

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO )  
CODE CHAPTER 5.01 TO ESTABLISH )  
LICENSING STANDARDS FOR YARD )  
DEBRIS PROCESSING AND RELOAD )  
FACILITIES )

ORDINANCE NO. 95-621A

Introduced by Mike Burton  
Executive Officer

WHEREAS, The Metro region has limited land and resources for the disposal of solid waste.

WHEREAS, It is the responsibility of Metro to provide and protect such resources and to do so requires that Metro franchise, license, or permit disposal sites, transfer stations, processing facilities and resource recovery facilities.

WHEREAS, To protect the health, safety, and welfare of Metro residents, the Council declares it to be the public policy of Metro and purpose of this Ordinance to establish a licensing program for facilities that process and reload yard debris in the Metro region in order to:

(a) Establish standards that are implementable on a regional level to help ensure the stability of the regional yard debris recycling system;

(b) Assist local governments in managing the impacts of yard debris processing facilities through a licensing program that is responsive to the risks and benefits associated with these facilities.

(c) Increase the confidence that citizens and local governments have in yard debris processing facilities by minimizing the potential for nuisance complaints and alleviating negative public perception of these facilities.

WHEREAS, this Ordinance will establish standards for yard debris processing and reload facilities operating in the District through a regional licensing program, including problem resolution through intergovernmental cooperation, technical assistance, and enforcement measures; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. Metro Code Chapter 5.01, "Disposal Site Franchising," is renamed "Solid Waste Facility Regulation."

Section 2. Metro Code Section 5.01.010 is amended to read:

5.01.010 Definitions

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

(a) "Certificate" means a written certificate issued by or a written agreement with the District dated prior to the effective date of this chapter.

(b) "Code" means the ~~{Code of the Metropolitan Service District}~~ Metro Code.

~~(c) "Compost" means the stabilized and sanitized product of composting, which has undergone an initial rapid stage of decomposition and is in the process of humification (curing), and which should be suitable for plant growth.~~

~~(d) "Composting" means the biological treatment process by which microorganisms decompose the organic fraction of the waste, producing compost.~~

~~{(e)}~~ (e) "Council" ~~{has the same meaning as in Code Section 1.01.040}~~ means the Metro Council.

~~(d)~~(f) "DEQ" means the Department of Environmental Quality of the State of Oregon.

~~(e)~~(g) "Disposal Site" means the land and facilities used for the disposal of solid wastes whether or not open to the public, but does not include transfer stations or processing facilities.

~~(f)~~(h) "District" has the same meaning as in Code Section 1.01.040.

~~(g)~~(i) "Exclusive Franchise" means a franchise (or franchises) which entitles the holder to the sole right to operate in a specified geographical area or in some specified manner.

~~(h)~~(j) "Executive Officer" means the ~~Metro~~ Executive Officer ~~of the Metropolitan Service District~~ or the Executive Officer's designee.

~~(i)~~(k) "Franchise" means the authority given by the Council to operate a disposal site, a processing facility, a transfer station or a resource recovery facility.

~~(j)~~(l) "Franchisee" means the person to whom a franchise is granted by the District under this chapter.

~~(k)~~(m) "Franchise Fee" means the fee charged by the District to the franchisee for the administration of the Franchise.

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

~~(o)~~ "Mixed solid waste" means solid waste containing a variety of waste material, some of which may or may not be considered recyclable.

~~(l)~~(p) "Person" has the same meaning as in Code Section 1.01.040.

~~(m)~~(q) "Petroleum Contaminated Soil" means soil into which hydrocarbons, including gasoline, diesel fuel, bunker oil or other petroleum products have been released. Soil

that is contaminated with petroleum products but also contaminated with a hazardous waste as defined in ORS 466.005, or a radioactive waste as defined in ORS 469.300, is not included in the term.

~~(n)~~(r) "Process" ~~(n)~~(r) "Processing" or "Processed" means a method or system of altering the form, condition or content of solid wastes, including but not limited to composting, shredding, milling, or pulverizing, but excluding compaction. ~~(n)~~(r) "As to yard debris, such terms mean the controlled method or system of altering the form, condition or content of yard debris utilizing both mechanical and biological methods, including composting (aerobic and anaerobic methods), fermentation, and vermicomposting (of only yard debris)." ~~(n)~~(r)

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

~~(p)~~(l) "Rate" means the amount approved by the District and charged by the franchisee, excluding the User Fee and Franchise Fee.

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

~~(f)~~(v) "Resource Recovery Facility" means an area, building, equipment, process or combination thereof where or by which useful material or energy resources are obtained from solid waste.

~~(s)~~(w) "Solid Waste Collection Service" means the collection and transportation of solid wastes but does not include that part of a business licensed under ORS 481.345.

~~(t)~~(x) "Solid Waste" means all putrescible and nonputrescible wastes, including without limitation, garbage, rubbish, refuse, ashes, waste paper and cardboard; discarded or abandoned vehicles or parts thereof; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction waste; discarded home and industrial appliances; asphalt, broken concrete and bricks; manure, vegetable or animal solid and semi-solid wastes, dead animals, infectious waste as defined in ORS 459.387, petroleum-contaminated soils and other wastes; but the term does not include:

- (1) Hazardous wastes as defined in ORS 466.005;
- (2) Radioactive wastes as defined in ORS 469.300;
- (3) Materials used for fertilizer or for other productive purposes or which are salvageable as such or materials which are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals; or
- (4) Explosives.

~~(u)~~(y) "Solid Waste Management Plan" means the Regional Solid Waste Management Plan.

~~(v)~~(z) "Transfer Station" means a fixed or mobile facilities including but not limited to drop boxes and gondola cars normally used as an adjunct of a solid waste collection and disposal system or resource recovery system, between a collection route and a processing facility or a disposal site. This definition does not include solid waste collection vehicles.

~~(w)~~(aa) "User Fee" means a user fee established by the District under ORS 268.515.

~~(x)~~(bb) "Waste" means any material considered to be useless, unwanted or discarded by the person who last used the material for its intended and original purpose.

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

~~(dd)~~ "Yard Debris Facilities" means Yard Debris Processing Facilities and Yard Debris Reload Facilities.

~~(ee)~~ "Yard Debris Reload Facility" means an operation or facility that receives yard debris for temporary storage, awaiting transport to a processing facility.

Section 2. Metro Code Section 5.01.020 is amended to read:

5.01.020 Findings and Purposes

(a) The council finds that the district has limited land and resources for the disposal of solid waste. It is the responsibility of the Council to provide and protect such resources and to do so requires that the Council franchise ~~or license~~ disposal sites, transfer stations, processing facilities and resource recovery facilities.

(b) To protect the health, safety and welfare of the district's residents, the council declares it to be the public policy of the district and the purpose of this chapter to establish ~~an exclusive franchise~~ a system for ~~regulating facilities for~~ the disposal ~~and processing~~ of solid waste in the District ~~under the authority granted to the Council by ORS Chapter 268~~ in order to:

- (1) Provide a coordinated regional disposal ~~and resource recovery~~ program and solid waste management plan in cooperation with federal, state and local agencies to benefit all citizens of the district.
- (2) Provide, ~~as necessary,~~ standards for the location, geographical zones and total number of disposal sites, processing facilities, transfer stations and resource recovery facilities to best serve the citizens of the district.
- (3) Ensure that rates are just, fair, reasonable and adequate to provide necessary public service.
- (4) Prohibit rate preferences and other discriminatory practices.
- (5) Ensure sufficient flow of solid waste to district's resource recovery facilities.
- (6) Maximize the efficiency of the ~~District's~~ ~~Regional~~ Solid Waste Management Plan.
- (7) Provide for cooperation between cities and counties in the district with respect to regional franchising ~~and licensing~~ of solid waste disposal sites, processing facilities, transfer stations and resource recovery facilities.

- (8) Reduce the volume of waste that would otherwise be disposed of in a landfill through source reduction, recycling, reuse and resource recovery.

Section 3. Metro Code Section 5.01.030 is amended to read:

5.01.030 Prohibited Activities

Except as provided in this chapter, it shall be unlawful:

(a) For any person to establish, operate, maintain or expand a disposal site, processing facility, transfer station or resource recovery facility unless such person is a franchisee or licensee as required by this Chapter, or is otherwise exempted by Section 5.01.040 ~~{of this chapter}~~.

(b) For a franchisee or licensee to receive, process or dispose of any solid waste not specified in the franchise or license agreement.

(c) For any person to take, transport or dispose of solid waste at any place other than a disposal site, processing facility, transfer station or resource recovery facility operated by a franchisee or licensee or exempted by Section 5.01.040 ~~{of this chapter}~~ except by written authority of the Council.

(d) For a franchisee to charge any rate not established by the council or executive officer under this chapter.

Section 4. Metro Code section 5.01.040 is amended to read:

5.01.040 Exemptions

(a) The following are exempt from the provisions of this chapter ~~governing franchisees~~:



- (1) Municipal and industrial sewage treatment plants accepting sewage, sludge, septic tank and cesspool pumpings or other sludge.
- (2) Disposal sites, processing facilities, transfer stations, or resource recovery facilities owned or operated by the district.
- (3) Recycling drop centers.
- (4) Disposal sites receiving only clean, uncontaminated earth, rock, sand, soil and stone, hardened concrete, hardened asphaltic-concrete, brick and other similar materials, provided that such clean, uncontaminated materials include only those materials whose physical and chemical properties are such that portions of these materials when subjected to moderate climatical fluctuations in heat, exposure to moisture or water, abrasion from normal handling by mechanical construction equipment or pressure from consolidation will not produce chemical salts, dissolved solutions, or gaseous derivations at a rate sufficient to modify the biological or chemical drinking water quality properties of existing surface and ground waters or normal air quality.
- (5) Persons who process, transfer or dispose of solid wastes which:
  - (A) Are not putrescible, which, for the purposes of this section includes wood, dry cardboard and paper uncontaminated by food waste or petroleum products;
  - (B) Have been source separated;
  - (C) Are not and will not be mixed by type with other solid wastes; and

(D) Are reused or recycled.

(6) Person or persons who generate and maintain residential compost piles for residential garden or landscaping purposes.

(7) Temporary transfer stations or processing centers established and operated by local government for sixty (60) days or less to temporarily receive, store or process solid waste if the District finds an emergency situation exists.

(b) Notwithstanding Section 5.01.040(a)(2) of this chapter, the District shall comply with Section 5.01.150, (User Fees); Section 5.01.180, (Determination of Rates); subsection 5.01.070(f) and Section 5.01.130, (Administrative Procedures of Franchisees); and shall require contract operators of District-owned facilities to provide a performance bond pursuant to Section 5.01.060(b)(1).

(c) Notwithstanding anything to the contrary in this section, yard debris processing and yard debris reload facilities are subject to the licensing requirements of this chapter.

Section 5. Metro Code Section 5.01.060 is amended to read:

5.01.060 Applications

(a) Applications for a franchise or license or for transfer of any interest in, modification, expansion, or renewal of an existing franchise or license shall be filed on forms provided by the Executive Officer. Franchises and licenses are subject to approval by the council.

(b) In addition to the information required on the forms, franchise applicants must submit the following to the executive officer:

- (1) Proof that the applicant can obtain and will be covered during the term of the franchise by a corporate surety bond guaranteeing full and faithful performance by the applicant of the duties and obligations of the franchise agreement. In determining the amount of bond to be required, the Executive Officer may consider the size of the site, facility or station, the population to be served, adjacent or nearby land uses, the potential danger of failure of service, and any other factor material to the operation of the franchise;
- (2) In the case of an application for a franchise transfer, a letter of proposed transfer from the existing franchisee;
- (3) Proof that the applicant can obtain ~~public liability insurance, including automotive coverage, in the amounts of not less than \$500,000 for any number of claims arising out of a single accident or occurrence, \$50,000 to any claimant for any number of claims for damage to or destruction of property and, \$100,000 to any claimant for all other claims arising out of a single accident or occurrence or such other amounts as may be required by State law~~ the liability insurance required by this chapter;
- (4) If the applicant is not an individual, a list of stockholders holding more than 5 percent of a corporation or similar entity, or of the partners of a partnership. Any subsequent changes in excess of 5 percent of ownership thereof must be reported within 10 days of such changes of ownership to the executive officer;

- (5) A duplicate copy of all applications for necessary DEQ permits and any other information required by or submitted to DEQ;
- (6) Signed consent by the owner(s) of the property to the proposed use of the property. The consent shall disclose the property interest held by the franchisee, the duration of that interest and shall include a statement that the property owner(s) have read and agree to be bound by the provisions of Section 5.01.190(e) of this chapter if the franchise is revoked or franchise renewal is refused;
- (7) Proof that the applicant has received proper land use approval; and
- (8) Such other information as the Executive Officer deems necessary to determine an applicant's qualifications.

~~{(e) Disposal sites, transfer stations, and processing facilities which are operating on the effective date of this chapter under a District Certificate or Agreement may continue service under the conditions of their District Certificate or Agreement until their franchise application is granted or denied if an abbreviated application form provided by the Executive Officer has been submitted to the District within thirty (30) days after receipt of such application. Applications filed pursuant to this section shall not be unreasonably denied.}~~

**(c) Yard Debris Facility License Applications:**

- (1) Operators of proposed yard debris processing and yard debris reload facilities shall submit applications for licensing and shall comply with the licensing standards and requirements following the effective date of the licensing standards in this chapter.

(2) Operators of existing yard debris processing and yard debris reload facilities shall submit an application for licensing and demonstrate compliance within eighteen months after the effective date of the licensing standards in this chapter.

(3) Applications for yard debris licenses shall be as specified by the executive officer.

(d) An incomplete or insufficient application shall not be accepted for filing.

Section 6. Metro Code Section 5.01.100 is amended to read:

5.01.100 Appeals

Any applicant ~~for~~ franchisee or licensee is entitled to a contested case hearing pursuant to Code chapter 2.05 upon the ~~Council's~~ suspension, modification~~, or~~ revocation or refusal by the council or executive officer, as appropriate, to issue, renew or transfer a franchise or license or to grant a variance, as follows:

(a) Except as provided in subsection (c) of this section, ~~the Council's~~ refusal to renew a franchise or license by the council or executive officer, as appropriate, shall not become effective until the franchisee or licensee has been afforded an opportunity to request a contested case hearing and an opportunity for a contested case hearing if one is requested.

(b) The ~~Council's~~ refusal by the council or executive officer, as appropriate, to grant a variance, or to issue or transfer a franchise or license shall be effective immediately. The franchisee, licensee or applicant may request a hearing on such refusal within ~~sixty (60)~~ 30 days of notice of such refusal.

(c) Upon a finding of serious danger to the public health or safety, the executive officer may suspend a franchise or license or the council or executive officer, as appropriate, may refuse to renew a franchise or license and such action shall be effective immediately. If a franchise or license renewal is refused effective immediately, the franchisee or licensee shall have ~~ninety (90)~~ 30 days from the date of such action to request a contested case hearing.

Section 7. Metro Code Section 5.01.150 is amended to read:

5.01.150 User Fees

(a) Notwithstanding Section 5.01.040(a)(2) of this chapter, the council will set user fees annually, and more frequently if necessary, which fees shall apply to processing facilities, transfer stations, resource recovery facilities or disposal sites which are owned, operated, or franchised by the district or which are liable for payment of user fees pursuant to a special agreement with the district. User fees shall not apply to wastes received at franchised or licensed facilities that accomplish materials recovery and recycling as a primary operation. User fees shall not apply to wastes received at franchised facilities that treat petroleum contaminated soil to applicable DEQ standards, or to licensed yard debris processing facilities or yard debris reload facilities. Notwithstanding any other provision of this Code, user fees shall apply to petroleum contaminated soils disposed of by landfilling.

(b) User fees shall be in addition to any other fee, tax or charge imposed upon a processing facility, transfer station, resource recovery facility or disposal site.

(c) User fees shall be separately stated upon records of the processing facility, transfer station, resource recovery facility or disposal site.

(d) User fees and finance charges on user fees shall be paid as specified in Metro Code section 5.02.055.

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

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

Section 8. Metro Code Section 5.01.180 is amended to read:

5.01.180 Enforcement of Franchise or License Provisions; Appeal

(a) The executive officer may, at any time, make an investigation to determine if there is sufficient reason and cause to suspend, modify or revoke, a franchise or license as provided in this section. If, in the opinion of the executive officer, there is sufficient evidence to suspend, modify, or to revoke a franchise or license, the executive officer shall notify the franchisee or licensee in writing of the alleged violation, and the steps necessary to be taken to

cure the violation. Upon a finding that violation exists and that the franchisee or licensee is unable to or refuses to cure the violation within a reasonable time after receiving written notice thereof, the executive officer may ~~make a recommendation to the Council~~ provide notice to the franchisee or licensee that the franchise ~~be~~ or license is suspended, modified or revoked.

(b) ~~The Council may direct the Executive Officer to give the franchisee notice that the franchise is, or on a specified date shall be, suspended, modified or revoked.~~ The notice authorized by this subsection shall be based upon the ~~Council's~~ executive officer's finding that the franchisee or licensee has:

- (1) Violated the franchise or license agreement, this chapter, the Code, ~~ORS Chapter 459~~ state law, local ordinance or the rules promulgated thereunder or any other applicable law or regulation; or
- (2) Misrepresented material facts or information in the franchise or license application, annual operating report, or other information required to be submitted to the District;
- (3) Refused to provide adequate service at ~~the~~ a franchised site, facility or station, after written notification and reasonable opportunity to do so;
- (4) Misrepresented the gross receipts from the operation of the franchised site, facility or station;
- (5) Failed to pay when due the fees required to be paid under this chapter; or
- (6) Been found to be in violation of a city or county solid waste management ordinance if such ordinances require licensees or franchisees to comply



with the Metro ~~{Disposal Franchise ordinance}~~ solid waste facility regulation code.

(c) Except as provided in subsection (d) of this section, the ~~{Council's}~~ executive officer's revocation, modification or suspension of a franchise shall not become effective until the franchisee has been afforded an opportunity to request a contested case hearing and an opportunity for a contested case hearing if one is requested.

(d) Upon a finding of serious danger to the public health or safety as a result of the actions or inactions of a franchisee ~~or licensee~~ under this chapter, the executive officer may in accordance with Code Chapter 2.05 immediately suspend the franchise ~~or license~~ and may take whatever steps may be necessary to abate the danger. In addition, ~~in the case of a franchise,~~ the executive officer may authorize another franchisee or another person to provide service or to use and operate the site, station, facilities and equipment of ~~{the}~~<sup>an</sup> affected franchisee for reasonable compensation in order to provide service or abate the danger for so long as the danger continues. If a franchise is immediately suspended, the franchisee shall have 90 days from the date of such action to request a contested case hearing in accordance with Code chapter 2.05.

(e) Upon revocation or refusal to renew the franchise ~~or license~~:

(1) All rights of the franchisee ~~or licensee~~ in the franchise ~~or license~~ shall immediately be divested. If ~~{the}~~<sup>a</sup> franchise is awarded to a new franchisee, the District may require the owner or prior franchisee to sell to the new franchisee the owner's or prior franchisee's interest or a leasehold interest in the real property relating to the operation of the prior

franchisee. In such a case the new franchisee shall pay an amount equal to the fair market value of the ownership or leasehold interest in the real property as soon as that amount can be determined. In any event, the prior franchisee immediately upon revocation or expiration of the franchise shall vacate the property, and the new franchisee shall have the right to occupy and use the real property so as to allow continuity of service. In addition, at the option of the new franchisee, the prior franchisee shall, upon sale or lease of the real property, convey any or all personal property relating to the operation for the fair market value of such property.

- (2) If the prior franchisee whose franchise is revoked or refused renewal under this section is not the owner of the property, the owner may only be required under this section to transfer the same property interest that the owner disclosed in the consent form submitted pursuant to Section 5.01.060(b)(6) of this chapter.

Section 9. The following sections are added to Metro Code Chapter 5.01, following the subheading "Additional Provisions Relating to the Licensing of Yard Debris Processing Facilities and Yard Debris Reload Facilities":

5.01.230 Scope of Yard Debris Facility Regulations

- (a) Sections 5.01.230 through 5.01.380 relate to Metro licensing of yard debris processing and yard debris reload facilities. Nothing herein is intended to limit the power of a

federal, state, or local agency to enforce any provision of law relating to yard debris facilities that it is authorized or required to enforce or administer.

(b) The licensing requirements of this Chapter apply to all yard debris processing and yard debris reload facilities operating in the District, except those expressly exempted pursuant to Section 5.01.240.

(c) Yard debris reload facilities are exempt from sections 5.01.260(d); 5.01.260(g)(3); 5.01.270(e), (f) and (h); and 5.01.280(g), (i) and (j).

(d) Biological decomposition of organic material can be either a naturally occurring or artificially controlled process. Nothing in this Chapter is intended to establish standards or other regulatory requirements for inadvertent composting resulting from the storage of organic materials. An activity that produces material that will be sold or given away based on biological decomposition that has occurred to the material shall not be considered inadvertent composting.

(e) Nothing in these standards shall be construed as relieving any owner, operator, or designee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports or other requirements of other regulatory agencies, including but not limited to, local health departments, regional water quality control boards, local land use authorities, and fire authorities.

#### 5.01.240 Exemptions from Yard Debris Licensing Requirements

(a) The following operations do not constitute yard debris processing facilities and are not required to meet these licensing requirements:

(1) Residences, parks, community gardens and homeowner associations.

- (2) Universities, schools, hospitals, golf courses, industrial parks, and other similar facilities, if the landscape waste or yard debris was generated from the facility's own activities, the product remains on the facility grounds, and the product is not offered for off-site sale or use.
- (3) Operations or facilities that chip or grind wood wastes (e.g. untreated lumber, wood pallets), unless such chipped materials are composted at the site following chipping or grinding.
- (4) Solid waste transfer stations and Metro franchised material recovery facilities, except to the extent that these licensing requirements are referenced in the franchise.

(b) A local government that owns or operates a yard debris facility may enter into an intergovernmental agreement with Metro under which the local government will administer and enforce yard debris standards at the facility in lieu of compliance with this chapter.

(c) Nothing in this Section precludes Metro from inspecting an excluded operation to verify that the operation is being conducted in a manner that qualifies as an excluded activity or from taking any appropriate enforcement action.

#### 5.01.250 Authorized and Prohibited Solid Wastes at Licensed Yard Debris Facilities

(a) A licensed yard debris facility is authorized to accept loads of yard debris for processing at the facility. The facility may also accept other source separated material if doing so is consistent with other federal, state and local regulations.

(b) A licensed yard debris facility shall not accept hazardous waste. Any hazardous waste inadvertently received shall be handled, stored, and removed pursuant to state and federal regulations.

(c) A licensed yard debris facility is prohibited from accepting mixed solid waste, but may accept loads of mixed yard debris, landscape waste, and wood wastes (e.g. untreated lumber, wood pallets).

#### 5.01.260 General Yard Debris Facility Design Requirements & Design Plans

(a) Yard debris processing facilities shall be designed and constructed to comply with the facility design plan and the operational requirements set forth in Section 5.01.270 - General Operating Requirements, and Section 5.01.280 - Processing Operations Plan.

(b) The facility design plan shall include the following drawings and diagrams:

- (1) A site plan showing dimensions and details of the proposed receiving, processing, production, curing and storage areas.
- (2) A landscape plan showing the location, size and type of plantings, fences, berms, and existing trees to remain and/or to be removed.
- (3) Drawings of the site that indicate location of initial and permanent roads; buildings and equipment to be installed; sewer and water lines; and storm water system. The drawings shall show final grade contours (required for only new or relocating facilities).

(c) The facility must be designed and constructed in a manner suitable for maintenance and processing operations, including visual inspection of piling areas and fire fighting operations.

(d) The facility design plan shall address management of storm water. The run-off from the facility resulting from precipitation shall be controlled. Methods must be consistent with storm water system standards of the controlling agency (local jurisdiction). For new or relocating facilities only, the facility must be designed and constructed so that precipitation run-on is diverted around the processing area.

(e) The facility design plan shall address:

- (1) Effective barriers to unauthorized entry and dumping (fencing, gates, locks);
- (2) All-weather access roads to the site;
- (3) Appropriate signs (at facility entrance, directing traffic flow, public information); and
- (4) Access to scales, if applicable.

(f) The facility shall have sufficient processing capacity to handle projected incoming volumes of yard debris.

(g) Facility design shall address specific capacity and storage issues, including:

- (1) Capacity for incoming wastes waiting to be processed;
- (2) Capacity for proper handling, storage, and removal of hazardous or other non-permitted wastes delivered to or generated by the facility; and
- (3) Capacity for finished product storage.

#### 5.01.270 General Operating Requirements For Yard Debris Facilities

(a) All activities shall be conducted in a manner that minimizes or prevents vectors, odor impacts, dust, and noise impacts.

- (b) Facility grounds shall be cleaned of litter at least weekly.
- (c) Random load checks of feedstocks for contaminants shall be conducted by the operator.
- (d) Storage and handling capacities shall not be exceeded.
- (e) Compost piles and windrows shall be spaced to facilitate mixing and aeration.
- (f) Windrow, compost pile, and/or active processing area dimensions shall not exceed the design specifications of the facility's equipment.
- (g) Incidental non-compostables shall be properly stored and removed from the facility on a regular basis to avoid nuisance conditions, or at a frequency approved in the license agreement.
- (h) Incidental wastes and feedstocks shall be stored separately from active, stabilizing, stabilized, curing, and cured feedstock areas.
- (i) Surrounding fencing, gates, and/or other natural or artificial barriers shall be maintained to discourage unauthorized human or animal access to the facility.
- (j) The operator shall provide fire prevention, protection, and control measures, including but not limited to, temperature monitoring of windrows, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from the composting pad/processing area.
- (k) The operator shall begin processing incoming feedstocks in a time frame that does not create potential for a nuisance, odor, fire, or vectors, or as specified in the license agreement.

(l) All drainage, leachate control, and diversion systems shall be managed and maintained in good working order.

(m) All facility road surfaces and traffic control signs shall be maintained.

(n) Vehicles containing landscape waste or yard debris feedstock/waste shall not be parked on public streets or roads except under emergency conditions. Adequate off-street parking facilities for transport vehicles shall be provided.

(o) Signs at all public entrances to the facility shall be posted, legible, and include the following information:

- (1) The name of the facility;
- (2) The name of the operator;
- (3) Facility hours of operation;
- (4) List or statement of materials that will and will not be accepted (if open to the public);
- (5) Schedule of charges, if any;
- (6) The phone number where the operator or designee can be reached in case of an emergency; and
- (7) Any other information as required by the license agreement and/or local government sign code.

#### 5.01.280 Yard Debris Processing Operations Plan

All activities at a licensed facility must be conducted in accordance with a processing operations plan containing the following information, as well as any additional information required by Metro:



- (a) Designation of personnel, by title, responsible for operation, control and maintenance of the facility;
- (b) A description of the anticipated quantity and variation throughout the year of waste to be received;
- (c) Methods for measuring and keeping records of incoming waste;
- (d) Methods for encouraging waste delivery in covered loads;
- (e) Methods to control the types of waste received, and methods for removing, recovering and disposing of non-compostables;
- (f) Designation of disposal sites for non-compostable wastes;
- (g) Management procedures that will be used in processing, which must include:
  - (1) A general description of any treatment the wastes will receive prior to processing (e.g., chipping, shredding) and the maximum length of time required to process each day's receipt of waste into windrows or other piles;
  - (2) The specifications to which the windrows or other piles will be constructed (width, height, and length) and calculation of the capacity of the facility; and
  - (3) An estimate of the length of time necessary to complete the process.
- (h) Methods to control noise, vectors, dust and litter.
- (i) Methods for monitoring and adjusting temperature, oxygen level and moisture level of the material during processing.
- (j) General plans for marketing the finished product.

**5.01.290 Yard Debris Facility Odor Minimization Plans**

(a) The operator shall take specific measures to control odors so as not to cause or contribute to a violation of the license agreement. Specific measures an operator shall take to control odor include but are not limited to adherence to the contents of the odor minimization plan required below.

(b) The operator shall have an Odor Minimization Plan. The plan must include methods to minimize, manage and monitor all odors, including odors produced by grass clippings. The plan must include:

- (1) A management plan for malodorous loads;
- (2) Procedures for receiving and recording odor complaints, immediately investigating any odor complaints to determine the cause of odor emissions, and remedying promptly any odor problem at the facility;
- (3) Additional odor-minimizing measures, which may include the following:
  - (A) Avoidance of anaerobic conditions in the composting material;
  - (B) Use of mixing for favorable composting conditions;
  - (C) Formation of windrow or other piles into a size and shape favorable to minimizing odors; and
  - (D) Use of end-product compost as cover to act as a filter during early stages of composting.
- (4) Specification of a readily-available supply of bulking agents, additives or odor control agents;

- (5) Procedures for avoiding delay in processing and managing landscape waste and yard debris during all weather conditions;
- (6) Methods for taking into consideration the following factors prior to turning or moving composted material:
  - (A) Time of day;
  - (B) Wind direction;
  - (C) Percent moisture;
  - (D) Estimated odor potential; and
  - (E) Degree of maturity.

(c) Grass clippings must be processed in a timely manner to avoid nuisance conditions. Incoming leaves, brush or woody landscape waste may be stored in designated areas for use as a carbon source and bulking agent, rather than being processed into windrows or other piles.

(d) If odors at the facility become a significant source of nuisance complaints, processor shall work with a Metro appointed odor complaint panel. The odor complaint panel will investigate odor complaints to determine their validity and sources and will help the processor with solutions to the nuisance complaints. The odor complaint panel may consist of representatives from Metro, DEQ, the local government, the processing industry and citizen representatives.

5.01.300 Yard Debris Facility Records

(a) Licensee shall effectively monitor facility operation and maintain accurate records of the following information:

- (1) Estimated amount of feedstock received and quantity of product produced at the facility. Records shall be reported to Metro no later than thirty (30) days following the end of each quarter. The report shall be signed and certified as accurate by an authorized representative of licensee.
- (2) Records of any special occurrences encountered during operation and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures.
- (3) Records of any public nuisance complaints (e.g. noise, dust, vibrations, litter) received by the operator, including:
  - (A) The nature of the complaint;
  - (B) The date the complaint was received;
  - (C) The name, address, and telephone number of the person or persons making the complaint; and
  - (D) Any actions taken by the operator in response to the complaint.
- (4) For every odor complaint received, the licensee shall record the date, time, and nature of any action taken in response to an odor complaint, and record such information within one business day after receiving the complaint. Records of such information shall be made available to Metro and local governments upon request.

(b) The licensee shall submit to Metro duplicate copies of regulatory information submitted to the DEQ and local jurisdictions pertaining to the facility, within 30 days at the same time of submittal to DEQ and/or a local jurisdiction.

### 5.01.310 Yard Debris Facility Closure

(a) Unless otherwise authorized in a facility license, all yard debris, composting material, end-product, and other solid wastes must be removed from the facility within 180 days following the beginning of closure.

(b) The facility operator shall close the facility in a manner which eliminates the release of landscape waste, landscape waste leachate, and composting constituents to the groundwater or surface waters or to the atmosphere to the extent necessary to prevent threats to human health or the environment.

(c) Within 30 days of completion of closure, the operator shall file a report with Metro verifying that closure was completed in accordance with this Section.

### 5.01.320 Yard Debris Facility Annual License Fees

Licensee shall pay an annual license fee. In order to keep costs at a minimum, and so as to not encourage deliveries outside the district, the fee shall be based on a minimum cost for service basis and shall not exceed \$300 per year. The fee shall be delivered to Metro within thirty (30) days of the effective date of this license and each year thereafter.

### 5.01.330 Insurance for Yard Debris Facilities

(a) Licensee shall purchase and maintain the following types of insurance, covering licensee, its employees, and agents:

- (1) Broad form comprehensive general liability insurance covering personal injury, property damage, and personal injury with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and

(2) Automobile bodily injury and property damage liability insurance.

(b) Insurance coverage shall be a minimum of \$500,000 per occurrence, \$100,000 per person, and \$50,000 property damage. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.

(c) Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS. Notice of any material change or policy cancellation shall be provided to Metro 30 days prior to the change or cancellation.

(d) A license shall specify that licensee, its contractors, if any, and all employers operating under the license are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Licensee shall provide Metro with certification of Workers' Compensation insurance including employer's liability.

5.01.340 Indemnification

Licensee shall indemnify and hold METRO, its agents, employees, and elected officials harmless from any and all claims, demands, damages, actions, losses and expenses, including attorney's fees, arising out of or in any way connected with licensee's performance under the license, including patent infringement and any claims or disputes involving subcontractors. Licensee shall not assume liability for any negligent or intentionally wrongful act of Metro, its officers, agents or employees.

5.01.350 Compliance With Law

A license shall require the licensee to fully comply with all federal, state, regional and local laws, rules, regulations, ordinances, orders and permits pertaining in any manner to the license.

All conditions imposed on the operation of the facility by federal, state or local governments or agencies having jurisdiction over the facility shall be deemed part of the license. Such conditions and permits include those attached as exhibits to the license, as well as any existing at the time of issuance of the license and not attached, and permits or conditions issued or modified during the term of the license.

#### 5.01.360 Metro Access to Licensed Facilities

Authorized representatives of Metro shall be permitted access to the premises of a licensed facility at all reasonable times for the purpose of making inspections and carrying out other necessary functions related to this license. Access to inspect is authorized during all business hours.

#### 5.01.370 Disposal Rates and Fees

- (a) The rates charged at licensed facilities are exempt from Metro rate setting.
- (b) A licensee is exempted from collecting and remitting Metro fees on waste received at the facility. A licensee is fully responsible for paying all costs associated with disposal of residual material generated at the facility, including all Metro fees and taxes. A licensee shall obtain a nonsystem license prior to disposal of residuals at any facility not designated by Metro.
- (c) A licensee shall adhere to the following conditions with regard to disposal rates charged at the facility:
  - (1) A licensee may modify rates to be charged on a continuing basis as market demands may dictate. Rate schedules should be provided to Metro on a regular basis, and shall be provided to Metro on request.

- (2) Public rates charged at the facility shall be posted on a sign near where fees are collected. Rates and disposal classifications established by a licensee shall be reasonable and nondiscriminatory.

5.01.380 General Conditions Relating to Yard Debris Facility Licensees

(a) A licensee shall be responsible for ensuring that its contractors and agents operate in compliance with the terms and conditions of the license.

(b) The granting of a license shall not vest any right or privilege in the licensee to receive specific quantities of solid waste during the term of the license.

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

(d) A license may not be transferred or assigned without the prior written approval of Metro, which will not be unreasonably withheld.

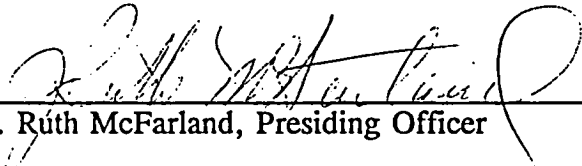
(e) To be effective, a waiver of any term or condition of a license must be in writing, signed by the Executive Officer. Waiver of a term or condition of a license shall not waive nor prejudice Metro's right otherwise to require performance of the same term or condition or any other term or condition.

(f) A license shall be construed, applied, and enforced in accordance with the laws of the State of Oregon.



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

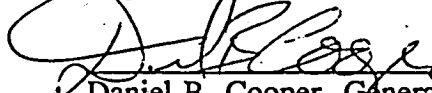
ADOPTED by the Metro Council this 30 day of Nov., 1995.

  
\_\_\_\_\_  
J. Ruth McFarland, Presiding Officer

ATTEST:

  
\_\_\_\_\_  
Recording Secretary

Approved as to Form:

  
\_\_\_\_\_  
Daniel B. Cooper, General Counsel

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## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 95-621A FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.01 TO ESTABLISH LICENSING STANDARDS FOR YARD DEBRIS PROCESSING AND YARD DEBRIS RELOAD FACILITIES.

November 22, 1995

Presented by Bill Metzler

#### **Proposed Action**

Adoption of Ordinance No. 95-621A to amend Metro Code Chapter 5.01 to establish licensing standards for yard debris processing and yard debris reload facilities.

#### **Purpose**

Ordinance No. 95-621A is the result of a collaborative effort between Metro, local governments, yard debris processors and the DEQ. The licensing standards program is a framework for problem identification and resolution. Metro will:

1. Establish licensing standards that can be implemented on a regional level to help ensure the stability of the regional yard debris recycling system.
2. Assist local governments to manage the impacts yard debris processing facilities through a regional licensing program.
3. Minimize the potential for nuisance complaints. Increase the confidence that citizens and local governments have in yard debris processing facilities. Continued growth and greater development densities on surrounding land will lead to more public scrutiny and objections to these facilities.

#### **Recommended Program Elements**

##### Metro

- Implement a licensing program for new and existing yard debris processing and yard debris reload facilities.
- Work with processors, local governments and the DEQ to ensure a coordinated program where information and technical assistance is shared in a cooperative problem solving manner. Technical assistance may include teams consisting of local government and Metro staff (e.g.,

land use and solid waste planners), DEQ, and others with special expertise to address facility concerns.

### Local Governments

- Amend zoning ordinances and development codes, as needed, to include clear and objective facility siting standards that do not effectively prohibit them.
- Amend zoning ordinances and development codes so that they include a condition of approval for obtaining a Metro license.
- Amend collection franchises requiring yard debris collected through curbside programs be delivered to licensed facilities.

### Processors

- Apply for a Metro license, make use of available technical assistance (if needed), and comply with licensing standards.
- Participate in program evaluation to ensure that the licensing program is effective.

### **Factual Background and Analysis**

On September 20, 1995, the Metro Solid Waste Advisory Committee (SWAC) unanimously approved the Licensing Standards for Yard Debris Processing and Yard Debris Reload Facilities (Attachment A), and voted to forward them to Council for consideration.

Yard debris recycling rates in the Metro region increased from 23% in 1987 to 70% in 1994 (115,000 tons). The tremendous success of yard debris recycling programs has created many opportunities as well as problems for the region. Nuisance impacts (e.g., odor, dust, noise) associated with these facilities have been exacerbated, causing heightened public awareness and concern. This has resulted in: 1) facilities being labeled as NIMBY's (not in my backyard) and LULU's (locally unwanted land uses), and 2) local government land use decisions that essentially prohibit the siting of these facilities, which are greatly needed and provide a valuable product and service to both the region and the individual communities they serve.

In 1994, at the request of Clackamas County, Metro convened a regional discussion group to discuss yard debris processing facilities, their associated impacts, and how Metro can help the region to solve these problems - before they get any worse. The regional discussion group consists of yard debris processors, local governments, haulers and the DEQ. The Licensing Standards for Yard Debris Processing and Reload Facilities and the licensing program proposal were developed with the assistance and guidance of this regional discussion group. Great emphasis was placed on solutions that would be effective as well as acceptable to the yard debris processing industry (see Attachments B and C for additional background and program

information). All of the provisions contained in the Licensing Standards for Yard Debris Processing and Reload Facilities have been codified and are embodied in the proposed amendments to Metro Code Chapter 5.01.

### Proposed Amendments to Metro Code Chapter 5.01

ORS Chapter 268 grants Metro the authority to license resource recovery sites or facilities. The proposed Code amendments establish licensing program standards for facilities that process and reload yard debris in the District. The regulations applying to yard debris facilities has been set out in great detail in the code. The code amendments related to the licensing of yard debris facilities establish clear and concise standards for a smoother administrative process. Facility operators will know, up front, what the licensing requirements are. A standard licensing application form (Attachment D), will be used in the process to help assess compliance with the licensing requirements.

Provisions are included for a local government that owns or operates a yard debris facility to administer and enforce facility standards through an intergovernmental agreement with Metro (Section 5.01.240 (b)). Public facilities should be accountable to residents in their communities through local elected officials.

There are two general categories of proposed Code amendments:

1. General licensing provisions. Adds language to the Code to define and include facility licensing. Includes amendments that set forth standard regulatory provisions that are (in most cases) not unique to yard debris facilities. These amendments are inserted within the existing franchise code language. Examples of this category are found in the amendments proposed for the following:

5.01.010 - Definitions through

5.01.180 - Enforcement of Franchise or License Provisions; Appeal

2. Licensing provisions specific to yard debris facilities. These include amendments that set forth provisions specifically applicable to the licensing of yard debris processing and reload facilities. These amendments are detailed and unique to the licensing of yard debris facilities. Examples of this category are found in the amendments proposed for the following:

Section 9 - Additional Provisions Relating to the Licensing of Yard Debris Processing and Yard Debris Reload Facilities:

5.01.230 - Scope of Yard Debris Facility Regulations through

5.01.380 General Conditions Relating to Yard Debris Facility Licensees

## **Budget Impacts**

There will be a slight increase in revenues from the annual licensing fee paid by the licensee of \$300 per year. There are currently 16 yard debris processors in the Metro region. The licensing program will bring in approximately \$4,800 in revenues annually.

During the initial implementation phase, Metro will retain a consultant to assist staff with facility operational issues that may require highly specialized expertise. This initial consultant contract is estimated at no more than \$7,000. After the initial facility licensing phase, the consultant will be retained for special circumstances (if required), this contract is estimated at no more than \$2,000 per year.

The annual licensing fee paid by the processors (which is similar to a franchise fee) will help defray some of the costs of the licensing program. Annual licensing fees are set by the Metro Council. However, the regional discussion group recommends that the fees be no more than \$300 per year. Keeping fees low is part of Metro's effort to help maintain the competitive viability of in-district facilities.

## **Executive Officer's Recommendation**

The Executive Officer recommends adoption of Ordinance No. 95-621A.

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**ATTACHMENT A**

**LICENSING STANDARDS  
FOR YARD DEBRIS PROCESSING AND YARD DEBRIS RELOAD FACILITIES**

October 9, 1995

## INTRODUCTION

The Licensing Standards for Yard Debris Processing and Yard Debris Reload Facilities is the result of an on-going collaborative effort between Metro, local government representatives, yard debris processors, and the DEQ. This regional discussion group was formed to explore options to help reduce nuisance impacts related to the operation of yard debris compost facilities in the region.

The regional discussion group voted on May 18, 1995, to forward a recommendation that the Metro SWAC consider the adoption and implementation of a program for licensing yard debris processing and reload facilities.

On September 21, 1995 the Metro SWAC unanimously endorsed the Licensing Standards for Yard Debris Processing and Yard Debris Reload Facilities, and voted to forward them to Metro Council for consideration.

The following is a list of the regional discussion group participants:

### Processors

Don Chappel, American Compost  
Charles Danner, Danner Nursery  
Dan Davis, River Cities One Stop Recycling  
Ralph Gilbert, East Co. Recycling  
Howard Grabhorn, Lakeside Reclamation  
Jeff Grimm, Grimm's Fuel  
Dan Holcomb, Oregon Soils Corp.  
Steve Jessop, Scott's Hyponex  
Jim Lackey, American Waste Recovery  
Dan McFarlane, McFarlane's Bark  
Chuck Minsinger, Minsinger's Floral Nursery  
Rod Oakes, Wilsonville Wood Waste  
Tim Perri, Best Buy In Town  
Randy Wubben, All-Wood Recycling  
Loretta and Duane Stroup, S&H Logging  
Greg White, Tualatin Valley Waste Recovery  
Lainy Zehr, Universal Wood Recycling

### Local Government

Lynda Kotta, Gresham  
Mark Schoening, Lake Oswego  
JoAnn Herrigal, Milwaukie  
Lee Barrett, Portland  
Randy Johnson, Portland  
Daryl Worthington, Troutdale  
William Harper, Tualatin  
Dennis Koellermeier, West Linn  
Ron Oberg, Clackamas Co.  
Ken Spiegel, Clackamas Co.  
Susan Ziolk, Clackamas Co.  
Kathy Kiwala, Washington Co.  
Lynne Storz, Washington Co.  
Andrea Friedrichsen, Clark Co.

### DEQ

Dave Kunz

### Haulers

Tom Miller, Miller's Sanitary  
Dave White, ORRA

### Industry

Barry Naone, Fred Meyer  
Steven Diddy, BFI

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**LICENSING STANDARDS FOR  
YARD DEBRIS PROCESSING AND YARD DEBRIS RELOAD FACILITIES**

**1. Purpose, Authority and Scope**

**1.1 Purpose**

- (a) The purpose of this Chapter is to establish performance standards for yard debris processing and yard debris reload facilities operating in the District through a regional licensing program. The program will include problem resolution through intergovernmental cooperation, technical assistance, and enforcement measures.
- (b) The Council finds that the District has limited land and resources for the disposal of solid waste. It is the responsibility of Metro to provide and protect such resources and to do so requires that Metro Franchise, License, or Permit disposal sites, transfer stations, processing facilities and resource recovery facilities.
- (c) To protect the health, safety, and welfare of the District's residents, the Council declares it to be the public policy of the District and purpose of this chapter to establish a licensing program for facilities that process and reload yard debris in the District in order to:
  - 1) Establish standards that can be implemented on a regional level to help ensure the stability of the regional yard debris recycling system.
  - 2) Assist local governments in managing the impacts of yard debris processing facilities through a licensing program that is responsive to the risks and benefits associated with these facilities.
  - 3) The licensing program is intended to increase the confidence that citizens and local governments have in these facilities by minimizing the potential for nuisance complaints and alleviating negative public perception of these facilities.

**1.2 Authority and Scope**

- (a) This document will implement those provisions of the Code relating to licensing of yard debris processing and reload facilities. Nothing in this Chapter is intended to limit the power of any federal, state, or local agency to enforce any provision of the law that it is authorized or required to enforce or administer.
- (b) The provisions in this Chapter apply to all yard debris processing and reload facilities operating in the District, except those expressly exempted pursuant to Section 4 - Excluded Operations and Facilities.

(c) Yard debris reload facilities and operations are exempt from the following sections:

- Section 6c, 6e, and 6f(3);
- Section 7e, 7f, and 7h; and
- Section 8a (7, 8, 10, and 11).

(d) Biological decomposition of organic material can be either a naturally occurring or artificially controlled process. Nothing in this Chapter is intended to establish standards or other regulatory requirements for inadvertent composting resulting from the storage of organic materials. An activity that produces material that will be sold or given-away based on biological decomposition that has occurred to the material shall not be considered inadvertent composting.

(e) Nothing in these standards shall be construed as relieving any owner, operator, or designee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports or other requirements of other regulatory agencies, including but not limited to, local health departments, regional water quality control boards, local land use authorities, and fire authorities.

## 2. Definitions

(a) "Code" means the Metro Code.

(b) "Compost" means the stabilized and sanitized product of composting, which has undergone an initial rapid stage of decomposition and is in the process of humification (curing), and should be suitable for plant growth.

(c) "Composting" means the biological treatment process by which microorganisms decompose the organic fraction of the waste, producing compost.

(d) "Hazardous waste" has the meaning provided in ORS 466.005;

(e) "Mixed solid waste" means solid waste containing a variety of waste material, some of which may or may not be considered recyclable.

(f) "Processing" means the controlled method or system of altering the form, condition or content of yard debris utilizing both mechanical and biological methods. Includes composting (aerobic and anaerobic methods), fermentation, and vermicomposting (of yard debris only).

(g) "Solid waste" means all putrescible and nonputrescible wastes, including without limitation, garbage, rubbish, refuse, ashes, waste paper and cardboard; discarded or abandoned vehicles or parts thereof; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction waste; discarded home and industrial appliances; asphalt, broken concrete and bricks; manure, vegetable or animal solid and semi-solid wastes, dead

animals, infectious waste as defined in ORS 459.387, petroleum-contaminated soils and other wastes; but the term does not include:

- 1) Hazardous wastes as defined in ORS 466.005;
  - 2) Radioactive wastes as defined in ORS 469.300;
  - 3) Materials used for fertilizer or for other productive purposes or which are salvageable as such or materials which are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals; or
  - 4) Explosives
- (h) "Yard debris" means vegetative and woody material generated from residential property or from commercial landscaping activities. Includes landscape waste, grass clippings, leaves, hedge trimmings, stumps and other similar vegetative waste. Does not include construction and demolition debris, painted or treated wood.
- (i) "Yard debris reload facility" means an operation or facility that receives yard debris for temporary storage, awaiting transport to a processing facility.

### **3. Licensing Application Compliance Dates**

- (a) Operators of proposed facilities shall submit applications for licensing and shall comply with the licensing standards and requirements, by the effective date of the licensing standards in this chapter.
- (b) Operators of existing facilities shall submit an application for licensing, and demonstrate compliance with the applicable standards and requirements within eighteen (18) months after the effective date of the licensing standards in this chapter.
- (c) Applications for Yard Debris Licenses shall be as specified by the Executive Officer.

### **4. Excluded Operations and Facilities**

- (a) Residences, parks, community gardens and homeowner associations are excluded operations. In addition, universities, schools, hospitals, golf courses, industrial parks, and other similar facilities are excluded operations if the yard debris was generated from the facility's own activities, the product remains on the facility grounds, and the product is not offered for off-site sale or use.
- (b) Chipping and grinding of wood wastes (e.g. untreated lumber, wood pallets) are excluded operations, unless such chipped materials are composted at the site following chipping or grinding.
- (c) Solid waste transfer stations and Metro franchised material recovery facilities are excluded facilities, except to the extent that these licensing requirements are referenced in the franchise.

- (d) Nothing in this Section precludes Metro from inspecting an excluded operation to verify that the operation is being conducted in a manner that qualifies as an excluded activity or from taking any appropriate enforcement action.

## **5. Authorized and Prohibited Solid Wastes**

- (a) Licensee is authorized to accept loads of yard debris for processing at the facility. The licensee may also take in other source separated material if in compliance and consistent with other federal, state and local regulations.
- (b) Licensee shall not accept hazardous waste. Any hazardous waste inadvertently received shall be handled, stored, and removed pursuant to state and federal regulations.
- (c) Licensee is prohibited from accepting mixed solid waste, but may accept loads of mixed yard debris and wood wastes (e.g. untreated lumber, wood pallets).

## **6. General Facility Design Requirements & Design Plan**

- (a) The Facility Design Plan shall include the following drawings and diagrams:
  - 1) Site plan showing approximate dimensions of the proposed receiving, processing, production, curing and storage areas.
  - 2) Landscape plan showing the location, size and type of plantings, fences, berms, and existing trees to remain and/or to be removed (required for only new or relocating facilities).
  - 3) Drawings of the site that indicate location of initial and permanent roads; buildings and equipment to be installed; sewer and water lines; and storm water system. The drawings shall show final grade contours (required for only new or relocating facilities)
- (b). The facility must be designed and constructed in a manner suitable for maintenance and processing operations, including visual inspection of piling areas and fire fighting operations.
- (c). Facility design plan shall address management of storm water. Methods must be consistent with storm water system standards of the local jurisdiction.
  - 1) The facility must be designed and constructed so that precipitation run-on is diverted around the processing area. The run-off from the facility resulting from precipitation shall be controlled (required for only new or relocating facilities).
- (d). Facility design plan shall address:
  - 1) Effective barriers to unauthorized entry and dumping (fencing, gates, locks);
  - 2) All-weather access roads to the site;
  - 3) Appropriate signs (at facility entrance, directing traffic flow, public information);
  - 4) Access to scales, if applicable;

- (e) Facility shall have sufficient processing capacity to handle projected incoming volumes of yard debris.
- (f) Facility design shall address specific storage issues, including:
  - 1) Capacity for incoming wastes waiting to be processed;
  - 2) Capacity for proper handling, storage, and removal of hazardous or other non-permitted wastes delivered to or generated by the facility; and
  - 3) Capacity for finished product storage.

## 7. General Operating Requirements

- (a) All activities shall be conducted in a manner that minimizes or prevents vectors, odor impacts, dust, and noise impacts.
- (b) Facility grounds shall be cleaned of litter at least weekly.
- (c) Random load checks of feedstocks for contaminants shall be conducted by the operator.
- (d) Storage and handling capacities shall not be exceeded.
- (e) Compost piles and windrows shall be spaced to facilitate mixing and aeration.
- (f) Windrow, compost pile, and/or active processing area dimensions shall not exceed the design specifications of the facility's equipment.
- (g) Incidental non-compostables shall be properly stored and removed from the facility on a regular basis to avoid nuisance conditions, or at a frequency approved in the license agreement.
- (h) Incidental wastes and feedstocks shall be stored separately from active, stabilizing, stabilized, curing, cured feedstock areas.
- (i) Surrounding fencing, gates, and/or other natural or artificial barriers shall be maintained to discourage unauthorized human or animal access to the facility.
- (j) The operator shall provide fire prevention, protection, and control measures, including but not limited to, temperature monitoring of windrows, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from the composting pad/processing area.
- (k) The operator shall begin processing incoming feedstocks in a time frame that does not create potential for a nuisance, odor, fire, or vectors, or as specified in the license agreement.

- (l) All drainage, leachate control, and diversion systems shall be managed and maintained in good working order.
- (m) All facility road surfaces and traffic control signs shall be maintained.
- (n) Vehicles containing yard debris feedstock/waste shall not be parked on public streets or roads except under emergency conditions. Adequate off-street parking facilities for transport vehicles shall be provided.
- (o) Legible signs at all public entrances to the facility shall be posted and include the following information:
  - 1) The name of the facility,
  - 2) The name of the operator,
  - 3) Facility hours of operation
  - 4) List or statement of materials that will and will not be accepted, if open to the public,
  - 5) Schedule of charges, if applicable
  - 6) The phone number where operator or designee can be reached in case of an emergency; and
  - 7) Any other information as required by the license agreement and/or local government sign code.

## 8. Processing Operations Plan

- (a) All activities at a licensed facility must be conducted in accordance with the processing operations plan containing the following information, as well as any additional information required by Metro:
  - 1) Designation of personnel, by title, responsible for operation, control and maintenance of the facility;
  - 2) A description of the anticipated quantity and variation throughout the year of waste to be received;
  - 3) Methods for measuring and keeping records of incoming waste;
  - 4) Methods for encouraging waste delivery in covered loads;
  - 5) Methods to control the types of waste received, and methods for removing, recovering and disposing of non-compostables;
  - 6) Designation of disposal sites for non-compostable wastes;
  - 7) Management procedures that will be used in processing, which must include:
    - A) A general description of any treatment the wastes will receive prior to processing (e.g., chipping, shredding) and the maximum length of time required to process each day's receipt of waste into windrows or other piles;
    - B) The specifications to which the windrows or other piles will be constructed (width, height, and length) and calculation of the capacity of the facility;

- C) An estimate of the length of time necessary to complete the process.
- 8) Metro may request additional process management procedures. Proprietary information will be submitted on a confidential basis.
- 9) Methods to control noise, vectors, dust and litter.
- 10) Methods for monitoring and adjusting temperature, oxygen level and moisture level of the material during processing.
- 11) General plans for marketing the finished product.

**9. Odor Minimization Plan.**

- (a) The operator shall take specific measures to control odors so as not to cause or contribute to a violation of the license agreement. Specific measures an operator should take to control odor include but are not limited to adherence to the contents of the odor minimization plan required below.
  - 1) The operator shall have an odor minimization plan. The plan must include methods to minimize, manage and monitor all odors, including odors produced by grass clippings. The plan must include:
    - (A) A management plan for malodorous loads;
    - (B) Procedures for receiving and recording odor complaints, immediately investigating any odor complaints to determine the cause of odor emissions, and remedying promptly any odor problem at the facility;
    - (C) Additional odor-minimizing measures, which may include the following:
      - i) Avoidance of anaerobic conditions in the composting material;
      - ii) Use of mixing for favorable composting conditions;
      - iii) Formation of windrow or other piles into a size and shape favorable to minimizing odors; and
      - iv) Use of end-product compost as cover to act as a filter during early stages of composting.
    - (D) Specification of a readily-available supply of bulking agents, additives or odor control agents;
    - (E) Procedures for avoiding delay in processing and managing yard debris during all weather conditions;
    - (F) Methods for taking into consideration the following factors prior to turning or moving composted material:
      - 1) Time of day;
      - 2) Wind direction;
      - 3) Percent moisture;

- 4) Estimated odor potential; and
  - 5) Degree of maturity.
- (b) Grass clippings must be processed in a timely manner to avoid nuisance conditions. Incoming leaves, brush or woody landscape waste may be stored in designated areas for use as a carbon source and bulking agent, rather than being processed into windrows or other piles.
- (c) If odors become a significant source of nuisance complaints, processor shall work with a Metro appointed odor complaint panel. The odor complaint panel will investigate odor complaints to determine their validity and sources and will help the processor with solutions to the nuisance complaints. The odor complaint panel may consist of representatives from Metro, DEQ, the local government, citizen representatives and the processing industry.

## 10. Operation and Facility Records

- (a) Licensee shall effectively monitor facility operation and maintain accurate records of the following information:
- (1) Estimated amount of feedstock received and quantity of product produced at the facility. Records shall be reported to Metro no later than thirty (30) days following the end of each quarter. The report shall be signed and certified as accurate by an authorized representative of licensee.
  - (2) Records of any special occurrences encountered during operation and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures.
  - (3) Records of public nuisance complaints (e.g. noise, dust, vibrations, litter) received by the operator, including:
    - A) The nature of the complaint;
    - B) The date the complaint was received; the name, address, and telephone number of the person or persons making the complaint; and
    - C) any actions taken to respond to the complaint.
  - (4) For every odor complaint received, the licensee shall record the date, time, and nature of any action taken in response to an odor complaint, and record such information within one business day after receiving the complaint. Records of such information shall be made available to Metro and local governments upon request.
- (b) The licensee shall submit to Metro duplicate copies of regulatory information submitted to the DEQ and local jurisdictions pertaining to the facility, at the same time of submittal to DEQ and/or local jurisdiction.



## 11. Closure

- (a) Unless otherwise authorized in a facility license, all yard debris, composting material, end-product, and other solid wastes must be removed from the facility within 180 days following the beginning of closure.
- (b) The facility operator shall close the facility in a manner which eliminates the release of yard debris leachate and composting constituents to the groundwater or surface waters or to the atmosphere to the extent necessary to prevent threats to human health or the environment.
- (c) Within 30 days of completion of closure, the operator shall file a report with Metro verifying that closure was completed in accordance with this Section.

## 12. Term of License and Annual License Fees

- (a) The term of the license shall be established by the Executive Officer not to exceed five (5) years. If a license is issued for less than five (5) years, the reason(s) shall be set forth in the licensing agreement.
- (b) Licensee shall pay an annual license fee. In order to keep costs at a minimum, and so as to not encourage deliveries outside the district, the fee shall be based on a minimum cost for service basis and shall not exceed \$300 per year. The fee shall be delivered to Metro within thirty (30) days of the effective date of this License and each year thereafter.

## 13. Insurance

- (a) Licensee shall purchase and maintain the following types of insurance, covering Licensee, its employees, and agents:
  - 1) Broad form comprehensive general liability insurance covering personal injury, property damage, and personal injury with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and
  - 2) Automobile bodily injury and property damage liability insurance.
- (b) Insurance coverage shall be a minimum of \$500,000 per occurrence, \$100,000 per person, and \$50,000 property damage. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.
- (c) Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS. Notice of any material change or policy cancellation shall be provided to Metro prior to the change or cancellation.
- (d) A license shall specify that licensee, its contractors, if any, and all employers under this license are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject

workers. Licensee shall provide Metro with certification of Workers' Compensation insurance including employer's liability.

#### **14. Indemnification**

Licensee shall indemnify and hold METRO, its agents, employees, and elected officials harmless from any and all claims, demands, damages, actions, losses and expenses, including attorney's fees, arising out of or in any way connected with licensee's performance under this license, including patent infringement and any claims or disputes involving subcontractors. Licensee shall not assume liability for any negligent or intentionally wrongful act of Metro, its officers, agents or employees.

#### **15. Compliance With Law**

Licensee shall fully comply with all federal, state, regional and local laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this license. All conditions imposed on the operation of the facility by federal, state or local governments or agencies having jurisdiction over the facility are part of this license by reference as if specifically set forth herein. Such conditions and permits include those attached as exhibits to the license, as well as any existing at the time of issuance of this license and not attached, and permits or conditions issued or modified during the term of this license.

#### **16. Enforcement of License Provisions**

- (a) The Executive Officer may, at any time, make an investigation to determine if there is sufficient reason and cause to suspend, modify or revoke a license as provided in this section. If, in the opinion of the Executive Officer, there is sufficient evidence to suspend, modify, or to revoke a license, the Executive Officer shall notify the licensee in writing of the alleged violation, and the necessary steps to be taken to cure the violation. Upon a finding that violation exists and that the licensee is unable to or refuses to cure the violation within a reasonable time after receiving written notice thereof, the Executive Officer may provide notice to the licensee that the license is suspended, modified or revoked.
- (b) The notice authorized by this subsection shall be based upon the Executive Officer's finding that the licensee has:
  - 1) Violated the license agreement, this chapter, the Code, state law, local ordinance or the rules promulgated thereunder or any other applicable law or regulation; or
  - 2) The licensee has misrepresented material facts or information in the license application, annual operating report, or other information required to be submitted to Metro;
  - 3) Failed to pay when due the fees required to be paid under this chapter; or
  - 4) Been found to be in violation of a city or county solid waste management ordinance if such ordinances require licensees to comply with the Metro Code (solid waste facility regulation).

- (c) Except as provided in subsection (d) of this section, the Executive Officer's revocation, modification or suspension of a license shall not become effective until the licensee has been afforded an opportunity to request a contested case hearing and an opportunity for a contested case hearing if one is requested.
- (d) Upon finding of serious danger to the public health or safety as a result of the actions or inaction of a licensee under this chapter, the Executive Officer may in accordance with Code Chapter 2.05 immediately suspend the license and may take whatever steps may be necessary to abate the danger.
- (e) Upon revocation or refusal to renew the license all rights of the licensee in the license shall immediately be divested.

## 17. Appeals

- (a) Any applicant licensee is entitled to a contested case hearing pursuant to Metro Code Chapter 2.05 upon the Executive Officer's suspension, modification or revocation or refusal by the Council or Executive Officer, as appropriate, to issue, renew or transfer a license or grant a variance, as follows:
  - 1) Except as provided in subsection (3) of this section, the Executive Officer's refusal to renew a license by the Council or Executive Officer, as appropriate, shall not become effective until the licensee has been afforded an opportunity to request a contested case hearing and an opportunity for a contested case hearing if one is requested.
  - 2) The refusal by the Council or Executive Officer, as appropriate, to grant a variance, or to issue or transfer a license shall be effective immediately. The licensee or applicant may request a hearing on such refusal within thirty (30) days of notice of such refusal.
  - 3) Upon finding of serious danger to the public health or safety, the Executive Officer may suspend a license or the Council or Executive Officer, as appropriate, may refuse to renew a license and such action shall be effective immediately. If a license renewal is refused effective immediately, the licensee shall have thirty (30) days from the date of such action to request a contested case hearing.

## 18. Disposal Rates and Fees

- (a) In accordance with the variance granted by the Metro Council, the rates charged at this Facility shall be exempt from Metro rate setting.
- (b) Licensee is exempted from collecting and remitting Metro Fees on waste received at the Facility. Licensee is fully responsible for paying all costs associated with disposal of residual material generated at the Facility. Licensee shall obtain a non-system license prior to disposal of residuals at any facility not designated by Metro.

- (c) The Licensee shall adhere to the following conditions with regard to disposal rates charged at the Facility:
- 1) Licensee may modify rates to be charged on a continuing basis as market demands may dictate. Rate schedules should be provided to Metro on a regular basis, and shall be provided to Metro on request.
  - 2) Public rates charged at the facility shall be posted on a sign near where fees are collected. Rates and disposal classifications established by the licensee shall be reasonable and nondiscriminatory.

## 19. General Conditions

- (a) A licensee shall be responsible for ensuring that its contractors and agents operate in compliance with the terms and conditions of this license.
- (b) The granting of a license shall not vest any right or privilege in the licensee to receive specific quantities of solid waste during the term of the license.
- (c) The power and right to regulate, in the public interest, the exercise of the privileges granted by this license shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such legal requirements against licensee.
- (d) This license may not be transferred or assigned without the prior written approval of Metro, which will not be unreasonably withheld.
- (e) To be effective, a waiver of any term or condition of a license must be in writing, signed by the Executive Officer. Waiver of a term or condition of a license shall not waive nor prejudice Metro's right otherwise to require performance of the same term or condition or any other term or condition.
- (f) The license shall be construed, applied, and enforced in accordance with the laws of the State of Oregon.
- (g) If any provision of the license shall be invalid, illegal, or unenforceable in any respect, the validity of the remaining provisions contained in this license shall not be affected.
- (h) Authorized representatives of Metro shall be permitted access to the premises of the facility at all reasonable times for the purpose of making inspections and carrying out other necessary functions related to this license. Access to inspect is authorized during all business hours.

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## ATTACHMENT B

### Summary of Key Issues Licensing Program for Yard Debris Processing and Yard Debris Reload Facilities

#### Background

Recent attempts to site a yard debris composting facility in Clackamas County resulted in a land use decision that requires these facilities to completely enclose their operations. This requirement is considered unusually restrictive and would, in effect, prohibit a yard debris processing operation from siting or relocating in Clackamas County. This situation does not appear to be unique. Many facilities in the region are located in areas that are now becoming highly urbanized. As a result, these facilities are increasingly being noticed for their potential to create a public nuisance.

In order to begin developing solutions to this situation, a regional discussion group was convened to discuss yard debris processing facilities and their associated impacts. Major issues included:

- How to maintain programs, provide safeguards for the existing system and provide additional security for the future stability of the yard debris recycling system (note that the yard debris recycling rate in the Metro region increased from 23% in 1987 to 70% (110,000 tons) in 1993).
- How the confidence of local governments and the public could be restored so that siting or relocating these facilities does not become prohibitively expensive.

It was recognized early on that without the assistance and support from the local yard debris composting industry, it would not be possible to implement effective solutions. From that point forward, all group discussions included industry and local government representatives (including the DEQ). Great emphasis was placed on solutions that would be effective as well as acceptable to the yard debris processing industry.

A model ordinance approach for local government adoption was developed and reviewed by local governments. It was concluded that this approach would not be effective for the existing eighteen facilities in the region. Therefore, the discussion group recommended that the facility operational standards be developed as a regional licensing program.

#### Regional Discussion Group Endorsement

The licensing program proposal was voted on and endorsed by a clear majority of the discussion group participants on two separate occasions. Endorsement of the licensing proposal by the regional discussion group was based on the following:

- The licensing program addresses problems on a regional level. It is fair to all processors in region and will be beneficial to the industry. It helps maintain programs and provides needed safeguards for the future security of the system.

- A local government model ordinance approach will not work for existing facilities. A voluntary program would not be effective on a regional scale, and would not help create a level playing field.
- The licensing program is a framework for problem identification and resolution. Surrounding land uses and growth in the region will lead to more public scrutiny and objections to these facilities. They may be forced out of operation, especially the smaller to medium sized operations.
- The program enforcement measures are viewed as important elements by both processors and local governments. The program will help legitimate processors while limiting the fly-by-night processors trying to make a fast profit and creating nuisance conditions that give the industry a bad reputation.

### Licensing Program Concerns

There are concerns about implementing a regional licensing program. These concerns are summarized below, and are followed by responses in italics.

1. The problem is zoning and facility issues should be addressed with local government land use planners. Further, a voluntary and/or model ordinance approach should be used rather than a region-wide licensing program.

*The regional discussion group made it clear that zoning is not the only issue that needs to be addressed. Operational issues, reporting requirements, and problem resolution and enforcement became an integral part of the equation.*

*The local government model ordinance approach was rejected by the group and determined to be ineffective for the 18 existing facilities in the region. This is also true for a voluntary program. The discussion group agreed that any program should foster a level playing field, and that it be implemented on a regional level.*

*Zoning ordinances typically can not include the kind of operational standards and reporting requirements that are now needed to ensure that these types of facilities do not become public nuisances. This is particularly true in light of the sustained growth that is projected for our region, as these facilities get "pushed out."*

*One element of the licensing program is to work with local governments to ensure that development codes and zoning ordinances adequately address these facilities. In addition, the group recommended that a special work group be set up to discuss the licensing program with land use planners and nuisance code enforcement personnel.*

2. The DEQ could implement a state-wide permit program for yard debris processors.

*The DEQ has made it clear that they do not intend to implement a state-wide permit program. However, the DEQ has indicated that they support the proposed regional licensing program.*

3. Product quality standards for compost are all that may be necessary.

*Metro has implemented a product quality standards program for yard debris compost (Earth-Wise Compost Designation). This program was set-up for marketing purposes and is voluntary (the program costs \$1,000 per year to participate). The product quality standards do not address facility operational issues, which are the source of concern. It may be possible to link the two programs in the future, but for now it has been recommended that they remain separate.*

4. Counties with land outside the Metro boundary will have no way of encouraging these facilities to participate in the licensing program. Facilities may relocate outside the Metro boundary to escape the licensing requirements.

*An important element of the licensing program is to work with the local government land use planners to encourage siting standards that set the conditions for approval on participation in the licensing program. In this way, facilities outside the Metro boundary will be able to participate in the program.*

*It is important to note two important considerations: 1) processors prefer to be located close to the source of their feedstock and markets; and 2) zoning outside the Metro boundary tends to be predominantly rural or agricultural in nature and is generally not favorable for siting these types of commercial operations, unless they are strictly in conjunction with agricultural uses.*

5. Local governments will not be able to amend their contracts with franchised haulers, requiring them to take yard debris from municipal curbside programs to approved (licensed) facilities.

*The City of Portland is currently doing this. For example, they provide a list of approved facilities to their haulers who may then select the most convenient facility for their use. It is primarily intended to ensure that, at a minimum, yard debris that the public source-separates for recycling through municipal programs is processed in a responsible manner.*

6. Will Metro have to hire additional staff to administer a licensing program? Will the processors be required to pay for these costs through the license fees?

*Implementation of a licensing program will not require Metro to hire additional staff. Existing staff will absorb the program responsibilities. However, it will be necessary to contract with a consultant to assist staff with special circumstances. The consultant contract for the initial licensing phase is estimated at \$7,000, and \$2,000 thereafter for special circumstance consultation (if needed).*

*The annual licensing fee paid by the processors (which is similar to a franchise fee) will help defray some of the costs of the licensing program. Annual licensing fees are set by the Metro Council. However, the regional discussion group recommends that the fees be no more than \$300 per year. High licensing fees could drive processors out of the region.*

7. How will local governments be involved in the licensing program?

*Local governments are typically the first to receive nuisance complaints. Therefore, Metro will coordinate the licensing program with local government land use planners, solid waste and recycling coordinators, and nuisance code administrators. Metro is committed to meet with local governments to develop a specific plan for responding to nuisance complaints and other licensing program issues.*

*A key objective of the licensing program is to minimize potential nuisance conditions and encourage the processor, local government, and Metro to work together to resolve issues through a facility and operational review process. Therefore, the licensing program will take a proactive, cooperative approach to ensure intergovernmental coordination. Information on facilities will be shared, and Metro will consult with the local jurisdiction before providing technical assistance or initiating enforcement action. Processors will be closely involved throughout the process.*

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## Attachment C - Licensing Program Regulatory Table

The following table summarizes the key regulatory concerns regarding the proposed yard debris processing and reload facility licensing program.

ISSUES	METRO	LOCAL GOVERNMENT	DEQ
Siting	Siting by private initiative. Metro sets up a regional workgroup to review zoning issues.	Local land use permit process. Ensure that zoning ordinances and development codes do not effectively prohibit these facilities.  Local governments to work with a regional workgroup to review and discuss zoning issues.	NA
Licensing	Metro license required for all facilities within Metro boundary. Voluntary outside boundary.  The program will include problem resolution through intergovernmental cooperation, technical assistance and enforcement measures (see next page for details).	Local jurisdiction participates in program. Nuisance/code violations are handled locally. Metro is notified and may be asked for assistance, if warranted.	NA
Operational Standards	Addressed through the license agreement.	Many operational concerns are not addressed through the land use permit process.	May provide technical assistance.
License Fees	Fees are set by Metro Council. Recommendations in the draft licensing standards are that fees should not exceed \$300 per year.	NA	NA
Collection	Metro will not direct yard debris to processing facilities.	Facility designation. Local governments provide franchised haulers with a list of approved, licensed facilities where they may take curbside yard debris for processing or reload.	NA

ISSUES	Inside Metro Boundary	Outside Metro Boundary	DEQ
<p><b>Problem Resolution and Enforcement</b></p>	<p><u>Intergovernmental Coordination</u>  Metro, local governments, DEQ share information on facilities. If nuisance complaints warrant Metro action, local governments can request assistance from Metro. Metro may independently monitor facilities and take appropriate action in cooperation with the local jurisdiction. Processor will be closely involved throughout the process.</p> <p><u>Technical Assistance</u>  Metro, local governments, DEQ and the processor work together to resolve issues through a facility and operational review.</p> <p><u>Enforcement</u>  If issues can not be resolved, Metro can take enforcement action per Metro Code. Enforcement may include:</p> <ul style="list-style-type: none"> <li>• Request corrective action</li> <li>• Notice of intent to assess fines.</li> <li>• Contested case proceeding.</li> <li>• Findings of compliance/noncompliance.</li> <li>• Temporary restraining order (emergency action).</li> <li>• Injunction.</li> <li>• Suspend or revoke the license.</li> </ul>	<p><u>Conditional Use Permit</u>  As a condition for land use approval, zoning and development ordinances could require new facilities to participate in the Metro licensing program. If facilities do not comply with the licensing agreement, the local government can find them in violation of their conditional use permit.</p> <p><u>Zoning</u>  Typical land use zones outside Metro are Rural and Exclusive Farm Use zones (EFU). These zoning designations typically have restrictions on either feedstocks or product. These restrictions do not encourage the siting of municipal yard debris processing operations that sell a product to the public.</p> <ul style="list-style-type: none"> <li>• Rural zones - Facilities are subject to significant restrictions of the rural zone designation and other conditions of approval.</li> <li>• EFU zones - Facilities are not allowed in EFU zones, except when permitted by the local land use authority as a commercial activity in conjunction with a farm. Subject to statutory and Goal limits. Counties may define commercial activities more restrictively than state law.</li> </ul>	<p>Complaint driven process. Odor, air, and water quality issues. Enforcement includes a DEQ Compliance Order.</p> <p>DEQ has indicated support for the Metro licensing program and is willing to participate in a cooperative problem resolution process.</p>

ATTACHMENT D

MAIL THIS APPLICATION TO:

DATE RECEIVED BY METRO \_\_\_\_\_

Metro  
Regional Environmental Management  
600 N.E. Grand Avenue  
Portland, OR 97232-2736

LICENSE APPLICATION FORM  
YARD DEBRIS PROCESSING AND/OR YARD DEBRIS RELOAD FACILITY

Check all that apply:

Yard Debris Composting \_\_\_\_\_  
Yard Debris Reload \_\_\_\_\_  
Other (specify) \_\_\_\_\_  
\_\_\_\_\_

Date of Application: \_\_\_\_\_

PART 1

1. NAME OF FACILITY \_\_\_\_\_  
FACILITY ADDRESS \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. PROSPECTIVE LICENSEE

Public Agency \_\_\_\_\_ Private \_\_\_\_\_

Name of Licensee: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

**3. OWNER(S) OF PROPERTY**

Name \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Phone Number: \_\_\_\_\_

\_\_\_\_\_

**4. SUBCONTRACTOR(S)**

Name, address and function of prospective franchisee's facility operation subcontractors, if any:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**5. SITE LEGAL DESCRIPTION**

(Include tax lot(s) descriptions, Section, Township and Range):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

SECTION \_\_\_\_\_ TOWNSHIP \_\_\_\_\_ RANGE \_\_\_\_\_

**6. ZONING**

Present Land Use Zone: \_\_\_\_\_

Restrictions: \_\_\_\_\_

\_\_\_\_\_

7. Is a conditional use permit necessary for the facility?

Yes \_\_\_\_\_ No \_\_\_\_\_

If required, has the permit been obtained?

Yes \_\_\_\_\_ No \_\_\_\_\_

8. PUBLIC HEARING(S)

Date(s) and nature of Public Hearing(s) held or to be held, if any:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. PERMITS ISSUED OR APPLIED FOR

List name and number of all permits (i.e., DEQ Solid Waste Disposal Permit, Conditional Use Permit, National Pollution Discharge Elimination System Permit, Etc.), plus name, address and contact person at the agency responsible for issuing the permit(s).

Permit(s) Applied for:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Permit(s) Received:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**10. ESTIMATED QUANTITY OF YARD DEBRIS TO BE ACCEPTED**

Annually: \_\_\_\_\_ Cubic Yards  
 Annually: \_\_\_\_\_ Tons (optional)

Daily: \_\_\_\_\_ Cubic Yards  
 Daily: \_\_\_\_\_ Tons (optional)

**11. PUBLIC/COMMERCIAL OPERATIONS**

Will the facility be open to the public? Yes \_\_\_\_\_ No \_\_\_\_\_

Will the facility be open to commercial solid waste collectors? Yes \_\_\_\_\_ No \_\_\_\_\_

**12. OPERATING HOURS AND TRAFFIC VOLUME**

OPERATING HOURS	PUBLIC	COMMERCIAL
Hours Per Day		
Days Per Week		
Estimated Vehicles Per Day		

13. Does the owner/operator of this facility own, operate, maintain, have a proprietary interest in, or is the owner financially associated with or subcontracting the operation of the facility to any individual, partnership or corporation involved in the business of collecting residential, commercial, industrial or demolition refuse within the boundary of Metro?

Yes \_\_\_\_\_ No \_\_\_\_\_

14. Will the facility be open to any solid waste collection companies not wholly owned by the franchisee that collect refuse within the boundary of Metro?

Yes \_\_\_\_\_ No \_\_\_\_\_

15. Will the facility be open to solid waste collection companies who collect outside the boundary of Metro other than the franchisee?

Yes \_\_\_\_\_ No \_\_\_\_\_

**PART 2**

**GENERAL FACILITY DESIGN PLAN**

1. Describe how storm water is managed at the facility.

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Is precipitation run-on diverted around the processing area?

Yes \_\_\_\_\_ No \_\_\_\_\_

Describe \_\_\_\_\_

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Is run-off from the facility controlled?

Yes \_\_\_\_\_ No \_\_\_\_\_

Describe \_\_\_\_\_

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2. Describe any barriers that the facility has (or will have) to prevent unauthorized entry and dumping (fencing, gates, locks).

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3. Are there all weather access roads to the site?

Yes \_\_\_\_\_ No \_\_\_\_\_

4. Does (or will) the facility have scales?

Yes \_\_\_\_\_ No \_\_\_\_\_

5. Does the facility have signs (at entrance, directing traffic flow, public information) ?

Yes \_\_\_\_\_ No \_\_\_\_\_

Please describe the location(s) and type of sign(s):

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6. What is the estimated capacity (cubic yards) of the facility storage area(s) for incoming yard debris waiting to be processed?

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7. What is the estimated capacity (cubic yards) for finished product storage?

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8. Please describe how you handle, store and remove hazardous or other non-permitted or non-compostable wastes delivered to the facility.

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**PART 3**

**GENERAL OPERATING PLAN**

1. Describe your methods for measuring and keeping records of incoming yard debris.

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2. How often are the facility grounds cleaned of litter?

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3. Describe how you encourage delivery of yard debris in covered loads.

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4. Describe how you control the types of materials you receive, and methods for removing, recovering and disposing of non-compostables.

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5. Where do you dispose of non-compostable wastes?

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6. Please give a general description of the steps you take to process yard debris (from delivery to end-product).

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7. What is the maximum length of time required to process each day's receipt of yard debris?

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8. How long does it typically take to process yard debris at your facility (from receipt to finished product)?

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9. If applicable, what are the dimensions of the windrows or piles that are typically constructed at your facility (length, width, height)?

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10. Describe how you control:

Noise:

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Vectors (insects, birds, rodents):

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Dust:

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Litter:

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11. Describe the fire prevention, protection and control measures used at the facility.

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12. Does (or will) the facility have legible sign(s) at public entrances that includes:

Name of facility?	Yes _____	No _____
Name of the operator?	Yes _____	No _____
Hours of operation?	Yes _____	No _____
List of materials that will and will not be accepted?	Yes _____	No _____
Schedule of charges?	Yes _____	No _____
Phone number in case of emergency?	Yes _____	No _____

13. Describe your methods for monitoring and adjusting the following (during processing):

Temperature:

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Oxygen levels

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Moisture levels:

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14. In general, what are your plans (existing or proposed) for marketing the finished product?

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**PART 4**

**ODOR MINIMIZATION PLAN**

1. Generally describe how you handle loads of bad smelling yard debris and grass clippings.

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2. Describe your procedures for receiving, recording and remedying odor complaints or odor problems at the facility.

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3. Describe your methods for minimizing and controlling odors at the facility.

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4. Do you have and use a readily available supply of bulking agents, additives or odor control agents?

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5. Describe your procedures for avoiding delay in processing yard debris during all weather conditions.

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6. Prior to turning or moving composted material, describe how you consider the following factors:

Time of day:

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Wind direction:

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Percent moisture:

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Estimated odor potential:

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Degree of maturity:

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## LIST OF ATTACHMENTS

1. ATTACHMENT A - SITE PLAN
2. ATTACHMENT B - INSURANCE
3. ATTACHMENT C - OTHER REQUIRED PERMITS

## 1. ATTACHMENT A -SITE PLAN

The application must contain maps, drawings or diagrams showing the location of the facility at a scale no smaller than one inch equals 100 feet. The following information must be provided:

- a) The boundaries of the facility;
- b) The boundaries of the composting area;
- c) The property boundaries, if different,
- d) The location of all buildings on the property and other pertinent information with respect to the operation of the facility (e.g. water supply, fencing, access roads, paved areas, etc.);
- e) The location and approximate dimensions of receiving, processing, curing, and storage areas for yard debris, end-product, and waste residuals; and
- f) The drainage patterns of the composting facility and surrounding areas. For example, the direction of both on-site and off-site drainage, as well as the location of any ditches, swales, berms, or other structures that exist or will be constructed to control runoff and leachate generated by the facility's operation.

*(The following additional information is required for all new and proposed yard debris processing and yard debris reload facilities:)*

- g) Landscape plan showing the location, size and type of plantings, fences, berms, and existing trees to remain and/or to be removed.
- h) Drawings of the site that indicate location of initial and permanent roads; buildings and equipment to be installed; sewer and water lines; and storm water system. The drawings shall show final grade contours (required for only new or relocating facilities).

## 2. ATTACHMENT "B" - INSURANCE

The application must contain a letter demonstrating that the applicant can obtain public liability insurance, including automotive coverage, in the amounts of not less than Five Hundred Thousand Dollars (\$500,000) for any number of claims arising out of a single accident or occurrence, Fifty Thousand Dollars (\$50,000) to any claimant for any number of claims for damage to or destruction of property, and One Hundred Thousand Dollars (\$100,000) to any claimant for all other claims arising out of a single accident or occurrence or such other amounts as may be required by State Law for public contracts.

## 3. ATTACHMENT "C" - OTHER REQUIRED PERMITS

The application must contain one copy each of any required federal, state, county, city or other permits or licenses and one copy each of all correspondence pertaining to all such permits or licenses.



**LICENSE APPLICANT**

I hereby certify that the information contained in this application is true and correct to the best of my knowledge. I agree to notify Metro within 10 days of any change in the information submitted as a part of this application. I am enclosing the required Three Hundred Dollar (\$300.00) non-refundable license application fee. (Make checks payable to Metro.)

Signature and title of person completing this application:

SIGNATURE \_\_\_\_\_ TITLE \_\_\_\_\_

DATE \_\_\_\_\_ PHONE \_\_\_\_\_

metzlyardebris\license\app.form\license.app