

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

Objectives:

The objectives of the proposed Metro Code updates are to build:

1. Greater consistency in how Metro reviews and authorizes solid waste facilities;
2. Greater transparency in how Metro implements its requirements to protect the environment and the public's health; and
3. Greater adaptivity to changing conditions while making the Metro Code easier to understand.

General Housekeeping Changes (Non-Substantive):

The following is a summary of the non-substantive housekeeping changes that are proposed throughout each of the Metro Code chapters. These proposed changes are intended to improve clarity, consistency, and ease of reading. These proposed amendments do not change or add new requirements.

1. Change passive voice to active voice to clearly identify the actor and the responsibility. Example: *"Reports shall be filed every month"* becomes *"The licensee must file a report every month."*
2. Break up long paragraphs into shorter sentences and, as appropriate, into new sections or subsections.
3. Change the use of plural to singular to avoid any confusion. Example: *"The Council shall issue licenses to applicants that meet all criteria"* becomes *"The Council will issue a license to an applicant that meets the criteria."*
4. Remove the use of the term *"shall"* and change it to *"must"* or *"will"* as the context requires. (See #1 above for an example.) This incorporates modern code drafting rules that are intended to make code more like normal conversation.
5. Change certain phrases into more conversational, modern usage. Example *"prior to"* becomes *"before."*
6. Remove the use of term couplets like *"null and void," "cease and desist,"* and *"due and payable,"* etc.
7. Remove unnecessary verbiage that makes the code more difficult to read. Example: *"In connection with the enactment of the provisions of this Chapter 5.05 of the Metro Code (as defined below), the Council of Metro hereby finds and determines the following"* becomes *"The Council finds the following."*
8. Make terms consistent throughout the code. For example, use of the term *"holder of a license"* versus *"licensee."*
9. Change and reorganize the section numbering for each chapter and update Metro Code citations throughout as appropriate.

Chapter 5.00 Solid Waste Definitions -- Changes:

In addition to the general housekeeping changes described above, the following is a summary of other proposed changes that are specific to Chapter 5.00:

1. Remove lettering for defined terms and move to alphabetical formatting.
2. Delete the following unnecessary or unused terms: act, compostable organic waste, direct haul disposal charge, director, Metro disposal system, Metro waste management system, resource recovery facility, standard recyclable materials, yard debris facility, and yard debris reload facility.
3. Add and change certain terms to match state definitions or reference Oregon Administrative Rules (OARs). In general, the term is defined verbatim to assist the reader. Citation references are only used when the State's definition is too long or not easily transcribed.
4. Add the new term "clean fill" as defined in OAR 340-093-0030(18) and include the term "cleanup material" as part of the definition. The change is necessary because it is referenced within the proposed definition of "cleanup material."
5. Shorten the term "cleanup material contaminated by hazardous substances" to "cleanup material." Change the term to broaden and clarify the types of contaminated materials that qualify for reduced fees and taxes. Example: the proposed definition includes catch basin soil, street sweepings, and contaminated soil from excavation, construction and demolition projects. The proposed definition also includes a reference to "clean fill" to clarify which types of waste qualify as cleanup material.
6. Establish new definition for previously undefined term "facility" moved from other definitions used in current Metro Code.
7. Change definition for term "non-system license" for clarification and consistency moved from Metro Code Chapter 5.05.
8. Other non-substantive grammatical changes to certain terms for clarification and consistency purposes.

Chapter 5.01 Solid Waste Facility Regulation -- Changes:

In addition to the general housekeeping changes described above, the following is a summary of other proposed changes that are specific to Chapter 5.01:

1. Incorporate the six public benefits used by Metro in evaluating solid waste policy decisions (e.g., Solid Waste Roadmap and Regional Solid Waste Management Plan) as part of the "purpose" section as guidance for Chapter 5.01.
2. Remove licensing exemption for certain wood waste processing facilities and solid waste reload facilities to improve consistency.
3. Establish licensing requirement for facilities that shred electronic waste or store electronic waste outside.
4. Remove option for local governments that operate yard debris facilities to enter into an intergovernmental agreement with Metro in lieu of a license.
5. Authorize the Chief Operating Officer (instead of the Metro Council) to make decisions on and issue licenses for facilities that process and reload residential food waste.
6. Establish an alternative process rather than automatically grant licenses and franchises if Metro does not act on an application within 120 days.

7. Remove the 10-day call-up process by which the Metro Council can consider license applications since the Metro Council may already call-up any license for consideration at any time.
8. Eliminate Metro's financial assurance requirements for licensed and franchised solid waste facilities unless required by the Oregon Department of Environmental Quality.
9. Establish that the Chief Operating Officer may extend the term of a license or franchise by up to one additional year.
10. Clarify record retention requirements. Establish that licensed and franchised facilities must retain complaint records for at least one year instead of three years as provided in current Metro Code.
11. Clarify Metro's decision-making timeframes for license and franchise renewal applications.
12. Remove requirement for Metro to pre-approve ownership changes for licenses and franchises. Instead establish a new notification requirement for licensees and franchisees to notify Metro.
13. Establish a consistent and clear process for adopting administrative rules, standards, procedures, and forms to implement provisions of Chapter 5.01 that is consistent with other chapters in Metro Code Title V.

Chapter 5.02 Disposal Charges and User Fees -- Changes:

In addition to the general housekeeping changes described above, the following is a summary of other proposed changes that are specific to Chapter 5.02:

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

Chapter 5.05 Solid Waste Flow Control -- Changes:

In addition to the general housekeeping changes described above, the following is a summary of other proposed changes that are specific to Chapter 5.05:

1. Incorporate the six public benefits used by Metro in evaluating solid waste policy decisions (e.g., Solid Waste Roadmap and Regional Solid Waste Management Plan) as part of the "purpose" section as guidance for Chapter 5.05.
2. Clarify that the Metro Council may consider any other factors that it deems appropriate when determining whether to remove a facility from the designated facility list.
3. Authorize the Chief Operating Officer (instead of the Metro Council) to make decisions on and issue non-system licenses for the transport of residential food waste to out-of-region facilities.

4. Move non-system license application fees into a new table format instead of the written description found in current Metro Code. This proposed change is to clarify the fee structure, but not change it.
5. Establish that the Chief Operating Officer may extend the term of a non-system license by up to six additional months.
6. Add new provision to clarify that non-system licensees must comply with all of the requirements of the non-system license.
7. Revise enforcement section to remove unnecessary detail and make it more consistent with other Metro Code chapters. Clarify compliance process for non-system license violations and penalty calculations.
8. Establish a consistent and clear process for adopting administrative rules, standards, procedures, and forms to implement provisions of Chapter 5.05 that is consistent with other chapters in Metro Code Title V.