

MSD BOARD OF DIRECTORS

PORTLAND WATER BUREAU
1800 SW 6TH
AUDITORIUM

FEBRUARY 28, 1975
2:00 P.M.

A G E N D A

- I. MINUTES
- II. ACCOUNTS PAYABLE
- III. PUBLIC COMMUNICATION
- IV. ORDINANCE NO. 27 - SECOND PUBLIC HEARING
AN ORDINANCE ESTABLISHING A NONPROCESSABLE SOLID WASTE
PROGRAM; ESTABLISHING PROCEDURE FOR THE ISSUANCE OF
CERTIFICATES FOR THE OPERATION OF WASTE DISPOSAL SITES;
PROVIDING FOR ADMINISTRATION AND ENFORCEMENT; AND
PROVIDING FOR COLLECTION OF FEES
- V. RECYCLING MANAGEMENT PROGRAM APPROVAL
 - . WORK SCOPE
 - . MSD/PORTLAND RECYCLING TEAM CONTRACT
- VI. SUPPLEMENTAL BUDGET APPROVAL
- VII. OTHER BUSINESS

Computer Program

FEBRUARY 24, 1975

TO: MSD BOARD OF DIRECTORS
FROM: MSD STAFF
SUBJECT: STAFF REPORT FOR FEBRUARY 28, 1975

PRESENTED TO THE BOARD FOR TRANSMITTAL AND RECOMMENDED ACTION
ARE THE FOLLOWING ITEMS:

PAGE

- 1 I. MINUTES
Action - Approve the minutes of February 14,
1975.
- 27 II. ACCOUNTS PAYABLE
Action - Approve the Accounts Payable for the
period February 6, 1975 to February 19,
1975 in the amount of \$7,081.36.
- 29 III. PUBLIC COMMUNICATIONS
Action - Receive comments from the public on
items not specified on the agenda.

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IV. ORDINANCE NO. 27 - SECOND PUBLIC HEARING

AN ORDINANCE ESTABLISHING A NONPROCESSABLE
SOLID WASTE PROGRAM; ESTABLISHING PROCEDURE
FOR THE ISSUANCE OF CERTIFICATES FOR THE
OPERATION OF WASTE DISPOSAL SITES; PROVIDING
FOR ADMINISTRATION AND ENFORCEMENT; AND
PROVIDING FOR COLLECTION OF FEES.

Action - Hold second public hearing, receive
public testimony and adopt Ordinance
No. 27.

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V. RECYCLING MANAGEMENT PROGRAM APPROVAL

- . WORK SCOPE
- . MSD/PORTLAND RECYCLING TEAM CONTRACT

Action - Approve Work Scope and contract.
Authorize Chairman to sign the contract.

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VI. SUPPLEMENTAL BUDGET APPROVAL

Action - Review budget information.

36

VII. OTHER BUSINESS

I. MINUTES

THE FOLLOWING PAGES CONTAIN MINUTES FOR THE MSD BOARD MEETING OF FEBRUARY 14, 1975.

THE STAFF RECOMMENDS APPROVAL OF THE MINUTES.

COMMITTEE

DATE

MSD Board 2-28-75

NAME

AFFILIATION

NAME	AFFILIATION
Jack Schwab	CCRDA
Bill Horkan	Chesapeake Bay Assoc.
Harvey Berzoff	Thompson Recycling
Nick Gregorick	Long Beach Local 220
Henry Brill	M. H. Co. Association
Richard Cyprien	" " "
Henry Tufenecker	" " "
Jack Fleming	Total 220
Dick Weibel	# 220
Wallace Bryans	= 270
C.W. Lechner	atty.
Dennis Brown	P. W. C. H. A.
Carl Miller	Local 220
L. D. Kell	Consolidated Waste
Pete V. Chiaro	PASSO + Local 220
Alfred W. Rossetto	Local 220
Henry Turchi	Local 500
Donald W. Witzel	Prints & Co.
Walter J. Krieger	Local 220
Henry H. Halber	Refuse Removal, Inc.
Bob Brown	DEQ
Steve Sander	DEQ
William R. Bue	DEQ Recycling

COMMITTEE

DATE

MSD Board 2-28-75

NAME

AFFILIATION

Herb Frank	FRANK'S Sanitary Landfill
Jerry Powell	Portland Recycling
FRED LEEBON	JOURNAL GARBAGE
Ralph Wooten	Local 220
W. L. Warrant	Local 220
Greg Dallowitch	Local 220
Bub Zacher	Local 220
Thomas Schuster	Local 220
Norving F. St. Clair	Local 220
G. K. MOHR	SOLID WASTE ADVISORY COMMITTEE
R. T. Howard	Multnomah County
David Phillips	Clackamas County Solid Waste
Scott Parkes	Rossman's Landfill
Dick Glang	Metropolitan Disposal Corp.
Dan Goodman	MILTON'S DISPOSAL SERVICE
Hans and Mildred Grietter	Grietter Sanitary Service, Inc.
Joyce Bales	Community Press
W. B. Cullham	City of Portland
Don Hamling	Don's Rubbage Removal
Gary Miller	Alaka Rubbage

AMENDMENTS TO ORDINANCE 27

SECTION 1. Definitions.

Proposed Amendments:

Batchelor:

Add Section 1(12):

"(12) COMMERCIAL WASTE COLLECTOR. Commercial waste collector means any person, firm or corporation receiving compensation for the collection and disposal of solid waste."

Harlan:

1. Alphabetize definitions.
2. Add a definition of "Certificate".

Recommended Amendments:

1. Alphabetize definitions.
2. Re-define "Person" as:

"PERSON. Person means any individual, public or private corporation, industry, partnership, association, firm, trust, estate, city, county, special district or local governmental unit and any other legal entity."

SECTION 2. Policy.

Proposed Amendments:

Batchelor:

Add as sentence number two the following:

"It is the policy of the District that the generator of nonprocessable wastes should bear the economic burden of disposal of such wastes."

Leichner:

"The definition is too broad and too vague insofar as it relates to the flow of waste. This is broad enough to allow MSD to control the collection of waste if this is liberally construed. This definition should be clarified to limit the authority of the flow of waste to the site itself, or in the absence of such a definition, a disclaimer of any right to control collection should be included."

Recommended Amendments:

None

SECTION 3. Administration and Enforcement.

Proposed Amendments:

None

Recommended Amendments:

None

SECTION 4. Rules and Regulations.

Proposed Amendments:

Leichner:

"(a) Standards of service to be provided to the public is the phraseology. Here again, clarification of service is needed so that it eliminates specifically collection. (b) (3) Orderly flow of non-processable solid waste and processable solid waste should be limited to its arrival upon the site. (b) (4) Again, definition or clarification is needed to define what is a breakdown or overloading of a processable system. You could read this to mean that if there is no market for a recovery of processable waste, then you can dump it in a nonprocessable site."

Recommended Amendments:

None.

SECTION 5. Activities and Practices Regulated.

Proposed Amendments:

Leichner:

"(a) This paragraph provides that any person operating a site must have a certificate from MSD and doesn't provide for those presently operating. This is mentioned again later insofar as existing sites are concerned, but there must be some provision for grandfather rights. (d) This paragraph should be stricken. If the ordinance is constitutional and valid, then subparagraph (d) is redundant of (b) and (c)."

Recommended Amendments:

Delete subparagraph D.

1) Page 2 of Amendments

Change paragraph E to read:

2. In case of an emergency or the breakdown or overloading of the processable system, the Manager may provide to any operator a written waiver from subsections 5(b) or 5(c).

SECTION 6. Applications for Certificates.

Proposed Amendments:

Leichner:

"(b)(4) The word "estimate" should be included in this paragraph because the strict application would be almost impossible. (7) An operational plan is too nebulous and this should be more definitive."

Recommended Amendments:

1. Delete the last sentence of paragraph A.
2. Add "estimated" before "amount" in B(4).
3. Add the following to B(7):

". . ., including information covering hours of operation, material handling procedures, on-site traffic flow, emergency procedures and cover material."

SECTION 7. Requirements for Certificates.

Proposed Amendments:

Harlan:

1. Delete A(3)
2. Define the kind of engineer.

Leichner:

1. Delete A(2)
2. Delete A(3)
3. Delete B
4. Paragraph C(1):

"The requirement to show there is a need again should be more definitive to show or define the guidelines of what is necessary to show a need. We have seen this requirement in other requirements, the OLCC for example, and the requirement to show a need provides a catch-all for a denial."

5. "With respect to Section 7, we would recommend that existing permit holders would be required to qualify under (a)(1) and (a)(4) and if so, then observe the grandfather rights of the existing holders."

decision is made upon said application by the Board.

B. Applications for certificates shall be reviewed by the Manager who shall make such investigation as he deems necessary and appropriate. Written notice shall be given by the Manager to any person who holds a certificate and to other interested persons and notice of application shall be published in a newspaper having a general circulation within the District greater than 50,000. The notice shall state the name of the applicant, the type of certificate requested, the location and size of the proposed site, and that the recipient of the notice and the public shall have thirty (30) days from the date thereof to file written comments pertinent to the application and other information the manager deems appropriate.

C. The Board may refuse to issue a Certificate to any applicant if it has reasonable grounds to believe any of the following to be true:

1. That the applicant has not met the requirements of this ordinance or the rules and regulations promulgated thereunder or Chapter 459. (Solid Waste Management) or the rules and regulations promulgated thereunder.
2. That the applicant has materially misrepresented the statements in the application for a certificate or in any testimony or documentary evidence given to the Manager or to the Board.
3. That the applicant has been convicted of a misdemeanor involving moral turpitude or of a felony, or if the applicant is a firm or corporation that the principal partners or officers have been convicted of a misdemeanor involving moral turpitude or of a felony.
4. That the applicant has failed to disclose all information in the applicant's possession deemed relevant to a decision on the application after written notification and a reasonable opportunity to do so.

D. In addition to paragraph 8(c) and in the case of an applicant who is not already operating a waste disposal site, the Board may refuse to issue a certificate if it has reasonable grounds to believe that there are sufficient waste disposal sites already certified and operating within the District and the applicant's disposal site and the location thereof will not substantially benefit the nonprocessable solid waste program.

E. The applicant shall be advised of the Board's action on his application in writing and shall be advised that the applicant has the right to a contested case hearing under the provisions of ORS 183.

F. If the Board makes a final order rejecting all or part of an application for a Certificate, the applicant may not submit another application for the same or a portion of the same site for a period of 6 months unless the Board finds that the public interest requires reconsideration within a shorter period of time.

G. The term of the certificate shall be determined by the Board on the basis of site longevity, population to be served, probable land use and amount of investment by the applicant.

SECTION 9. Transfer of Certificates.

Proposed Amendments:

Leichner:

"This section should be redrafted because as written it really doesn't permit for a transfer of a certificate. It in essence makes the transferee a new applicant. There should be no need for new engineering, new possible land uses after the site is filled, new operational plan, etc. It, in effect, does not insure a permit holder who has a large financial investment of an opportunity of ever selling that investment, or at least makes it hazardous to do so."

Recommended Amendment: Delete present paragraph 9 and substitute the following:

"An Operator may transfer his certificate to another person only after written notice to and approval by the Board. The Board shall approve the transfer unless it has reasonable grounds to believe that the Operator-transferor is in violation of any of the requirements of this Ordinance or the rules and regulations promulgated thereunder or that the transferee does not meet the requirements of this Ordinance or the rules and regulations promulgated thereunder. The Board may attach conditions to an approval under this section."

SECTION 10. Suspension, Modification, Revocation or Refusal to Renew a Certificate.

Proposed Amendments:

Leichner:

"Section 10, page 7, Suspension, Modification, Revocation or Refusal to Renew a Certificate. I would suggest that in this paragraph that in the event suspension or revocation occurred, that cessation of operations be stayed unless there is serious and imminent danger to the public health as determined by an appropriate authority i.e. the health officer. Then if that was the case the remainder of that section could be followed to determine whether or not that revocation or suspension should be so ordered. Subparagraph (d) of this section should be amended so that the last sentence in this subparagraph includes "subject to appeal to the Circuit Court" as it would appear that this sentence attempts to eliminate that appeal and is contrary to Section 8, which provides that the Circuit Court will review all decisions of the board."

"Section 10. Suspension, Modification, Revocation, or Refusal to Renew a Certificate. (a) The Board may suspend, modify, revoke or refuse to renew a certificate if it has reasonable grounds to believe that an operator has:

1. Willfully violated this ordinance or ORS Chapter 459 or the rules and regulations respectively promulgated thereunder; or his Certificate and any conditions attached thereto; or

2. Materially misrepresented the statements in the application for his certificate or in any testimony or documentary evidence given to the Manager or to the Board; or

3. Willfully refused to provide adequate service to the public after written notification and a reasonable opportunity to do so.

(b) In lieu of suspension, modification, revocation or refusal to renew a certificate, the Board may order compliance and make suspension, modification, revocation or renewal contingent upon compliance with the order within a time stated in said order.

(c) The procedures for suspension, modification, revocation or refusal to renew a certificate shall be those specified for a contested case in ORS Chapter 183."

SECTION 11. Fees.

Proposed Amendments.

None

Recommended Amendments.

Add paragraph (C). The fees imposed by this section shall be in addition to any other fees or charges the operator is required to pay.

SECTION 12. Collection of Fees.

Proposed Amendments:

Batchelor:

"3. Section 12. Collection of Fees:

Amend Section 12 (B) (4) as follows:

12 (B) (4) The number of truck loads received daily from commercial waste collectors, and the number of truck loads received daily from other than commercial waste collectors."

"4. Section 12. Collection of Fees:

Amend Section 12 (B) by adding (5) and (6) as follows:

"(5) The name, address and area of collection of all commercial waste collectors using the disposal site.

"(6) The city, county, or other governmental agency, if any, which establishes the collection rates for any commercial waste collector using the disposal site.

NOTE: Existing subsections (5), (6), (7), (8), (9) and (10) would be renumbered accordingly.

"5. Section 12. Collection of Fees:

Amend Section 12 by adding Section 12(F) as follows:

"(F) The operator shall not be required to pay the fees established by Section 11 upon gross receipts from any commercial waste collector whose collection rates are established by a city, county, or other governmental agency until the collection rates for any such collector have been increased by the rate-regulating body in an amount equal to the fees to be paid by the operator under Section 11 upon the gross receipts from any such collector."

Harlan:

"9. My next comment would be directed to Section 12 E. on page 10. I believe language should be inserted saying that this account will be subject to the Local Budget Law, and that it will be segregated from any general fund of MSD. That seems to me to be a minimum necessity, even if it is determined that the District has the power to levy a Gross Receipts Tax on a Waste Disposal Site."

Leichner:

"Section 12, page 9, Collection of Fees. (b) On line 3 of page 10, the sentence begins "Misrepresentation of any information. . ." I feel that the requirement here should be willful misrepresentation. (d) This provision allowing the authorities to examine the books, papers and records of the operator should be clarified to provide that only those books, papers and records that are necessary to verify the accuracy of the return are subject to inspection.

(e) This subparagraph provides that all sums should be deposited in the nonprocessable solid waste account. We only ask why and how can the processable waste operators then so benefit?"

Recommended Amendments:

1. Delete B(8) and renumber (9) and (10).
2. Add "willful" before "misrepresentation."
3. Delete "or" from the 6th line of D.

SECTION 13. Penalties.

Proposed Amendments:

Leichner:

"(a) This indicates that a violation is punishable by a fine of \$500 and we suggest that this inconsistent with the revocation or suspension, and the matter should be combined. (b) I question the legality of this subparagraph and whether or not there is any statutory authority that provides that each violation constitutes a separate offense. (c) Again, I question the statutory authority to impose a penalty not to exceed 10% and whether or not it is inconsistent with (a) calling for a \$500 fine.

Recommended Amendments:

1. Remove the comma in line 2 of B.
2. Delete C.

SECTION 14. Exclusive Contracts.

Proposed Amendments:

Harlan:

"10. Section 14 entitled Exclusive Contract seems to be badly confused. It provides that the Board can "limit the number of Certificates and award Exclusive Contracts." Neither the term Certificate nor the term "Exclusive Contract" is defined in the Ordinance. Furthermore, the first sentence provides that the Board can set fees for such exclusive contracts. What type of fee are you talking about? The last sentence says that the Board may "establish rates" to be charged by the holders of Exclusive Contracts, but sets up no standards for the rates. Nor does the language tie in with definition (9), Reasonable Disposal Site Charge. That phrase must mean something as it is used in the Ordinance, but it is not tied into the Ordinance. Furthermore, the phrase seems to be rather meaningless as a reasonable charge "means the average charge imposed by waste and disposal sites within the District to accept and dispose of Solid Waste." Again, you are talking about "waste", and it is not defined in the Ordinance. It talks about "disposal site" and that is not defined in the Ordinance. Furthermore, there is no criteria for the establishment of rates by the Board

"to be charged by holders of exclusive contracts", let alone holders of "Certificates".

Leichner:

"This is an apparent effort to eliminate reference to franchising, but in essence is franchising and rate regulation and I question as to whether or not this is not contra to Section 7(a) i.e. showing a need.

Recommended Amendments:

None.

SECTION 15. Agreements for Administration, Operation and Enforcement.

Proposed Amendments:

None.

Recommended Amendments:

None

SECTION 16. Restraining Orders.

Proposed Amendments:

Harlan and Leichner:

Strike Section 16.

Recommended Amendment:

Strike Section 16, and renumber following sections:

SECTION 17. Abatement.

Proposed Amendments:

Harlan:

Strike Section 17.

Recommended Amendments:

None.

SECTION 18. Conformance with State Law.

Proposed Amendments:

None

Recommended Amendments:

None

SECTION 19, Savings Clause.

Proposed Amendments:

None

Recommended Amendments:

None

SECTION 20. Waiver for Local Jurisdiction. (new section)

The Board may waive some or all of the requirements of this Ordinance and rules and regulations promulgated thereunder where an applicant, operator or certificate holder is a city, county, special district or local governmental unit.

SECTION 21. Review of Board Action. (new section)

All decisions of the Board under this ordinance, except those decisions where the right to a contested case hearing is involved, shall be reviewable by the Circuit Court of the County in which the Board has its principal office under the provisions of ORs Chapter 34.010-34.100 which shall be the sole and exclusive remedy for review.

SECTION 22. Effective Date. (new section)

Proposed Amendments:

Leitchner:

"Delete: "or so many of those items as deemed necessary by the Board for effective operation of the ordinance."

Recommended Amendments: Renumber section

"Section 22. Effective Date.

(A) This ordinance shall take effect 60 days subsequent to the completion and Board approval of the following items:

1. Evaluation of existing sites.
2. Rules and regulations governing the:
 - (a.) Standards of service to be provided to the public.
 - (b.) Evaluation criteria to determine:
 - (1) need for and location of nonprocessable disposal sites required in the District.
 - (2) number and priority of nonprocessable disposal sites required in the District.
 - (3) orderly flow of processable and nonprocessable solid waste.
 - (4) use of nonprocessable disposal sites as a back-up system in the event of a breakdown or overload of the processable system, and
 - (c.) The administration of this ordinance

(B) The Board shall notify all local jurisdiction when the ordinance will take effect and when the imposition of the fees provided herein will begin.

II. ACCOUNTS PAYABLE

THE FOLLOWING PAGE CONTAINS A LIST OF ACCOUNTS PAYABLE
ITEMS FOR PAYMENT FOR THE PERIOD FEBRUARY 5, 1975 TO
FEBRUARY 19, 1975 IN THE AMOUNT OF \$7,081.36.

THE STAFF RECOMMENDS APPROVAL OF THE ACCOUNTS PAYABLE.

APPROVED METROPOLITAN
SERVICE DISTRICT
BOARD OF DIRECTORS

ACTION NO. 75-311

DATE 2-28-75

BY [Signature]
CLERK OF THE BOARD

APPROVED METROPOLITAN
SERVICE - L. J. ST
BOARD OF DIRECTORS

ACCOUNTS PAYABLE

ACTION NO. 75-311

February 6 - February 19, 1975

DATE 2-28-75

Voucher No.	Check No.	Payable To	Purpose	Amount	Program	Object Code
		CLERK OF THE BOARD				
83	83	American Waterworks Assn.	Publication	\$ 5.00	Q201	318
84	84	Sandra Bauer	Travel Expense	3.75	Q203	305
85	85	Boise Cascade	General Office Supplies	56.42	Q201	308
86	86	Brewed Hot Coffee	Coffee for Board meetings	4.88	Q204	305
87	87	Daily Journal of Commerce	Publications	27.20	Q201	318
88	88	Dictaphone	Maintenance Agreement	20.25	Q201	321
89	89	William A. Deming	Consultant	800.00	Q201	302
90	90	Hallander	Business Cards	11.50	Q201	308
91	91	Hardy Buttler McEwen	Attorney fees	5,769.50		
		(breakdown of total)		3,753.00	Q201	331
				2,000.00	Q203	331
				16.50	Q300	331
92	92	Merle Irvine	Travel Expenses	7.20	Q201	305
93	93	Charles Kemper	Travel Expenses	7.40	Q201	305
94	94	Oregonian	Tire Application Notice	88.12	Q203	318
95	95	Rians	SWC Meeting Lunches	29.60	Q201	305
96	96	Pacific NW Bell	Telephone Service	196.55	Q201	310
97	97	Portland State University	Duplicating (January)	53.99	Q201	306
TOTAL				\$7,081.36		

III. PUBLIC COMMUNICATIONS

THIS AGENDA ITEM ALLOWS FOR THE MSD BOARD TO HEAR COMMENTS FROM THE PUBLIC ON ITEMS NOT CONTAINED ON THIS AGENDA.

IV. ORDINANCE NO. 27 - SECOND PUBLIC HEARING

AN ORDINANCE ESTABLISHING A NONPROCESSABLE SOLID WASTE PROGRAM; ESTABLISHING PROCEDURES FOR THE ISSUANCE OF CERTIFICATES FOR THE OPERATION OF WASTE DISPOSAL SITES; PROVIDING FOR ADMINISTRATION AND ENFORCEMENT; AND PROVIDING FOR COLLECTION OF FEES.

THE FOLLOWING PAGES CONTAIN ORDINANCE NO. 27 AS AMENDED BY TESTIMONY RECEIVED AT THE FEBRUARY 14, 1975 BOARD MEETING. THE AMENDMENTS HAVE BEEN REVIEWED AND APPROVED BY THE SOLID WASTE COMMITTEE AND THE MSD ATTORNEY. STAFF RECOMMENDS HOLDING THE SECOND PUBLIC HEARING, RECEIVING PUBLIC TESTIMONY, AND IF APPROPRIATE, ADOPT ORDINANCE NO. 27.

AMENDMENTS TO ORDINANCE 27

SECTION 1. Definitions.

Proposed Amendments:

Batchelor:

Add Section 1(12):

"(12) COMMERCIAL WASTE COLLECTOR. Commercial waste collector means any person, firm or corporation receiving compensation for the collection and disposal of solid waste."

Harlan:

1. Alphabetize definitions.
2. Add a definition of "Certificate".

Recommended Amendments:

1. Alphabetize definitions.
2. Re-define "Person" as:

"PERSON: Person means any individual, public or private corporation, industry, partnership, association, firm, trust, estate, city, county, special district or local governmental unit and any other legal entity."

SECTION 2. Policy.

Proposed Amendments:

Batchelor:

Add as sentence number two the following:

"It is the policy of the District that the generator of nonprocessable wastes should bear the economic burden of disposal of such wastes."

Leichner:

"The definition is too broad and too vague insofar as it relates to the flow of waste. This is broad enough to allow MSD to control the collection of waste if this is liberally construed. This definition should be clarified to limit the authority of the flow of waste to the site itself, or in the absence of such a definition, a disclaimer of any right to control collection should be included."

Recommended Amendments:

None

SECTION 3. Administration and Enforcement.

Proposed Amendments:

None

Recommended Amendments:

None

SECTION 4. Rules and Regulations.

Proposed Amendments:

Leichner:

"(a) Standards of service to be provided to the public is the phraseology. Here again, clarification of service is needed so that it eliminates specifically collection. (b) (3) Orderly flow of non-processable solid waste and processable solid waste should be limited to its arrival upon the site. (b) (4) Again, definition or clarification is needed to define what is a breakdown or overloading of a processable system. You could read this to mean that if there is no market for a recovery of processable waste, then you can dump it in a nonprocessable site."

Recommended Amendments:

None.

SECTION 5. Activities and Practices Regulated.

Proposed Amendments:

Leichner:

"(a) This paragraph provides that any person operating a site must have a certificate from MSD and doesn't provide for those presently operating. This is mentioned again later insofar as existing sites are concerned, but there must be some provision for grandfather rights. (d) This paragraph should be stricken. If the ordinance is constitutional and valid, then subparagraph (d) is redundant of (b) and (c)."

Recommended Amendments:

Delete subparagraph D.

1) Page 2 of Amendments

Change paragraph E to read:

2. In case of an emergency or the breakdown or overloading of the processable system, the Manager may provide to any operator a written waiver from subsections 5(b) or 5(c).

SECTION 6. Applications for Certificates.

Proposed Amendments:

Leichner:

"(b)(4) The word "estimate" should be included in this paragraph because the strict application would be almost impossible. (7) An operational plan is too nebulous and this should be more definitive."

Recommended Amendments:

1. Delete the last sentence of paragraph A.
2. Add "estimated" before "amount" in B(4).
3. Add the following to B(7):

". . ., including information covering hours of operation, material handling procedures, on-site traffic flow, emergency procedures and cover material."

SECTION 7. Requirements for Certificates.

Proposed Amendments:

Harlan:

1. Delete A(3)
2. Define the kind of engineer.

Leichner:

1. Delete A(2)
2. Delete A(3)
3. Delete B
4. Paragraph C(1):

"The requirement to show there is a need again should be more definitive to show or define the guidelines of what is necessary to show a need. We have seen this requirement in other requirements, the OLCC for example, and the requirement to show a need provides a catch-all for a denial."

5. "With respect to Section 7, we would recommend that existing permit holders would be required to qualify under (a) (1) and (a) (4) and if so, then observe the grandfather rights of the existing holders."

decision is made upon said application by the Board.

B. Applications for certificates shall be reviewed by the Manager who shall make such investigation as he deems necessary and appropriate. Written notice shall be given by the Manager to any person who holds a certificate and to other interested persons and notice of application shall be published in a newspaper having a general circulation within the District greater than 50,000. The notice shall state the name of the applicant, the type of certificate requested, the location and size of the proposed site, and that the recipient of the notice and the public shall have thirty (30) days from the date thereof to file written comments pertinent to the application and other information the manager deems appropriate.

C. The Board may refuse to issue a Certificate to any applicant if it has reasonable grounds to believe any of the following to be true:

1. That the applicant has not met the requirements of this ordinance or the rules and regulations promulgated thereunder or Chapter 459. (Solid Waste Management) or the rules and regulations promulgated thereunder.

2. That the applicant has materially misrepresented the statements in the application for a certificate or in any testimony or documentary evidence given to the Manager or to the Board.

3. That the applicant has been convicted of a misdemeanor involving moral turpitude or of a felony, or if the applicant is a firm or corporation that the principal partners or officers have been convicted of a misdemeanor involving moral turpitude or of a felony.

4. That the applicant has failed to disclose all information in the applicant's possession deemed relevant to a decision on the application after written notification and a reasonable opportunity to do so.

D. In addition to paragraph 8(c) and in the case of an applicant who is not already operating a waste disposal site, the Board may refuse to issue a certificate if it has reasonable grounds to believe that there are sufficient waste disposal sites already certified and operating within the District and the applicant's disposal site and the location thereof will not substantially benefit the nonprocessable solid waste program.

E. The applicant shall be advised of the Board's action on his application in writing and shall be advised that the applicant has the right to a contested case hearing under the provisions of ORS 183.

F. If the Board makes a final order rejecting all or part of an application for a Certificate, the applicant may not submit another application for the same or a portion of the same site for a period of 6 months unless the Board finds that the public interest requires reconsideration within a shorter period of time.

G. The term of the certificate shall be determined by the Board on the basis of site longevity, population to be served, probable land use and amount of investment by the applicant.

SECTION 9. Transfer of Certificates.

Proposed Amendments:

Leichner:

"This section should be redrafted because as written it really doesn't permit for a transfer of a certificate. It in essence makes the transferee a new applicant. There should be no need for new engineering, new possible land uses after the site is filled, new operational plan, etc. It, in effect, does not insure a permit holder who has a large financial investment of an opportunity of ever selling that investment, or at least makes it hazardous to do so."

Recommended Amendment: Delete present paragraph 9 and substitute the following:

"An Operator may transfer his certificate to another person only after written notice to and approval by the Board. The Board shall approve the transfer unless it has reasonable grounds to believe that the Operator-transferor is in violation of any of the requirements of this Ordinance or the rules and regulations promulgated thereunder or that the transferee does not meet the requirements of this Ordinance or the rules and regulations promulgated thereunder. The Board may attach conditions to an approval under this section."

SECTION 10. Suspension, Modification, Revocation or Refusal to Renew a Certificate.

Proposed Amendments:

Leichner:

"Section 10, page 7, Suspension, Modification, Revocation or Refusal to Renew a Certificate. I would suggest that in this paragraph that in the event suspension or revocation occurred, that cessation of operations be stayed unless there is serious and imminent danger to the public health as determined by an appropriate authority i.e. the health officer. Then if that was the case the remainder of that section could be followed to determine whether or not that revocation or suspension should be so ordered. Subparagraph (d) of this section should be amended so that the last sentence in this subparagraph includes "subject to appeal to the Circuit Court" as it would appear that this sentence attempts to eliminate that appeal and is contrary to Section 8, which provides that the Circuit Court will review all decisions of the board."

"Section 10. Suspension, Modification, Revocation, or Refusal to Renew a Certificate. (a) The Board may suspend, modify, revoke or refuse to renew a certificate if it has reasonable grounds to believe that an operator has:

1. Willfully violated this ordinance or ORS Chapter 459 or the rules and regulations respectively promulgated thereunder; or his Certificate and any conditions attached thereto; or

2. Materially misrepresented the statements in the application for his certificate or in any testimony or documentary evidence given to the Manager or to the Board; or

3. Willfully refused to provide adequate service to the public after written notification and a reasonable opportunity to do so.

(b) In lieu of suspension, modification, revocation or refusal to renew a certificate, the Board may order compliance and make suspension, modification, revocation or renewal contingent upon compliance with the order within a time stated in said order.

(c) The procedures for suspension, modification, revocation or refusal to renew a certificate shall be those specified for a contested case in ORS Chapter 183."

SECTION 11. Fees.

Proposed Amendments.

None

Recommended Amendments.

Add paragraph (C). The fees imposed by this section shall be in addition to any other fees or charges the operator is required to pay.

SECTION 12. Collection of Fees.

Proposed Amendments:

Batchelor:

"3. Section 12. Collection of Fees:

Amend Section 12 (B) (4) as follows:

12 (B) (4) The numer of truck loads received daily from commercial waste collectors, and the number of truck loads received daily from other than commercial waste collectors."

"4. Section 12. Collection of Fees:

Amend Section 12 (B) by adding (5) and (6) as follows:

"(5) The name, address and area of collection of all commercial waste collectors using the disposal site.

"(6) The city, county, or other governmental agency, if any, which establishes the collection rates for any commercial waste collector using the disposal site.

NOTE: Existing subsections (5), (6), (7), (8), (9) and (10) would be renumbered accordingly.

"5. Section 12. Collection of Fees:

Amend Section 12 by adding Section 12(F) as follows:

"(F) The operator shall not be required to pay the fees established by Section 11 upon gross receipts from any commercial waste collector whose collection rates are established by a city, county, or other governmental agency until the collection rates for any such collector have been increased by the rate-regulating body in an amount equal to the fees to be paid by the operator under Section 11 upon the gross receipts from any such collector."

Harlan:

"9. My next comment would be directed to Section 12 E. on page 10. I believe language should be inserted saying that this account will be subject to the Local Budget Law, and that it will be segregated from any general fund of MSD. That seems to me to be a minimum necessity, even if it is determined that the District has the power to levy a Gross Receipts Tax on a Waste Disposal Site."

Leichner:

"Section 12, page 9, Collection of Fees. (b) On line 3 of page 10, the sentence begins "Misrepresentation of any information. . ." I feel that the requirement here should be willful misrepresentation. (d) This provision allowing the authorities to examine the books, papers and records of the operator should be clarified to provide that only those books, papers and records that are necessary to verify the accuracy of the return are subject to inspection. (e) This subparagraph provides that all sums should be deposited in the nonprocessable solid waste account. We only ask why and how can the processable waste operators then so benefit?"

Recommended Amendments:

1. Delete B(8) and renumber (9) and (10).
2. Add "willful" before "misrepresentation."
3. Delete "or" from the 6th line of D.

SECTION 13. Penalties.

Proposed Amendments:

Leichner:

"(a) This indicates that a violation is punishable by a fine of \$500 and we suggest that this inconsistent with the revocation or suspension, and the matter should be combined. (b) I question the legality of this subparagraph and whether or not there is any statutory authority that provides that each violation constitutes a separate offense. (c) Again, I question the statutory authority to impose a penalty not to exceed 10% and whether or not it is inconsistent with (a) calling for a \$500 fine.

Recommended Amendments:

1. Remove the comma in line 2 of B.
2. Delete C.

SECTION 14. Exclusive Contracts.

Proposed Amendments:

Harlan:

"10. Section 14 entitled Exclusive Contract seems to be badly confused. It provides that the Board can "limit the number of Certificates and award Exclusive Contracts." Neither the term Certificate nor the term "Exclusive Contract" is defined in the Ordinance. Furthermore, the first sentence provides that the Board can set fees for such exclusive contracts. What type of fee are you talking about? The last sentence says that the Board may "establish rates" to be charged by the holders of Exclusive Contracts, but sets up no standards for the rates. Nor does the language tie in with definition (9), Reasonable Disposal Site Charge. That phrase must mean something as it is used in the Ordinance, but it is not tied into the Ordinance. Furthermore, the phrase seems to be rather meaningless as a reasonable charge "means the average charge imposed by waste and disposal sites within the District to accept and dispose of Solid Waste." Again, you are talking about "waste", and it is not defined in the Ordinance. It talks about "disposal site" and that is not defined in the Ordinance. Furthermore, there is no criteria for the establishment of rates by the Board

"to be charged by holders of exclusive contracts", let alone holders of "Certificates".

Leichner:

"This is an apparent effort to eliminate reference to franchising, but in essence is franchising and rate regulation and I question as to whether or not this is not contra to Section 7(a) i.e. showing a need.

Recommended Amendments:

None.

SECTION 15. Agreements for Administration, Operation and Enforcement.

Proposed Amendments:

None

Recommended Amendments:

None

SECTION 16. Restraining Orders.

Proposed Amendments:

Harlan and Leichner:

Strike Section 16.

Recommended Amendment:

Strike Section 16, and renumber following sections:

SECTION 17. Abatement.

Proposed Amendments:

Harlan:

Strike Section 17.

Recommended Amendments:

None.

SECTION 18. Conformance with State Law.

Proposed Amendments:

None

Recommended Amendments:

None

SECTION 19, Savings Clause.

Proposed Amendments:

None

Recommended Amendments:

None

SECTION 20. Waiver for Local Jurisdiction. (new section)

The Board may waive some or all of the requirements of this Ordinance and rules and regulations promulgated thereunder where an applicant, operator or certificate holder is a city, county, special district or local governmental unit.

SECTION 21. Review of Board Action. (new section)

All decisions of the Board under this ordinance, except those decisions where the right to a contested case hearing is involved, shall be reviewable by the Circuit Court of the County in which the Board has its principal office under the provisions of ORs Chapter 34.010-34.100 which shall be the sole and exclusive remedy for review.

SECTION 22. Effective Date. (new section)

Proposed Amendments:

Leichner:

"Delete: "or so many of those items as deemed necessary by the Board for effective operation of the ordinance."

Recommended Amendments: Renumber section

Section 22. Effective Date.

(A) This ordinance shall take effect 60 days subsequent to the completion and Board approval of the following items:

1. Evaluation of existing sits.
2. Rules and regulations governing the:
 - (a.) Standards of service to be provided to the public.
 - (b.) Evaluation criteria to determine:
 - (1) need for and location of nonprocessable disposal sites required in the District.
 - (2) number and priority of nonprocessable disposal sites required in the District.
 - (3) orderly flow of processable and nonprocessable solid waste.
 - (4) use of nonprocessable disposal sites as a back-up system in the event of a breakdown or overload of the processable system, and
 - (c.) The administration of this ordinance

(B) The Board shall notify all local jurisdiction when the ordinance will take effect and when the imposition of the fees provided herein will begin.

METROPOLITAN SERVICE DISTRICT

NONPROCESSABLE SOLID WASTE PROGRAM ORDINANCE

Ordinance No. 27

An Ordinance establishing a nonprocessable solid waste program; establishing procedure for the issuance of certificates for the operation of waste disposal sites; providing for administration and enforcement; providing for collection of fees.

TITLE PAGE

ORDINANCE NO. 27.

The Metropolitan Service District hereby ordains:

Section I. Definitions.

A. As used in this ordinance, unless the context requires otherwise:

(1) BOARD. Board means the Board of Directors of the Metropolitan Service District.

(2) DISTRICT. District means the Metropolitan Service District and all of the land and territory included within the boundaries of the Metropolitan Service District as established by the electorate.

(3) MSD. MSD means the Metropolitan Service District, a municipal corporation established and existing under the laws of the State of Oregon, ORS Chapter 268.

(4) NONPROCESSABLE WASTE. Nonprocessable waste means any solid waste which cannot be processed for reclamation before final disposal.

(5) OPERATOR. Operator means a person who has obtained and holds a waste disposal certificate issued by the MSD pursuant to this ordinance.

(6) PROCESSABLE WASTE. Processable waste means any solid waste which may be processed for reclamation before final disposal.

(7) MANAGER. Manager means the chief administrative officer for the MSD.

(8) PERSON. Person means any individual, public or private corporation, industry, copartnership, association, firm, trust, estate, or any other legal entity whatsoever.

(9) REASONABLE DISPOSAL SITE CHARGE. Reasonable disposal site charge means the average charge imposed by waste and disposal sites within the district to accept and dispose of solid wastes. The charge shall be based on fees for uncompacted material.

(10). SOLID WASTE. Solid waste means all putrescible and nonputrescible wastes, including without limitation, garbage, rubbish, refuse, ashes, waste paper and cardboard, commercial, industrial, demolition and construction wastes, discarded home and industrial appliances, provided that this definition does not include:

a. Environmentally hazardous wastes as defined in ORS 459.410, or

b. Materials used for fertilizer or for other productive purposes or which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals.

(11). WASTE DISPOSAL SITE. Waste disposal site means a disposal site, whether or not open to the public, permitted by the Department of Environmental Quality to accept and dispose of solid wastes.

Section 2. Policy.

To protect the health, safety and welfare of the people of the District, the Board has determined the necessity of providing a coordinated District-wide program for the safe, economical and efficient disposal of nonprocessable solid wastes, and to insure an adequate number of disposal sites for nonprocessable solid waste, criteria for the need, location and operation of such sites, and the flow of all processable solid wastes into the processable waste stream, and this ordinance shall be liberally construed for the accomplishment of these purposes.

Section 3. Administration and Enforcement.

The Manager, under the supervision of the Board shall be responsible for the administration and enforcement of this ordinance.

Section 4. Rules and Regulations.

The Board shall promulgate reasonable rules and regulations pertaining to the administration of this ordinance and for the disposal of nonprocessable solid wastes, including without limitation the following:

A. Standards of service to be provided to the public.

B. Evaluation criteria to determine:

(1) Need for and location of nonprocessable disposal sites.

(2) Number and priority of nonprocessable disposal sites required in the District.

(3) Orderly flow of nonprocessable solid wastes and processable solid wastes.

(4) Use of nonprocessable disposal sites as a backup system in the event of a breakdown or overloading of the processable system.

Section 5. Activities and Practices Regulated.

Except as otherwise provided in this ordinance, it shall be unlawful:

A. For any person to operate a waste disposal site within the District without a certificate from the MSD.

B. For an Operator holding a certificate to operate a processable solid waste disposal site to receive, accept and dispose of any nonprocessable wastes.

C. For an Operator holding a certificate to operate a nonprocessable site to receive, accept and dispose of any processable wastes.

D. Subsections 5B and C shall not become effective until thirty days after the Board adopts an ordinance making subsections 5B and C effective.

E. The Manager may develop procedures allowing Operators holding certificates to operate nonprocessable disposal sites to obtain written waivers from subsection 5C in order to implement subsection 4B (4).

Section 6. Application for Certificates.

A. Applications for Certificates shall be on forms acceptable to the Manager. The Manager may accept applications on forms provided by other city, county, state or federal agencies. The application shall be filed with the Manager who shall determine whether the application is complete and meets the requirements specified in Section 7 of this ordinance.

B. Applicants for Certificates shall state:

- (1) The kind of disposal site to be operated.
- (2) The rates to be charged.
- (3) The location of and area occupied by or to be occupied by the disposal site.
- (4) The amount of material needed and the time required to fill the disposal site.
- (5) The possible land uses to which the site can be put after it is filled.
- (6) The present land use of the area to be used as a disposal site.
- (7) An operational plan.
- (8) Other information required by the form or the Manager.

Section 7. Requirements for Certificates.

A. Persons who are providing service on the effective date of this ordinance must make application for the required certificate within 30 days of the effective date of this ordinance and, upon filing an application for said certificate may continue to provide service until a final decision is made upon said application by the Board. The applicant must show to the satisfaction of the Board that he:

- (1) Has available land, equipment, facilities and personnel to meet the standards established by this ordinance and ORS Chapter 459 and the rules and regulations promulgated thereunder.

(2) Has had the site and operation thereof designed by a certified professional engineer.

(3) Has good moral character, or if the applicant is a firm or corporation, that the principal partners or officers are of good moral character.

(4) Has in force public liability insurance in the amount of not less than \$250,000.00 per person and \$500,000.00 per occurrence for bodily injury or death and property damage insurance in the amount of not less than \$100,000.00 per occurrence which shall be evidenced by a certificate of insurance.

B. In addition to the foregoing requirements, the applicant must submit with his application a corporate surety bond in an amount established by the Board guaranteeing full and faithful performance by the applicant of the duties and obligations of a certificate under the provisions of this ordinance. The Manager may accept a bond already issued or to be issued to another city, county state or federal agency so long as the bond meets the requirements of this section and the MSD is a direct beneficiary thereof.

C. An applicant for a certificate who is not already operating a disposal site must show to the satisfaction of the Board that he meets all of the requirements of Sections 6 and 7 and that:

(1) There is a need for his additional disposal site.

(2) The location of his site will benefit the non-processable solid waste program.

Section 8. Board Decision on Applications for Certificates.

A. Applications for certificates shall be reviewed by the Manager who shall make such investigation as he deems necessary and appropriate. Written notice shall be given by the Manager to any person who holds a certificate and to other interested persons and notice of application shall be published in a newspaper having a general circulation greater than 50,000. The notice shall state the name of the applicant, the type of certificate requested, the location and size of the proposed

site, and that the recipient of the notice and the public have thirty (30) days from the date thereof to file written comments pertinent to the application, plus other information the Manager deems appropriate.

B. Upon the basis of the application, evidence submitted and results of any investigation by the Manager, the Manager shall make a finding on the qualifications of the applicant under Sections 6 and 7 of this ordinance.

C. On the basis of his findings, the Manager shall recommend to the Board whether or not the application should be granted or denied or granted with conditions and the Board shall issue an order granting, denying or granting with conditions the application. If the order of the Board is adverse to the applicant, it shall not become effective until thirty (30) days after the date of said order. The applicant may request a public hearing before the Board on the Board's order by filing a written request for hearing with the Board within thirty (30) days after the date of said order. Upon filing of said request of hearing, the Board shall set a time and place for a public hearing upon its order, which hearing shall be not more than thirty (30) days from the date of filing of said request for hearing. The applicant may submit evidence to the Board relevant to the Board's order. The Board may, following the hearing affirm or amend its prior order. In the case of an applicant already providing service, this hearing before the Board shall be heard and conducted as a contested case hearing under the procedures set out in ORS Chapter 183.

D. The determination of the Board after conclusion of said public hearing shall be final. If the Board makes a final order rejecting all or part of an application for a certificate, the applicant may not submit another application for the same or a portion of the same site for a period of six months, unless the Board finds that the public interest request reconsideration within a shorter period of time.

E. All decisions of the Board under this ordinance shall be reviewable by the Circuit Court of the State of Oregon for the County of Multnomah under the provisions of ORS Chapter 34.010-34.100 which shall be the sole and exclusive remedy for reviewing any and all actions of the Board under this ordinance.

F. The term of the certificate shall be determined by the Board upon the basis of the recommendations of the Manager, based upon site longevity, population to be served and probable land use.

Section 9. Transfer of Certificates.

An Operator may transfer his certificate to another person only after written notice to and approval by the Board. The Board shall approve the transfer if it finds that the prospective transferee meets all principal requirements met by the original holder of the certificate. The Board shall approve or disapprove any application for transfer of certificate within thirty (30) days after receipt of notice by the Board unless the Board finds that there is substantial question of public health or safety involved and requires additional time for investigation and decision.

Section 10. Suspension, Modification, Revocation or Refusal to Renew a Certificate.

A. The Manager shall, upon reasonable cause, make investigations to determine if there is sufficient reason and cause to suspend, modify, revoke or refuse to renew a certificate as provided in this section. If, in the opinion of the Manager, there is sufficient evidence to suspend, modify, revoke or refuse to renew a certificate, the Manager shall notify the Operator in writing of the alleged violation and what steps must be taken to cure the violation. If the Operator is unable to, or refuses to cure the violation, and follow the requirements of the Manager set forth in said notice,

the Manager shall forthwith recommend to the Board that the certificate be suspended, modified, revoked, or not be renewed.

B. The Board may suspend, modify, revoke, or refuse to renew a certificate upon finding that an Operator has:

(1) Wilfully violated this ordinance or ORS Chapter 459 or the rules and regulations promulgated thereunder; or his certificate and any condition thereof; or

(2) Materially misrepresented the statements in the application for certificate or in any testimony or documentary evidence given to the Manager or the Board; or

(3) Wilfully refuse to provide adequate service to the public after written notification and a reasonable opportunity to do so.

C. In lieu of immediate suspension, modification, revocation or refusal to renew a certificate, the Board may order compliance and make suspension, modification, or revocation contingent upon compliance with the order within a time stated in said order.

D. If the Board suspends, modifies, revokes or refuses to renew a certificate, the action shall not become effective until thirty (30) days after the date of the order, unless the Board finds that there is a serious and immediate danger to the public health or that a public nuisance would be created. The Operator may request a public hearing before the Board upon the Board's order by filing a written request for such hearing with the Board within 30 days after date of said order. Upon the filing of said request for hearing, the Board shall set a time and place for a public hearing and upon its order which hearing shall not be more than 30 days from the date of filing of said request for hearing. The Operator and other interested persons or affected public agencies may submit oral or written evidence to the Board relevant to the Board's order. The Board may, following the public hearing, affirm, amend or rescind its prior order. The determination of the Board after the conclusion of said public hearing shall be final.

Section 11. Fees.

A. The Board shall collect, in the manner and at the time provided in Section 12, from each Operator, except as provided in Subsection 11-B, an annual fee equal to 2.15% of his gross cash receipts.

B. The Board shall collect, in the manner and at the time provided in Section 12, from Operators of waste disposal sites not charging fees for the use of the site or being used by the Operator for disposal of solid waste generated solely by him, an annual fee equal to 2.15% of the product established by multiplying the number of cubic yards of solid waste received and disposed of by the Operator times the reasonable disposal site charge.

Section 12. Collection of Fees.

A. The fees imposed by this ordinance shall be separately stated upon the Operator's records and any receipt rendered by the Operator.

B. The Operator shall pay MSD the fees imposed by Section 11 on or before the 20th day of each month following each preceding month of operation. At the time of payment, the Operator must file with the Manager, a statement including without limitation the following information:

- (1) Name and address of the facility.
- (2) The Operator's MSD registration number.
- (3) The month and year of each report.
- (4) The number of truckloads received daily.
- (5) The number of cars, pickups, trailers, and other small hauling vehicles.
- (6) Total number of cubic yards of solid wastes received during the month, broken down and divided between compacted and noncompacted.
- (7) Detailed explanation of any adjustments made to the amount of fees paid in reliance on subsection 12-C.
- (8) Any penalty due for failure to comply with the requirements of Section 12.

(9) Amount of gross cash receipts.

(10) Signature and title of the Operator or his agent.

Misrepresentation of any information required above shall constitute cause for suspension, modification, revocation or refusal to renew a certificate pursuant to Section 10 of this ordinance.

C. An Operator is released from liability for fees on accounts that have been found to be worthless and charged off for income tax purposes. If an Operator has previously paid the fees, he may take a deduction from his next due payment to the MSD the amount found worthless and charged off for income tax purposes. If any such account thereafter, in whole or in part, is collected by the Operator, the amount so collected shall be included in the first return filed after such collection, and the fees shall be paid with the return.

D. Every Operator shall keep such records, receipts or other pertinent papers and information in such form as the Manager may require. The Manager or his authorized agent in writing may examine during reasonable business hours the books, papers, records and equipment of any Operator and may investigate the character of the business of the Operator or in order to verify the accuracy of any return made, or if no return is made by the Operator, to ascertain and determine the amount required to be paid.

E. All fees imposed by and collected by this ordinance shall be paid in the form of a remittance payable to the Metropolitan Service District. All money received by the MSD under this ordinance shall be deposited in the nonprocessable solid waste program account.

Section 13. Penalties.

A. Violation of this ordinance or a certificate issued hereunder is punishable by fine of not more than Five Hundred Dollars (\$500.00).

B. Each day a violation referred to by subsection A of this section continues, constitutes a separate offense. Such separate offenses may be joined in one indictment or complaint or information in several counts.

C. The Manager may impose a penalty upon an Operator not to exceed 10% of the fees due for any reporting period for failure to comply with the requirements of Section 12.

Section 14. Exclusive Contracts.

Upon recommendation of the Manager, the Board may by resolution limit the number of certificates granted pursuant to this ordinance and award exclusive contracts for waste disposal sites in defined areas and set fees for such exclusive contracts. The Board may establish rates to be charged by holders of exclusive contracts.

Section 15. Agreements for Administration, Operation and Enforcement.

By contract, MSD may assume and perform any function of any municipal corporation, city or county, in the district or any function of the state of Oregon or any agency thereof performed or to be performed in the district which are related to the duties and functions of the district under this ordinance. The Board may contract with any city or county in the district or with the state or regional association of governments for the administration or enforcement of any of the provisions of this ordinance or of the rules or regulations adopted pursuant hereto.

Section 16. Restraining Orders.

In addition to all other authority granted to or inherent in the Board, the Board may make and issue temporary restraining orders enjoining the alleged violations of any of the terms of this ordinance or certificates or rules and regulations issued pursuant thereto, which orders shall direct the alleged

violator to immediately cease and desist from an act or acts described in said order until the Board determines whether or not a violation has occurred. Before issuing a temporary restraining order, the Board must have reasonable grounds to believe a violation has occurred. In no event shall the Board make and issue such an order without first receiving a sworn and verified affidavit containing allegations of a violation of this ordinance, which affidavit shall specify the alleged violation in short and concise language sufficient to appraise the alleged violator of the act or acts to be enjoined. The order shall direct the alleged violator to appear at a time and place stated in said order show cause, if any there be, why the alleged violator should not be immediately enjoined from doing the act or acts specified in the order. If the Board determines that the alleged violator has committed a violation of this ordinance, the Board may make and enter an order permanently enjoining further violation.

Section 17. Abatement.

The disposal of solid waste by any person in the district in violation of this ordinance or rules and regulations promulgated thereunder is deemed a nuisance and the Board may, in addition to other remedies provided by law, institute injunction, mandamas, abatement or other appropriate legal proceedings to temporarily or permanently enjoin or abate such disposal. The provisions of this section are in addition to and not in lieu of any criminal prosecution or penalties as provided by this ordinance or state law.

Section 18. Conformance with State Law.

This ordinance shall in no way be a substitute for, nor eliminate the necessity of conforming with any and all state laws, rules and regulations which are now, or may in the future be in effect and which relate to the public health or to the operation of any Operator. This ordinance is in addition to said state

laws, rules and regulations.

Section 19. Savings Clause.

In the event any provision or section of this ordinance is declared invalid, such declaration shall not affect the validity of any other provision or section herein, which sections and provisions shall remain in full force and effect.

Section 20. Effective Date.

This ordinance shall take effect thirty days subsequent to the completion and Board approval of the following items, or so many of those items as deemed necessary by the Board for effective operation of the ordinance:

- A. Evaluation of existing sites.
- B. Standards of service to be provided to the public.
- C. Evaluation criteria to determine:

- (1) Need for and location of nonprocessable disposal sites.

- (2) Number and priority of nonprocessable disposal sites required in the District.

- (3) Orderly flow of nonprocessable solid wastes and processable solid wastes.

- (4) Use of nonprocessable disposal sites as a backup system in the event of a breakdown or overloading of the processable system.

- D. Program management system.

- (1) Record and accounting system.
- (2) Inspection and enforcement procedures.
- (3) Certificate system.
- (4) Procedure for system review.
- (5) Public information program.

V. RECYCLING MANAGEMENT PROGRAM APPROVAL

ON DECEMBER 13, 1974, THE MSD AUTHORIZED THE STAFF TO REQUEST SPECIAL FUNDING FROM THE STATE OF OREGON TO PERFORM A RECYCLING MANAGEMENT STUDY OF THE EXISTING SYSTEM AND RECOMMENDATIONS FOR THE FUTURE. THE MSD WILL ACT AS THE AGENCY TO PASS THROUGH FUNDS TO THE PORTLAND RECYCLING TEAM (PRT) TO ACCOMPLISH THIS TASK. THE MSD STAFF HAS COORDINATED CLOSELY WITH DEQ SO THAT THE \$2,000 REPORT CAN BE UTILIZED STATEWIDE AS WELL AS IN THIS AREA.

THE FOLLOWING PAGES CONTAIN THE WORK SCOPE AND THE MSD/PRT CONTRACT. THE STAFF RECOMMENDS THE BOARD APPROVE THE WORK SCOPE AND CONTRACT AND AUTHORIZE THE CHAIRMAN TO SIGN THE CONTRACT.

APPROVED METROPOLITAN
SERVICE DISTRICT
BOARD OF DIRECTORS

ACTION NO. 75-314
DATE 2-28-75
BY Paul M. Wood
CLERK OF THE BOARD

PROFESSIONAL SERVICE AGREEMENT
BY AND BETWEEN THE
METROPOLITAN SERVICE DISTRICT
AND
PORTLAND RECYCLING TEAM, INC.

This professional service agreement by and between the Metropolitan Service District, herein called MSD, and Portland Recycling Team, Inc., herein called PRT, is effective March 3, 1975 and shall terminate on May 1, 1975.

SCOPE OF WORK

PRT shall perform the services described in the attachment marked EXHIBIT A and made an integral part of this agreement.

METHOD OF PAYMENT

Total reimbursement for services rendered shall not exceed Two Thousand Dollars (\$2,000). Five Hundred Dollars (\$500) shall be paid on April 1, 1975 and the balance upon satisfactory completion of the scope of work and delivery of products.

TERMINATION

MSD may terminate this contract at any time by giving written notice to PRT, provided, however, that MSD shall be responsible for services rendered to the date of termination.

In witness whereof, the parties hereto have executed this agreement this 3rd day of March, 1975.

PORTLAND RECYCLING TEAM, INC.

METROPOLITAN SERVICE DISTRICT

Jerry Powell

Robert Schumacher, Chairman

W O R K S C O P E
METROPOLITAN SERVICE DISTRICT
PORTLAND RECYCLING TEAM, INC.
PROJECT

I. SOURCE SEPARATION

1. Evaluation of the unpublished report on "Separation of Wastes for Recycling".
2. Preparation of a new source separation report to include both economic and net energy impacts of alternatives studied.
3. Recommendations as to the role of MSD in source separation.
4. Recommendations as to the role of regional or local government in source separation.

II. RECYCLING CENTERS

1. Evaluation of the existing types of recycling centers, including economics, community impacts, governmental regulation options, and energetics.
 - a. Attended collection center: single item and full-line.
 - b. Unattended (drop-off) collection center: single item and full-line.
 - c. Home collection systems: single item and full-line.
 - d. Periodic recycling projects.

III. POLICY RECOMMENDATIONS

1. MSD's role in recycling
 - a. Home separation.
 - b. Recycling centers.
 - c. Processing center recycling options.
 - d. Market development and regulation.
2. Roles of other governmental units in recycling
 - a. Home separation.

- b. Recycling centers.
- c. Processing center recycling options.
- d. Market development and regulation.

IV. PREPARATION OF REPORT

- 1. The above data will be presented to MSD in a report on or before June 1, 1975.

VI. SUPPLEMENTAL BUDGET APPROVAL

IN ORDER TO RECEIVE ADDITIONAL \$2,000 FROM DEQ, THE MSD BUDGET MUST BE MODIFIED AND APPROVED BY THE TAX SUPERVISING AND CONSERVATION COMMISSION (TSCC).

THE FOLLOWING PAGE CONTAINS THE SUPPLEMENTAL BUDGET INFORMATION. STAFF RECOMMENDATION IS TO REVIEW THE BUDGET INFORMATION AND HOLD THE PUBLIC HEARING AT THE MARCH 14, 1975 BOARD MEETING.

METROPOLITAN SERVICE DISTRICT

SUPPLEMENTAL BUDGET
FOR THE FISCAL YEAR 1974-75

SOLID WASTE GENERAL FUND

RESOURCES

DEQ Grant	\$2,000.00
Publication Sales	<u>2,935.00</u>
	\$4,935.00

REQUIREMENTS

Materials and Services:	
Contractual Services,	
Technical Services	<u>\$4,935.00</u>
Total Materials and Services	<u>\$4,935.00</u>
Total Requirements	<u><u>\$4,935.00</u></u>

VII. OTHER BUSINESS

ADDITION TO STAFF REPORT

REVIEW OF STAFF REPORT PROPOSING A COMPUTER PROGRAM
AS AN ENFORCEMENT METHOD FOR CONTROLLING THE COUNT OF
SCRAP TIRES PROCESSED IN THE AREA.

MOTION TO APPROVE SYSTEMS IMPROVEMENT ASSOC., FOR A CONTRACT TO
DEVELOP THE SCRAP TIRE COMPUTER PROGRAM AND AUTHORIZE THE
CHAIRMAN TO SIGN SAID CONTRACT.

APPROVED METROPOLITAN
SERVICE DISTRICT
BOARD OF DIRECTORS

ACTION NO. 75-316

DATE 12-28-75

BY [Signature]
CLERK OF THE BOARD