

 **Metro** | *Agenda*

Meeting: Metro Council Work Session
Date: Tuesday September 20, 2016
Time: 2:00 p.m.
Place: Metro Regional Center, Council Chamber

CALL TO ORDER AND ROLL CALL

- | | | |
|----------------|--|---|
| 2:00 PM | 1. CHIEF OPERATING OFFICER COMMUNICATION | |
| 2:10 PM | 2. FOURTH QUARTERLY FINANCIAL REPORT (UNAUDITED) | Tim Collier, Metro |
| 2:25 PM | 3. TITLE V CODE (SOLID WASTE) IMPROVEMENTS AND HOUSEKEEPING CHANGES | Paul Slyman, Metro
Warren Johnson, Metro |
| 3:05 PM | 4. METRO ATTORNEY COMMUNICATIONS | |
| 3:25 PM | 5. COUNCILOR LIASON UPDATES AND COUNCIL COMMUNICATION | |

ADJOURN

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ការគោរពសិទ្ធិពលរដ្ឋរបស់ ។ សំរាប់ព័ត៌មានអំពីកម្មវិធីសិទ្ធិពលរដ្ឋរបស់ Metro ឬដើម្បីទទួលបានក្បួនលក្ខណ៍រើសអើងសូមចូលទស្សនាការប្រកាស www.oregonmetro.gov/civilrights។
បើលោកអ្នកត្រូវការការបកប្រែភាសានៅពេលអង្គប្រជុំសាធារណៈ សូមទូរស័ព្ទមកលេខ 503-797-1890 (ម៉ោង 8 ព្រឹកដល់ម៉ោង 5 ល្ងាច ថ្ងៃធ្វើការ) ប្រាំពីរថ្ងៃ ថ្ងៃធ្វើការ មុនថ្ងៃប្រជុំដើម្បីអាចឲ្យគេសម្រួលតាមសំណើរបស់លោកអ្នក ។

إشعار بعدم التمييز من Metro

تحتزم Metro الحقوق المدنية. للمزيد من المعلومات حول برنامج Metro للحقوق المدنية أو لإبداء شكوى ضد التمييز، يرجى زيارة الموقع الإلكتروني www.oregonmetro.gov/civilrights. إن كنت بحاجة إلى مساعدة في اللغة، يجب عليك الاتصال مقدماً برقم الهاتف 503-797-1890 (من الساعة 8 صباحاً حتى الساعة 5 مساءً، أيام الاثنين إلى الجمعة) قبل خمسة (5) أيام عمل من موعد الاجتماع.

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Metro txoj kev ntxub ntxaug daim ntawv ceeb toom

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METRO COUNCIL

Work Session Worksheet

PRESENTATION DATE: September 20, 2016

LENGTH: 45 minutes

PRESENTATION TITLE: Title V Code (Solid Waste) Improvements and Housekeeping Changes

DEPARTMENT: Property and Environmental Services

PRESENTER(S): Paul Slyman, (503) 797-1510, paul.slyman@oregonmetro.gov
Warren Johnson, (503) 797-1836, warren.johnson@oregonmetro.gov

WORK SESSION PURPOSE & DESIRED OUTCOMES

Staff will review proposed improvements and housekeeping changes to Metro Code Title V (Solid Waste) and seek approval to bring the proposed changes to the Metro Council for formal consideration later this year.

- Purpose: Overview of public engagement process and proposed changes to Metro's solid waste code.
- Outcome: Direction on whether to bring the proposed code changes before the Metro Council for formal consideration later this year.

TOPIC BACKGROUND & FRAMING THE WORK SESSION DISCUSSION

Over the years, Metro's solid waste code has become unnecessarily complicated with both duplicative and some contradictory provisions. Cleaning up the code provides greater predictability, consistency and clarity for businesses while meeting Metro's obligation of ensuring accountability and transparency for the public in regulating the region's garbage and recycling system. In a work session held on October 22, 2015, the Metro Council directed staff to seek additional public input on proposed improvements and housekeeping changes to Metro's solid waste code (see Attachment A for a summary of the proposed changes). The objectives of the proposed changes are to:

- Build greater consistency in how Metro reviews and authorizes solid waste facilities;
- Ensure greater transparency and accountability in how Metro implements its requirements to protect the environment and the public's health; and
- Provide greater ability to adapt to changing conditions while making the Metro Code easier to understand.

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

- Solid Waste Alternatives Advisory Committee (SWAAC):
 - January 13, 2016 – Presented general proposal and solicited SWAAC input.
 - February 25, 2016 – Presented draft code chapters and received SWAAC's endorsement to publish for public review.
 - July 13, 2016 – Reviewed public comments, Metro's responses, and proposed revisions. Received SWAAC's endorsement to present to Council at work session.
- Public Review and Comment Period:
 - 60-day public review and comment period open from March 1 through April 29.
 - Six public responses received.
 - Staff response to comments prepared for stakeholders and public.

- Other outreach:
 - Dedicated Metro web page used for proposed Code change information and related documents at **oregonmetro.gov/solidwasteupdates**.
 - Routine status updates and other correspondence sent to interested parties via email.

Overview of Proposed Changes:

- General changes to four chapters (Chapters 5.00, 5.01, 5.02, and 5.05):
 - Substantive and non-substantive changes
 - General formatting and reorganization
 - Text revisions for consistency and clarity
 - Consistent and transparent administrative rule process
- Chapter 5.00 (Definitions) – Add, remove, and modify certain terms and definitions.
- Chapter 5.01 (Facility Regulation) – Add, remove, and modify certain facility requirements.
- Chapter 5.02 (Regional System Fees) – Require scale weights for measuring Metro-area waste.
- Chapter 5.05 (Flow Control) – Delegate certain routine licensing authority to Chief Operating Officer.

QUESTIONS FOR COUNCIL CONSIDERATION

There are two main questions for Council consideration. Council direction on these questions is critical to moving forward:

1. Does the Metro Council have comments on the process used or general content of the proposed code changes?
2. Does the Metro Council support bringing the proposed code changes to the Council for formal consideration later this year (see Attachment A)?

PACKET MATERIALS

- Would legislation be required for Council action Yes No
- If yes, is draft legislation attached? Yes No
- What other materials are you presenting today?
 - Attachment A: Summary of Proposed Improvements and Housekeeping Changes to Metro Code Title V (Solid Waste) for 2016

Attachment A
**Summary of Proposed Improvements and Housekeeping
Changes to Metro Code Title V (Solid Waste) for 2016**

Chapter 5.00 (Solid Waste Definitions) Changes:

The following is a summary of other proposed changes that are specific to Chapter 5.00:

1. General Improvements and Updates:

- a) Remove lettering for defined terms and move to alphabetical formatting.
- b) Shorten the term *cleanup material contaminated by hazardous substances* to *cleanup material*.
- c) Other non-substantive grammatical changes to certain terms for clarification and consistency purposes.

2. Deleted Terms:

Delete the following unnecessary or unused terms: *act*, *compostable organic waste*, *direct haul disposal charge*, *director*, *district*, *Metro designated facility*, *Metro disposal system*, *Metro waste management system*, *regional transfer charge*, *resource recovery facility*, *yard debris facility*, and *yard debris reload facility*.

3. Modified Terms:

Change definitions that reference Oregon Administrative Rules to match the state. In general, the term is defined verbatim to assist the reader. Citation references are only used when the state's definition is too long or not easily transcribed. Other changes include:

- a) Change the definition of *cleanup material* to broaden and clarify the types of contaminated materials that qualify for reduced fees and taxes. Example: the proposed definition includes catch basin soil, street sweepings, and contaminated soil from excavation, construction and demolition projects. The proposed definition also includes a reference to the new term *clean fill* to clarify which types of waste qualify as cleanup material.
- b) Change definition for term *non-system license* for clarification and consistency moved from Metro Code Chapter 5.05.
- c) Change the definition of *enhancement fee* to include the term *community enhancement fee* for clarification and consistency.

4. Added Terms:

Add terms to match state definitions or reference Oregon Administrative Rules. In general, the term is defined verbatim to assist the reader. Citation references are only used when the state's definition is too long or not easily transcribed. Other changes include:

- a) Add new term *electronic device* using the definition for *covered electronic device* as defined in Oregon Revised Statutes 459A.305(4). The term is necessary to clearly define what constitutes electronic waste for purposes of the Metro Code.

- b) Add the new term *clean fill* as defined in OAR 340-093-0030(18) and include the term *cleanup material* as part of the definition. The change is necessary because *clean fill* is referenced within the proposed definition of *cleanup material*.
- c) Establish new definition for previously undefined term *facility* moved from other definitions used in current Metro Code.

Chapter 5.01 (Solid Waste Facility Regulation) Changes:

The following is a summary of other proposed changes that are specific to Chapter 5.01:

1. General Improvements and Updates:

- a) Establish new provision in Metro Code prohibiting the outdoor storage of uncovered “electronic devices waste” within the Metro region.
- b) Extend Metro’s decision-making timeframe for new licenses and franchises from 120 days to 180 days to ensure that Metro has adequate time to thoroughly evaluate applications and coordinate decision-making with other jurisdictions.
- c) Establish a consistent and clear process for the Chief Operating Officer to adopt administrative rules, standards, and forms to implement provisions of Chapter 5.01 (consistent with other chapters in Metro Code Title V).

2. Elimination of Licensing Exemption and Intergovernmental Agreement Option:

- a) Remove licensing exemption for certain solid waste reload facilities to improve consistency.
- b) Remove option for local governments that operate yard debris facilities to enter into an intergovernmental agreement with Metro in lieu of a license.

3. Decision Responsibilities and Timeframes:

- a) Authorize the Chief Operating Officer (instead of the Metro Council) to make decisions on and issue licenses for facilities that process and reload residential food waste.
- b) Remove the 10-day call-up process by which the Metro Council can consider license applications since the Metro Council may already call-up any license for consideration at any time.
- c) Establish that the Chief Operating Officer may extend the term of a license or franchise by up to one additional year.

4. Licensing Requirements:

- a) Remove Metro’s financial assurance requirements for licensed and franchised solid waste facilities unless required by the Oregon Department of Environmental Quality.
- b) Remove requirement for Metro to pre-approve ownership changes for licenses and franchises. Instead establish a new notification requirement for licensees and franchisees to notify Metro.

- c) Clarify record retention requirements. Establish that licensed and franchised facilities must retain complaint records for at least one year instead of three years as provided in current Metro Code.

Chapter 5.02 (Disposal Charges and User Fees) Changes:

The following is a summary of other proposed changes that are specific to Chapter 5.02:

1. Establish that loads that contain Metro area waste mixed with waste generated outside the region are considered entirely Metro area waste for purposes of paying regional system fees and taxes unless the hauler or generator can demonstrate the amount of Metro area waste in the load through use of scale weights. This would remove the option for using alternative methods of determining the amount of Metro area waste in mixed loads.
2. Establish a consistent and clear process for the Chief Operating Officer to adopt administrative rules, standards, and forms to implement provisions of Chapter 5.02 (consistent with other chapters in Metro Code Title V).

Chapter 5.05 (Solid Waste Flow Control) Changes:

The following is a summary of other proposed changes that are specific to Chapter 5.05:

1. General Improvements and Updates:
 - a) Move non-system license application fees into a new table format instead of the written description found in current Metro Code. This proposed change is to clarify the fee structure, but not change it.
 - b) Add new provision to clarify that non-system licensees must comply with all of the requirements of the non-system license.
 - c) Revise enforcement section to remove unnecessary detail and make it more consistent with other Metro Code chapters. Clarify compliance process for non-system license violations and penalty calculations.
 - d) Establish a consistent and clear process for the Chief Operating Officer to adopt administrative rules, standards, and forms to implement provisions of Chapter 5.05 (consistent with other chapters in Metro Code Title V).
2. Decision Responsibilities and Timeframes:
 - a) Clarify that the Metro Council may consider other factors when determining whether to remove a facility from the designated facility list.
 - b) Authorize the Chief Operating Officer (instead of the Metro Council) to make decisions on and issue non-system licenses for the transport of residential food waste to out-of-region facilities.
 - c) Establish that the Chief Operating Officer may extend the term of a non-system license by up to six additional months.

General Housekeeping Changes (Non-Substantive):

In addition to the changes described above, the following is a summary of the proposed non-substantive housekeeping changes that were included in each of the proposed Metro Code chapters. These proposed changes are intended to improve clarity, consistency, and ease of reading and do not change or add new requirements.

1. Change passive voice to active voice to clearly identify the actor and the responsibility.
2. Break up long paragraphs into shorter sentences and, as appropriate, into new sections or subsections.
3. Change the use of plural to singular to avoid any confusion.
4. Remove the use of the term *shall* and change it to *must* or *will* as the context requires.
5. Change certain phrases into more conversational, modern usage.
6. Remove the use of term couplets like “null and void,” “cease and desist,” and “due and payable,” etc.
7. Remove unnecessary verbiage that makes the code more difficult to read.
8. Make terms consistent throughout the code.
9. Change and reorganize the section numbering for each chapter and update Metro Code citations throughout as appropriate.