

Memo

Date: June 24, 2020
To: Pam Peck, Policy and Compliance Director
From: Joanna Dyer, Senior Solid Waste Planner
Subject: Renewed Solid Waste Facility License No. L-041-20 for City of Portland – Sunderland Recycling Facility

Attached for your signature is renewed Solid Waste Facility License No. L-041-20 for the city of Portland’s Sunderland Recycling Facility (Sunderland), a leaf composting facility located at 9325 NE Sunderland Ave. in Portland, Oregon (Metro District 5). This memo provides background information on the applicant’s request, a description of proposed changes to the license, and staff’s recommendation to renew Metro’s authorization for Sunderland.

Under Metro Code Section 5.01.080, the proposed license is to be approved or denied by the Chief Operating Officer (COO). On March 16, 2020, the COO delegated to the Policy and Compliance Director (the Director) authority to carry out the COO’s responsibilities under Metro Code Chapter 5.01 for approving or denying a solid waste facility license. As such, the Director is authorized to approve this proposed license.

OVERVIEW

Sunderland is authorized to accept yard debris and land clearing debris for composting, but currently only accepts and processes leaves that are collected seasonally by city of Portland maintenance crews.



Aerial view of the city of Portland's Sunderland Facility

Sunderland is owned and operated by the city of Portland (the City). Sunderland has operated as a Metro-licensed facility since December 1997. Compost has been processed at the site since 2001. The facility holds Metro Solid Waste Facility License No. L-041-14C which expires on June 30, 2020. The facility also holds a Composting Facility Registration (No. 1441) issued by the Department of Environmental Quality (DEQ) which expires on June 1, 2021.

On February 27, 2020, the City submitted an application to Metro requesting the renewal of Sunderland's license. The applicant did not propose any changes in its operation or request new authorizations. As part of Metro's ongoing efforts to improve clarity and establish more uniform requirements, staff is proposing various updates and additions to the Sunderland license that will better align language with other Metro authorizations where appropriate. All of the proposed new and updated standard requirements will be included in all new and renewing licenses. In addition to the updates outlined below, the proposed license includes various non-substantive housekeeping changes for clarity and consistency.

Standard Requirement Updates and Additions for Metro Sunderland

Certain license requirements are standard across all licenses and franchises. This proposed license updates language in some existing standard conditions and also adds new standard conditions that will be included in all new and renewing licenses as follows:

- **Prohibition on mixing** (Section 4.3): Add section prohibiting the facility from mixing source-separated recyclable material with any other waste unless approved by Metro. This section is included in other facility licenses and is proposed here to increase uniformity across licenses.
- **General Performance Standards** (Section 5.1): Add section requiring the facility to operate in a manner that avoids undue nuisance conditions, threats to the environment, or conditions that degrade public health and safety. This section is included in other facility licenses and is proposed here to increase uniformity across licenses.
- **Signage** (Section 5.13): Add the following information to the signage requirements at the facility: fees and charges, vehicle/traffic flow information or diagram, and direction to not queue on public roadways. This information is required of other licensed facilities and is proposed here to increase uniformity across licenses.
- **Employment Standard** (Section 5.16): Add a new section requiring that the licensee be in compliance with Oregon's "ban the box" law (ORS 659A.360). Oregon's "ban the box" law makes it illegal for an employer to inquire about criminal convictions before the interview stage of hiring. This advances progress on the 2030 Regional Waste Plan and the Waste Prevention and Environmental Services Diversity, Racial Equity and Inclusion Work Plan goals. This requirement was added to the franchises in 2020 and will be added to all licenses as they are renewed.
- **Closure protocol** (Section 6.11): Update closure protocol to distinguish between a short-term and long-term closure of the facility and require a licensee to notify Metro within one business day of a short-term or long-term closure. This standardizes the closure protocol across licenses and formalizes the expectation that Metro is notified of any short-term or long-term closure.
- **Reporting requirements** (Subsection 8.2.2): Add a new subsection stating that Metro may require reporting on a weekly or daily basis in the event of a significant disruption to the solid waste system. This was created in response to the COVID-19 pandemic and Metro's need for more real-time data. This subsection will be added to all relevant authorizations.
- **Changes in ownership** (Section 8.6): Update language to require notification to Metro of any change in ownership. This change will be standard across new and renewing licenses and aligns with Metro Code Chapter 5.01.
- **Certificate of insurance** (Section 9.5): Add a new section to formalize the expectation and the long-standing practice that licensees submit a certificate of insurance (CERT) to Metro. Licensees must name Metro as an additional insured on the CERT, and also include the *additional insured endorsement* from the general liability policy as recommended by Metro's risk manager.

- **Right of inspection and audit** (Section 12.3): Update language to require access to the facility by Metro authorized personnel to perform research. This update was made to the franchises in 2020 and will be made to all licenses as they are renewed.
- **Confidential Information** (Section 12.4): Update language to reflect current state public records law which has more restrictive timelines for responding to a requestor. This update was made to the franchises in 2020 and will be made to all licenses as they are renewed.

PUBLIC NOTICE AND OPPORTUNITY TO COMMENT

Metro has a longstanding practice of providing public notice and a 30 day comment period for a license renewal application before deciding whether to approve or deny it. However, due to the COVID-19 pandemic, Metro has postponed the public notice and comment period for a series of licenses that expire June 30, 2020. Metro is committed to soliciting input from the public about these facilities and will open a public comment period later this year when our communities are better able to provide feedback.

Sunderland has a good record of compliance and staff is not aware of any issues associated with the facility. Metro will solicit input from the public about this facility later this year. In the interim, staff finds that it is in the public's interest to renew the license with a standard five-year term. Metro may amend the license at a later date based on new information received during the public comment period.

METRO CODE LICENSE RENEWAL CRITERIA

Metro Code Section 5.01.110 states:

The Chief Operating Officer must approve a solid waste facility license renewal unless the Chief Operating Officer determines that the proposed license renewal is not in the public interest. The Chief Operating Officer may attach conditions to any renewed license.

The City filed a renewal application for Sunderland on February 27, 2020 accompanied by a \$300 application fee payment. The application was deemed complete on March 13, 2020. The license renewal application included a description of the facility's operation and the solid waste it accepts. The proposed license does not include any new authorizations and, if approved, will replace the current license that is set to expire on June 30, 2020.

COMPLIANCE HISTORY OF THE APPLICANT

As mentioned above, Sunderland has a good record of compliance with respect to Metro's regulations and the facility is currently in compliance with the conditions of its license. Metro conducted 13 inspections of Sunderland between September 2014 and February 2020. Metro has not received any complaints regarding the facility and has not taken any enforcement actions during the term of the current license. No compliance issues have been reported by city of Portland or DEQ staff. Staff finds the facility plays a positive role in the region's solid waste recovery efforts and it is in the public interest to renew this license for Sunderland.

STAFF RECOMMENDATION

Staff recommends approving Solid Waste Facility License No. L-041-20 to renew Sunderland's authority to accept and process leaves that are collected seasonally by city of Portland maintenance crews. If approved, the proposed license will take effect on July 1, 2020 and expire on June 30, 2025. A copy of the proposed license is attached for your signature.