

IN CONSIDERATION OF ORDINANCE NO. 19-1441 FOR THE PURPOSE OF ESTABLISHING A
NEW METRO CODE CHAPTER 5.08 THAT GOVERNS ADMINISTRATIVE RULEMAKING
AUTHORITY FOR METRO CODE TITLE V

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Department: PES

Presenter(s): Warren Johnson

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Length: 5 minutes

ISSUE STATEMENT

Metro staff seeks to update and improve Metro's solid waste code (Metro Code Title V) and administrative rules to provide greater clarity and predictability for the public and those that are directly involved in the region's solid waste system.

ACTION REQUESTED

Adopt Ordinance No. 19-1441 to establish a new Metro Code Chapter 5.08 (Administrative Rulemaking Authority for Title V) to set forth consistent, transparent and objective procedures for adopting administrative rules that further implement the requirements of Metro Code Title V.

IDENTIFIED POLICY OUTCOMES

The proposed ordinance will repeal all chapter-specific administrative rulemaking procedures throughout Metro Code Title V and establish a new Chapter 5.08 (Administrative Rulemaking Authority for Title V) that will govern administrative rulemaking for the entire solid waste code.

POLICY QUESTION(S)

Should Metro Council repeal all chapter-specific administrative rulemaking procedures and establish a new Metro Code Chapter 5.08 that will govern administrative rulemaking for the entire solid waste code (Title V)?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

1. Approve the ordinance as proposed to repeal all chapter-specific administrative rulemaking procedures and establish new Metro Code Chapter 5.08 as described in this staff report. This option will result in making the code easier to understand and

more consistent by establishing a uniform administrative rulemaking process for the entire solid waste code. There are no known financial implications associated with the option.

2. Amend the ordinance to adopt other revisions to Metro Code Chapter 5.08 that are different than those described in this staff report. The potential effects and financial implications of this option are unknown at this time because they would be dependent on the scope of the alternate proposal.
3. Do not approve the ordinance. This option will result in maintaining status quo. There are no known financial implications associated with the option.

STAFF RECOMMENDATIONS

Staff recommends approval of Ordinance No. 19-1441 to repeal all chapter-specific administrative rulemaking procedures throughout Metro Code Title V and establish a new Chapter 5.08 that will govern administrative rulemaking for the entire solid waste code.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

Approval of this ordinance would result in changes to the Metro solid waste code that:

- 1) Establish a new Metro Code Chapter 5.08 that will govern the administrative rulemaking process for the entire solid waste code;
- 2) Update administrative rulemaking procedures to clarify the timing of an oral hearing during a public comment period; and
- 3) Repeal all chapter-specific administrative rulemaking procedures from Metro Code Chapters 5.01, 5.02, 5.05, 5.06, 5.09, and 5.10.

KNOWN OPPOSITION

There is no known opposition to establishing a new chapter to govern the administrative rulemaking process for the entire solid waste code. However, Metro received a comment requesting changes to Metro's current administrative rulemaking procedures. Metro also received several other comments that were outside the scope of these proposed code updates and housekeeping improvements. A fuller description of those comments and Metro staff's response to those comments are provided as Attachment 1 to this report.

Staff does not recommend any additional changes to Metro's administrative rulemaking procedures other than those provided in Exhibit A. These proposed updates are not intended to alter current policy or make substantive changes to the code unless the Metro Council directs otherwise.

PUBLIC OUTREACH

Metro staff notified interested parties via email of the proposed updates and housekeeping improvements to Metro Code Title V. The proposed code chapters, draft administrative rules, and a summary of the proposed changes were also posted on Metro's website.

Metro provided an opportunity for the public to review and submit comments on the proposed updates and housekeeping improvements. The public comment period was open from August 12 through September 13, 2019. Metro staff also held an informational meeting for the public on September 9, 2019, to present more information about the proposed code changes, answer questions, and solicit input. The meeting was attended by four industry representatives and four representatives of government organizations.

As previously mentioned, during the comment period Metro received several comments about various aspects of the proposed code updates and housekeeping improvements. A fuller description of those comments and Metro staff's response to those comments are provided as Attachment 1 to this report.

LEGAL ANTECEDENTS

Metro Charter, Title V of the Metro Code and ORS Chapters 268 and 459.

ANTICIPATED EFFECTS

Approval of this ordinance would result in repealing all chapter-specific administrative rulemaking procedures from Metro Code Chapters 5.01, 5.02, 5.05, 5.06, 5.09, and 5.10 and establishing new Metro Code Chapter 5.08 that will govern the administrative rulemaking process for the entire solid waste code.

BUDGET IMPACTS

There are no expected budget impacts associated with the adoption of this ordinance.

BACKGROUND

Over the past few years and at the direction of the Metro Council, Metro staff has been working to update Metro's solid waste code and administrative rules to provide greater clarity and predictability for the public and for those directly involved in the region's garbage and recycling system. These efforts have sought to remove unnecessary and outdated provisions, improve readability, clarify terms, and enable greater flexibility for Metro to protect the public's interest and respond to sudden changes in markets for various types of materials.

The proposed ordinance establishes a new chapter (Metro Code Chapter 5.08) for the purpose of standardizing and consolidating all of the administrative rulemaking procedures for Title V in a central location. The proposed ordinance also amends each of

the other chapters in Title V to remove all chapter-specific administrative rulemaking provisions.

ATTACHMENTS

- Exhibit A
- Attachment 1