

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING THE)	ORDINANCE NO. 97-676
REGIONAL ILLEGAL DUMPING PLAN AND)	
INCORPORATING IT INTO THE REGIONAL)	Introduced by Mike Burton
SOLID WASTE MANAGEMENT PLAN)	Executive Officer

WHEREAS, the Regional Solid Waste Management Plan was adopted by the Metro Council on November 30, 1995, through Metro Ordinance No. 95-624; and

WHEREAS, Ordinance No. 95-624 also rescinded the 1991 Illegal Dumping Plan; and

WHEREAS, the Regional Solid Waste Management Plan called for the development of updated goals, objectives and management practices to address the region's current problems related to illegal dumping; and

WHEREAS, the Office of the Auditor issued a report entitled "Review of Metro's Solid Waste Enforcement Unit," dated February 1996, which included specific recommendations related to the management of illegal dumping prevention, investigation, enforcement and dump site cleanup; and

WHEREAS, the Solid Waste Advisory Committee appointed the Illegal Disposal Task Force to work with staff to develop an updated Illegal Dumping Plan and to involve the public in the planning process; and

WHEREAS, the task force has developed an Illegal Dumping Plan that is consistent with the main goal of the Regional Solid Waste Management Plan (to develop a plan that achieves a solid waste system that is regionally balanced, environmentally sound, cost-effective, technologically feasible and acceptable to the public) and that responds to the Auditor's recommendations related to illegal dumping; and

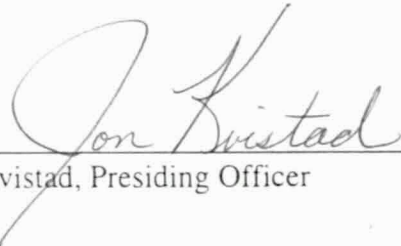
WHEREAS, the regional Solid Waste Advisory Committee has endorsed the work of that task force; and

WHEREAS, The ordinance was submitted to the Executive Officer for consideration and was forwarded to the Council for approval; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The Regional Illegal Dumping Plan, shown as Exhibit A to this ordinance, is adopted and is incorporated into Chapters 5 and 7 of the Regional Solid Waste Management Plan, a functional plan, under ORS 268.390.

ADOPTED by the Metro Council this 13th day of February, 1997.



Jon Kvistad, Presiding Officer

ATTEST:

Approved as to Form:



Recording Secretary



Daniel B. Cooper, General Counsel

Exhibit A to Ordinance No. 97-676

Regional Solid Waste Management Plan -- 1995-2005

Illegal Dumping Plan

**Goal, Objectives, and
Management Practices**

Final Draft: Dec. 30, 1996

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Goal and Objectives

Illegal dumping is a problem that affects public health and safety as well as the region's environment, economic vitality and livability. It is also costly to investigate and prosecute illegal dumping and to clean up dump sites.

This draft plan was developed to address the problem within Metro's boundaries. It also acknowledges that local governments can use this plan to address illegal dumping problems within the rural portions of Clackamas, Multnomah and Washington Counties. This plan was developed collaboratively with government, waste hauler, and private sector representatives who work in the region to prevent illegal dumping, enforce illegal dumping laws, clean up dump sites, and plan for the future. The goal and objectives that guide this plan are:

Goal: Help keep the Metro region clean, livable, and healthy through the cooperative efforts of the public and private sectors to promote proper disposal of solid waste.

Objectives:

- Educate the public about illegal dumping and promote legal alternatives
- Reduce illegal dumping
- Clean up dump sites
- Reduce the unauthorized use of disposal containers

The main goal of the Regional Solid Waste Management Plan (RSWMP) is to develop a plan that achieves a solid waste system that is regionally balanced, environmentally sound, cost-effective, technologically feasible and acceptable to the public. This Illegal Dumping Plan is consistent with that goal. This plan also acknowledges Metro's responsibilities for regional solid waste management planning and disposal.

Summary of Management Practices

The management practices listed below are proposed as the six most effective ways to accomplish the goal and objectives. They identify areas of regional interest where coordination and continued planning will be required, they set expectations for what can be accomplished, and they provide a strategy or approach for implementation.

- Practice 1:** Improve communication, coordination and planning
- Practice 2:** Prevent illegal dumping through mitigation and public education
- Practice 3:** Provide for dump site cleanup
- Practice 4:** Coordinate prosecution and enforcement efforts
- Practice 5:** Reduce the incidents of unauthorized use of disposal containers through public education and enforcement
- Practice 6:** Track progress and measure results

Each proposed management practice includes the components listed below.

Key Concept: A description of the problem or opportunity the practice addresses.

Key Element: The specific programs or activities that make up the practice.

Roles and Responsibilities: The responsibilities of each party to implement the practice.

Implementation of the Management Practices

Roles and Responsibilities

The management practices will be implemented through cooperative and individual efforts of governments and the private sector. Roles and responsibilities have been proposed for the purpose of ensuring the best use of resources and respecting the authorities of state, regional and local governments over specific solid waste management functions. The table on the next page summarizes proposed roles for each partner to implement the management practices.

Illegal Dumping - Recommended Management Practices
Summary of Roles and Responsibilities

Mgt. Practice	Regional Coordination *	State DEQ	Metro	Cities and Counties	Private Sector **
Practice 1: Regional Coordination and Planning	Establish an effective means to coordinate and plan region-wide efforts	Participate Share information	Lead role to coordinate regional planning efforts Participate Share information Provide for meeting space and facilitation	Participate Share information	Participate Share information
Practice 2: Educate the Public	Plan effective education strategies and programs	Implement state programs to educate the public and specific audiences	Lead role to coordinate regional education and promotion planning efforts Implement regional programs to educate the public and specific audiences	Implement local programs to educate the public and specific audiences	Implement private sector programs to educate the public and specific audiences
Practice 2: Mitigate Illegal Dumping	Plan effective mitigation strategies and programs		Lead role to coordinate regional mitigation planning efforts. Provide mitigation programs Assist with implementation of programs per agreements with cities and counties Enforce Metro's "covered load" regulation	Lead role to provide mitigation programs	Lead role to provide mitigation programs
Practice 3: Clean Up Dump Sites	Develop a regional call referral service to report dump sites and related problems; develop a matrix of services and referrals	Lead role to provide technical assistance to other governments as requested to identify and handle special and hazardous materials Lead role to clean up large waste tire dump sites	Lead role to provide the regional call referral service Assist with clean up of dump sites per agreements with cities and counties	Lead role to clean up dump sites consistent with local regulations	Lead role to coordinate and conduct region-wide clean up events Lead role to provide volunteers as available for local cleanup events

continued

- * Regional Coordination = Coordinated planning by state, Metro and local governments and the private sector ** Private Sector = Organizations or individuals working to solve the illegal dumping problem.

Summary of Roles and Responsibilities

Mgt. Practice	Regional Coordination *	State DEQ	Metro	Cities and Counties	Private Sector **
<p>Practice 4: Coordinate Investigation and Prosecution</p>	<p>Develop and maintain a regional database of dump sites, suspects, and known illegal perpetrators</p>	<p>Lead role to enforce state regulations Assist to maintain the regional database</p>	<p>Lead role to coordinate the development and maintenance of a regional database. Lead role to enforce Metro regulations related to revenue flow and facility franchises If requested, assist cities and counties to develop "civil penalty" laws Provide investigation and prosecution services per agreements with cities and counties Provide assistance to develop and maintain the regional database</p>	<p>Lead role to investigate and prosecute cases relating to collection, theft of recyclables, theft of services, and illegal dumping Lead role to enforce local facility franchise agreements (if applicable) Coordinate with other governments on cases as appropriate Assist to maintain the regional database</p>	
<p>Practice 5: Reduce the Incidence of Unauthorized Use of Disposal Containers</p>	<p>Develop a regional public education campaign</p>	<p>Participate in the development of a public education campaign</p>	<p>Lead role to coordinate the development of a regional public education campaign; implement specific education strategies as determined If permitted by local laws and if requested, assist cities and counties to investigate and prosecute theft of services cases</p>	<p>Lead role to investigate and prosecute theft of services cases Participate in the development of a regional public education campaign; implement specific education strategies as determined</p>	<p>Participate in the development of a regional public education campaign</p>
<p>Practice 6: Track Progress Measure Results</p>	<p>Track program results and plan program improvements where necessary</p>	<p>Assist to provide data for the annual report Participate to assess program results and to plan improvements where necessary</p>	<p>Lead role to provide data, produce and distribute an annual report of activities Lead role to conduct surveys and studies to measure regional progress Lead role to assess program results and to plan improvements</p>	<p>Assist to provide data for the annual report Assist with surveys and studies as appropriate Participate to assess program results and to plan improvements</p>	<p>Assist to provide data for the annual report as appropriate Assist with surveys and studies as appropriate Participate to assess program results and to plan improvements</p>

Practice 1: Improve Communication and Regional Coordination

Key Concept and Approach

Effective communication and regional coordination will be required to accomplish the goal, objectives, and management practices of this plan, and to minimize duplication of efforts and service gaps. The other management practices describe key projects where coordination will be necessary. This practice describes the specific mechanisms to improve cooperation and coordination.

Key Elements

Roles and Responsibilities

[In addition to the descriptions below, see the table at the beginning of this document for a summary of roles and responsibilities]

- a) **Establish and support, financially and through staffing, a regional committee or committees.** The purpose of the committee(s) will be to provide an effective, ongoing regional forum to share information, discuss key issues, develop plans and programs, implement programs to involve the public in plan development, and to assess program results. Metro will provide meeting space and facilitation services as required. Governments and the private sector will participate.
- b) Metro and DEQ will coordinate cooperative efforts developed through the regional committee, as defined in "a)."

Practice 2: Prevent Illegal Dumping through Mitigation and Public Education

Key Concept and Approach

Resources invested to prevent illegal dumping will result in fewer resources expended to investigate and prosecute cases, and to clean up illegal dump sites. Effective prevention can also help alleviate the negative economic consequences of chronic illegal dumping for neighborhoods, businesses, and government. The results of annual tracking surveys suggest that prevention efforts implemented in the last several years have resulted in fewer dump sites in locations that have traditionally experienced problems. Prevention activities should be strengthened to increase this momentum. Prevention activities should address the principal reasons illegal dumping continues to be a problem. These include:

Chronic dump sites - Known illegal dump sites attract more illegal dumping. Prompt cleanup and physical barricades will make these sites less attractive to potential perpetrators.

Economic considerations - Problems that lead to illegal dumping and are sometimes economic in nature, such as low-income residents who cannot otherwise afford garbage service. The public needs to be made aware of low cost, legal options such as recycling.

Problem materials - Some materials have proven to be a chronic illegal dumping problem. Implementation of solutions that help to improve their chances of being recycled or properly disposed is a key step in managing illegal dumping.

Problem generators - Certain types of commercial and industrial waste generators have been found to be more prone to dispose of materials through illegal means. Specific solutions should be implemented to mitigate potential illegal dumping activities.

Lack of public awareness - Large segments of the general public and certain targeted generators may not be aware of the health, safety, social, economic, environmental, and legal consequences of illegal dumping. They may not be aware of legal recycling and disposal options. Effective promotional and educational efforts will raise awareness and help prevent illegal activity.

Key Elements
Roles and Responsibilities

[In addition to the descriptions below, see the table at the beginning of this document for a summary of roles and responsibilities]

- a) **Mitigate chronic illegal dump sites.** Make chronic dump sites less attractive to perpetrators by placing or removing barriers, signs, lighting and other deterrents at chronic dump sites whenever feasible. Monitor chronic sites for problems. Work with private property owners to mitigate illegal dumping.
- b) **Abate Disposal Facility Litter.** Metro will continue to mitigate litter problems at Metro-owned and franchised solid waste facilities and roadsides by levying a surcharge for loads arriving without proper cover or containment.
- c) **Provide economic incentives for proper waste disposal.** Make it convenient and economically viable for waste generators to recycle bulky and hazardous items thus making it less likely they will be illegally dumped. Continue special collection events for these materials. Provide grants to fund these events.
- d) **Continue effective programs for problem materials and launch new programs that will solve acute problems.**

Bulky materials - As noted in c) above, continue special collection events for bulky materials that are often illegally dumped.

Waste tires - Accept waste tires at community cleanup events. Encourage state legislation for the better management of waste tires and to strengthen actions that can be taken against the illegal disposal of waste tires.

Construction and demolition materials - Initiate programs to educate construction and demolition contractors on proper waste disposal techniques and recycling opportunities. When feasible, implement additional measures to increase proper management of waste. Examples could include: 1) require waste generators to develop and submit recycling plans to local governments; or 2) increase enforcement of regulations that require the use of authorized haulers.

Hazardous materials - Work cooperatively to implement state, regional and local programs to promote the safe and legal use and disposal of hazardous materials.

Sharps - promote the safe and legal disposal of sharps generated by households and institutions. Support the planning and public outreach efforts of the Pollution Prevention Outreach Group, a region-wide group working to promote the safe and legal disposal of sharps generated by households and institutions and work cooperatively with that group as opportunities arise. Metro will continue to collect properly contained sharps at its permanent hazardous waste facilities and at satellite household hazardous waste collection events, subject to the conditions of Metro's sharps container exchange program.

Sharps are defined in ORS 459.386 as including needles, IV tubing with needles attached, scalpel blades, lancets, glass tubes that could be broken during handling, and syringes that have been removed from their original sterile containers.

Renters - Local governments may elect to implement policies requiring landlords to subscribe to garbage and recycling service for their tenants. These policies have been effective in other jurisdictions.

e) **Educate the general public and targeted audiences.** Collaborate to develop and implement effective education to:

- Help the general public and targeted audiences to understand what illegal dumping is and its legal, social, economic, and environmental consequences;
- Inform the general public and targeted audiences about the roles and responsibilities of citizens, governments and the private sector to solve the problem of illegal dumping;
- In applicable jurisdictions, inform the general public and targeted audiences that they may be directly responsible if they hire a hauler who illegally disposes of their waste;
- Promote legal recycling, disposal alternatives, and locations of service facilities; and
- Inform the public government enforcement officers' success in apprehending perpetrators.

Target audiences should include business owners, rental property owners and associations of investors, self-haulers, people who use the services of haulers that are not authorized by local governments to haul waste, remodelers, carpenters, roofers, landscapers, painters, security personnel, judges, hearings officers, police officers, and fire fighters.

Depending on target audiences and messages, specific education methods could include: newspaper articles or ads; city, county or neighborhood association newsletters; professional association newsletters, cable access television programs; public service announcements (radio and television); garbage bill inserts; videos; speakers bureaus (slide presentations and talks to civic groups and trade associations); workshops or roundtable discussions with business groups, law enforcement and fire fighter associations.

Proper solid waste reduction, disposal, and recycling practices will continue to be promoted.

Practice 3: Provide for Illegal Dump Site Cleanup

Key Concept and Approach

Prompt cleanup of illegal dump sites ensures the removal of health and safety hazards, provides a means to obtain and preserve evidence and information that could lead to prosecution, and lessens the likelihood of more dumping at the same site. The region's local governments have different approaches to dump site cleanup. In addition, private sector organizations have assumed an important role to coordinate regional cleanup events and services. Roles and responsibilities need to be worked out in order to avoid service gaps and overlaps.

Key Elements

Roles and Responsibilities

[In addition to the descriptions below, see the table at the beginning of this document for a summary of roles and responsibilities]

- a) **Provide dump site cleanup services according to local policies.** Local governments have the authority to provide dumpsite cleanup within their jurisdictions.

Metro may provide cleanup services on private property for victims of illegal dumping per agreements with cities and counties, and according to the following criteria:

- The property is not a county or city right-of-way that is regularly cleaned up by a local jurisdiction
- The dump site is a health and/or safety hazard to the public
- The dump site is unsightly
- It would present an undue hardship to the property owner under the circumstances to clean up the site.
- Evidence about the probable perpetrator can be gathered in the process of cleaning up the site

Metro's objective will be to provide quick response to appropriate service requests in order to mitigate additional illegal dumping problems at the site.

DEQ will continue to provide technical assistance to other governments and the private sector as requested to identify potentially hazardous materials that have been illegally dumped or abandoned. It will also address water and air quality concerns that arise as a result of illegal dump sites.

- b) **Establish a regional call referral service for reporting illegal dumping.** The purpose of the call referral service is to provide better public service. It will ensure that the public has a simple and understandable way to report incidents. Metro will provide the service through its existing Recycling Information Center and will promote the new number to the public. Regional coordination will be required to set up and maintain reliable referrals as described in c) below.
- c) **Develop a matrix and map of dump site cleanup policies and services.** Through a cooperative regional effort, identify the laws, codes, and enforcement procedures, including penalties and cleanup policies, that exist within the region and including Vancouver and Clark County, Washington. Identify the boundaries of those programs on a regional map. Identify reliable phone numbers and referrals for different types of illegal dumping situations that are likely to occur.

Ensure that all jurisdictions receive the information and that the information is updated on a regular basis. This matrix and map will be used by the call referral service described in b) above.

- d) **Continue to provide local and region-wide dump site cleanup events.** Governments and the private sector will continue to plan and implement cleanup events. This includes those organized by Stop Oregon Litter & Vandalism (SOLV). SOLV will also provide volunteers as available for cleanups coordinated by state, regional or local governments.

Practice 4: Coordinate Prosecution and Enforcement Efforts

Key Concept and Approach

There are challenges to prosecution and enforcement efforts that heighten the need for coordination. For example, illegal dumping policies and enforcement practices vary among jurisdictions. Another challenge is that perpetrators do not usually confine their activities to one jurisdiction. Instead, they tend to cross jurisdictional boundaries and continue those activities. Also, some local officials may not see illegal dumping cases as a high priority and may be unaware of an offender's prior illegal dumping offenses. Coordination is required to address these challenges effectively.

Key Elements

Roles and Responsibilities

[In addition to the descriptions below, see the table at the beginning of this document for a summary of roles and responsibilities]

- a) **Prosecution and investigation is under the authority of local governments.** Local jurisdictions have the authority to investigate and prosecute illegal dumping incidents that occur within their boundaries. When permitted by law, this enforcement authority may be delegated to another jurisdiction by written agreement. Metro will assist to investigate and prosecute cases per written agreements with cities and counties.
- b) **Develop and maintain a regional, computerized database of suspects, offenders, dump sites, and open and closed cases.** The purpose of the database is to provide the means to electronically share current information region-wide about illegal dump sites, suspects and perpetrators in order to apprehend more offenders. Metro will provide technical assistance and funding to establish and maintain the database and to provide other governments the opportunity to access the database. All jurisdictions will coordinate to maintain the database, to evaluate its effectiveness, and to plan improvements.
- c) **Conduct information meetings with criminal enforcement personnel.** Governments will coordinate to plan and conduct regional and local meetings with civil and criminal enforcement personnel. The purpose of these meetings will be to increase awareness of illegal dumping enforcement programs and the serious nature of the offense.
- d) **Other Actions.** In the interest of establishing more consistent policies, any of the following elements can be implemented by governments as appropriate:
 - Local governments may choose to issue citations under Metro's illegal dumping ordinance through written agreements with Metro.
 - Adopt laws to:
 - Allow liens to be placed on the personal property of perpetrators (e.g., vehicles) if they fail to pay civil penalties or costs of cleanup.

- Restrict homeowners' use of unauthorized haulers and hold unauthorized haulers and/or homeowners liable for cleanup of illegally-dumped materials.
 - Advocate for a state law that would restrict homeowners' use of unauthorized haulers and hold unauthorized haulers and/or homeowners liable for cleanup of illegally-dumped materials.
 - Require convicted offenders to subscribe to residential garbage service.
 - Enact an illegal dumping ordinance.
-
- Develop procedures to identify repeat offenders across the region.
 - Provide cost-effective ways for recycling coordinators and enforcement officials to access the state Department of Motor Vehicle's automated voice exchange system (DAVE) in order to do license plate checks on illegal dumping suspects.

Practice 5: Reduce the incidents of unauthorized use of disposal containers through public education and enforcement

Key Concept and Approach

Illegal disposal includes the unauthorized placing of one's garbage in another's refuse container. Considering that "garbage collection" is a service that is paid for by the customer, this activity is tantamount to stealing the service from the individual or business that paid for it. As disposal costs increase, so does the monetary significance to the victim and the number of incidents.

Illegal disposal also includes cases where waste or recyclables are deposited at a legitimate disposal or recovery facility but dumped after hours and/or without proper payment. Such cases occur infrequently and can be handled either as thefts or as illegal dumping.

"Theft of service" is a crime under Oregon law and as such it is the responsibility of the local law enforcement agency to investigate the offense and prosecute through the district attorney's office. Individuals who participate in this activity may be unaware that it is a crime and the possible consequences. Public education would raise awareness and help prevent this activity.

Due to limited law enforcement resources, local jurisdictions may determine that this activity is a low priority for criminal investigation and prosecution. The regional committee established under Practice 1 of this Plan could investigate alternative approaches to address this problem, including prosecuting as a civil offense.

Key Elements

Roles and Responsibilities

[In addition to the descriptions below, see the table at the beginning of this document for a summary of roles and responsibilities]

- a) **Investigation and Prosecution is under the authority of local governments.** Local jurisdictions have the authority under Oregon law to investigate and prosecute the unauthorized use of disposal containers (theft of services) occurring within their boundaries. This enforcement authority may be delegated to another jurisdiction by written agreement.
- b) **Develop a public education campaign** to inform individuals that this activity is "theft" and of the legal consequences. In addition, both residential and business waste collection customers should be educated on steps that may be taken to protect their disposal containers from unauthorized use, such as lighting, signage and locks.
- c) **Enact legislation.** Local jurisdictions may enact legislation making unauthorized use of a disposal container a civil violation, thereby removing investigation and prosecution from the criminal justice system.

Practice 6: Track Progress and Measure Results

Key Concept and Approach

Surveys and program tracking are traditional management tools used to measure and evaluate the effectiveness of programs. These same types of management tools should be used to assess the effectiveness of illegal dumping programs, to plan better approaches to solve the problem, and to ensure to best use of resources. Annual reviews will be necessary given the changing face of the problem. For example, new illegal dump sites may emerge as old ones are cleaned up, changing solid waste policies may result in the decrease or increase of illegal activity, or an increase in construction activity in a particular area may result in more illegally disposed construction waste.

Key Elements

Roles and Responsibilities

[In addition to the descriptions below, see the table at the beginning of this document for a summary of roles and responsibilities]

- a) **Identify performance indicators.** In order to track progress from year to year, governments and the private sector have identified key indicators of performance. These indicators will be used to assess region-wide progress toward reaching the objectives of this plan.

Communication and Regional Coordination

- Participation in the Solid Waste Interagency Network of Enforcers (SWINE)
- Participation in regional planning efforts
- Successful implementation of regional programs

Prevention and Public Education

- Identify sites where mitigation measures have been taken and determine whether or not they are dumped on less frequently
- Decrease in the size and number of illegal dump sites
- Changes in public attitudes (surveyed through public opinion polls)
- Changes in the behavior of targeted waste generators
- Numbers and types of calls to the regional call referral service phone number

Illegal Dump Site Cleanup

- Number of sites cleaned up, who cleaned them up, and who paid for the cleanup. Calls to the regional call referral service

Coordinated Investigation and Prosecution

- Adoption of new laws
- Jurisdictions use the new regional database
- Number of informational meeting with enforcement personnel
- Number of cases involving coordinated investigation and prosecution

b) **Produce and distribute an annual report on the status of illegal dumping.** The purpose of this report is to survey and inventory the current status of the illegal dumping problem. The report will also analyze survey information and make specific recommendations for change as discussed in element b) below. The report may include the following information for each annual reporting period:

- Size, locations and types of known illegal dump sites
(“types” can include whether the land was privately or publicly owned, the types of materials dumped, and whether the material was dumped by households or businesses)
- Number, size, locations, and types of illegal dump site cleanups, quantities of materials collected, whether the site owner or the local government cleaned the site, how much money was recovered from local government cleanups, and the costs of cleanup activities.
- Number of violators apprehended
- Status of repeat violators
- Number of cases successfully cleared
- Call activity - regional call referral service by geographic location
- Summary of programs implemented
- Summary of new solid waste management policies and their probable effects on illegal dumping
- Comparisons with prior years and analysis
- Recommendations for change
- Survey of types of materials dumped
- Map matrix to mitigate repeat calls and transferring of calls
- Response times for resolving problems

Metro will compile and distribute the report annually. Local governments may contribute information for their jurisdictions. Metro will work with state and local governments to determine specific reporting needs.

c) **Analyze report data and recommend program improvements.** All parties will participate in the following activities:

- Analyze annual data
- Assess the effectiveness of current programs
- Amend existing programs as a result of surveys
- Recommend new programs to address emerging problems

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 97-676, FOR THE PURPOSE OF ADOPTING THE REGIONAL ILLEGAL DUMPING PLAN AND INCORPORATING IT INTO THE REGIONAL SOLID WASTE MANAGEMENT PLAN

DATE: January 28, 1997

Presented By: Bruce Warner
Marie Nelson
Steve Kraten

Action Requested. Council adoption of Ordinance No. 97-676.

Introduction and Background. On November 30, 1995, the Council adopted a new Regional Solid Waste Management Plan (RSWMP) and rescinded the 1991 Illegal Dumping Plan. At that time, the Council acknowledged that some elements of solid waste management would be updated and incorporated into the new RSWMP, illegal dumping being one of those elements.

In February 1996, the Office of the Auditor issued a report entitled "Review of Metro's Solid Waste Enforcement Unit." The report included specific recommendations related to the management of illegal dumping prevention, investigation, enforcement and dump site cleanup, as well as other solid waste enforcement activities.

In April 1996, the Solid Waste Advisory Committee (SWAC) appointed the Regional Illegal Disposal Task Force -- comprised of government, waste hauler, and Stop Oregon Litter and Vandalism (SOLV) representatives -- to develop a regional plan to address illegal dumping problems and to involve the public in that process. The task force has completed its work.

The Illegal Dumping plan is consistent with the main goal of the Regional Solid Waste Management Plan: "To develop a plan that achieves a solid waste system that is regionally balanced, environmentally sound, cost-effective, technologically feasible and acceptable to the public." The Illegal Dumping Plan acknowledges Metro's responsibilities for regional solid waste management planning and disposal. The plan also responds to the Auditor's recommendations related to illegal dumping prevention, investigation, enforcement, and dump site cleanup.

Please note that the February 1996 Auditor's recommendations not related to illegal dumping -- activities concerning the enforcement of Metro's revenue and facility regulation system -- are not addressed in the Illegal Dumping Plan. Goals and objectives for those activities will be added to the Regional Solid Waste Management Plan once the franchise code is revised.

SWAC, at its meeting of Jan. 15, 1997, unanimously passed a motion recommending Council adoption of the Illegal Dumping Plan.

The Illegal Dumping Plan is included in this packet as Exhibit A to Ordinance No. 97-676. The following information is included as attachments to staff's report:

Plan Development

- Attachment 1 Illegal Disposal Task Force Membership
- Attachment 2 Public Involvement Process and Schedule
- Attachment 3 Public Comments Received on the Draft Plan

Plan Implementation

- Attachment 4 Implementation Work Group Membership (Draft)
- Attachment 5 Implementation Schedule (Draft)

Organization of the Plan

The introduction summarizes the problems the plan will address, identifies the plan's central goal and objectives, and lists six management practices to accomplish those objectives. A summary of government and private sector roles and responsibilities to implement the plan is provided in matrix form at the beginning of the document.

The remainder of the document provides information about the management practices recommended to accomplish the goal and objectives. These practices address regional concerns and will require continued planning and coordination to be implemented. The descriptions of these practices set expectations for what can be accomplished, and provide a strategy or approach for implementation.

Summary of Plan Recommendations

◆ Roles and Responsibilities

Consensus. The task force spent much of its time reaching consensus regarding the specific roles and responsibilities of governments and the private sector to implement the recommended practices. The objectives of consensus were to aggressively address the problem of illegal dumping; provide better public service; eliminate duplication of efforts; and acknowledge the authorities of state, regional and local governments to enforce the laws they make.

Local governments regulate their respective waste collection franchises, illegal dumping on property within their jurisdictions, and other aspects of local solid waste management. Each local government has established penalties (usually criminal penalties) for those who break its laws and an enforcement unit to investigate cases and prosecute offenders. Each local government has also established a protocol for cleaning up dump sites.

This plan acknowledges that each local government has the authority to provide its own services to local citizens using local enforcement personnel, or it may choose to delegate certain responsibilities to the Metro Solid Waste Enforcement Unit (SWEU). Metro has also offered each local government the opportunity to prosecute cases under Metro's ordinance which cites illegal dumping as a civil offense. This plan anticipates that further Metro / local government cooperation will be undertaken and that the public will continue to benefit from these cooperative efforts.

Metro. The plan acknowledges that Metro has enforcement authority for its requirements relating to Metro-owned disposal facilities, designated facilities, and facility franchises. Goals, objectives and management practices for those activities will be developed at a later date in tandem with the Metro facility regulation code revision. And as described above, Metro will continue to play a major role to assist local governments as requested to enforce against illegal dumping and to clean up dump sites. Dump site cleanup services will be provided according to Metro's criteria. Investigation and prosecution services would be provided under Metro's civil penalty code.

Private sector. Finally, the proposed plan anticipates a continued, major role for the private sector -- waste haulers, SOLV, neighborhood associations, businesses -- to participate with governments in public education campaigns, community cleanup events, region-wide cleanup events, and other activities that address the problem of illegal dumping.

Six management practices are proposed in the plan. Under each practice, specific programs are recommended that will solve the problem of illegal dumping. New programs include:

- ◆ *A work group*, facilitated by Metro, to implement the programs requiring regional cooperation and coordination [Practice 1, elements a) and b)]. See Attachment 4 for a proposed work group membership list.
- ◆ *Illegal dumping prevention and public education programs* for general and targeted audiences [Practice 2, elements a) through c)].
- ◆ *A region-wide call referral service* administered by Metro Recycling Information and the Illegal Dumping Work Group. The service would allow the public to call one phone number to report problems or receive information. Calls would then be referred, via "seamless" phone transfer, to the Metro or local government person designed to address the problem [Practice 3, element b)].
- ◆ *A regional, computerized database* of suspects, offenders, dump sites, and open and closed cases [Practice 3, element b)].
- ◆ *Methods to track programs, measure results, and report progress* [Practice 6, elements a) through c)]. (The plan proposes benchmarks against which progress can be measured. Metro will continue to produce and distribute an annual report which will serve as the mechanism for reporting progress on implementing the plan, as well as the progress made toward reaching objectives and benchmarks.

Plan Implementation. A draft implementation schedule is included as Attachment 5 to this staff report. Staff recommends that key dates not become part of this framework plan, they be established by the regional planning group in February, 1997, reported to interested parties for review and comment, and progress to implement the plan be reported annually in late February per Practice 6.

Financial Impact. Staff anticipate that the programs and recommendations proposed for Metro can be implemented without increases to the Regional Environmental Management (REM) budget.

The plan recommends that key existing programs continue. This includes illegal dump site cleanup, prosecution and investigation of illegal dumping cases under Metro's civil code, a regional hearings officer, public information, the transfer station voucher program, and grants for community cleanup events.

The estimated cost to implement new projects is modest. For example, computer software and electronic equipment to implement the regional call referral service and the regional database will cost approximately \$5,500 for fiscal year 1997-98. It is anticipated that maintenance costs for those projects would be approximately \$5,000 per year thereafter.

The department has allocated .25 FTE staff time this fiscal year to coordinate plan implementation. The department's FY 1997-98 budget request will include .25 FTE to complete the bulk of implementation tasks.

Executive Officer's Recommendation. The Executive Officer recommends adoption of Ordinance No. 97-676.

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Attachment 1

Illegal Disposal Task Force Membership

Members:

Andre Bjornskov *	Washington County, Enforcement Officer
Cory Chang *	State of Oregon, DEQ, Enforcement Officer
JoAnn Herrigel	City of Milwaukie, Solid Waste Program Mgr.
Richard Atkinson *	City of Milwaukie, Code Enforcement Officer
Linda Summers *	City of Gresham, Code Enforcement Officer
Steve Kraten *	Metro, Solid Waste Enforcement Officer
Jan McGowan	SOLV (Stop Oregon Litter and Vandalism)
Wayne Potter *	City of Portland, Enforcement Officer
Ken Spiegle **	Clackamas County, Solid Waste Program Coord.
Jane Kolberg * (Alt.)	Clackamas County, Community Environment
David White **	ORRA / Tri County Council of Haulers
Mike Beam *	ODOT, District 2-B Litter Coordinator

Project Advisors:

Dave Kunz **	State of Oregon, DEQ, NW Region
Terry Petersen	Metro, Environmental Services Manager
Lynne Storz **	Washington County, Solid Waste Program Coordinator

Staff:

Marie Nelson	Project Coordinator, Metro SW Planning Supervisor
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Facilitator:

Joe Hertzberg	Decisions Decisions, Consultant to Metro
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* Member, Solid Waste Inter-Agency Network for Enforcement (SWINE), a regional group

** Member, Regional Solid Waste Advisory Committee (SWAC)

Attachment 2

**Illegal Dumping Plan
Public Involvement Process and Schedule**

Review of Draft	Public Involvement Timeline	Oct. 8 - Nov. 22
	Illegal Disposal Task Force completes 1st draft	Oct. 8, 1996
SWAC Meeting	Review and comment on 1st draft	Oct. 16
Council REMCom Meeting	Council work session Review and comment on 1st draft	Oct. 23
Public Review of Draft	Mailing to interested parties: . Letter informing parties of the plan and how to request a copy of the document . Summary of public involvement process and schedule	Oct. 30
	Deadline for public comments on 1st draft	Nov. 22
	The Illegal Disposal Task Force incorporates comments received to date into a 2nd draft	Nov. 22 - Dec. 13
Final Approval	Public Involvement Timeline	Dec. 30 - Feb. 5
Public Review of Final Draft	Mailing to interested parties: . Copy of Illegal Dumping Plan - Final Draft . Report on the results of public involvement during prior public review phase . Public meeting schedule	Dec. 30, 1996
	Deadline for public comments on final draft	Jan. 12, 1997
SWAC Meeting	Recommended Council Adoption of the Illegal Dumping Plan (final draft)	Jan. 15
Council meeting	1st reading of the ordinance* to adopt the Plan	Jan. 23
Council REMCom Meeting	Public hearing on the ordinance* to adopt the Plan; REMCom forms its recommendation to the Council	Feb. 5
Full Council Meeting	2nd reading of the ordinance* to adopt the Plan; Consideration of Plan adoption	Feb. 13
DEQ approval	DEQ approval of the Council's adopted Plan anticipated	March 1997
	Adopted Plan distributed to interested parties	March

* The ordinance, when approved by the Metro Council, would adopt the Illegal Dumping Plan and incorporate it into the Regional Solid Waste Management Plan.

REMCom: Regional Environmental Management Committee, a subcommittee of the Metro Council.

SWAC: Regional Solid Waste Advisory Committee; advisory to the Metro Executive Officer and Council.

Meeting times and places - Call the Metro Council Office (797-1540) for information about REMCom meeting times and places. Call Connie Kinney about SWAC meeting times and places (797-1643).

Attachment 3
**Summary of
Public Comments Received
on the Draft Illegal Dumping Plan**

Summary of Comment Received on the 1st Draft Plan	Received From:	Response to Comments
Introduction		
Beginning statement Add language to clarify that the plan addresses the illegal dumping problem within the boundaries of Clackamas, Washington and Multnomah counties.	SWINE (Solid Waste Interagency Network of Enforcers)	"Goals and Objectives" section, new language added to show that this is a Metro plan to address the problem within the region and that local governments can use this plan to address problems outside Metro's boundaries.
Beginning statement - Add language to show how the draft plan is consistent with the RSWMP goals.	Metro councilor	"Goals and Objectives" section, new language
Beginning statement - Add language to show how the plan addresses Metro's responsibility to manage the region's solid waste.	Metro councilor	"Goals and Objectives" section, new language
Summary of Management Practices Staff recommends that key dates not become part of this framework plan. Key dates will be established by the regional planning group in February, 1997, reported to interested parties, and progress to implement the plan will be reported annually in late February per Practice 6.	Metro staff	"Summary of Mgt. Practices" section - key date reference deleted. Practice 6, element b), last paragraph - key date reference deleted.
Practice 1: Communication and Regional Coordination		
no comments received		
Practice 2: Mitigation and Education		
Key Concept and Approach, "Problem Materials" and "Problem Generators" paragraphs It may be helpful to state some examples here (unless there is a concern about implicating certain industries or trades).	Clark Co., SW Wash. Health Dist.	Specific examples were omitted due to the Illegal Disposal Task Force's concerns about implicating certain industries or trades.
b) Abate Disposal Facility Litter Clark County offers public education and sells tarps in an effort to mitigate future problems with uncovered loads.	Clark Co., SW Wash. Health Dist.	Metro is currently providing the same type of public education and services. Staff have requested a copy of Clark Co.'s code and will consider improvements to its program.
c) Provide economic incentives for proper disposal - Low income dumpers will continue to be a problem without a specific plan and funds.	Clark Co., SW Wash. Health Dist.	We agree. The regional planning group will continue its work to develop specific implementation plans.
d) Construction and demolition materials A third example could be to require containers, identified for placement of specific recyclable materials, placed on site during certain construction projects.	Clark Co., SW Wash. Health Dist.	We agree. Waste reduction practices for building industries are addressed in the existing RSWMP, Chapter 7, pg. 7-19, 20, 21, and 38.
d) Sharps handling and disposal Form partnerships with sharps distributors such as pharmacies to take back used sharps for proper disposal. Encourage franchised haulers to provide bio waste collection to both commercial and residential haulers. It may also be prudent to provide a standard recommendation for the public on how to handle used syringes found indiscriminately discarded on public or private property.	Clark Co., SW Wash. Health Dist.	We agree. These suggestions have been passed on to the Pollution Prevention Outreach Group and Metro's Hazardous Waste Unit who are currently working implement the suggestions offered by Clark County.

Summary of Comment Received	Received From:	Response to Comments
d) Sharps handling and disposal Staff requested counsel review the statement to ensure it was consistent with Metro Code.	Metro legal counsel	The new language simplifies Metro's policy on the acceptance of sharps at events and hazardous waste facilities.
e) Education re: homeowners' responsibilities, 3 rd bullet - The draft plan calls for educating homeowners that they may be responsible if they hire haulers who illegally disposes of their waste. In fact, they are responsible only if their local codes say they are. The Plan should also advocate for state legislation that requires the homeowners to be responsible state-wide. The Plan should continue to advocate for local jurisdictions to adopt ordinances that would make homeowners responsible.	SWINE	Element e) - language changed to specify responsibility only if local codes apply. Practice 4, element d), 4th bullet - this language will remain; it advocates for local jurisdictions to adopt laws that will restrict homeowners' use of unauthorized and name those haulers and/or homeowners responsible. Practice 4, element d), 5th bullet - new language added to encourage Metro and local jurisdictions to advocate for new state legislation.
Practice 3: Dump Site Cleanup		
a) Metro dump site cleanup criteria Staff requested counsel review of the "hardship" criteria	Metro legal counsel	Element a) - Counsel proposed amended language and did not think that "undue hardship" needed to be defined. SWAC will consider this language at its Jan. 15 meeting.
a) Metro dump site cleanup criteria SWAC review of the "hardship" criteria	SWAC Jan. 15 meeting	Element a) - SWAC amended the 2nd paragraph to read: Metro <u>may will provide illegal dump site-cleanup services on private property for victims of illegal dumping</u> per agreements with cities and counties, and according to one or <u>more of the following criteria . . .</u> " The Committee did not recommend amending the criteria. SWAC advised that the administration of the "undue hardship" criteria be addressed by the work group charged with plan implementation.
b) Regional Call Referral Service Call referrals need to be made to the appropriate local jurisdictions unless there is a written agreement for other referral arrangements.	Wash. Co. Recycling Cooperative	We agree.
Practice 4: Prosecution and Enforcement		
a) Delegation of enforcement responsibilities Staff requested counsel review elements a) and d) to ensure they were consistent with Metro Code and state law.	Metro legal counsel	Elements a) and d) - new language
b) Computer database The Coop. supports the database concept as long as participation is voluntary.	Wash. Co. Recycling Cooperative	We agree.
Practice 5: Theft of Service		
Delegation of enforcement responsibilities The Coop. proposes a language change which acknowledges that local jurisdictions have primary authority in this area.	Wash. Co. Recycling Cooperative	Element a) - new language

Summary of Comment Received	Received From:	Response to Comments
Practice 6: Track Progress and Measure Results		
General comments on Practice 6 All of this depends on what's known, what's reported, what's cleaned up, etc. An annual report could look quite different from reality, depending on what data are used.	Clark Co., SW Wash. Health Dist.	We agree. Implementation work will continue to ensure accurate and useful data collection and reporting.
a) Performance Indicators, element a), "Illegal Dump Site Cleanup," first bullet - Delete the performance indicator of quantifying how much in cleanup costs were repaid to the local jurisdictions. This indicator would be hard to measure and is not the most important indicator of how well dump sites are cleaned up.	Illegal Dumping Task Force, mtg. of Dec. 5	Element a), "illegal dump site cleanup," 1st bullet - The language has been deleted.
b) Annual Reports - The Coop. Is concerned that the proposed language would result in unnecessary reporting requirements.	Wash. Co. Recycling Cooperative	Element b) - new language
Other Comments		
The Auditor supports the plan and thinks an aggressive, cost effective, regional approach is needed to solve the problem.	City of Portland Auditor	Comments received via phone call. Staff memo summarize the call is available on request.
County staff like the plan and want to work with the region to solve the problem of illegal dumping.	Clark Co., SW Wash. Health Dist.	A memo from the county is available upon request. A delegate representing Clark, Skamania and Klickitat counties will participate on the Illegal Dumping Work Group to implement the new plan.
The Cooperative is "strongly supports the plan's proposal to utilize an IGA which would allow local governments to elect the various assistance options from Metro."	Wash. Co. Recycling Cooperative	A letter from the Cooperative is available upon request.

Attachment 4

Illegal Disposal Work Group (Draft)

Work Group Objective: Implement portions of the new Illegal Dumping Plan that call for regional cooperation and coordination.

Name	Phone	Affiliation	Current Position	Address	Fax
Members					
Ken Spiegle Jane Kolberg	650-3374 650-3747	Clackamas County	Solid Waste Program Coordinator Community Environment	902 Abernethy Road, Oregon City, OR 97045	557-6355
JoAnn Herrigel	786-7508	Clack. Co. Cities	Milwaukie, Solid Waste Prog. Mgr.	10722 SE Main Street, Milwaukie, OR 97222	652-4433
		East Mult. Co. Cities Fairv., Wood Village, Troutdale			
Linda Summers	618-2463	City of Gresham	Code Enforcement Officer	1333 NW Eastman Pkwy, Gresham, OR 97030	669-1376
Andre Bjornskov	681-3664	Washington County	Enforcement Officer	155 N 1st Ave., Hillsboro, OR 97124	693-4490
		Washington Co. Cities	City of Tigard		
Gary Bickett (Voice Mail: 360/737-6008, box 3055)	360 695-9215	SW Wash. Health Dist. (Clark, Skamania, and Klickitat Counties)	Environmental Health Specialist, Solid Waste Program	PO Box 1870, Vancouver, WA 98663	360 696-7424
Wayne Polter	823-6110	City of Portland	Enforcement Officer	Building 106, Room 400 (Inter-Agency Mail)	823-4562
		DEQ	Enforcement Officer	2020 SW 4th Ave., Rm. 400, Portland, OR 97201	229-6957
Steve Kraten	797-1678	Metro	Solid Waste Enforcement Officer	600 NE Grant Ave., Portland, OR 97232	797-1795
Jan McGowan	844-9571	SOLV		PO Box 1235, Hillsboro, OR 97123	844-9575
David White	690-3143	Haulers / ORRA	ORRA/Tri County Council	1739 NW 156th Ave., Beaverton, OR 97006	690-3143
Advisors					
Dave Kunz	229-5061	DEQ	State of Oregon, DEQ	2020 SW 4th Ave., Rm. 400, Portland, OR 97201	229-6957
Lynne Storz	681-3663	Washington County	Solid Waste Program Manager	155 N 1st Ave., Hillsboro, OR 97124	693-4490
Roosevelt Carter	797-1680	Metro	Budget and Administration Manager	600 NE Grand Ave., Portland, OR 97232	797-1795
John Houser	797-1541	Metro	Sr. Council Analyst	600 NE Grand Ave., Portland, OR 97232	797-1793
Staff					
To be determined		Metro	Work Group Coordinator	600 NE Grand Ave., Portland, OR 97232	797-1795
Marie Nelson	797-1670	Metro	Sr. Solid Waste Planner, Project Mgr.	600 NE Grand Ave., Portland, OR 97232	797-1795

Attachment 5

Plan Implementation Schedule - Draft

Note: This implementation schedule has been proposed by staff and will be reviewed by the Illegal Dumping Implementation Work Group at its meeting of Feb. 6, 1997.

	Practice/ Key Elem.	Completion Date	Summary of Implementation Task	Lead Roles
Time Certain Tasks				
1	1.a	Completed	Regional committee - establish a work group to implement parts of the new Illegal Dumping Plan that call for regional coordination and cooperation	M, WG
2	3.c	4/30/97	Develop the matrix of policies/services and map of dump sites	M, WG
3	3.a 4.c 5.a	4/30/97	Designation of services - LG designate in writing who (Metro and/or LG's) will provide the following types of services: <ul style="list-style-type: none"> . Dump site cleanup services . Investigation and prosecution of illegal dumping cases . Investigation and prosecution of theft of recyclable cases 	LG, M
4	2.e, 3.b	4/30/97	Call referral service - Develop a promotion strategy for the new service	M, WG
5	3.b	6/30/97	Call referral service - Up and running via the Metro Recycling Info Center	M, WG
6	2.e, 3.b	6/30/97	Call referral service - implement the promotion strategy	
7	6.a	7/31/97	Plan evaluation methods - complete consultant work	M
8	2.e	9/30/97	Public info strategy - develop a 3-year strategy and begin implementation	WG
9	6.a	10/31/97	Plan evaluation methods - develop strategy to measure plan progress; complete SWAC and REM review	WG
10	4.b	12/31/97	Database - regional computerized database up and running	M, WG
11	6.a	1/1/98	Plan evaluation methods - begin ongoing implementation of meas. strategy	M
12	6.a	3/1/98	Plan evaluation methods - incorporate meas. strategy into the annual report	M
Annual Tasks				
1	2.e	9/30	Public info strategy - Review 3-yr. strategy annual and anticipate budget needs	WG
2	3.a, 4.c, 5.a	To be determined	Designation of services - Periodic review of agreements between Metro and LG's	M, LG
3	6.a	3/1	Plan evaluation - annual review and assessments included in annual report	M, WG
Ongoing Tasks				
1	2.a		Mitigate chronic illegal dump sites	LG, SOLV
2	2.b		Abate disposal facility litter	M
3	2.c, 2.d		Conduct special hazardous waste and bulky waste collection events	LG, M
4	3.a		Dump site cleanup services - provide services according to local policies	LG
5	3.b		Call referral service - update referral listings	WG
6	3.c		Matrix and map of dump sites, etc. - update matrix information and map	WG
7	3.d		Region-wide dump site cleanup events	LG, SOLV
8	4.a		Prosecute and investigate illegal dumping cases	LG
9	4.b		Database - update data	WG
10	4.d		Implement programs / enact legislation - voluntary	LG
11	5.c		Enact various legislation - voluntary	LG

H = Waste Haulers LG = Local Governments M = Metro PS = Private Sector WG = Illegal Dumping Work Group

Refer to the Illegal Dumping Plan for a complete description of tasks as well as lead and supportive roles to implement them.