

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO)	ORDINANCE NO. 23-1501
CODE CHAPTER 5.09 (ILLEGAL DISPOSAL))	
TO ALIGN IT WITH THE NEW METRO CODE)	Introduced by Chief Operating Officer
CHAPTER 2.05 (CONTESTED CASES) AND)	Marissa Madrigal in concurrence with
INCORPORATE PLAIN LANGUAGE BEST)	Council President Lynn Peterson
PRACTICES)	

WHEREAS, Metro Code Chapter 5.09 (Illegal Disposal) governs illegal disposal prohibitions in the Metro Area, sometimes colloquially referred to as “illegal dumping”; and

WHEREAS, Chapter 5.09 includes sections regarding enforcement of illegal disposal prohibitions, issuance of civil penalties for illegal disposal, and hearings procedures for individuals and entities that wish to contest illegal disposal citations; and

WHEREAS, Metro has observed a significant increase in illegal disposal activities within the region. This has led to heightened environmental concerns, public safety issues, and increased workload for Metro staff; and

WHEREAS, the rise in illegal disposal incidents has resulted in an increasing number of citations issued by Metro, along with a subsequent increase in requests for hearings to contest these citations, which strains the resources and efficiency of the citation enforcement process; and

WHEREAS, the proliferation of illegal disposal practices underscores the need for a comprehensive update to Metro's regulatory illegal disposal code chapter and the process for parties to challenge Metro's enforcement actions; and

WHEREAS, current Chapter 5.09 language has references to certain criminal state statutes regarding discovery and proceedings for illegal disposal hearings that are not applicable to a local government civil administrative hearing, and, at worst, practically impossible to implement; and

WHEREAS, although staff and hearings officers have worked diligently to apply current code procedures whenever possible, these procedures are confusing and proving unworkable and, with an increase in citations, will only cause further administrative difficulties if current code language is not updated; and

WHEREAS, staff anticipates that Metro Council will, in companion with this Ordinance, adopt ordinances that likewise update Metro's Contested Case Procedures and Civil Penalties code chapters to address similar state-law modeled shortcomings; and

WHEREAS, the proposed updates to Chapter 5.09 Illegal Disposal will now align with the expected updates to the Contested Case Procedures and Civil Penalties chapters, which includes incorporating the hearings procedures and civil penalty issuance procedures in those newly updated code chapters; and

WHEREAS, in December 2022 Council adopted Resolution No. 22-5293, which, among other things, required that Metro code chapters use plain and inclusive language best practices to improve readability, transparency, and understanding of Metro's requirements and procedures; and

WHEREAS, Resolution No. 22-5293 also recognized that Metro's regulatory code chapters demand a more frequent housekeeping update schedule to keep abreast of changes in state and federal law and to more quickly address Metro Code sections that are unclear or confusing to regulated individuals and entities; and

WHEREAS, in addition to removing unworkable references to state law and procedures and better aligning with Metro's new Contested Case Procedures and Civil Penalties code chapters, the updated Chapter 5.09 also incorporates plain and inclusive language best practices as required; and

WHEREAS, section 5.09.040(g) from the current Chapter 5.09 (regarding material sorting) should be moved to Chapter 5.05 (Solid Waste Flow Control) in a new section 5.05.040(d); and

WHEREAS, Metro is dedicated to upholding its role as a responsible and accountable local government agency by updating its code for increased clarity and alignment; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Chapter 5.09 (Illegal Disposal) is amended as set forth in Exhibit A, with inserted text underlined and deleted text in strikethrough.
2. Chapter 5.05 (Solid Waste Flow Control) is amended to add a new section 5.05.040(d) as set forth in Exhibit B.
3. Any illegal disposal citation issued before this ordinance takes effect will be governed by the code language in Chapter 5.09 that existed at the time Metro issued the citation.

ADOPTED by the Metro Council this 19th day of October 2023.

Lynn Peterson, Council President

Attest:

Approved as to Form:

Connor Ayers, Recording Secretary

Carrie MacLaren, Metro Attorney