

Proposed revisions to Metro Code Chapter 5.01

CHAPTER 5.01

SOLID WASTE FACILITY REGULATIONS

SECTION TITLE

GENERAL PROVISIONS

- 5.01.010 ~~Definitions (Repealed & Replaced Ord. 14-1331)~~ Purpose
- 5.01.020 Purpose
- ~~5.01.025~~ Authority and Jurisdiction
- 5.01.030 Prohibited Activities
- 5.01.040 Exemptions to Prohibited Activities
- ~~5.01.045 License and Franchise Requirements (Repealed Ord. 14-1332)~~

APPLICATIONS FOR SOLID WASTE FACILITY LICENSES

- 5.01.050 License Requirements and Fees
- 5.01.~~051-060~~ Pre-Application Conference for Licenses
- 5.01.~~052-070~~ Applications for Licenses
- 5.01.~~053-080~~ License Issuance and
- ~~5.01.090 License Contents of Licenses~~
- 5.01.~~054-100~~ Record-keeping and Reporting for Licenses
- 5.01.~~055-110~~ License Renewal of Licenses
- 5.01.~~056-120~~ Transfer of Ownership or Control of Licenses
- 5.01.~~057-130~~ Change of Authorizations for Licenses
- 5.01.~~058-140~~ Variances for Licenses
- ~~5.01.060 Applications for Licenses or Franchises (Repealed Ord. 14-1332)~~
- ~~5.01.062 Application Fees (Repealed Ord. 14-1332)~~
- ~~5.01.065 Issuance and Contents of Certificates (Repealed Ord. 03-1018A §7)~~
- ~~5.01.067 Issuance and Contents of Licenses (Repealed Ord. 14-1332)~~

APPLICATIONS FOR SOLID WASTE FACILITY FRANCHISES

- 5.01.~~070~~150 Franchise Requirements and Fees
- 5.01.~~071-160~~ Pre-Application Conference for Franchises
- 5.01.~~072-170~~ Applications for Franchises
- 5.01.~~073-180~~ Franchise Issuance and
- ~~5.01.190 Franchise Contents of Franchises~~
- 5.01.~~074-200~~ Record-keeping and Reporting for Franchises
- 5.01.~~075-210~~ Franchise Renewal of Franchises
- 5.01.~~076-220~~ Transfer of Ownership or Control of Franchises

- All of the proposed revisions to this chapter are marked in red with "strikethrough" text showing deletions and "underlined" text showing additions to the chapter.
- All of the proposed revisions highlighted in gray are "non-substantive" in nature. These indicate general grammatical improvements with no change to current requirements.
- All the proposed revisions highlighted in yellow are "substantive" in nature. These indicate a change or new requirement.

All of the proposed revisions on this page are non-substantive.

- Remove all unnecessary references to repealed sections.
- Revise numbering of the sections throughout.
- Revise section titles throughout for clarification and consistency.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

- 5.01.~~077~~230 Change of Authorizations for Franchises
- 5.01.~~078~~240 Variances for Franchises
- ~~5.01.080 Term of Franchise (Repealed Ord. 98-762C §21)~~
- ~~5.01.085 Franchises for Major Disposal System Components (Repealed Ord. 98-762C §21)~~
- ~~5.01.087 Renewal of Licenses and Franchises (Repealed Ord. 14-1332)~~
- ~~5.01.090 Transfer of Ownership or Control (Repealed Ord. 14-1332)~~
- ~~5.01.095 Change of Authorizations (Repealed Ord. 14-1332)~~
- ~~5.01.100 Appeals~~
- ~~5.01.110 Variances (Repealed Ord. 14-1332)~~

OBLIGATIONS AND LIMITATIONS FOR SOLID WASTE FACILITIES

- 5.01.~~120~~250 General Obligations of All Regulated Parties
- 5.01.~~125~~260 Obligations and Limits for Selected Types of Activities
- 5.01.~~127~~270 Direct Haul of Putrescible Waste

REGULATORY ADMINISTRATION OF SOLID WASTE FACILITIES

- ~~5.01.130 Administrative~~280 Authority of Chief Operating Officer to Adopt Rules, Standards, Procedures ~~for Franchisees (Repealed Ord. 98-762C §29)~~
- ~~5.01.131 Designation, and Review of Service Areas and of Demand (Repealed Ord. 12-1272 § 4)Forms~~
- ~~5.01.132 Adoption & Amendment of Administrative Procedures and Performance Standards~~
- ~~5.01.135~~01.290 Inspections ~~and~~, Audits, and other Investigations of Solid Waste Facilities
- ~~5.01.137 Record keeping and Reporting~~
- ~~5.01.140 License and Franchise Fees~~
- ~~5.01.150~~300 Regional System Fees
- ~~5.01.160 Reports from Collection Services (Repealed Ord. 98-762C §42)~~
- ~~5.01.170~~310 Determination of Rates

ENFORCEMENT AND APPEALS

- ~~5.01.180~~320 Enforcement ~~of Franchise or License Provisions~~
- ~~5.01.190 Right to Purchase (Repealed Ord. 98-762C §46)~~
- ~~5.01.200~~330 Penalties
- ~~5.01.210 Acceptance of Tires at a Disposal Site (Repealed Ord. 98-762C §48)~~340 Appeals
- ~~5.01.220 Additional Provisions Relating to Issuance of a Franchise for a Facility Processing Petroleum Contaminated Soil (Repealed Ord. 98-762C §48)~~

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Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

~~ADDITIONAL PROVISIONS RELATING TO THE LICENSING OF YARD DEBRIS
PROCESSING FACILITIES AND YARD DEBRIS RELOAD FACILITIES~~

~~5.01.230-.380 (Repealed Ord. 98-762C §49)~~

MISCELLANEOUS PROVISIONS

~~5.01.400 Treatment of Existing Licenses and Franchises (Repealed
Ord. 03-1018A §23)~~

5.01.410350 Miscellaneous Provisions

All of the proposed revisions on this page are non-substantive.

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- Revise numbering of the sections throughout.
- Revise section titles throughout for clarification and consistency.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

GENERAL PROVISIONS

5.01.020-010 Purpose

(a) This chapter governs the regulation of solid waste disposal sites and solid waste facilities within Metro. The purposes of this chapter are ~~to protect:~~

Comment [A1]: NON-SUBSTANTIVE

- (1) ~~Protect~~ and preserve the health, safety and welfare of Metro's residents; ~~to implement~~
- (2) ~~Protect and preserve the environment and livability of the region;~~
- (3) ~~Implement programs~~ cooperatively with federal, state and local agencies ~~consistent with the~~ Regional Solid Waste Management Plan; ~~to provide a~~
- (4) ~~Provide~~ coordinated regional disposal, management and resource recovery ~~program and a solid waste management plan~~ programs to benefit all citizens of Metro; ~~and to reduce~~
- (5) ~~Adapt and respond to changes in the solid waste system; and~~
- (6) ~~Reduce~~ the volume of solid waste disposal through source reduction, recycling, reuse and resource recovery.

Comment [A2]: SUBSTANTIVE.
Add the six public benefits from Metro's Solid Waste Roadmap as guide for the chapter.

(b) The provisions of this chapter shall be liberally construed to accomplish these purposes.

(Ordinance No. 81-111, Sec. 3; Ordinance No. 95-621A, Sec. 2. Repealed by Ordinance No. 98-762C, Sec. 2; replaced by Ordinance No. 98-762C, Sec. 3; and Ordinance No. 02-974, Sec. 1.)

5.01.025-020 Authority and Jurisdiction

(a) Metro's solid waste regulatory authority is ~~established under derived from the Oregon Constitution of the State of Oregon,~~ ORS Chapter 268 for solid waste and the Metro Charter ~~and. It~~ includes authority to regulate solid waste generated or disposed within Metro and all solid waste facilities located within Metro.

Comment [A3]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(b) All solid waste regulation ~~shall be is~~ subject to the authority of all other applicable laws, regulations or requirements in addition to those contained in this chapter. Nothing in this chapter is intended to abridge or alter the rights of action by the State or by a person which exist in equity, common law, or other statutes to abate pollution or to abate a nuisance.

Comment [A4]: NON-SUBSTANTIVE.
Revise for consistency.

(Ordinance No. 98-762C, Secs. 4-5; and Ordinance No. 02-974, Sec. 1.)

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

5.01.030 - Prohibited Activities

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

(a) ~~For a~~Any person to establish, operate, maintain or expand a solid waste facility or disposal site within Metro without an appropriate license or franchise from Metro.

Comment [A5]: NON-SUBSTANTIVE.
Revise for consistency.

Comment [A6]: NON-SUBSTANTIVE

(b) ~~For a~~Any person or solid waste facility to either (1) mix source-separated recyclable material with other solid waste in any vehicle, box, container or receptacle used in solid waste collection or disposal, or (2) to dispose of source-separated recyclable material by any method other than reuse or recycling. As used in this subsection, "reuse or recycling" includes the transfer, transport or delivery of such materials to a person or facility that will reuse or recycle them.

Comment [A7]: NON-SUBSTANTIVE

(c) ~~For a recipient of a license~~A licensee or franchisee to receive, process or dispose of any solid waste ~~not unless~~ authorized ~~under by~~ the ~~recipient's~~ license or franchise.

Comment [A8]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(d) ~~For a~~Any person to ~~deliver or~~ transport any solid waste to or to dispose of any solid waste at any place other than a solid waste facility or disposal site that is operated by ~~a holder of a license~~ licensee or franchisee or is otherwise exempt under Section 5.01.040 ~~of this chapter~~.

Comment [A9]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(e) ~~For a holder of a license~~A licensee or franchisee to ~~fail to comply with the administrative procedures~~ violate or fail to meet the ~~rules, performance standards, procedures, and forms~~ adopted pursuant to Section 5.01. ~~132 of this chapter~~280.

Comment [A10]: NON-SUBSTANTIVE.
Revise for clarification and consistency. Update Code citation as appropriate to match proposed revisions.

(f) ~~For a~~Any person to treat or dispose of petroleum contaminated soil by ventilation or aeration except at the site of origin.

Comment [A11]: NON-SUBSTANTIVE

(Ordinance No. 81-111, Sec. 4; Ordinance No. 87-217, Sec. 1; Ordinance No. 95-621A, Sec. 3; Ordinance No. 98-762C, Sec. 6; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 2; and Ordinance No. 06-1102, Sec. 1.)

5.01.040 - Exemptions to Prohibited Activities

(a) ~~In furtherance of the purposes set forth in this chapter, except as provided in Sections 5.01.040(b) through (d) below, the Metro Council declares the~~The provisions of this chapter ~~shall do~~ not apply to:

Comment [A12]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

- (1) Municipal or industrial sewage treatment plants accepting sewage, sludge, septic tank and cesspool pumpings or other sludge.
- (2) Disposal sites, transfer stations, or solid waste facilities owned or operated by Metro, except that Metro must pay regional system fees per Section 5.01.300.
- (3) Facilities that (A) exclusively receive non-putrescible source-separated recyclable materials, and (B) reuse or recycle ~~such those~~ materials, or transfer, transport or deliver ~~such those~~ materials to a person or facility that will reuse or recycle them.
- (4) Facilities that exclusively receive, process, transfer or dispose of inert waste.
- ~~(5) The following operations, which do not constitute yard debris facilities:~~
 - ~~(A) Persons who generate and maintain residential compost piles for residential garden or landscaping purposes.~~
 - ~~(B) Residences, parks, community gardens and homeowner associations.~~
 - ~~(C) 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.~~
 - ~~(D) Operations or facilities that chip or grind wood wastes, unless:
 - ~~(i) such chipped or ground wood wastes are processed for composting; or~~
 - ~~(ii) such operations or facilities are otherwise regulated under Metro Code Section 5.01.045.~~~~
- ~~(6) Temporary transfer stations or processing centers established and operated by a government for 60 days or less to temporarily receive, store or process solid waste if, provided that Metro finds an emergency situation exists.~~

Comment [A13]: NON-SUBSTANTIVE.
Relocate existing provision from current Section 5.01.040(c) and revise for clarification and consistency.

Comment [A14]: NON-SUBSTANTIVE

Comment [A15]: NON-SUBSTANTIVE.
Remove unnecessary language and revise section formatting.

Comment [A16]: SUBSTANTIVE.
Remove licensing exemption for wood waste processing operations and facilities.

Comment [A17]: NON-SUBSTANTIVE

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

~~(7) Any reload facility that:~~

~~(A) Accepts solid waste collected under the authority of a single solid waste collection franchise granted by a local government unit, or from multiple solid waste collection franchises so long as the area encompassed by the franchises is geographically contiguous; and~~

~~(B) Is owned or controlled by the same person granted franchise authority ascribed in subsection (A); and~~

~~(C) Delivers any putrescible waste accepted at the operation or facility to a transfer station owned, operated, licensed or franchised by Metro; and~~

~~(D) Delivers all other solid waste accepted at the facility except inert waste to a Metro designated facility authorized to accept said solid waste, or to another solid waste facility under authority of a Metro non-system license issued pursuant to Chapter 5.05.~~

~~(8)(9)~~ Persons who own or operate a mobile facility that processes petroleum contaminated soil at the site of origin and retains any treated petroleum contaminated soil on the site of origin.

(b) Notwithstanding Section 5.01.040(a), all persons ~~shall~~must comply with Sections 5.01.030(a), (b), (d) and (f).

~~(c) Notwithstanding Section 5.01.040(a)(2) of this chapter, Metro shall comply with Section 5.01.150 of this chapter.~~

~~(cd) Notwithstanding Sections 5.01.040(a)(3) through 5.01.040(a)(8) of this chapter, the~~ The provisions of Section 5.01.135 ~~of this chapter shall~~290 apply to ~~operationsthe~~activities and facilities described in Sections 5.01.040(a)(3) through 5.01.040(a) ~~(8) of this chapter.~~9).

(Ordinance No. 81-111, Sec. 5; Ordinance No. 82-136, Sec. 1; Ordinance No. 91-422B, Sec. 2; Ordinance No. 95-621A, Sec. 4; Ordinance No. 98-762C, Sec. 7; Ordinance No. 00-866, Sec. 2; Ordinance No. 02-933, Sec. 1; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec.3; Ordinance No. 06-1102, Sec. 2; and Ordinance No. 07-1147B, Sec. 2.)

Comment [A18]: SUBSTANTIVE.
Remove licensing exemption for certain solid waste reload facilities.

Comment [A19]: NON-SUBSTANTIVE

Comment [A20]: NON-SUBSTANTIVE.
Remove and relocate provision to proposed Section 5.01.040(a)(2).

Comment [A21]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

~~(5.01.045 License and Franchise Requirements. Repealed Ord. 14-1332.)~~

Comment [A22]: NON-SUBSTANTIVE.
Remove unnecessary reference to repealed section.

LICENSING REQUIREMENTS

APPLICATIONS FOR SOLID WASTE FACILITY LICENSES

Comment [A23]: NON-SUBSTANTIVE

5.01.050 ~~License Requirements and Fees~~

(a) A Metro solid waste license ~~shall be~~ required of ~~the~~any person owning or controlling a facility at which ~~the person performs~~ any of the following activities ~~are performed~~:

Comment [A24]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

- (1) Processing ~~of~~ non-putrescible waste.
- (2) Processing ~~of~~ petroleum contaminated soil by thermal destruction, distillation, bioremediation, or by any other methods that destroy or remove such petroleum contamination from the soil.

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

Comment [A25]: SUBSTANTIVE.
• Establish new provision stipulating that any facility that processes yard debris mixed with residential food waste is subject to licensing requirements (instead of franchising requirements as currently stipulated in Metro Code);
• Remove inter-governmental agreement option (in lieu of a license) for local governments that operate yard debris facilities; and
• Revise for clarification and consistency.

(4) ~~Operating a reload~~Reloading solid waste.

(5) ~~Chipping or grinding~~Processing wood waste for use as an industrial fuel if such facility is otherwise regulated under this Section 5.01.045 of this chapter.

Comment [A26]: NON-SUBSTANTIVE
Comment [A27]: SUBSTANTIVE.
Establish that any facility that processes wood waste is subject to licensing requirements (remove exemptions for certain processors as currently stipulated in Code). Revise for clarification and consistency.

(6) ~~Shredding, milling, pulverizing, or storing outdoors any~~ electronic waste.

(b) The annual fee for a solid waste license ~~shall not exceed three hundred dollars (\$300.00). The Council may revise these fees upon 90 days written notice to each licensee and an opportunity to be heard.~~ may not exceed \$300.00.

Comment [A28]: SUBSTANTIVE.
Establish that any facility that shreds, mills, or pulverizes electronic waste or stores the waste outside of a building is subject to licensing requirements (not explicitly addressed in current Code).

(c) ~~Upon the filing of an~~The application, ~~every applicant fee for a license, new or for renewal of an existing license, shall submit an~~ is \$300.00. The application fee ~~of three hundred dollars (\$300.00).~~ is due at the time of filing.

Comment [A29]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(d) The ~~annual solid waste~~ license fee ~~shall be~~ in addition to any other fee, tax or charge imposed upon a licensee.

Comment [A30]: NON-SUBSTANTIVE.
Revise for clarification and consistency.
Comment [A31]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

(e) The licensee ~~shall~~must pay the license fee in the manner and at the time required by the Chief Operating Officer.

(Ordinance No. 81-111, Sec. 15; Ordinance No. 98-762C, Sec. 40; Ordinance No. 98-767, Sec. 5; and Ordinance No. 02-974, Sec. 1.)

(Ordinance No. 98-762C, Secs. 8-9; Ordinance No. 00-866, Sec. 3; Ordinance No. 02-933, Sec. 2; Ordinance No. 03-1018A, Sec. 4; and Ordinance No. 14-1332, Sec. 1.)

Comment [A32]: NON-SUBSTANTIVE

~~(5.01.050 Administration. Repealed Ord. 98-762C §10.)~~

Comment [A33]: NON-SUBSTANTIVE.
Remove unnecessary reference to repealed section.

~~APPLICATIONS FOR SOLID WASTE FACILITY LICENSES~~

~~5.01.051-060~~ Pre-Application Conference for Licenses

(a) ~~All prospective~~An applicants for a new license ~~shall participate in~~must attend a pre-application conference. The purpose of ~~such~~the conference ~~shall be~~is to provide the ~~prospective~~ applicant with information regarding the applicable requirements for the proposed facility and to ~~obtain from~~have the ~~prospective~~ applicant a description of~~describe~~ the proposed facility's location, site conditions and operations ~~of the proposed facility.~~

Comment [A34]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(b) If ~~a prospective~~an applicant for a new license does not file an application for a license within one year from the date of the pre-application conference, ~~such~~the applicant ~~shall participate in~~must attend a subsequent pre-application conference ~~prior to~~before filing another application.

Comment [A35]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(Ordinance No. 98-762C, Secs. 11-12; Ordinance No. 02-974, Sec. 1; and Ordinance No. 14-1332, Sec. 1.)

~~5.01.052-070~~ Applications for Licenses

(a) ~~Applications~~An applicant for a license~~new~~ or ~~for~~ renewal ~~of an existing~~ license ~~shall be filed~~must file the application on forms or in the format ~~provided~~required by the Chief Operating Officer.

Comment [A36]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(b) ~~In addition to any information required on the forms or in the format provided by the Chief Operating Officer, all applications shall~~The applicant must include a description of the activities ~~proposed~~the applicant proposes to ~~be conducted~~conduct and a description of ~~wastes sought~~the waste it seeks to ~~be accepted~~accept.

Comment [A37]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(c) ~~In addition to the information required on the forms or in the format provided by the Chief Operating Officer,~~

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

~~applications for a license shall~~ A license application must also include the following information ~~to the Chief Operating Officer:~~

- (1) Proof that the applicant can obtain the types of insurance specified by the Chief Operating Officer during the ~~term of the license term;~~
- (2) A ~~duplicate~~ copy of all applications for necessary DEQ permits ~~and,~~ any other information required by or submitted to DEQ, ~~and a copy of any DEQ permits;~~
- (3) A ~~duplicate~~ copy of any closure plan ~~required to be submitted to DEQ, or if that DEQ requires, including documents demonstrating financial assurance for the costs of closure. If DEQ does not require a closure plan, the applicant must provide~~ a closure document describing closure protocol for the solid waste facility at any point in its active life;

Comment [A38]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Comment [A39]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Comment [A40]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

~~(4) A duplicate copy of any documents required to be submitted to DEQ demonstrating financial assurance for the costs of closure, or if DEQ does not require such documents or does not intend to issue a permit to such facility, the applicant must demonstrate financial assurance or submit a proposal for providing financial assurance prior to the commencement of Metro regulated activities for the costs of closure of the facility. The proposal shall include an estimate of the cost to implement the closure plan required in Section 5.01.052(c)(3). If an application is approved, the license shall require that financial assurance is in place prior to beginning any activities authorized by the license. However, regarding applications for licenses, if DEQ does not issue a permit or require such financial assurance documents, then the Chief Operating Officer may waive this requirement if the applicant provides written documentation demonstrating that the cost to implement the closure plan required in Section 5.01.052(c)(3) will be less than \$10,000.00;~~

Comment [A41]: SUBSTANTIVE.
Remove Metro's financial assurance requirements for solid waste facility licenses.

~~(5) 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 licensee, the duration of that interest and shall~~(4) Signed consent by the property owner(s) agreeing to the proposed property use. The consent must also disclose the applicant's property

Comment [A42]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

~~interest and the duration of that interest. The consent must include a statement that the property owner(s) have read and agree to be bound by the provisions of Section 5.01.180(e) of this chapter320(f) if Metro revokes the license is revoked or refuses any license renewal is refused;~~

Comment [A43]: NON-SUBSTANTIVE. Revise for clarification and consistency (continued from previous page).

(65) Proof that the applicant has received proper land use approval; or, if ~~the applicant has not obtained land use approval has not been obtained,~~ then a written recommendation of the planning director of the local governmental unit having land use jurisdiction regarding new or existing disposal sites, or alterations, expansions, improvements or changes in the method or type of disposal at new or existing disposal sites. ~~Such~~The recommendation may include, but is not limited to, a statement of compatibility of the site, the solid waste disposal facility located thereon and the proposed operation with the acknowledged local comprehensive plan and zoning requirements or with the statewide planning goals of the Land Conservation and Development Commission; and

Comment [A44]: NON-SUBSTANTIVE. Revise for clarification and consistency. Update Code citation as appropriate to match proposed revisions.

~~(7) Identify any other known or 6) Any current permit and a list of anticipated permits required from any otherthat a governmental agency may require. If application for such other permits the applicant has been previously made, applied for a permit, the applicant must provide a copy of suchthat permit application and any permit that has beenany other government agency granted shall be provided.~~

Comment [A45]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(Ordinance No. 81-111, Sec. 7; Ordinance No. 82-136, Sec. 2; Ordinance No. 91-422B, Sec. 3; Ordinance No. 95-621A, Sec. 5; Ordinance No. 98-762C, Sec. 13; Ordinance No. 00-866, Sec. 4; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec.5; Ordinance No. 04-1056, Sec. 1; Ordinance No. 05-1093, Sec. 1; Ordinance No. 06-1098B, Sec. 1; Ordinance No. 06-1101; Ordinance No. 07-1139, Sec. 1; Ordinance No. 07-1161, Sec. 1; and Ordinance No. 14-1332, Sec. 1.)

Comment [A46]: NON-SUBSTANTIVE. Revise for clarification and consistency.

5.01.053-080 License Issuance and Contents of Licenses

(a) ~~Applications for licenses filed in accordance with Section 5.01.052 shall be subject to approval or denial by the~~The Chief Operating Officer, ~~with such~~ may approve or deny license applications and impose conditions on any approved license as the Chief Operating Officer ~~may deem~~considers appropriate.

Comment [A47]: NON-SUBSTANTIVE. Revise for clarification and consistency.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

(b) ~~The Chief Operating Officer shall~~may make ~~such~~any investigation ~~concerning~~regarding the application ~~information~~ as the Chief Operating ~~Officer deems~~Officers considers appropriate, ~~including~~. This includes the right of entry onto the applicant's proposed site.

Comment [A48]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(c) ~~Prior to determining whether to approve or deny each~~Before approving or denying a license application, the Chief Operating Officer ~~shall~~must provide public notice and ~~the~~an opportunity for ~~the~~public ~~to~~comment on the license application.

Comment [A49]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(d) ~~On the basis of~~The Chief Operating Officer will determine if the proposed license meets the requirements of Section 5.01.070 based on the:

(1) ~~the~~Submitted application ~~submitted~~,

(2) ~~the~~Chief Operating Officer's investigation ~~concerning~~regarding the application ~~information~~, and

(3) ~~public~~Public comments, ~~the Chief Operating Officer shall determine whether the proposed license meets the requirements of Section 5.01.052 and whether to approve or deny the application.~~

Comment [A50]: NON-SUBSTANTIVE. Revise for clarification and consistency. Revise section formatting.

~~(e) Notwithstanding the authority to approve or deny any application for a solid waste license set forth in subsection (d), if the Chief Operating Officer (i) decides to approve an application for a new license for any facility whose operations will have a substantial effect on any adjacent residential neighborhood, or (ii) decides to approve an amendment to an existing solid waste license to allow for a substantial change in the configuration used at a site for processing solid waste or to allow for a substantial change in the type or quantity of solid waste processed at the facility, the Chief Operating Officer shall inform the Council President in writing no fewer than ten (10) days before the Chief Operating Officer approves any such solid waste license application. The Council President shall immediately cause copies of the notice to be furnished to all members of the Council. Thereafter, the majority of the Council may determine whether to review and consider the license application within ten (10) days of receipt of the notice from the Chief Operating Officer. If the Council determines to review and consider the application for the license, execution by the Chief Operating Officer shall be subject to the Council's authorization. If the Council determines not to review and consider the application, the Chief Operating Officer may execute the license. For the purpose of this subsection (e), a "substantial effect" shall include any occurrence that arises from the solid waste operation conditions that are regulated under the license and~~

Comment [A51]: SUBSTANTIVE. Remove unnecessary 10-day call-up procedure for Council to consider licensing decisions.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

~~affects the residents' quiet enjoyment of the property on which they reside.~~

~~(f)(e) If the Chief Operating Officer does not act to grant or deny a license application within 120 days after the filing of an applicant files a complete application, the license shall be deemed granted for applicant may send a written request to the solid waste facility or activity requested in Council President requesting that the application, and Council direct the Chief Operating Officer shall issue a license containing the standard terms and conditions included in other comparable licenses issued by Metro to act.~~

Comment [A52]: SUBSTANTIVE.
Remove unnecessary 10-day call-up procedure for Council to consider licensing decisions (continued from previous page).

(gf) If the applicant substantially modifies the application during the course of the review, the review period for the decision shall be restarted. The review period can be extended by mutual agreement of the applicant and the Chief Operating Officer. An applicant may withdraw its application at any time prior to before the Chief Operating Officer's decision and may submit a new application at any time thereafter.

Comment [A53]: SUBSTANTIVE.
Remove automatic granting of a license if the Chief Operating Officer does not act on the application within 120 days.

(hg) If a request for the Chief Operating Officer denies a license is denied, no request, the applicant may not file a new application for this the same or substantially similar license shall be filed by the applicant for at least six (6) months from the date of denial date.

Comment [A54]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

~~(i) Licenses shall 5.01.090 License Contents~~

(a) A license will specify the activities authorized to be performed activities, the types and amounts of wastes authorized to be accepted at the solid waste facility may accept, and any other limitations or conditions attached by the Chief Operating Officer imposes.

Comment [A55]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(b) In addition to all other this section's requirements of this section, if a license authorizes the licensee to accept approving acceptance of mixed non-putrescible waste for the purpose of conducting material recovery or reloading shall be, the license is subject to the rules, procedures, performance standards, design requirements, and operating requirements adopted as administrative procedures pursuant to Section 5.01.132, and shall 280.

Comment [A56]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(c) The license must require that the facility operate in a manner that meets the following general performance goals:

Comment [A57]: NON-SUBSTANTIVE.
Revise for clarification and consistency. Update Code citation as appropriate to match proposed revisions.

(1) Environment. (1) Environment. Facilities shall be It is designed and operated to preclude the creation of avoid undue threats to the environment including, but not limited to, stormwater or

Comment [A58]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

groundwater contamination, air pollution, and improper acceptance and management of hazardous waste asbestos and other prohibited wastes.

(2) Health and Safety. ~~Facilities shall be~~ It is designed and operated to ~~preclude the creation of~~ avoid conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.

Comment [A59]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(3) Nuisances. ~~Facilities shall be~~ It is designed and operated to ~~preclude the creation of~~ avoid nuisance conditions including, but not limited to, litter, dust, odors, and noise.

Comment [A60]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(4) Material Recovery. Facilities ~~conducting that~~ ~~conduct~~ material recovery on non-putrescible waste ~~shall~~ must be designed and operated to ~~assure~~ recover materials ~~are recovered~~ in a timely manner, to meet standards in Section 5.01.260125, and to protect the quality of non-putrescible waste that has not yet undergone material recovery.

Comment [A61]: NON-SUBSTANTIVE. Revise for clarification and consistency. Update Code citation as appropriate to match proposed revisions.

(5) Reloading. Facilities ~~conducting reloading of that~~ ~~reload~~ non-putrescible waste ~~shall~~ must be designed and operated to ~~assure that the reloading~~ rapidly and efficiently reload and transfer ~~of non-putrescible that~~ waste to a Metro authorized processing facility ~~is conducted rapidly and efficiently~~ while protecting the quality of non-putrescible waste that has not yet undergone material recovery.

Comment [A62]: NON-SUBSTANTIVE. Revise for clarification and consistency.

~~(6) Record-keeping. (6) Record keeping. Facilities shall~~ A licensee must keep and maintain complete and accurate records of the amount of all solid waste and recyclable materials ~~received, recycled, reloaded and disposed.~~

~~(j) The term of a new that it receives, recycles, reloads or renewed~~ disposes.

Comment [A63]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(h) A license ~~shall be~~ term may not ~~more than~~ exceed five ~~(5)~~ years, ~~except that the Chief Operating Officer may extend the license term for up to one year.~~

Comment [A64]: SUBSTANTIVE. Establish that the Chief Operating Officer may extend the term of any license by up to one year.

(Ordinance No. 98-762C, Secs. 16-17; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec.8; Ordinance No. 06-1098B, Sec. 2; Ordinance No. 07-1138, Sec. 1; Ordinance No. 07-1139, Sec. 2; and Ordinance No. 14-1332, Sec. 1.)

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

5.01.054-100 Record-keeping and Reporting for Licenses

(a) ~~Licenses shall~~A licensee must maintain accurate records of the information ~~required by that~~ the Chief Operating Officer ~~and shall requires~~. A licensee must report ~~such the~~ required information on the forms ~~or,~~ in the format and within the reporting periods and deadlines ~~established by that~~ the Chief Operating Officer. ~~Reports shall be signed and certified as accurate by an~~ establishes. The licensee or its authorized representative ~~of the licensee or franchisee~~ must sign the report and certify it as accurate.

Comment [A65]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(b) ~~Licenses shall maintain evidence of all financial assurance mechanisms unless or until the licensee is released from the financial assurance requirements as specified in this chapter.~~

(c) ~~Licenses shall~~A licensee must provide copies of any correspondence ~~or information received from or provided to~~ with any federal, state or local government agency related to the regulation of a solid waste facility within five ~~(5)~~ days of the ~~receipt or provision of the~~ correspondence ~~or information~~.

Comment [A66]: NON-SUBSTANTIVE. Revise for clarification and consistency.

~~(d) Licenses shall~~(c) A licensee must maintain records of any written complaints received from the public or a customer, ~~including and retain them for not less than one year. This includes, but is not limited to, information or regarding the nature of the complaint, the complainant's name, address and phone number of, the complainant, date the licensee received the complaint was received, and any action taken to respond~~ response by the licensee to the complaint.

Comment [A67]: SUBSTANTIVE. Establish that a licensee must retain all compliant records for at least one year (instead of three years as currently stipulated in Code). Revise for clarification and consistency.

~~(e) All~~ (d) A licensee must retain all records required by this chapter ~~shall be retained by the licensee, or its operator for for~~ three (3) years and ~~shall be~~ (except for the complaint records in subsection (c)) and make them available for inspection by the Chief Operating Officer.

Comment [A68]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(f) ~~All~~ Any information ~~submitted by~~ the licensee ~~shall be submits to Metro is~~ public record and subject to disclosure pursuant to the Oregon Public Records Act, except ~~such that~~ portion of the ~~information that records and reports for which~~ the licensee requests exception from disclosure consistent with Oregon Law.

Comment [A69]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(Ordinance No. 98-762C, Secs. 38-39; Ordinance No. 02-974, Sec. 1; and Ordinance No. 14-1332, Sec. 1.)

5.01.055-110 License Renewal ~~of Licensee~~

(a) The Chief Operating Officer ~~shall renew may approve or deny a license renewal of~~ a solid waste facility ~~license~~.

Comment [A70]: NON-SUBSTANTIVE. Revise for clarification and consistency. Revise section formatting.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

(b) A licensee must request a renewal license not less than 120 days before the license's expiration date. The Chief Operating Officer is not obligated to renew a license earlier than the expiration date of the existing license even if the renewal request is filed more than 120 days before the existing license expires.

Comment [A71]: SUBSTANTIVE.
Revise to clarify application review procedures and timeframe for accepting renewal application (consistent with current non-system license application procedures in Chapter 5.05).

(c) A licensee requesting a license renewal must:

- (1) File a completed application for renewal;
- (2) Pay a \$300.00 application fee; and
- (3) Provide a statement of proposed material changes from the previous license application, along with any other information the Chief Operating Officer requires.

Comment [A72]: NON-SUBSTANTIVE.
Revise for clarification and consistency. Revise formatting of current Section 5.01.055.

Comment [A73]: NON-SUBSTANTIVE

(d) The Chief Operating Officer must approve a solid waste facility license renewal unless the Chief Operating Officer determines that the proposed renewal is not in the public interest, provided that the licensee files a completed application for renewal accompanied by payment of an application fee of three hundred dollars (\$300.00) not less than 120 days prior to the expiration of the license term, together with a statement of proposed material changes from its initial application for the license and any other information required by the Chief Operating Officer. The Chief Operating Officer may attach conditions or limitations to any renewed license.

Comment [A74]: Relocate existing provision to new Section 5.01.110(c) and revise formatting. Revise for clarification and consistency.

(Ordinance No. 98-762C, Secs. 22-23; Ordinance No. 98-767, Sec. 3; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec.11; and Ordinance No. 14-1332, Sec. 1.)

5.01.056-120 Transfer of Ownership or Control of Licenses

(a) Any person in control of a license may not lease, assign, mortgage, sell. A licensee must notify Metro within 10 days if the licensee leases, assigns, mortgages, sells or otherwise transfer, either in whole or in part, transfers control of the license to another person unless an application therefore has been filed in accordance with Section 5.01.050 and has been granted. The proposed, whether whole or in part. The transferee of a license must meet the requirements of this chapter.

(b) The Chief Operating Officer shall not unreasonably deny an application for transfer of a license. If the Chief Operating Officer does not act on the application for transfer within 120 days after filing of a complete application, the application shall be deemed granted.

Comment [A75]: SUBSTANTIVE.
Remove Metro's pre-approval of an ownership change for a license. Establish a new notification requirement.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

~~(e) The term for any transferred license shall be~~ is for the remainder of the original term unless the Chief Operating Officer establishes a different term ~~based on the facts and circumstances at the time of transfer.~~

(Ordinance No. 81-111, Sec. 10; Ordinance No. 98-762C, Sec. 24; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 12; and Ordinance No. 14-1332, Sec. 1.)

Comment [A76]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

5.01.057-130 Change of Authorizations for Licenses

(a) A ~~person holding a license shall~~ licensee must submit an application pursuant to Section 5.01.052070 when ~~said person seeks authorization~~ the licensee requests authority to:

- (1) Accept wastes other than those ~~authorized by the applicant's license~~ authorizes, or
- (2) Perform activities other than those ~~authorized by the applicant's license~~ authorizes, or
- (3) Modify other limiting conditions of the applicant's license.

(b) ~~Applications~~ The licensee must file an application for a change in authorization or limits ~~shall be filed~~ on forms or in the format provided by the Chief Operating Officer.

(c) An application for a change in authorizations or limits to the applicant's license ~~shall~~ does not substitute for an application that Metro would otherwise ~~be required~~ require under Section 5.01.050 ~~of this chapter.~~

(d) A ~~person holding a license shall~~ licensee must notify Metro in writing when ~~said person~~ the licensee proposes to cease accepting authorized wastes or cease performing authorized activities at the solid waste facility or disposal site.

(e) The ~~application~~ fee for ~~applications for~~ changes of authorizations or limits ~~shall be one hundred dollars (\$100.00)~~.

(Ordinance No. 98-762C, Secs. 25-26; Ordinance No. 98-767, Sec. 4; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 13; and Ordinance No. 14-1332, Sec. 1.)

Comment [A77]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Comment [A78]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Comment [A79]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Comment [A80]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Comment [A81]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

5.01.058-140 Variances for Licenses

(a) The Chief Operating Officer⁷ may grant specific variances from particular requirements of this chapter to applicants for licenses or to licensees ~~upon such conditions as is necessary~~ to protect public health, safety and welfare, ~~if.~~

Comment [A82]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

(b) ~~In order to grant a variance,~~ the Chief Operating Officer ~~finds~~must find that the ~~licensee or applicant can achieve the~~ purpose and intent of the particular license requirement ~~can be achieved~~ without compliance and that compliance with the particular requirement:

- (1) ~~Is inappropriate because of conditions beyond the control of the applicant, or licensee requesting the variance~~applicant's or licensee's control; or
- (2) ~~Due to special physical conditions or causes,~~will be rendered extremely burdensome or highly impractical due to special physical conditions or causes.

(bc) A ~~variance must be requested by a licensee~~licensee or applicant, or must request a licensee variance in writing and must concisely state in a concise manner facts to show cause why such variance the Chief Operating Officer should be granted grant the variance. The Chief Operating Officer may ~~make such investigation~~investigate the request as the Chief Operating Officer ~~deems~~considers necessary ~~and shall.~~

(d) ~~The Chief Operating Officer must approve or deny the variance coincident with any recommendation made on approval or denial of any license application; or, upon a request for variance from an existing licensee, request~~ within 60 days ~~after receipt of the variance request.~~

(ee) A request for a variance ~~shall~~does not substitute for an application that Metro would otherwise ~~be required~~require under Section 5.01.050 ~~of this chapter.~~

(ef) If the Chief Operating Officer denies a variance request, the Chief Operating Officer ~~shall~~must notify the person requesting the variance of the right to a contested case hearing pursuant to Code Chapter 2.05.

(eg) If ~~the Chief Operating Officer denies~~ a request for a variance ~~is denied, no,~~ the requesting party ~~may not file a new application for this~~the same or substantially similar variance ~~shall be filed~~ for at least six ~~(6)~~ months from the date of denial.

(Ordinance No. 81-111, Sec. 12; Ordinance No. 98-762C, Sec. 27; Ordinance No. 02-974, Sec. 1; and Ordinance No. 14-1332, Sec. 1.)

APPLICATIONS FOR SOLID WASTE FACILITY FRANCHISES

Comment [A83]: NON-SUBSTANTIVE. Revise for clarification and consistency. Revise section formatting.

Comment [A84]: NON-SUBSTANTIVE. Revise for clarification and consistency.

Comment [A85]: NON-SUBSTANTIVE. Revise for clarification and consistency. Revise section formatting.

Comment [A86]: NON-SUBSTANTIVE. Revise for clarification and consistency. Revise section formatting.

Comment [A87]: NON-SUBSTANTIVE. Revise for clarification and consistency.

Comment [A88]: NON-SUBSTANTIVE. Revise for clarification and consistency.

Comment [A89]: NON-SUBSTANTIVE. Revise for clarification and consistency.

Comment [A90]: NON-SUBSTANTIVE. Relocate

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

FRANCHISING REQUIREMENTS

5.01.070-150 Franchise Requirements and Fees

(a) A Metro solid waste franchise ~~shall beis~~ required for ~~theof any~~ person owning or controlling a facility at which ~~the person performs~~ any of the following activities ~~are performed~~:

- (1) Processing ~~of~~ putrescible waste other than yard debris and yard debris mixed with residential food waste.
- (2) Operating a transfer station.
- (3) Operating a disposal site or an energy recovery facility.
- (4) Any process using chemical or biological methods whose primary purpose is reduction of solid waste weight or volumes.
- (5) Any other activity not listed in this section or exempted by Metro Code Section 5.01.040.

Comment [A91]: NON-SUBSTANTIVE. Revise for clarification and consistency.

Comment [A92]: SUBSTANTIVE. Establish that any facility that processes yard debris mixed with residential food waste is subject to licensing requirements (instead of franchising requirements as stipulated in current Code).

(b) The annual fee for a solid waste franchise ~~shall not exceed five hundred dollars (\$is \$500.00). The Council may revise these fees upon 90 days written notice to each franchisee and an opportunity to be heard.~~

Comment [A93]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(c) The franchise fee ~~shall beis~~ in addition to any other fee, tax or charge imposed upon a franchisee.

Comment [A94]: NON-SUBSTANTIVE. Revise for consistency.

(d) The franchisee ~~shall~~ must pay the franchise fee in the manner and at the time required by the Chief Operating Officer.

Comment [A95]: NON-SUBSTANTIVE. Revise for consistency.

(e) ~~Upon the filing of an~~The application, ~~every applicant fee~~ for a franchise, new or ~~for renewal of an existing franchise,~~ ~~shall submit an~~ is \$500.00. The application fee ~~of five hundred dollars (\$500).~~ is due at the time of filing.

Comment [A96]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(Ordinance No. 98-762C, Secs. 8-9. Ordinance No. 00-866, Sec. 3; Ordinance No. 02-933, Sec. 2; Ordinance No. 03-1018A, Sec.4; and Ordinance No. 14-1332, Sec. 1.)

~~APPLICATIONS FOR SOLID WASTE FACILITY FRANCHISES~~

Comment [A97]: NON-SUBSTANTIVE. Relocate

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

5.01.~~071-160~~ Pre-Application Conference for Franchises

(a) ~~All prospective~~An applicant for a new franchise shall ~~participate in~~must attend a pre-application conference. The purpose of ~~such~~the conference shall ~~be~~is to provide the prospective applicant with information regarding the applicable requirements for the proposed facility and to ~~obtain from~~have the prospective applicant ~~a description of~~describe the proposed facility's location, site conditions and operations ~~of the proposed facility~~.

Comment [A98]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(b) If ~~a prospective~~an applicant for a new franchise does not file an application for a franchise within one year from the date of the pre-application conference, ~~such~~the applicant shall ~~participate in~~must attend a subsequent pre-application conference ~~prior to~~before filing any application.

Comment [A99]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(Ordinance No. 98-762C, Secs. 11-12; Ordinance No. 02-974, Sec. 1; and Ordinance No. 14-1332, Sec. 1.)

5.01.~~072-170~~ Applications for Franchises

(a) ~~Applications~~An applicant for a franchise~~new or for renewal of an existing~~ franchise shall ~~be filed~~must file the application on forms or in the format ~~provided~~required by the Chief Operating Officer.

Comment [A100]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(b) ~~In addition to any information required on the forms or in the format provided by the Chief Operating Officer, all applications shall~~The applicant must include a description of the activities ~~proposed~~the applicant proposes to ~~be conducted~~conduct and a description of ~~Wastes sought~~the waste it seeks to ~~be accepted~~accept.

Comment [A101]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(c) ~~In addition to the information required on the forms or in the format provided by the Chief Operating Officer, applications~~An application for a franchise shall~~must~~ include the following information ~~to the Chief Operating Officer~~:

Comment [A102]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(1) Proof that the applicant can obtain the types of insurance specified by the Chief Operating Officer during the ~~term of the franchise term~~;

Comment [A103]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(2) A ~~duplicate~~copy of all applications for necessary DEQ permits ~~and~~, any other information required by or submitted to DEQ, ~~and a copy of any DEQ permits~~;

Comment [A104]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(3) A ~~duplicate~~copy of any closure plan ~~required to be submitted to DEQ, or if~~that DEQ requires, including documents demonstrating financial assurance for the cost of closure. If DEQ does not require a closure plan, ~~the applicant must provide~~ a closure document

Comment [A105]: NON-SUBSTANTIVE. Revise for clarification and consistency.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

describing closure protocol for the solid waste facility at any point in its active life;

~~(4) A duplicate copy of any documents required to be submitted to DEQ demonstrating financial assurance for the costs of closure, or if DEQ does not require such documents or does not intend to issue a permit to such facility, the applicant must demonstrate financial assurance or submit a proposal for providing financial assurance prior to the commencement of Metro regulated activities for the costs of closure of the facility. The proposal shall include an estimate of the cost to implement the closure plan required in Section 5.01.072(e)(3). If an application is approved, the franchise shall require that financial assurance is in place prior to beginning any activities authorized by the franchise. However, regarding applications for franchises, if DEQ does not issue a permit or require such financial assurance documents, then the Chief Operating Officer may waive this requirement if the applicant provides written documentation demonstrating that the cost to implement the closure plan required in Section 5.01.072(e)(3) will be less than \$10,000.00;~~

Comment [A106]: SUBSTANTIVE.
Remove Metro's financial assurance requirements for solid waste facility franchises.

~~(5) 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(4) Signed consent by the property owner(s) agreeing to the property's proposed use. The consent must also disclose the applicant's property interest and the duration of that interest. The consent must include a statement that the property owner(s) have read and agree to be bound by the provisions of Section 5.01.180(e) of this chapter320(f) if Metro revokes the franchise is revoked or refuses any franchise renewal is refused;~~

Comment [A107]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

~~(65) Proof that the applicant has received proper land use approval; or, if the applicant has not obtained land use approval has not been obtained, then a written recommendation of the planning director of the local governmental unit having land use jurisdiction regarding new or existing disposal sites, or alterations, expansions, improvements or~~

Comment [A108]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

changes in the method or type of disposal at new or existing disposal sites. ~~Such~~The recommendation may include, but is not limited to, a statement of compatibility of the site, the solid waste disposal facility located thereon and the proposed operation with the acknowledged local comprehensive plan and zoning requirements or with the statewide planning goals of the Land Conservation and Development Commission; and

Comment [A109]: NON-SUBSTANTIVE

~~(7) Identify any other known or (6) Any current permit and a list of anticipated permits required from that any other governmental agency may require. If application for such other permits the applicant has been previously made, applied for other permits, the applicant must provide a copy of such permit application and any the permit that has been application and any permit that another governmental agency granted shall be provided as a result.~~

Comment [A110]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(d) ~~An application for a franchise shall be accompanied by an analysis of the factors described in Section 5.01.073180(f) of this chapter.~~

~~(e) Notwithstanding any other provision in this section, Metro shall not accept must accompany an application for a new franchise for authority to operate a transfer station until January 1, 2016.~~

Comment [A111]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(Ordinance No. 81-111, Sec. 7; Ordinance No. 82-136, Sec. 2; Ordinance No. 91-422B, Sec. 3; Ordinance No. 95-621A, Sec. 5; Ordinance No. 98-762C, Sec. 13; Ordinance No. 00-866, Sec. 4; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 5; Ordinance No. 04-1056, Sec. 1; Ordinance No. 05-1093, Sec. 1; Ordinance No. 06-1098B, Sec. 1; Ordinance No. 06-1101; Ordinance No. 07-1139, Sec. 1; Ordinance No. 07-1161, Sec. 1; and Ordinance No. 14-1332, Sec. 1.)

5.01.073 Issuance and Contents of 180 Franchise Issuance

(a) ~~Applications for franchises The Chief Operating Officer will review franchise applications filed in accordance with under Section 5.01.072 shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro 170. Council may approve or deny the franchise application.~~

Comment [A112]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(b) The Chief Operating Officer ~~shall~~may make ~~such any~~ investigation ~~concerning~~regarding the application information as the Chief Operating Officer ~~deems~~considers appropriate. 7

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

~~including~~ This includes the right of entry onto the applicant's proposed franchise site.

Comment [A113]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(c) Upon the basis of the application, evidence submitted and results of the investigation, the Chief Operating Officer ~~shall formulate recommendations~~ will make a recommendation regarding whether the applicant is qualified, whether:

- (1) Applicant is qualified,
- (2) ~~the p~~Proposed franchise complies with the Regional Solid Waste Management Plan, ~~whether~~
- (3) ~~the p~~Proposed franchise meets the requirements of Section 5.01.072170, and ~~whether or not~~
- (4) ~~the a~~Applicant has complied or can comply with all other applicable regulatory requirements.

Comment [A114]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(d) The Chief Operating Officer ~~shall~~ will provide the recommendations required by subsection (c) ~~of this section~~ to the Council, together with the Chief Operating Officer's recommendation regarding whether Council should grant or deny the application ~~should be granted or denied~~. If the Chief Operating Officer recommends that Council grant the application ~~be granted~~, the Chief Operating Officer ~~shall~~ may also recommend ~~to the Council~~ specific conditions of the franchise.

Comment [A115]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(e) ~~Subsequent to receiving the recommendation of~~ After Council receives the Chief Operating ~~Officer's~~ Officer's recommendation, the Council ~~shall~~ will issue an order granting or denying the application. The Council may attach conditions to the order or limit the number of franchises granted. If the Council issues an order to deny the application, ~~such~~ the order ~~shall be~~ is effective immediately.

Comment [A116]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(f) ~~In determining whether to authorize the issuance of a franchise, the~~ The Council ~~shall~~ will consider, ~~but not be limited by,~~ the following factors when determining whether to issue a franchise:

Comment [A117]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

- (1) Whether the applicant has demonstrated that the proposed solid waste facility and authorized activities will be consistent with the Regional Solid Waste Management Plan;
- (2) The effect that granting a franchise ~~to the applicant~~ will have on the cost of solid waste disposal and recycling services for the citizens of the region;
- (3) Whether granting a franchise ~~to the applicant would be unlikely to unreasonably~~ is likely to adversely

Comment [A118]: NON-SUBSTANTIVE

Comment [A119]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

affect the health, safety and welfare of Metro's residents in an unreasonable manner;

- (4) Whether granting a franchise ~~to the applicant would be unlikely to unreasonably~~ is likely to adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood in an unreasonable manner;
- (5) Whether the applicant has demonstrated the strong likelihood that it will comply with all ~~the~~ requirements and standards of this chapter, the administrative rules and performance standards adopted pursuant to Section 5.01.132 ~~of this chapter~~ 280 and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed franchise.

Comment [A120]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Comment [A121]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Comment [A122]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(g) The Council ~~shall act to must~~ grant or deny a franchise application within 120 days after the ~~filing of applicant files~~ a complete application. ~~The, unless the deadline for the Council to act to grant or deny an application may be~~ is extended as provided in this section. ~~If the Council does not act to grant or deny an application by the deadline for such action, the franchise shall be deemed granted for the solid waste facility or disposal site requested in the application, and the Chief Operating Officer shall issue a franchise containing the standard terms and conditions included in other comparable franchises issued by Metro.~~

Comment [A123]: SUBSTANTIVE.
Remove the automatic granting of a franchise if the Council does not act on the application within 120 days.

(h) At any time after ~~the filing of an applicant files~~ a complete franchise application, the deadline for the Council to ~~act to grant or deny the application~~ shall be extended if:

- (1) The Council ~~acts to extend~~ extends the deadline for up to an additional 60 days, which the Council may do ~~one time only once~~ for any single application;
- (2) The applicant substantially modifies the application during the ~~course of the~~ review period, in which case the 120 days review period for the Council to act ~~shall be~~ is restarted as of the date Metro receives the applicant's modifications; or
- (3) The applicant and ~~the~~ Chief Operating Officer mutually agree to extend the deadline for ~~the Council to act for~~ a specified time period ~~of time~~.

Comment [A124]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

(i) An applicant may withdraw its application at any time ~~prior to before~~ the Council's decision and may submit a new application at any time thereafter.

Comment [A125]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(j) If ~~a the Council denies a franchise request for a franchise is denied, no~~, the applicant may not file a new application for ~~this the~~ same or substantially similar franchise ~~shall be filed by the applicant~~ for at least six ~~(6)~~ months from the ~~date of denial date~~.

Comment [A126]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(k) ~~The term of a new or renewed~~ A franchise shall ~~be term~~ may not ~~more than exceed~~ five ~~(5)~~ years, except that the Chief Operating Officer may extend the term of a franchise for up to one year.

Comment [A127]: SUBSTANTIVE.
Establish that the Chief Operating Officer may extend the term of any franchise by up to one year.

~~(15.01.190 Franchise Contents)~~

(a) The franchise ~~shall constitute as~~ the Council's grant of authority ~~from the Council to~~ accept the waste ~~(s)~~ and perform the activity ~~(ies)~~ or activities described ~~therein in the franchise~~, the conditions under which these activities may take place and the conditions under which Metro may revoke the authority ~~may be revoked~~.

Comment [A128]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

~~(mb)~~ Franchises ~~approved by the Council shall must~~ be in writing and ~~shall include the following~~:

Comment [A129]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

- (1) The term of the franchise;
- (2) The specific activities ~~authorized to be performed~~ the franchisee may perform and the types and amounts of waste ~~authorized to be accepted~~ the franchisee may accept at the solid waste facility;
- (3) ~~Such Any~~ other conditions ~~as the Council deems considers~~ necessary to ~~insure that ensure~~ the franchisee complies with the intent and purpose of this chapter ~~will in all respects be observed~~; and
- (4) Indemnification of Metro in a form acceptable to the Metro Attorney.

Comment [A130]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

~~(n)~~ ~~In addition to all other requirements of this section, a~~
c) A franchise ~~approving acceptance of that~~ authorizes a franchisee to accept mixed non-putrescible waste for the purpose of conducting material recovery or reloading ~~shall be is~~ subject to the rules, procedures, performance standards, design requirements, and operating requirements adopted ~~as administrative procedures~~ pursuant to Section 5.01.132, and shall 280. The franchise must require that the facility operate in a manner that meets the following general performance goals:

Comment [A131]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

- (1) Environment. ~~Facilities shall be~~ It is designed and operated to ~~preclude the creation of a void~~ undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste asbestos and other prohibited wastes.
- (2) Health and Safety. ~~Facilities shall be~~ It is designed and operated to ~~preclude the creation of a void~~ conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.
- (3) Nuisances. ~~Facilities shall be~~ It is designed and operated to ~~preclude the creation of a void~~ nuisance conditions including, but not limited to, litter, dust, odors, and noise.
- (4) Material Recovery. Facilities ~~conducting that~~ conduct material recovery on non-putrescible waste ~~shall must~~ be designed and operated to ~~assure~~ recover materials ~~are recovered~~ in a timely manner, to meet standards in Section 5.01.125260, and to protect the quality of non-putrescible waste that has not yet undergone material recovery.
- (5) Reloading. Facilities ~~conducting reloading of that~~ reload non-putrescible waste ~~shall must~~ be designed and operated to ~~assure that the reloading rapidly and efficiently reload~~ and transfer ~~of non-putrescible that~~ waste to a Metro authorized processing facility ~~is conducted rapidly and efficiently~~ while protecting the quality of non-putrescible waste that has not yet undergone material recovery.
- (6) Record-keeping. ~~Facilities shall~~ A franchisee ~~must keep and~~ maintain complete and accurate records of the amount of all solid waste and recyclable materials ~~received, recycled, reloaded and disposed that it receives, recycles, reloads or disposes.~~

Comment [A132]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Comment [A133]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Comment [A134]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Comment [A135]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Comment [A136]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Comment [A137]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(Ordinance No. 98-762C, Secs. 19-20; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec.10; Ordinance No. 07-1138, Sec. 2; and Ordinance No. 14-1332, Sec. 1.)

~~(5.01.080 Term of Franchise. Repealed Ord. 98-762C §21.)~~

~~(5.01.085 Franchises for Major Disposal System Components. Repealed Ord. 98-762C §21.)~~

Comment [A138]: NON-SUBSTANTIVE.
Remove unnecessary references to repealed section.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

5.01.074-200 Record-keeping and Reporting for Franchises

(a) ~~Franchisees shall~~ A franchisee must maintain accurate records of the information ~~required by~~ the Chief Operating Officer ~~requires~~ and ~~shall report such required~~ that information on the forms or in the format and within the reporting periods and deadlines ~~established by~~ that the Chief Operating Officer. ~~Reports shall be signed and certified as accurate by an~~ establishes. A franchisee's authorized representative ~~of~~ must sign the ~~licensee or franchisee~~ report and certify it as accurate.

Comment [A139]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(b) ~~Franchisees shall maintain evidence of all financial assurance mechanisms unless or until the franchisee is released from the financial assurance requirements as specified in this chapter.~~

~~(c) Franchisees shall~~ A franchisee must provide copies of any correspondence ~~or information received from or provided to~~ with any federal, state or local government agency related to the regulation of a solid waste facility within five ~~(5)~~ days of the ~~receipt or provision of the~~ correspondence ~~or information.~~

Comment [A140]: NON-SUBSTANTIVE. Revise for clarification and consistency.

~~(d) Franchisees shall~~ A franchisee must maintain records of any written complaints received from the public or a customer, ~~including and retain them for not less than one year. This includes, but is not limited to, information regarding the nature of the complaint, the complainant's name, address and phone number of, the complainant, date the complaint was~~ franchisee received the complaint, and any action taken to respond ~~response by the franchisee~~ to the complaint.

Comment [A141]: SUBSTANTIVE. Establish that franchisees must retain all compliant records for at least one year (instead of three years as currently stipulated in Code). Revise for clarification and consistency.

~~(e) All (d) A franchisee must retain all records required by this chapter shall be retained by the franchisee or its operator (except for the complaint records in subsection (c)) for three (3) years and shall be available for inspection by~~ allow the Chief Operating Officer to inspect them.

Comment [A142]: NON-SUBSTANTIVE. Revise for clarification and consistency.

~~(e) All information submitted by~~ that the franchisee ~~shall be~~ submits to Metro is public record and subject to disclosure pursuant to the Oregon Public Records Act, except ~~such~~ that portion of the ~~information records and reports for which~~ that the franchisee requests exception from disclosure consistent with Oregon Law.

Comment [A143]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(Ordinance No. 14-1332, Sec. 1.)

5.01.075-210 Franchise Renewal of Franchises

(a) The Council ~~shall approve~~ approves or ~~deny renewals of~~ denies solid waste facility ~~franchises~~ franchise renewals. A franchisee seeking renewal of a franchise ~~shall~~ must:

Comment [A144]: NON-SUBSTANTIVE. Revise for clarification and consistency. Revise section formatting.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

(1) ~~File a completed application for renewal; accompanied by payment of an~~

(2) ~~Pay a \$500.00 application fee of five hundred dollars (\$500.00) not less than 120 days prior to the expiration of before the franchise term, together with expires; and~~

(3) ~~Provide a statement of proposed material changes from its initial application for the franchise and, along with any other information required by the Chief Operating Officer or by the Council, requires.~~

(b) The Chief Operating Officer ~~shall formulate recommendations will make a recommendation~~ regarding whether the renewal meets the criteria in Section 5.01.073 ~~of this chapter. 180.~~ The Council ~~shall~~ **must** approve renewal of a solid waste facility franchise unless the Council determines that the proposed renewal is not in the public interest or does not meet the criteria ~~contained~~ **outlined** in Section 5.01.073 ~~180.~~ The Council may attach conditions or limitations to the renewed franchise.

Comment [A145]: NON-SUBSTANTIVE. Revise for clarification and consistency. Revise section formatting.

Comment [A146]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(c) ~~The Council is not obligated to renew a franchise earlier than the franchise's expiration date even if the franchisee files a renewal request more than 120 days before the existing franchise expires.~~

Comment [A147]: SUBSTANTIVE. Revise to clarify application review procedures and timeframe for accepting renewal application (consistent with current non-system license application procedures in Chapter 5.05).

(Ordinance No. 98-762C, Secs. 22-23. Ordinance No. 98-767, Sec. 3; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 11; and Ordinance No. 14-1332, Sec. 1.)

5.01.076-220 Transfer of Ownership or Control of Franchises

~~(a) Any person in control of a franchise may not lease, assign, mortgage, sell~~ (a) A franchisee must notify Metro within 10 days if the franchisee leases, assigns, mortgages, sells or otherwise ~~transfer, either in whole or in part,~~ transfers control of the franchise to another person ~~unless an application therefore has been filed in accordance with Section 5.01.072 and has been granted.~~ The proposed, whether whole or in part. The transferee of a franchise must meet the requirements of this chapter.

(b) ~~The Council shall not unreasonably deny an application for transfer of a franchise. If the Council does not act on the application for transfer within 120 days after filing of a complete application, the application shall be deemed granted.~~

Comment [A148]: SUBSTANTIVE. Remove Metro's pre-approval of an ownership change for a franchise. Establish a new notification requirement.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

~~(e) The term for any transferred franchise shall be~~ for the remainder of the original term unless the Council establishes a different term ~~based on the facts and circumstances at the time of transfer.~~

Comment [A149]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(Ordinance No. 81-111, Sec. 10; Ordinance No. 98-762C, Sec. 24; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 12; and Ordinance No. 14-1332, Sec. 1.)

5.01.077-230 Change of Authorizations for Franchises

(a) A ~~person holding a franchise shall~~ franchisee must submit an application pursuant to Section 5.01.072170 when ~~said person seeks authorization~~ the franchisee requests authority to:

- (1) Accept wastes other than those ~~authorized by the applicant's franchise~~ authorizes, or
- (2) Perform activities other than those ~~authorized by the applicant's or franchise~~ authorizes, or
- (3) Modify other limiting conditions of the applicant's franchise.

Comment [A150]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(b) ~~Applications~~ The franchisee must file an application for a change in authorization or limits ~~shall be filed~~ on forms or in the format provided by the Chief Operating Officer.

Comment [A151]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(c) An application for a change in ~~authorizations~~ authorization or limits to the applicant's franchise ~~shall~~ does not substitute for an application that Metro would otherwise ~~be required~~ require under Section 5.01.070 ~~of this chapter~~ 150.

Comment [A152]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(d) A ~~person holding a franchise shall~~ franchisee must notify Metro in writing when ~~said person~~ the franchisee proposes to cease accepting authorized wastes or cease performing authorized activities at the solid waste facility or disposal site.

Comment [A153]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(e) The application fee for ~~applications for~~ changes of authorizations or limits ~~shall be one hundred dollars (\$100.00)~~.

Comment [A154]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(Ordinance No. 98-762C, Secs. 25-26; Ordinance No. 98-767, Sec. 4; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 13; and Ordinance No. 14-1332, Sec. 1.)

5.01.078-240 Variances for Franchises

~~(a) The Council, upon recommendation of (a) Upon~~ the Chief Operating ~~Officer, Officer's recommendation, the Council~~ may grant specific variances from particular requirements of this chapter to applicants for franchises or to franchisees ~~upon such~~ conditions

Comment [A155]: NON-SUBSTANTIVE. Revise for clarification and consistency.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

~~as~~ the Council ~~may deem~~considers necessary to protect public health, safety and welfare, ~~if~~.

Comment [A156]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(b) In order to grant a variance, the Council ~~finds~~must find that the franchisee can achieve the purpose and intent of the particular franchise requirement ~~can be achieved~~ without compliance and that compliance with the particular requirement:

- (1) Is inappropriate because of conditions beyond the ~~control of the applicant, or franchisee requesting the variance~~applicant's or franchisee's control; or
- (2) ~~Due to special physical conditions or causes, will~~Would be rendered extremely burdensome or highly impractical due to special physical conditions or causes.

Comment [A157]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(bc) A ~~variance must be requested by a franchisee or~~ applicant, ~~or~~ must request a ~~franchisee, variance~~ in writing and must concisely state in a concise manner facts to show cause why such Council should grant the variance should be granted. The Chief Operating Officer may make ~~such an~~ investigation as the Chief Operating Officer ~~deems~~considers necessary ~~and shall make a recommendation~~.

Comment [A158]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(d) The Chief Operating Officer must recommend to the Council whether to approve or deny the variance ~~coincident with any recommendation made on approval or denial of any franchise application; or, upon a request for variance from an existing franchisee,~~ within 120 days after ~~receipt of~~Metro receives the variance request.

Comment [A159]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(c) A request for a variance ~~shall~~does not substitute for an application that Metro would otherwise ~~be required~~require under Section 5.01. ~~070 of this chapter~~150.

Comment [A160]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(d) If the Council denies a variance request, the Chief Operating Officer ~~shall~~must notify the person requesting the variance of the right to a contested case hearing pursuant to Code Chapter 2.05.

Comment [A161]: NON-SUBSTANTIVE.
Revise for consistency.

(e) If the Council denies a request for a variance ~~is denied, no,~~ the requesting party may not file a new application for this the same or substantially similar variance ~~shall be filed for at least six (6) months from the denial date of denial~~.

Comment [A162]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

(Ordinance No. 81-111, Sec. 12; Ordinance No. 98-762C, Sec. 27; Ordinance No. 02-974, Sec. 1; and Ordinance No. 14-1332, Sec. 1.)

5.01.100 Appeals

~~Any applicant, franchisee or licensee is entitled to a contested case hearing pursuant to Code Chapter 2.05 upon the suspension, modification, revocation or refusal by the Council or Chief Operating Officer, as appropriate, to issue, renew, modify or transfer a franchise or license or to grant a variance, as follows:~~

~~(a) Except as provided in subsection (c) of this section, refusal to renew a franchise or license by the Council or Chief Operating 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 refusal by the Council or Chief Operating Officer, as appropriate, to grant a variance, or to issue, modify or transfer a franchise or license shall be effective immediately. The franchisee, licensee or applicant may request a hearing on such refusal within 30 days of notice of such refusal.~~

~~(c) Upon a finding of serious danger to the public health or safety, the Chief Operating Officer may suspend a franchise or license or the Council or Chief Operating Officer, 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 30 days from the date of such action to request a contested case hearing.~~

~~(Ordinance No. 81 111, Sec. 11; Ordinance No. 95 621A, Sec. 6; Ordinance No. 02 974, Sec. 1; and Ordinance No. 03 1018A, Sec. 14.)~~

Comment [A163]: NON-SUBSTANTIVE. Remove and relocate provision to proposed Section 5.01.340.

OBLIGATIONS AND LIMITATIONS FOR SOLID WASTE FACILITIES

5.01.120-250 General Obligations of All Regulated Parties

All persons regulated by this chapter ~~shall~~ **must**:

(a) Allow the Chief Operating Officer ~~to have~~ reasonable access to the premises for purposes of inspection and audit to determine compliance with this chapter, the Code, the license or franchise, and the performance standards and administrative ~~procedures~~ **rules** adopted pursuant to Section 5.01.132 ~~of this chapter~~ **280**.

Comment [A164]: NON-SUBSTANTIVE. Revise for clarification and consistency. Update Code citation as appropriate to match proposed revisions.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

(b) Ensure that solid waste transferred from the facility goes to the appropriate destination under Section 5.01.132(a) of ~~this chapter~~ 280, under Metro Code Chapter 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.

Comment [A165]: NON-SUBSTANTIVE. Revise for clarification and consistency. Update Code citation as appropriate to match proposed revisions.

(c) Maintain insurance during the ~~term of the~~ license or franchise ~~the types of insurance term~~ in the amounts specified in the license or franchise or ~~such any~~ other amounts as ~~may be required by~~ state law may require for public contracts, and ~~shall~~ to give 30 days' written notice to the Chief Operating Officer of any lapse or proposed cancellation of insurance coverage or performance bond.

Comment [A166]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(d) ~~Shall indemnify~~ Indemnify and save harmless Metro, the Council, the Chief Operating Officer, ~~and any of their~~ Metro employees ~~or and Metro agents and save them harmless~~ from any and all loss, damage, claim, expense including attorney's fees, or liability related to or arising out of the licensee's or franchisee's performance of or failure to perform any of its obligations under the license or franchise or this chapter.

Comment [A167]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(e) ~~Shall have~~ Agree to no recourse whatsoever against Metro or its officials, agents or employees for any loss, costs, expense or damage arising out of:

- (1) ~~a~~ Any provision or requirement of the license or franchise; ~~or because of the~~
- (2) Metro's enforcement of the license or franchise; or
- (3) Any determination that a ~~in the event the~~ license or franchise or any part thereof is ~~determined to be~~ invalid.

Comment [A168]: NON-SUBSTANTIVE. Revise for clarification and consistency. Revise formatting.

(Ordinance No. 81-111, Sec. 13; Ordinance No. 98-762C, Sec. 28; Ordinance No. 02-974, Sec. 1; and Ordinance No. 03-1018A, Sec. 15.)

5.01.125260 Obligations and Limits for Selected Types of Activities

(a) A ~~holder of a license or franchise for a~~ material recovery facility licensee or transfer station ~~shall~~ franchisee must perform material recovery from non-putrescible waste ~~accepted that it accepts~~ at the facility as specified in this section or as otherwise specified in its license or franchise, or ~~shall it must~~ deliver ~~such the~~ non-putrescible waste to a solid waste facility authorized by Metro to recover useful materials from solid waste.

Comment [A169]: NON-SUBSTANTIVE. Revise for clarification and consistency.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

(b) A licensee or franchisee subject to subsection (a) ~~of this section shall must~~ recover at least 25 percent by weight of non-putrescible waste accepted at the facility and waste delivered by public customers. For the purposes of calculating the amount of recovery required by this subsection, recovered waste ~~shall excludeexcludes~~ both waste from industrial processes and ash, inert rock, concrete, concrete block, foundry brick, asphalt, dirt, and sand. Failure to maintain the minimum recovery rate specified in this section ~~shall constituteis~~ a violation enforceable under Metro Code Sections 5.01.180320 and 5.01.200330. After December 31, 2008, the requirements of this subsection ~~willare~~ not ~~be~~ applicable to licensees or franchisees unless ~~Metrothe~~ Council determines that this standard should be reinstated to replace the processing residual standard established in 5.01.125260(c).

Comment [A170]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(c) Effective January 1, 2009, a licensee or franchisee subject to subsection (a) ~~of this section shall must~~:

Comment [A171]: NON-SUBSTANTIVE.
Revise for consistency.

- (1) Process non-putrescible waste accepted at the facility and delivered in drop boxes and self-tipping trucks to recover cardboard, wood, and metals, including aluminum. ~~The P~~processing residual ~~from such a facility shallmay~~ not contain more than 15 percent, by total combined weight, of cardboard or wood pieces of greater than 12 inches in size in any dimension and metal pieces greater than eight ~~(8)~~ inches in size in any dimension.

Comment [A172]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

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

Comment [A173]: NON-SUBSTANTIVE

~~(d3)~~ Based on observation, audits, inspections and reports, Metro inspectors ~~shallwill~~ conduct or require additional analysis of waste residual at the facility in accordance with Section 5.01.135290(c). Failure to maintain the recovery level specified in ~~subsection Section 5.01.260(c)(1) of this section shall constituteis~~ a violation enforceable under Metro Code. ~~TheMetro will not impose a civil penalty on the first two violations of this subsection by a single licensee or franchisee shall not result in the imposition of a civil penalty.~~

Comment [A174]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

~~(e4)~~ Failure to meet the reporting requirements in subsection (c)(2) ~~of this section shall constituteis~~ a violation enforceable under Metro Code.

Comment [A175]: NON-SUBSTANTIVE.
Revise for consistency.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

(fd) A ~~holder of a franchise for a T~~transfer ~~S~~station franchisee:

- (1) ~~Shall~~Must accept putrescible waste originating within the Metro boundary only from persons who are franchised or permitted by a local government unit to collect and haul putrescible waste.
- (2) ~~Shall~~Must not accept hazardous waste unless the franchisee provides written authorization from the DEQ or evidence of exemption from such requirement.
- (3) ~~Shall be~~Is limited in accepting putrescible waste during any year to an amount of putrescible waste as established by the ~~Metro~~Council in approving the transfer station franchise application.
- (4) ~~Shall~~Must provide an area for collecting source-separated recyclable materials without charge at the franchised solid waste facility, or at another location more convenient to the population being served by the franchised solid waste facility.

Comment [A176]: NON-SUBSTANTIVE. Revise for consistency.

Comment [A177]: NON-SUBSTANTIVE. Revise for consistency.

Comment [A178]: NON-SUBSTANTIVE. Revise for consistency.

Comment [A179]: NON-SUBSTANTIVE. Revise for consistency.

Comment [A180]: NON-SUBSTANTIVE. Revise for consistency.

(ge) A ~~holder of a license for a~~reload facility ~~shall~~licensee must deliver all non-putrescible waste received at the facility to a solid waste facility authorized by Metro to recover useful materials from solid waste.

Comment [A181]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(hf) A ~~holder of a license or franchise for a~~solid waste facility ~~shall not~~licensee or franchisee cannot crush, grind or otherwise reduce the size of non-putrescible waste ~~except when~~ ~~such~~unless the:

Comment [A182]: NON-SUBSTANTIVE. Revise for clarification and consistency.

- (1) ~~s~~Size reduction ~~constitutes~~is a specific step in the facility's material recovery operations, reload operations, or processing residual consolidation or loading operations, and ~~such~~
- (2) ~~Licensee or franchisee described the~~ size reduction ~~is described and in a Metro-approved by Metro in an~~ operating plan.

Comment [A183]: NON-SUBSTANTIVE. Revise for clarification and consistency. Revise formatting.

(Ordinance No. 98-762C, Secs. 30-31; Ordinance No. 00-866, Sec. 5; Ordinance No. 01-916C, Sec. 4; Ordinance No. 02-952A, Sec. 1; Ordinance No. 03-1018A, Sec. 16; Ordinance No. 07-1147B, Sec. 3; Ordinance No. 12-1272, Sec. 3; and Ordinance No. 13-1306, Sec. 3.)

5.01.127-270 Direct Haul of Putrescible Waste

~~Franchisees~~—A franchisee authorized by Metro to deliver putrescible waste directly to a disposal site ~~shall~~must:

Comment [A184]: NON-SUBSTANTIVE. Revise for consistency.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

(a) Deliver ~~said~~the putrescible waste to Metro's contract operator for disposal of putrescible waste; ~~and~~

Comment [A185]: NON-SUBSTANTIVE.
Revise for consistency.

(b) Comply with the performance standards for management of unacceptable waste adopted by the Chief Operating Officer pursuant to Section 5.01.~~132 of this chapter~~280; and

Comment [A186]: NON-SUBSTANTIVE.
Update Code citation as appropriate to match proposed revisions.

(c) Provide transportation or arrange for transportation by a transportation service provider ~~complying that~~ complies with the following performance standards for long-haul transportation by highway:

Comment [A187]: NON-SUBSTANTIVE

(1) All solid waste transported through the city limits of Arlington, Oregon, ~~shall be~~ is subject to any routing, timing, parking or other operational requirements established by the city of Arlington.

Comment [A188]: NON-SUBSTANTIVE.
Revise for consistency.

(2) All equipment ~~shall fulfill~~ satisfies all federal, state, and local regulations. In addition, the use of exhaust brakes ~~shall be~~ is prohibited ~~altogether~~.

Comment [A189]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(3) All solid waste ~~shall be~~ is transported in completely sealed containers with leak-proof design considered wind-, water-, and odor-tight, and ~~shall be~~ is capable of withstanding arduous, heavy-duty, repetitive service associated with the long-haul transport of solid waste. Containers using tarps or flip-tops are prohibited. Any spillage from the transport vehicles is prohibited.

Comment [A190]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(4) The average weight of solid waste payloads transported during each calendar ~~month shall be~~ is not less than 25 tons.

Comment [A191]: NON-SUBSTANTIVE.
Revise for consistency.

(5) Any staging areas used ~~shall be~~ is located in areas outside or excluded from the Columbia River Gorge National Scenic Area (NSA).

Comment [A192]: NON-SUBSTANTIVE.
Revise for consistency.

(6) All transport vehicles ~~shall~~ use only designated stopping points outside the Columbia River Gorge NSA except in cases of emergency.

Comment [A193]: NON-SUBSTANTIVE.
Revise for consistency.

(7) Use of rest areas, turnouts, scenic vista points, and state parks ~~shall be~~ is limited to cases of emergency.

Comment [A194]: NON-SUBSTANTIVE.
Revise for consistency.

(8) Transportation ~~shall not be conducted~~ is prohibited in the Columbia River Gorge NSA during the following times:

Comment [A195]: NON-SUBSTANTIVE.
Revise for consistency.

(A) 4:00 p.m. to 10:00 p.m. Friday afternoons in June, July, August, and September.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

- (B) Daylight hours on Saturdays in June, July, August, and September.
- (C) All hours on Sunday in June, July, August, and September.

- (9) All solid waste ~~shall beis~~ transported by use of vehicles utilizing splash and spray suppressant devices behind each wheel, and utilizing rain suppressant side flaps on all non-turning axles.
- (10) All solid waste ~~shall beis~~ transported by use of vehicles and equipment that ~~shall beis~~ suitably painted and ~~present~~presents an acceptable appearance.
- (11) A franchisee representative ~~of franchisee~~ and its transportation carrier ~~shall~~must annually meet with the gorge communities and interested parties to receive input and discuss issues related to transportation of solid waste.
- (12) The franchisee ~~shall~~must report to Metro any accidents, citations, and vehicle inspections involving vehicles of ~~their~~the franchisee's transportation carrier during the transporting of solid waste on behalf of the franchisee.
- (13) A franchisee representative ~~of franchisee~~ and its transportation carrier ~~shall~~must meet monthly with Metro to discuss operational problems, complaints and any extraordinary occurrences.
- (14) The franchisee ~~shall~~must immediately report any violations of this subsection to Metro.

Comment [A196]: NON-SUBSTANTIVE.
Revise for consistency.

Comment [A197]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Comment [A198]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Comment [A199]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Comment [A200]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Comment [A201]: NON-SUBSTANTIVE.
Revise for consistency.

(Ordinance No. 98-762C, Secs. 32-33; and Ordinance No. 02-974, Sec. 1.)

REGULATORY ADMINISTRATION OF SOLID WASTE FACILITIES

~~(5.01.130 Administrative Procedures for franchisees. Repealed Ord. 98-762C Sec. 29)~~

~~(5.01.131 Designation and Review of Service Areas and of Demand. Ordinance No. 01-916C, Secs. 2-3; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 17; and repealed Ord. 12-1272, Sec. 4.)~~

Comment [A202]: NON-SUBSTANTIVE.
Remove unnecessary reference to repealed section.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

5.01.132 Adoption & Amendment of Administrative Procedures and Performance Standards

~~(a) The Chief Operating Officer may issue administrative procedures and performance standards governing the obligations of licensees and franchisees under this chapter, including but not limited to procedures and performance standards for nuisance control, public notification of facility operations, management of unacceptable wastes, facility record keeping and reporting, yard debris composting operations, non-putrescible waste material recovery, non-putrescible waste reloading, transportation of putrescible waste.~~

Comment [A203]: NON-SUBSTANTIVE.
Remove and relocate provision to proposed Section 5.01.280.

5.01.280 Authority of Chief Operating Officer to Adopt Rules, Standards, Procedures, and Forms

~~(b)—(a) The Chief Operating Officer may issue administrative procedures and adopt rules, performance standards, procedures and forms to implement all provisions of this chapter any provision of this chapter. Any rule, performance standard, procedure and form adopted under this section has the same force and effect as any other chapter provision.~~

Comment [A204]: SUBSTANTIVE.
Establish new section for adopting administrative rules, standards, procedures, and forms.

~~(e) The (b) Before the Chief Operating Officer shall substantially amend the administrative procedures and adopts a rule or performance standards issued standard under subsections (a) or (b) of this section only after providing public notice and, the Chief Operating Officer will provide an opportunity for public comment on the proposed amendment.~~

~~(d) for a period of at least 30 days. The Chief Operating Officer may also hold a public hearing on any proposed new administrative procedure and performance standard or on any proposed amendment to any administrative procedure and performance standard, rule or performance standard if the Chief Operating Officer determines that there is sufficient public interest in any such proposal the proposed rule or performance standard.~~

~~(c) If the Chief Operating Officer holds a public hearing on any proposed rule or performance standard, the Chief Operating Officer will give public notice of the hearing not less than 10 days nor more than 30 days before the public hearing. The notice will include the time, place, and purpose of the public hearing, a brief description of the proposed rule or performance standard, and the location at which a person may~~

Comment [A205]: SUBSTANTIVE.
Establish process for adopting administrative rules, standards, procedures, and forms to implement provisions of Chapter 5.01. Establish process that is consistent with other chapters of Metro Code Title V (continued from previous page).

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

obtain copies of the full text of the proposed rule or performance standard.

(d) Unless otherwise stated, all rules and performance standards adopted under this section take effect when the Chief Operating Officer adopts them.

(e) Notwithstanding subsection (b), the Chief Operating Officer may adopt an interim rule or performance standard without prior public notice or comment upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of an affected party. The Chief Operating Officer must include the specific reasons for the serious prejudice. Any rule or performance standard adopted pursuant to this subsection expires no later than 180 days from its effective date.

(Ordinance No. 98-762C, Secs. 34-35; Ordinance No. 01-916C, Sec. 5; Ordinance No. 02-974, Sec. 1; Ordinance No. 07-1138, Sec. 3; and Ordinance No. 12-1272, Sec. 5.)

5.01.135-290 Inspections and, Audits, and other Investigations of Solid Waste Facilities

(a) The Chief Operating Officer ~~shall be~~ authorized to make such inspection ~~or, audit, or other investigation~~ as the Chief Operating Officer ~~deems~~ considers appropriate to ensure compliance with this chapter, the Code, the franchise or license, and ~~shall be permitted~~ administrative rules and performance standards adopted pursuant to Section 5.01.280. Licensed or franchised facilities must allow access to the facility premises ~~of a licensed or franchised facility~~, and all other solid waste facilities, at all reasonable times during business hours with or without notice ~~or at such other times with 24 hours notice after the franchise or license is granted to assure compliance with this chapter, the Code, the franchise or license, and administrative procedures and performance standards adopted pursuant to Section 5.01.132 of this chapter, and during non-business hours with 24 hours notice.~~

(b) Inspections ~~or, audits, or other investigations~~ authorized under subsection (a) ~~of this section shall~~ will occur regularly and as ~~determined necessary by~~ the Chief Operating Officer. ~~Results determines necessary.~~ The Chief Operating Officer will report the results of each inspection ~~shall be reported on a standard form specified,~~ audit, or other investigation in the format approved by the Chief Operating Officer.

Comment [A206]: **SUBSTANTIVE.**
Establish process for adopting administrative rules, standards, procedures, and forms to implement provisions of Chapter 5.01. Establish process that is consistent with other chapters of Metro Code Title V (continued from previous page).

Comment [A207]: **NON-SUBSTANTIVE.**
Revise for clarification and consistency.

Comment [A208]: **NON-SUBSTANTIVE.**
Revise for clarification and consistency.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

(c) The Chief Operating Officer ~~shall have~~ may access ~~to and may examine any records during such the inspections or, audits any records, or other investigations if the Chief Operating Officer considers the records pertinent in the opinion of the Chief Operating Officer to the license or franchise, or to the provisions of this chapter, including. These records include but are not limited to the licensee's, franchisee's or solid waste facility operator's books, papers, records, equipment, blueprints, operation and maintenance records and, logs and operating rules and procedures of the licensee, franchisee or solid waste facility operator. Such. As part of the inspections or, audits, or other investigations, the Chief Operating Officer may include taking take samples and conducting conduct analysis of any waste or other material, including storm water runoff, water treatment or holding facilities, leachate, soil and solid waste. The Chief Operating Officer shall will coordinate any sampling or follow-up activities with DEQ or local jurisdictions as necessary to prevent the imposition of avoid~~ redundant requirements on operations.

Comment [A209]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(d) Any ~~violations~~ violation discovered by ~~the an~~ inspection ~~or, audit shall be, or other investigation is~~ subject to the penalties provided in Section 5.01. ~~200330~~.

Comment [A210]: NON-SUBSTANTIVE. Revise for clarification and consistency. Update Code citation as appropriate to match proposed revisions.

(Ordinance No. 98-762C, Secs. 36-37; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 18; and Ordinance No. 07-1147B, Sec. 4.)

5.01. ~~137~~ Record keeping and Reporting

~~(a) Franchisees and licensees shall maintain accurate records of the information required by the Chief Operating Officer and shall report such required information on the forms or in the format and within the reporting periods and deadlines established by the Chief Operating Officer. Reports shall be signed and certified as accurate by an authorized representative of the licensee or franchisee.~~

~~(b) Licensees or franchisees shall maintain evidence of all financial assurance mechanisms unless or until the licensee or franchisee is released from the financial assurance requirements as specified in this chapter.~~

~~(c) Licensees or franchisees shall provide copies of any correspondence or information received from or provided to any federal, state or local government agency related to the regulation of a solid waste facility within five (5) days of the receipt or provision of the correspondence or information.~~

~~(d) Licensees or franchisees shall maintain records of any written complaints received from the public or a customer, including but not limited to, information on the nature of the~~

Comment [A211]: NON-SUBSTANTIVE. Remove unnecessary reference to reporting and record keeping requirements - provisions already included elsewhere in current chapter.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

~~complaint, name, address and phone number of the complainant, date the complaint was received and any action taken to respond to the complaint.~~

~~(e) All records required by this chapter shall be retained by the licensee, franchisee or its operator for three (3) years and shall be available for inspection by the Chief Operating Officer.~~

~~(f) All information submitted by the licensee or franchisee shall be public record and subject to disclosure pursuant to the Oregon Public Records Act, except such portion of the records and reports for which the licensee or franchisee requests exception from disclosure consistent with Oregon law.~~

~~(Ordinance No. 98-762C, Secs. 38-39; and Ordinance No. 02-974, Sec. 1.)~~

5.01.140 License and Franchise Fees

~~(a) The annual fee for a solid waste license shall not exceed three hundred dollars (\$300.00), and the annual fee for a solid waste franchise shall not exceed five hundred dollars (\$500.00). The Council may revise these fees upon 90 days written notice to each licensee or franchisee and an opportunity to be heard.~~

~~(b) The license or franchise fee shall be in addition to any other fee, tax or charge imposed upon a licensee or franchisee.~~

~~(c) The licensee or franchisee shall pay the license or franchise fee in the manner and at the time required by the Chief Operating Officer.~~

~~(Ordinance No. 81-111, Sec. 15; Ordinance No. 98-762C, Sec. 40; Ordinance No. 98-767, Sec. 5; and Ordinance No. 02-974, Sec. 1.)~~

5.01.150 Regional System Fees

(a) ~~In accordance with~~Pursuant to Chapter 5.02 ~~of this title~~, regional system fees shall apply to solid waste facilities and disposal sites ~~which are owned, operated, licensed or franchised by~~that Metro owns, operates, licenses or franchises, or which are liable for payment of ~~such~~the fees pursuant to a special agreement with Metro.

(b) Regional system fees ~~shall be~~shall be in addition to any other fee, tax or charge imposed upon a solid waste facility or disposal site.

(c) Regional system fees ~~shall~~must be separately stated upon records of the solid waste facility or disposal site.

Comment [A212]: NON-SUBSTANTIVE.
Remove unnecessary reference to reporting and record keeping requirements - provisions already included elsewhere in current chapter (continued from previous page).

Comment [A213]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Comment [A214]: NON-SUBSTANTIVE.
Revise for consistency.

Comment [A215]: NON-SUBSTANTIVE.
Revise for consistency.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

(d) Regional system fees and finance charges on ~~such~~ those fees ~~shall~~ must be paid as specified in ~~Section~~ Metro Code Chapter 5.02-055 of this Title.

Comment [A216]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(Ordinance No. 81-111, Sec. 16; Ordinance No. 86-214, Sec. 1; Ordinance No. 91-422B, Sec. 4; Ordinance No. 93-509, Sec. 2; Ordinance No. 95-621A, Sec. 7; Ordinance No. 98-762C, Sec. 41; Ordinance No. 00-866, Sec. 6; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 19; and Ordinance No. 14-1332, Sec. 1.)

~~(5.01.160 Reports from Collection Services. Repealed Ord. 98-762C §42)~~

Comment [A217]: NON-SUBSTANTIVE.
Remove unnecessary reference to repealed section.

5.01.170-310 Determination of Rates

(a) The Council may establish facility rates ~~upon finding if~~ it finds that setting ~~such~~ facility rates is in the public interest as a matter of metropolitan concern.

(b) Notwithstanding any other provision of this section,

(1) Licensees ~~shall beare~~ exempt from all rate setting; and

(2) Franchisees ~~shall beare~~ exempt from rate setting unless Metro requires rate setting ~~is required~~ as a franchise condition ~~of their franchise~~.

Comment [A218]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(Ordinance No. 81-111, Sec. 19; Ordinance No. 82-136, Sec. 4. Renumbered by Ordinance No. 91-436A, Sec. 2, which repealed former Section 5.01.170, "Rate Review Committee." Repealed by Ordinance No. 98-762C, Sec. 43; replaced by Ordinance No. 98-762C, Sec. 44; and Ordinance No. 03-1018A, Sec. 20.)

ENFORCEMENT AND APPEALS

5.01.180-320 Enforcement of Franchise or License Provisions

(a) ~~Any person who violates any provision of this chapter or who fails to comply with a license or franchise condition is subject to the fines and penalties set forth in this chapter.~~

Comment [A219]: NON-SUBSTANTIVE.
Add provision for clarification and consistency.

(b) The Chief Operating Officer may, ~~at any time, make an investigation to determine if~~ investigate whether 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 Chief Operating Officer,~~ there is sufficient evidence to suspend, modify, or to revoke a franchise or license, the Chief Operating Officer ~~shall~~ will notify the franchisee or licensee in writing of the alleged violation, and the ~~steps necessary to be taken~~ steps the violator must take to correct the violation. ~~Upon a finding that violation exists and that~~ If the

Comment [A220]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

franchisee or licensee is unable to or refuses to correct the violation within a reasonable time after ~~receiving written~~ Metro ~~sends~~ notice ~~thereof~~, the Chief Operating Officer may provide notice to the franchisee or licensee that Metro will impose penalties pursuant to Section 5.01.200 of this chapter shall be imposed³³⁰ or that Metro will suspend, modify or revoke the franchise or license ~~is suspended, modified or revoked~~.

Comment [A221]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(bc) ~~The notice authorized by this subsection shall be based upon the~~ Chief Operating ~~Officer's~~ Officer will send the notice upon finding that the franchisee or licensee has:

Comment [A222]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(1) Violated the franchise or license ~~agreement~~, the administrative procedures rules or performance standards issued by the Chief Operating Officer, this chapter, the Code, state law, local ordinance or the rules promulgated ~~thereunder~~ there under or any other applicable law or regulation; or

Comment [A223]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(2) Misrepresented material facts or information in the franchise or license application, or other information ~~required to be submitted to Metro~~ that Metro requires the licensee or franchisee to submit;

Comment [A224]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(3) Refused to provide adequate service at a licensed or franchised site, facility or station, after Metro provides written notification and reasonable opportunity to do so;

Comment [A225]: NON-SUBSTANTIVE

(4) Misrepresented the gross receipts from the operation of the licensed or franchised site, facility or station;

(5) Failed to pay when due the fees required ~~to be paid~~ under this chapter; or

Comment [A226]: NON-SUBSTANTIVE

(6) ~~Been found to be in violation of~~ Violated a city or county ordinance if ~~such ordinances require~~ the ordinance requires licensees or franchisees to comply with the Metro solid waste facility regulation code.

Comment [A227]: NON-SUBSTANTIVE. Revise for clarification and consistency.

(ed) ~~Except as provided in subsection (e)(d) of this section, if the Chief Operating Officer's revocation, modification~~ Officer revokes, modifies or ~~suspension of~~ suspends a license or franchise ~~shall, it does~~ not become effective until the Metro gives the licensee or franchisee ~~has been afforded~~ an opportunity to request a contested case hearing ~~and an opportunity for~~ under Metro Code 2.05.

Comment [A228]: NON-SUBSTANTIVE. Revise for clarification and consistency.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

~~(e) If Metro finds 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 Chief Operating Officer may in accordance with Code Chapter 2.05 immediately suspend the franchise or license and may take whatever steps may be necessary to abate the danger. In addition, in the case of a franchise, the Chief Operating Officer may authorize another franchisee or another person to provide service or to use and operate the site, station, facilities and equipment of an affected franchisee for reasonable compensation in order to provide service or abate the danger for so long as the danger continues. If a franchise isMetro immediately suspendedsuspends a franchise, the franchisee shall have 90has 30 days from the suspension date of such action to request a contested case hearing in accordance withunder Code Chapter 2.05.~~

Comment [A229]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

~~(e) Upon revocationf) If Metro revokes or refusalrefuses to renew thea franchise or license, all rights of the franchisee or licensee rights in the franchise or license shall immediately be divestedbecome void.~~

Comment [A230]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(Ordinance No. 81-111, Sec. 20; Ordinance No. 82-136, Sec. 5; Ordinance No. 95-621A, Sec. 8. Renumbered by Ordinance No. 91-436A, Sec. 2. Amended by Ordinance No. 98-762C, Sec. 45; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 21; and Ordinance No. 14-1332, Sec. 1.)

~~5.01.190 Right to Purchase. Repealed Ord. 98-762C §46)~~

Comment [A231]: NON-SUBSTANTIVE.
Remove unnecessary reference to repealed section.

5.01.200-330 Penalties

(a) Each violation of this chapter shall beis punishable by a fine of not more than \$500.00. Each day a violation continues constitutes a separate violation. SeparateMetro may join separate offenses may be joined in one indictment or complaint or informationNotice of Violation in several counts.

Comment [A232]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(b) ~~Upon a finding~~If the Chief Operating Officer finds that a licensee or franchisee is in violation of this chapter, the Code, the license or franchise agreement, or the administrative proceduresrules or performance standards adopted pursuant to Section 5.01.132 of this chapter during an inspection or audit conducted pursuant to Section 5.01.135 of this chapter280, the Chief Operating Officer shallwill provide written notice to the licensee or franchiseeviolator describing the violation at the time of the inspection, and requiring the licensee or franchiseeviolator to correct the violation within the time specified onin the notice.

Comment [A233]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

(c) ~~Upon~~If a ~~finding that the~~ licensee or franchisee ~~has failed~~fails to correct the violation within the specified time period, the Chief Operating Officer ~~shall~~will issue a ~~citation~~Notice of Violation, indicating the continuing violation, the date of re-inspection and ~~imposing a~~ fine imposed as specified in subsection (a) ~~of this section on licensees or franchisees.~~

Comment [A234]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(d) If after re-inspection, the Chief Operating Officer finds the licensee or franchisee has failed to correct the violation, ~~such~~the violation ~~shall be~~ punishable by a fine ~~of \$1,000.00.~~ Notice as specified in subsection (a). Metro will give notice of a final deadline for correcting the violation ~~shall be given~~ at the time of re-inspection.

Comment [A235]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(e) ~~Upon a finding that~~If the licensee or franchisee ~~has failed~~fails to correct the violation after the final deadline, the licensee or franchisee ~~shall be required to~~must cease ~~performing~~ the activity resulting in the violation.

Comment [A236]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(f) ~~Further~~Metro will conduct further inspections ~~shall be conducted~~ to ensure ~~suspension of~~ that the licensee or franchisee suspends the offending activity. If the licensee or franchisee ~~has failed~~fails to suspend the offending activity, the Chief Operating Officer ~~may~~shall ~~conduct an investigation which may result in the:~~

- (1) ~~Imposition of~~Impose a remedy suitable to Metro to be implemented by and at the expense of the licensee or franchisee;
- (2) ~~Suspension of~~Suspend all solid waste activities on site;
- (3) ~~Imposition of~~Impose a lien on the property for the amount of the fines; or
- (4) ~~Suspension, modification~~Suspend, modify or ~~revocation of~~revoke the license or franchise pursuant to Section 5.01. ~~180 of this chapter~~320.

Comment [A237]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(g) In addition to subsection (a) ~~of this section,~~ Metro may enjoin any violation of this chapter ~~may be enjoined by Metro~~ upon suit in a court of competent jurisdiction, and ~~shall the violator may~~ also be subject to a civil penalty not to exceed \$500.00 per day for each day of violation.

Comment [A238]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(Ordinance No. 81-111, Sec. 22. Renumbered by Ordinance No. 91-436A, Sec. 2; Ordinance No. 98-762C, Sec. 47; Ordinance No. 98-767, Sec. 6; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec.22; and Ordinance No. 14-1332, Sec. 1.)

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

~~(5.01.210 Acceptance of Tires at a Disposal Site. Repealed Ord. 98-762C §48)~~

~~(5.01.220 Additional Provisions Relating to Issuance of a franchise for a Facility Processing Petroleum Contaminated Soil. Repealed Ord. 98-762C §48)~~

~~(5.01.230-380 Additional Provisions Relating to the Licensing of Yard Debris Processing Facilities and Yard Debris Reload Facilities. Repealed Ord. 98-762C §49)~~

Comment [A239]: NON-SUBSTANTIVE. Remove unnecessary reference to repealed section.

5.01.340 Appeals

(a) Any applicant, franchisee or licensee may request a contested case hearing pursuant to Code Chapter 2.05 upon the suspension, modification, revocation or refusal by the Council or Chief Operating Officer, as appropriate, to issue, renew, modify or transfer a franchise or license or to grant a variance.

(b) Except as provided in subsection (d), if the Council refuses to renew a franchise or the Chief Operating Officer refuses to renew a license, the refusal does not become effective until Metro affords the franchisee or licensee an opportunity for a contested case hearing if one is requested.

(c) The refusal by either the Council or Chief Operating Officer to grant a variance, or to issue, modify or transfer a franchise or license is effective immediately. The franchisee, licensee or applicant may request a hearing on the refusal within 30 days of notice of the refusal.

(d) Upon a finding of serious danger to the public health or safety, the Chief Operating Officer may suspend a franchise or license or the Council or Chief Operating Officer may refuse to renew a franchise or license and that action is effective immediately. If a franchise or license renewal is refused, the franchisee or licensee has 30 days from the date of the action to request a contested case hearing.

(Ordinance No. 81-111, Sec. 11; Ordinance No. 95-621A, Sec. 6; Ordinance No. 02-974, Sec. 1; and Ordinance No. 03-1018A, Sec. 14.)

Comment [A240]: NON-SUBSTANTIVE. Relocate provision here from current Section 5.01.100.

MISCELLANEOUS PROVISIONS

~~(5.01.400 Treatment of Existing Licenses and franchises. Repealed Ord. 03-1018A §23)~~

Comment [A241]: NON-SUBSTANTIVE. Remove unnecessary reference to repealed section.

5.01.410-350 Miscellaneous Provisions

(a) The Chief Operating Officer shall be responsible for the administration and enforcement of this chapter.

Comment [A242]: NON-SUBSTANTIVE. Revise for consistency.

Proposed revisions to Metro Code Chapter 5.01 - DRAFT 02/05/2016

(b) ~~The Metro's~~ granting of a license or franchise ~~shall~~ does not vest any right or privilege in the licensee or franchisee to receive specific quantities of solid waste during the ~~term of the~~ license or franchise term.

Comment [A243]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(c) ~~The Metro has the~~ power ~~and right~~ to regulate, in the public interest, the exercise of the privileges ~~granted~~ it grants by a license or franchise ~~shall at all times be vested in Metro.~~ Metro ~~reserves the right to~~ may establish or amend rules, regulations or standards regarding matters within Metro's authority and ~~to enforce all such~~ those requirements against ~~holders of licenses~~ licensees or ~~franchises~~ franchisees.

Comment [A244]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(d) ~~To be effective, a~~ No waiver of any ~~term~~ license or ~~franchise~~ condition ~~of a license or franchise must be~~ is effective unless it is in writing, ~~and~~ signed by the Chief Operating Officer. ~~Waiver of a term or conditions of~~ If Metro waives a license or franchise ~~shall~~ condition, that waiver does not waive ~~nor~~ or prejudice Metro's right ~~of Metro otherwise~~ to require performance of the same ~~term or conditions~~ condition or any other ~~term or~~ condition.

Comment [A245]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(e) ~~A license or franchise shall be construed, applied~~ Metro will construe, apply and ~~enforce~~ enforce a license or franchise in accordance with the laws of the State of Oregon.

Comment [A246]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(f) If ~~any provision of a license or franchise is determined by~~ a court of competent jurisdiction ~~to be~~ determines that any license or franchise provision is invalid, illegal or unenforceable in any respect, ~~that determination does not affect~~ the validity of the remaining provisions ~~contained~~ in the license or franchise ~~shall not be affected~~.

Comment [A247]: NON-SUBSTANTIVE.
Revise for clarification and consistency.

(g) Nothing in this chapter ~~is intended to limit~~ limits the power of a federal, state, or local agency to enforce any provision of law relating to any solid waste facility or disposal site that it is authorized or required to enforce or administer.

Comment [A248]: NON-SUBSTANTIVE.
Revise for consistency.

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

Comment [A249]: NON-SUBSTANTIVE.
Revise for consistency.

(Ordinance No. 98-762C, Secs. 52-53; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 24; and Ordinance No. 14-1332, Sec. 1.)