEMENT AND APPEALS**

### **5.01.320 Enforcement Provisions**

- (a) Any person who violates any provision of this chapter or who fails to comply with a license or franchise condition is subject to the fines and penalties set forth in this chapter.
- (b) The Chief Operating Officer may investigate whether there is sufficient cause to suspend, modify or revoke a franchise or license. If there is sufficient evidence to suspend, modify, or to revoke a franchise or license, the Chief Operating Officer will notify the franchisee or licensee in writing of the alleged violation, and the



necessary steps the violator must take to correct the violation. If the franchisee or licensee is unable to or refuses to correct the violation within a reasonable time after Metro sends notice, the Chief Operating Officer may provide notice to the franchisee or licensee that Metro will impose penalties pursuant to Section 5.01.330 or that Metro will suspend, modify or revoke the franchise or license.

- (c) The Chief Operating Officer will send the notice upon finding that the franchisee or licensee has:
- (1) Violated the franchise or license, the administrative rules or performance standards issued by the Chief Operating Officer, this chapter, the Code, state law, local ordinance or the rules promulgated there under or any other applicable law or regulation;
  - (2) Misrepresented material facts or information in the franchise or license application, or other information that Metro requires the licensee or franchisee to submit;
  - (3) Refused to provide adequate service at a licensed or franchised site, facility or station, after Metro provides 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 under this chapter; or
  - (6) Violated a city or county ordinance if the ordinance requires licensees or franchisees to comply with the Metro solid waste facility regulation code.
- (d) Except as provided in subsection (e), if the Chief Operating Officer revokes, modifies or suspends a license or franchise, it does not become effective until Metro gives the licensee or franchisee an opportunity to request a contested case hearing under Metro Code 2.05.
- (e) If Metro finds a serious danger to the public health or safety as a result of the actions or inactions of a franchisee or licensee, 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 Metro immediately suspends a franchise, the franchisee has 30 days from the suspension date to request a contested case hearing under Code Chapter 2.05.
- (f) If Metro revokes a franchise or license, all franchisee or licensee rights in the franchise or license become void. [Ord. 81-111, Sec. 20; Ord. 82-136, Sec. 5; Ord. 95-621A, Sec. 8; Ord. 91-436A, Sec. 2; Ord. 98-762C, Sec. 45; Ord. 02-974; Ord. 03-1018A, Sec. 21; Ord. 14-1332; Ord. 16-1387.]

### **5.01.330 Penalties**

- (a) Each violation of this chapter is punishable by a fine of not more than \$500.00. Each day a violation continues constitutes a separate violation. Metro may join separate offenses in one Notice of Violation in several counts.
- (b) If the Chief Operating Officer finds that a licensee or franchisee is in violation of this chapter, the Code, the license or franchise, or the administrative rules or performance standards adopted pursuant to Section 5.01.280, the Chief Operating Officer will provide written notice to the violator describing the violation and requiring the violator to correct the violation within the time specified in the notice.
- (c) If a licensee or franchisee fails to correct the violation within the specified time period, the Chief Operating Officer will issue a Notice of Violation, indicating the continuing violation, the date of re-inspection and the fine imposed as specified in subsection (a).
- (d) If after re-inspection, the Chief Operating Officer finds the licensee or franchisee has failed to correct the violation, the violation is punishable by a fine as specified in subsection (a). Metro will give notice of a final deadline for correcting the violation at the time of re-inspection.
- (e) If the licensee or franchisee fails to correct the violation after the final deadline, the licensee or franchisee must cease the activity resulting in the violation.
- (f) Metro will conduct further inspections to ensure that the licensee or franchisee suspends the offending activity. If the licensee or franchisee fails to suspend the offending activity, the Chief Operating Officer may:
  - (1) Impose a remedy suitable to Metro to be implemented by and at the expense of the licensee or franchisee;
  - (2) Suspend all solid waste activities on site;
  - (3) Impose a lien on the property for the amount of the fines; or
  - (4) Suspend, modify or revoke the license or franchise pursuant to Section 5.01.320.
- (g) In addition to subsection (a), Metro may enjoin any violation of this chapter upon suit in a court of competent jurisdiction, and the violator may also be subject to a civil penalty not to exceed \$500.00 per day for each day of violation. [Ord. 81-111, Sec. 22; Ord. 91-436A, Sec. 2; Ord. 98-762C, Sec. 47; Ord. 98-767, Sec. 6; Ord. 02-974; Ord. 03-1018A, Sec. 22; Ord. 14-1332; Ord. 16-1387.]

### **5.01.340 Appeals**

- (a) Any applicant, franchisee or licensee may request 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.

- (b) Except as provided in subsection (d), if the Council refuses to renew a franchise or the Chief Operating Officer refuses to renew a license, the refusal does not become effective until Metro affords the franchisee or licensee an opportunity for a contested case hearing if one is requested.
- (c) The refusal by either the Council or Chief Operating Officer to grant a variance, or to issue, modify or transfer a franchise or license is effective immediately. The franchisee, licensee or applicant may request a hearing on the refusal within 30 days of notice of the refusal.
- (d) 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 may refuse to renew a franchise or license and that action is effective immediately. If a franchise or license renewal is refused, the franchisee or licensee has 30 days from the date of the action to request a contested case hearing. [Ord. 81-111, Sec. 11; Ord. 95-621A, Sec. 6; Ord. 02-974; Ord. 03-1018A, Sec. 14; Ord. 16-1387.]

## **MISCELLANEOUS PROVISIONS**

### **5.01.350 Miscellaneous Provisions**

- (a) The Chief Operating Officer is responsible for the administration and enforcement of this chapter.
- (b) Metro's granting of a license or franchise does not vest any right or privilege in the licensee or franchisee to receive specific quantities of solid waste during the license or franchise term.
- (c) Metro has the power to regulate, in the public interest, the exercise of the privileges it grants by a license or franchise. Metro may establish or amend rules, regulations or standards regarding matters within Metro's authority and enforce those requirements against licensees or franchisees.
- (d) No waiver of any license or franchise condition is effective unless it is in writing and signed by the Chief Operating Officer. If Metro waives a license or franchise condition, that waiver does not waive or prejudice Metro's right to require performance of the same condition or any other condition.
- (e) Metro will construe, apply and enforce a license or franchise in accordance with the laws of the State of Oregon.
- (f) If a court of competent jurisdiction determines that any license or franchise provision is invalid, illegal or unenforceable in any respect, that determination does not affect the validity of the remaining provisions in the license or franchise.
- (g) Nothing in this chapter limits 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 should 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. [Ord. 98-762C, Secs. 52-53; Ord. 02-974; Ord. 03-1018A, Sec. 24; Ord. 14-1332; Ord. 16-1387.]

**GOVERNANCE OPTIONS FOR COLUMBIA RIVER LEVEE  
SYSTEM**

Metro Council Work Session  
Tuesday, September 19, 2017  
Metro Regional Center, Council Chamber

# METRO COUNCIL

## Work Session Worksheet

**PRESENTATION DATE:** September 19, 2017      **LENGTH:** 45 minutes

**PRESENTATION TITLE:** Governance Options for Columbia River Levee System

**DEPARTMENT:** Office of the COO

**PRESENTER(S):**

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### WORK SESSION PURPOSE & DESIRED OUTCOMES

- Purpose: Seek Council feedback on governance and finance options for implementing the levee and flood management system
- Outcome: Direction to staff and Councilor Craddick (as Metro's representative on the Levee Ready Columbia Partners Group)

### TOPIC BACKGROUND & FRAMING THE WORK SESSION DISCUSSION

The Columbia River levee and flood protection system has successfully provided protection from Columbia River floods for decades, providing benefit to significant economic and community assets. Attachment A provides a succinct overview of the assets protected and a summary of the importance of maintaining the accreditation of the system through FEMA and the US Army Corps of Engineers.

While the focus to date has been the structural and engineering adequacy of the system (see Attachment B for a summary of the work tasks underway), the process is now shifting into alternatives for implementing the recommendations once they are finalized. The current governance structure is inadequate from the following perspectives:

- The operating and maintenance responsibility is fragmented across four separate drainage districts creating inefficiencies and inequities;
- Responsibilities for certain functions extend to other parties beside the drainage districts; for example, local government is responsible to FEMA for their accreditation and local governments permit new development that could compromise the integrity of the system.
- The current fee assessment approach is insufficient to raise the level of funding needed to repair and operate at the level required;
- The current fee assessment system results in inequities among like properties within the four districts due to different rate systems between the four districts and the impact of property tax compression within three of the districts;
- The drainage districts are responsible for disposing of storm water from the surrounding watershed that drains into the districts. The City of Portland (through BES) pays the drainage districts for handling this storm water but the parts of the watershed further east do not.
- The drainage districts protect properties of significance to the broader region while the current financial responsibility rests with those rate payers within the districts.

Governance options under consideration include the following:

- Restructuring of the existing drainage districts to increase coordination, efficiency, equity and accountability.
- Restructuring of the rate system to have a stronger nexus with flood control and storm water management rather than acreage (things like impervious surface and the value of properties protected).
- Reconstituting the districts into a utility with the conversion of the fees from a property tax based assessment to a utility bill that is not subject to compression.
- Extending the assessment from the surrounding watershed to include areas outside the City of Portland.
- Considering a funding contribution to recognize the benefits to the broader region; This could be through a funding contribution or transfer of operating responsibility to the Port of Portland, Metro, Multnomah County or a new entity established by the Legislature.
- In addition to a restructuring of governance linked to a revised funding approach, there are also state and federal contributions under consideration.

### **QUESTIONS FOR COUNCIL CONSIDERATION**

- Of the choices under consideration, the approach recommended includes the following features:
  - There is a valid argument that the broader region receives benefit from the levee system and a funding contribution is appropriate from the broader region. However, this regional benefit is most evident in the case of PDX (which is within MCDD) and as such the option with the best nexus is through the Port of Portland. In addition, the Port of Portland is making significant infrastructure investments for the Troutdale Reynolds Industrial Park and their “regional” contribution toward the Sandy River Drainage Company would be justified.
  - The inefficiencies and inequities of the four separate drainage districts should be rectified by consolidating the four districts into a utility special district formed by Multnomah County. In doing so, the utility rate structure should be more equitable with a stronger nexus on flood control and storm water management rather than acreage (things like impervious surface and the value of properties protected) resulting in like properties paying a like utility bill.
  - There should be a second tier in the utility rate structure to assess a fee on the surrounding watershed for handling storm water delivered into the district.
  - Metro, TriMet and Portland would have financial responsibility for PEN 1 which encompasses Expo, Interstate MAX, Heron Links Golf Course and Portland International Raceway. Portland would have financial responsibility for PEN 2.
  - Continue to pursue state and federal funding, especially for the railroad berm.
- Does the Metro Council support this approach?
- Is there a different approach to funding and/or operating the flood control system the Metro Council would like staff to recommend?
- Does the Metro Council agree that the property owners within PENs 1 and 2 should bear all or a large majority of the costs of maintaining the flood control system due to the local nature of the benefits they create?

### **PACKET MATERIALS**

- Would legislation be required for Council action  Yes  No
- What other materials are you presenting today? Attachments A and B

# WHAT'S AT RISK

THE RISK OF FLOODING ON THE LOWER COLUMBIA RIVER IS REAL



## Jobs & Economy



**\$16 billion**  
ECONOMIC ACTIVITY  
Annually



**50%**  
Region's manufacturing  
& warehouse jobs



**18.4 million**  
PASSENGERS  
Annually at PDX



**3** INTERSTATES  
**2** MAX LINES  
**2** RAILROADS  
**2** AIRPORTS



**\$7.3 billion**  
PROPERTY VALUE

## Drinking Water



**#2** LARGEST SOURCE  
OF DRINKING  
WATER IN OREGON  
#1- Bull Run Reservoir

## Nature & Habitat



Western Painted Turtle  
Western Pond Turtle  
Beaver  
Nutria  
Carp and Bass



**175** SPECIES  
Birds in the watershed



**1.4 million**  
TREES AND SHRUBS  
Planted along entire  
slough by City of  
Northwest Portland

## Recreation & Culture



OVER  
**2,000** ACRES  
Parks, open spaces, and  
recreational areas



**17** MILES  
Marine Drive  
multi-use  
path



**7,500**  
Residents served



**15** MILES  
Water trails for  
canoes and kayaks



Ikea  
Walmart  
Target  
Lowes  
HomeDepot



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## FLOOD RISK ON THE COLUMBIA RIVER

The risk of flooding on the Lower Columbia River is real. In 1948, the Vanport flood decimated what was then the state's second-largest and most racially integrated community. The Christmas floods of 1964 are regarded as one of the worst natural disasters in state history. Since 1894, four 100-year and two 500-year flood events have been measured at the confluence of the Willamette and Columbia Rivers. There is no question that the Columbia Corridor area will confront floods in the future. The only question is whether we will be ready.

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## FEDERAL ACCREDITATION MATTERS

For naturally flood-prone areas surrounded by levees, the Federal Emergency Management Agency (FEMA) will "accredit" the levee system if certain requirements are met. Accreditation has several benefits:

- Lower-cost flood insurance
- No flood insurance mandate
- Fewer development restrictions

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## CONFRONTING GOVERNANCE CHALLENGES

The current multi-jurisdictional structure for managing flood risks is not a viable model for the future.

**Federal accreditation:** No single agency currently has the capability to ensure that the levee system remains accredited in the National Flood Insurance Program (NFIP).

**Benefits and burdens:** The status quo does not equitably allocate costs of flood risk management in the Columbia Corridor to the many beneficiaries of the system.

**Fragmented responsibility:** Responsibility and authority for vital functions are fragmented across several jurisdictions. No single entity is responsible for reducing flood risks.

**Insufficient revenue:** The existing four drainage districts collectively have assessment revenue of \$4.8 million in FY 2017. Revenues will need to approximately triple to support the system.

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## BOTTOM LINE: THE STATUS QUO IS NOT AN OPTION

Levee Ready Columbia (LRC) was created as a temporary solution to an urgent challenge: maintaining accreditation. It is not a permanent institution and may not be capable for funding needed infrastructure improvements. LRC is considering new models for managing flood risk which could involve changes at the local, county, or regional scale.

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### GET ENGAGED

**October 4**  
Levee Ready  
Columbia  
will consider  
governance  
alternatives

**October–  
December 2017**  
Inform partners  
and seek input

**January–  
February 2018**  
Levee Ready  
Columbia will  
recommend a new  
governance model

### CONTACT

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Project Goals	Project Element	Purpose / Update	Status / Completion Date
Develop inventories of the specific economic, community, and environmental resources protected by the regional levee system.	Hazus-MH Risk Assessment	This project is being run by DOGAMI and will provide detailed economic analysis of flood loss for both 1% and 0.2% annual chance exceedance events. This assessment will include the Community Asset Inventory that identifies community resources in the flood impact analysis. The DOGAMI report is fully funded by FEMA.	Initial results late summer 2017; final results December 2017
	Levee Environmental Conditions Assessment	This project will provide a comprehensive collection and understanding of the habitats and environmental conditions behind the levees. Parametrix completed this project and online mapping is available: <a href="http://gis.parametrix.com/leca/">http://gis.parametrix.com/leca/</a> <ul style="list-style-type: none"> <li>Final report provides an inventory of natural resources and a contextualization of cumulative impacts in the study area to inform decision-making within the leveed land and along the levee system, for potential use in Endangered Species Act (ESA) consultation, and for other activities by the LRC and its members.</li> <li>The report, appendices, and maps describe existing baseline environmental conditions and analyzes cumulative land cover changes in an effort to streamline any documentation required for ESA consultation or other environmental approval processes.</li> </ul>	Complete
	Economic Inventory	<ul style="list-style-type: none"> <li>Developing SOW for an updated economic inventory to focus on the indirect benefits/costs around flood risk reduction and flood damages and the regional economic development impacts of the leveed land.</li> <li>Will include elements of the US Army Corps' Regional Economic Development account and will assess some of the quantitative and qualitative economic impacts not accounted for in the Hazus risk assessment project.</li> </ul>	Spring 2018
Complete certification engineering assessments in PEN 1 and PEN 2.	Phase I FEMA Levee Certification Studies:	Geotechnical analyses are led by Cornforth Consultants, Inc. and Hydrologic / Hydraulic analyses are led by WEST Consultants.	
	- Phase 1: PEN 1 and PEN 2 Gap Analysis	Summarize information on the history of the levee construction, plans, prior site investigations, and limited engineering analyses to identify engineering analyses needed to meet certification requirements.	Complete
	- Phase 2: PEN 1 and PEN 2 Engineering Analyses	Complete all field work and geotechnical investigations 2014 and consulting engineer completed laboratory testing of samples, site geology and subsurface conditions assessment, and hydraulic and embankment protection analysis. Complete Geotechnical Engineering Evaluations to FEMA Certification Criteria (1% annual chance exceedance event).	Complete
	- Phase 3: USACE Authorized Design Water Surface Elevation	Engineering Evaluation (seepage and stability) for USACE Authorized Design Water Surface Elevation.	Complete
	- Phase 4: Remediation	Fragility Curves; Preliminary Designs and Costs for Correcting Levee Deficiencies	To be determined based on findings
	- Phase 5: Accreditation	FEMA Certification Report; FEMA Accreditation Application	To be developed post remediation
	Encroachment Evaluations: PEN 2	Risk-based assessment of structural encroachments built into PEN 2 levee. No high-risk encroachments found. USACE issued Legacy Encroachment standing for structures. This will assist in also fulfilling RIP inspection requirements.	Complete
	UP Railroad Project: PEN 1	Review of Portland Passenger-Freight Rail Speed Improvement Project and impact on certification. Scheduled meetings with new UP & BNSF representatives for briefing.	September 2017
Complete certification engineering assessments in MCDD, SDIC, and SIDIC.	Phase II FEMA Levee Certification Studies:	Geotechnical analyses are led by Cornforth Consultants, Inc. and Hydrologic / Hydraulic analyses are led by WEST Consultants.	
	- Phase 1: MCDD and SDIC Gap Analysis	This phase summarized information on the history of the levee construction, plans, prior site investigations, and limited engineering analyses to identify engineering analyses needed to meet certification requirements	Complete
	- Phase 2: MCDD and SDIC Engineering Analyses	This phase completed all field work and geotechnical investigations mid-April 2017 and consulting engineer completed laboratory testing of samples, site geology and subsurface conditions assessment, and hydraulic and embankment protection analysis	Draft Reports – June 2017
	- Phase 3a and 4: MCDD and SDIC Engineering Analyses	Phase 3a completes Geotechnical Engineering Evaluations to FEMA Certification Criteria and Phase 4 completes Engineering Evaluation to 1% annual chance and USACE Authorized Design Water Surface Elevation.	October 2017
	- Phase 5: Encroachment Evaluations: MCDD and SDIC	Risk-based Structural Encroachment Assessments to USACE Authorized Design Water Surface Elevation. Field survey of structures is complete. This will assist in also fulfilling RIP inspection requirements.	October 2017
	- Phase 3b: Hydrology & Hydraulic Evaluation	Hydrology/Hydraulic Engineering Evaluation – FEMA Certification Criteria	October 2017
	- Phases 6, 7, 8, and 9	Fragility Curves; Preliminary Designs and Costs for Correcting Levee Deficiencies; FEMA Certification Report; FEMA Accreditation Application	To be determined based on findings
	SIDIC Levee Certification	Ongoing. Certification work being performed by USACE.	Ongoing; December 2018
<b>Project Goals</b>	<b>Project Element</b>	<b>Purpose / Update</b>	<b>Status / Completion Date</b>

Maintain active status in the USACE's Rehabilitation and Inspection Program (RIP).	PL 84-99 RIP Inspection Projects:	LRC staff are addressing RIP inspection needs identified from 2015 Periodic and Routine Inspections by USACE. LRC supports the inspections and the Districts' support on-going O&M costs. <ul style="list-style-type: none"> <li>In late 2017 or early 2018 USACE will conduct Periodic Inspections in PEN 1 and PEN 2. It is unclear when they will conduct Routine Inspections in MCDD and SDIC. Tetra Tech will conduct the USACE inspections.</li> <li>MCDD is working with the City of Portland and private landowners on remediating the damaged PEN 1 outfalls.</li> <li>MCDD staff have completed an updated Flood Emergency Action Plan and is updating the Districts' Operation &amp; Maintenance Plan.</li> </ul>	Complete
	PEN 1 Outfall Inspections		Complete
	SDIC Toe Drain Inspections		Inspect September 2017
	SDIC Relief Well Inspection		Inspect September 2017
	PEN 1 Toe Drain Inspections		October 2017
Updated Plans & Reports			
Initiate work to develop longer term governance options.	Governance Project	The Governance Project develops a long-term strategy to manage and pay for flood risk infrastructure. The LRC partners are now engaged in a governance planning process that is aimed at identifying a dependable and sustainable solution to the Portland area's policy challenges related to flood risk in the long term. <ul style="list-style-type: none"> <li>Outreach: All jurisdiction within Metro have been contacted and provided with project descriptions and feedback opportunities.</li> <li>September 18, 2017 – Levee Ready Columbia Governance Subcommittee Workshop</li> <li>October 4, 2017 – Levee Ready Columbia Partners Meeting – Review and discuss options</li> <li>November 3, 2017 – Executive Leadership Meeting – Executive-level review of options</li> <li>December 13, 2017 – Levee Ready Columbia Partners Meeting – Recommend governance option</li> </ul>	Ongoing – duration will depend on preferred governance option
Initiate discussion on longer term funding and financing of levee and drainage system options.	Governance Project: Revenue Analysis Consulting Services	This project will analyze the financial impact of several alternative governance models for funding flood risk management infrastructure. This information will be used to aid the LRC decision-makers on a path forward. <ul style="list-style-type: none"> <li>Developed Declaration of Cooperation to document partnership and project goals.</li> <li>Short Term Funding: Received over \$5 million through two Business Oregon Infrastructure Finance Authority loans; Regional Solutions grants; and cash funding from partners to fund project elements from FY15-19. <ul style="list-style-type: none"> <li>LRC staff are working with Regional Solutions and Business Oregon to secure state funding through FY19.</li> </ul> </li> <li>FCS Group is under contract to build rate models associated with various governance models.</li> <li>Drainage Districts and LRC partners have written letters of support to request the selection as a USACE New Start FY18 project. LRC staff are working with federal advocate to ensure Oregon delegation continues to support project.</li> </ul>	<ul style="list-style-type: none"> <li>State funding discussion is ongoing FCS Group Report – complete Sept. 2017</li> <li>New Start FY18 – update October 2017</li> </ul>
Review potential impacts of climate change on Columbia River elevation levels and the safety of the levee system, including the evaluation of potential solutions.	Columbia and Willamette River Flood Stage at Portland, OR in a Future Climate project	USGS and USACE have developed Adh and Delft models to predict the Columbia River's flow rates out to 2060 and potential flood scenarios. The model includes the area adjacent to the Columbia Corridor levee system as well as the Willamette River down to the Willamette Falls Locks. <ul style="list-style-type: none"> <li>Partially paid for through USACE Planning Assistance to States program.</li> </ul>	Report will be released end of September 2017
Implement a communications strategy with the general public and targeted audiences such as neighborhood groups about the project.	Communications Plans: Community Asset Inventory, Regional Stakeholder Engagement	LRC staff have employed a variety of communications and outreach strategies including outreach to the general public through social media, community events, op-eds, and other avenues; outreach to policymakers; and participation in numerous community and neighborhood groups. <ul style="list-style-type: none"> <li>LRC Communications Strategy has been developed and adopted by the Communications Subcommittee.</li> <li>Established project brand and website.</li> <li>Created outreach material including: maps, infographics, annual reports, and post cards.</li> <li>Summer 2017 - Oregon Fellow has attended multiple outreach events on behalf of LRC and had 300 conversations, 40 newsletter signups for our contact list, and observed over 160+ visual engagements with outreach material.</li> <li>Print and broadcast media has featured local levees over 15 times this year – a 3 fold increase over 2016.</li> <li>LRC video production is underway and expected to be completed by October 2017. Video work will include 3 vignettes and an overview video.</li> <li>Developing a work plan with Community Engagement Liaisons for targeted outreach in East Multnomah County.</li> </ul>	Ongoing
Develop a process and criteria for evaluation and selection of preferred solutions.	Risk-informed Decision-making Framework and Risk Assessment	This project is a series of deliverables and workshops to guide policymakers and other stakeholders in alternatives analysis using a framework created to establish tolerable and residual risk. The project will assemble and synthesize the other project work including engineering evaluations and inventories and will also provide recommendations based on analysis, consensus, and the application of customizable planning tools. <ul style="list-style-type: none"> <li>Tetra Tech has been hired as the contractor to move this process forward.</li> <li>Kick-off meeting held on August 14 with the Risk Assessment Working Group (RAWG).</li> <li>RAWG will lead the effort to develop criteria and weighting for the development of the tool; the RAWG will provide oversight of the project and keep LRC Project Team representatives updated on the development.</li> <li>In September, the RAWG will meet to develop criteria and assign weights during work session.</li> </ul>	June 2018

Materials following this page were distributed at the meeting.



600 NE Grand Ave.  
Portland, OR 97232-2736  
oregonmetro.gov

September 20, 2017

Dear Mayor Wheeler and Commissioners:

As you well know, our region's affordable housing crisis is a complicated issue, and will require a variety of approaches to solve. It's great to see Portland continuing to lead on addressing this urgent issue in the region. As we look at housing affordability on a regional scale, we appreciate the work Portland has done to implement innovative strategies to address this crisis.

We are all dealing with a growing list of needs from a variety of stakeholders. Just as our region is faced with the bill for renewing aging infrastructure, we also are dealing with the reality that the market alone won't solve our housing issues. We appreciate that you continue to engage with stakeholders on the best way to address all of our funding issues, comprehensively.

Metro has reviewed Portland's draft policy framework for the affordable housing bond program. After reviewing the framework, we have the following observations:

- The framework is right to emphasize investments in areas served by current or planned high capacity transit – an approach that contributes to net affordability through lower transportation costs and physical access to jobs and opportunities.
- By focusing on acquisition and preservation of existing affordable housing as an anti-displacement strategy, public dollars are used efficiently.
- Committing to coordinate with social service organizations to leverage resources collaboratively for supportive housing dedicated for individuals and families experiencing homelessness or living with disabilities helps to address one of the public's top concerns in our region.
- The incorporation of a racial equity lens in policy engagement, outreach and development of culturally responsive resident services increases the likelihood that the program will be equitable.

We share the city's concerns about the ability to achieve the full potential of this resource because of the constitutional limitations on the use of general obligation bonds for affordable housing. If the Portland City Council and other partners were to encourage state legislators to refer a constitutional amendment to voters for improved flexibility in general bond spending on affordable housing investments, we would support that effort.

Every city in greater Portland is facing the affordable housing crisis. Right now, Portland is at the cutting edge of finding solutions. Metro is ready to support Portland's efforts to find the wisest, most effective and most equitable ways to address this crisis, so that we can establish best practices that can work in other communities around our region.

We look forward to more collaboration on finding ways to scale up Portland's innovations to the regional level.

Sincerely,

Tom Hughes, President  
On behalf of Metro Council



# Metro Council

## MRF/CT Code Changes –

# Public Comments/Responses

Sept. 19, 2017

Paul Slyman, Property and Environmental Services  
Dan Blue, Solid Waste Compliance

# Solid Waste Code Tracks

## Track 1 MRF/CT

- Subcommittee work complete
- SWAAC endorsement
- Public comments received

Roy Brower  
Dan Blue

## Track 2 Fees and Taxes

- Study complete
- Subcommittee in process

Tim Collier  
Warren Johnson

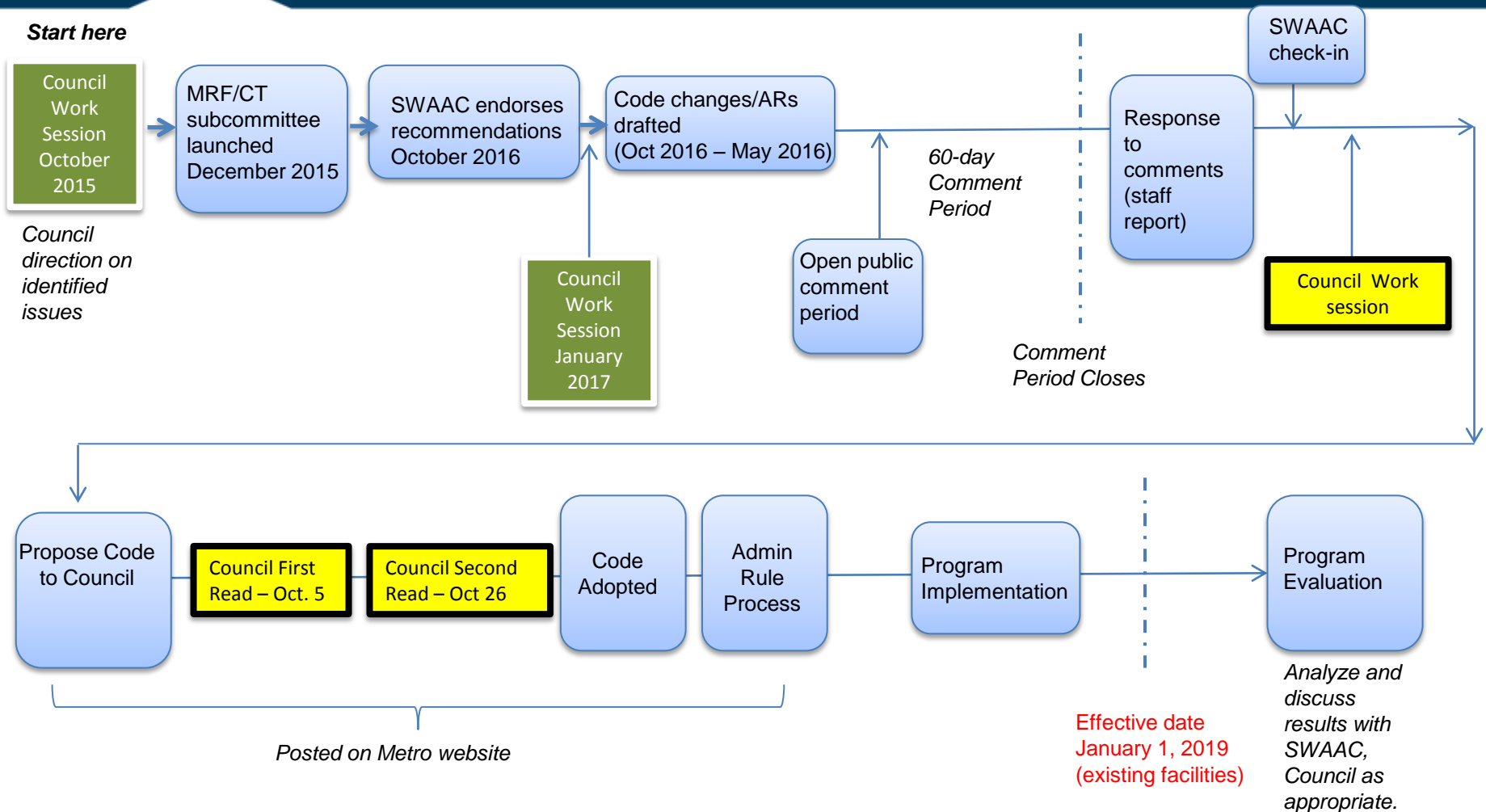
## Track 3 Code Changes

- Completed

Warren Johnson



# Policy Review Process



# Solid Waste Code Tracks

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- Subcommittee work complete
- SWAAC endorsement
- Public comments received

Roy Brower  
Dan Blue

## Track 2 Fees and Taxes

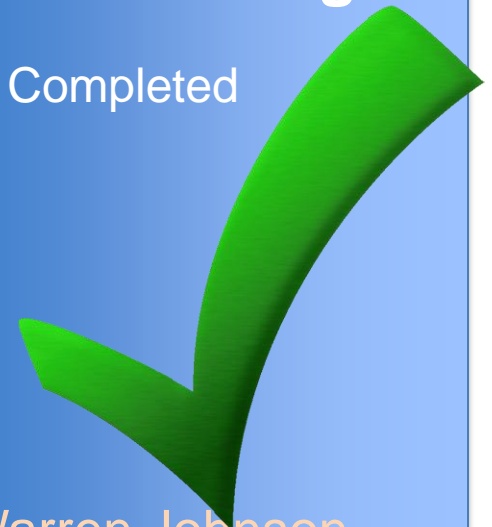
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Tim Collier  
Warren Johnson

## Track 3 Code Changes

- Completed

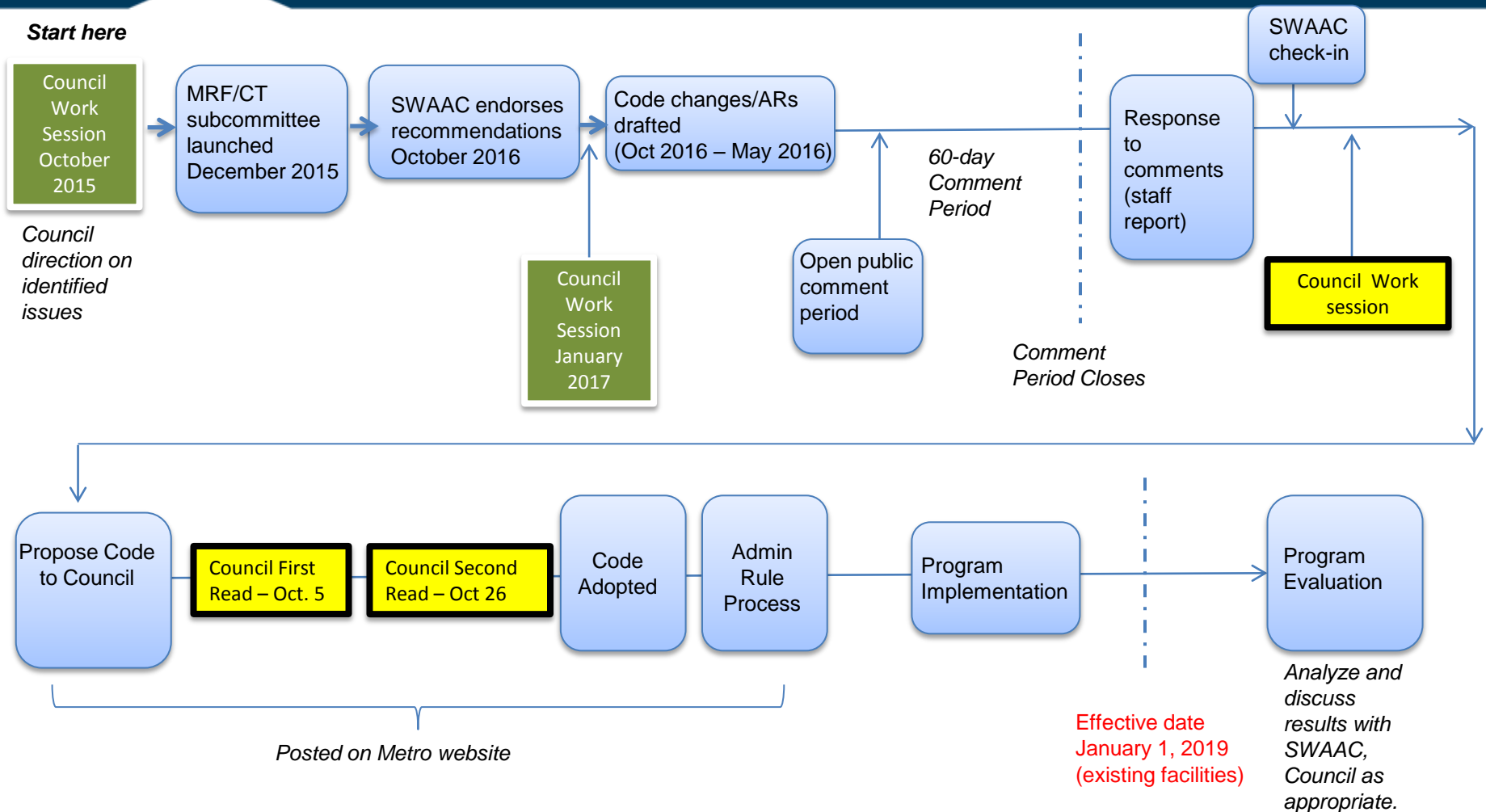
Warren Johnson



# Purpose of Today's Discussion

1. Review process to date.
2. Review proposed code amendments.
3. Review comments received related to proposed code amendments.
4. Seek your input.
5. Seek direction to proceed with project.

# Policy Review Process



# Changes to Code Chapter 5.00

## **Code changes include:**

- Adds a definition for “conversion technology”
- Adds a definition for “specific material recycler”

# Changes to Code Chapter 5.01

## Code changes include:

- Removes exemption from Metro authorization for source separated recyclables material recovery facilities
- Establishes exemption for “specific material recyclers”
- Establishes exemption for certain CT facilities
- General housekeeping updates

# Public Comment Process

- 60 day public Comment period closed July 14
- two stakeholder workshops held
- staff responses to proposed Code changes
- staff review of comments on draft administrative rules
- should Council adopt Code changes, administrative rules re-released for public comment

# Public Comments Received

- 3 written comments from industry stakeholders on proposed Code changes
  - Process related
  - Suggestions to clarify definitions in 5.00
  - Opposition to use of solid waste license
  - Impacts of license on existing business and business opportunities



# Next Steps

- Council Meeting – October 5, First Read of Ordinance
- Council Meeting – October 26, Second Read
  - License Effective Dates January 1, 2019
  - (New & Existing Facilities)
- Administrative Rule Process
  - Draft Rules
  - Public Comment Period
  - Public Hearing
  - Rule Adoption

# Questions for Council Consideration

- Does the Metro Council have comments on the process used or general content of the proposed code changes?
- Should staff proceed and bring the proposed code changes to Council for formal consideration at the October 5<sup>th</sup> council meeting?

*Thank you!*



Arts and conference centers

Garbage and recycling

Land and transportation

Oregon Zoo

Parks and nature

**[oregonmetro.gov](http://oregonmetro.gov)**