

## UPDATES TO METRO CODE CHAPTER 5.10 TO ALIGN WITH THE REGIONAL WASTE PLAN AND TO ADD A NEW METRO CODE CHAPTER 5.15

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Length: 25 minutes

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### **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**

Council will consider Ordinance No. 20-1451 on December 3 and December 10, 2020. Adoption will result in the existing Metro Code Chapter 5.10 (Regional Waste Plan) being repealed and replaced with two Chapters: 5.10 and a new Chapter 5.15. The chapters will update and reorganize provisions related to the Regional Waste Plan. Local government requirements under the Plan will be in the new Chapter 5.15 to differentiate between overall Plan requirements and those that specifically apply to local governments. The proposed ordinance also includes various other housekeeping revisions to improve clarity and consistency, remove obsolete state law provisions and to conform to current Metro Code and Rule format. Related definitions in Chapter 5.00 will also be updated as part of this process.

### **IDENTIFIED POLICY OUTCOMES**

The proposed updates to Metro's solid waste code remove unnecessary and outdated provisions, clarify terms, and enable greater flexibility for Metro to protect the public's interest and respond to changes in the solid waste and recycling sector. The policy framework that Council will set by adopting these changes will enable implementation of the Regional Waste Plan and guide associated administrative rule. These changes help move the region toward better alignment with a consistent standard--especially for people living in multifamily homes--and have a positive impact on communities of color and historically disadvantaged neighborhoods. The proposed improvements are a direct response to community input heard during Plan development as well as a study to review service levels and needs at multifamily properties.

### **POLICY QUESTION(S)**

1. Should the current Chapter 5.10 (Regional Waste Plan) be split into two separate chapters (5.10 and 5.15) to update and differentiate those requirements under the

overall Regional Waste Plan from those that apply specifically to local governments?

2. If yes, should implementation details be moved from code to administrative rules?

### **POLICY OPTIONS FOR COUNCIL TO CONSIDER**

1. Approve the ordinance as proposed to update Metro Code Chapter 5.10 as described in this staff report. This option will remove obsolete language, make the code easier to read and understand and will differentiate between overall Regional Waste Plan requirements and those that apply only to local governments. Adoption will also pave the way for significant improvements to multifamily services.
2. Amend the ordinance to adopt other revisions to Metro Code Chapter 5.10 that are different than those described in this staff report. The potential effects of this option are unknown at this time because they would be dependent on the extent of the alternate proposal.
3. Do not approve the ordinance. This option will maintain the current Code Chapter 5.10 including obsolete language and references.

### **STAFF RECOMMENDATIONS**

Staff recommends approval of Ordinance No. 20-1451 to update Metro Code Chapter 5.10. Since all of the current Chapter 5.10 would be rewritten to establish a more logical flow, a large portion reorganized and moved to a new Chapter 5.15, and because several sections of current Chapter 5.10 are obsolete, staff recommends that the current Chapter 5.10 be repealed and replaced in its entirety with the code chapters presented in Attachment A to avoid confusing tracked changes.

Specifically:

1. Move all provisions related to local government requirements under the Regional Waste Plan into new Metro Code Chapter 5.15.
2. Update language throughout the chapter to remove legalese, passive voice, nominalizations and lengthy sentences.
3. Reorganize code sections into a more logical sector-specific approach. For example, rather than have several separate code sections dealing with single-family and multifamily residential requirements, code sections have been grouped by sector (residential, business, general education).
4. Remove old dates, irrelevant language and confusing references to obsolete state statute.
5. Eliminate the Regional Service Standard Alternative Program. Local government alternative programs (every-other-week collection) that showed the same outcome as the Regional Service Standard (weekly collection) have been incorporated into the new standard. The Alternative Program has proven ineffective and burdensome to Metro and local governments.
6. Move and reword detailed information to administrative rules so that all local government requirements are in a single location and are communicated more

clearly. These include: general service standards for all sectors; specific service standards for single-family, multifamily and business customers; education and outreach standards; materials required for collection.

7. General housekeeping to Metro Code Section 5.00 to update definitions.

## **STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION**

Approval of this ordinance would result in updating current Chapter 5.10 and moving Regional Waste Plan requirements that apply to local governments to a new separate chapter (Chapter 5.15); Chapter 5.10 continues to govern the overall Regional Waste Plan. Updating of Metro Code will also allow for the implementation of long-overdue improvements to multifamily garbage and recycling services via the associated administrative rules. The proposed ordinance also includes various other housekeeping revisions to improve clarity and consistency as provided in Attachment A. Proposed administrative rules are provided in Attachment B to provide Council with additional context for the potential effects of the code amendments.

### Known Opposition/Support/Community Feedback:

There is no opposition to the proposed changes to Metro Code and the public comments indicated general support for the policy. Some had concerns regarding potential costs related to elements of multifamily service improvements proposed in administrative rule. The improvements to multifamily services described in proposed administrative rule 5.15 sections 2040 and 2045, were developed from research and community input that prioritized people of color and low-income people living in multifamily homes and in collaboration with local government staff. Some minor changes to rule have been made based on public comment—mostly to increase clarity and intent. There will be an additional 30-day public comment period for the administrative rules. The public comment report is included as Attachment C.

Metro staff also met with the region's local government solid waste directors several times, discussed the proposal with the Regional Waste Advisory Committee on three occasions (May, June and July 2020), presented to Metro's Committee on Racial Equity twice (July and September 2020) and to MPAC (September 2020). These committees all responded favorably to the proposal and offered no additional changes.

### Legal Antecedents

- Metro Charter, Title V of the Metro Code and ORS Chapters 268 and 459.
- Ordinance 19-1431 For the Purpose of Adopting the 2030 Regional Waste Plan.
- Ordinance 19-1432 For the Purpose of Amending Metro Code Title V for Consistency with the 2030 Regional Waste Plan.

### Anticipated effects:

If the ordinance is adopted, the Metro Code will align with the Regional Waste Plan. Administrative rules will go through an additional 30-day public comment process and finalized to update service standards and bring significant and long overdue improvements to multifamily collection service.

### Financial implications

The transition to a more equitable and uniform garbage and recycling system for people living in multifamily homes will have costs. After an independent financial analysis, a 7-year timeline for meeting the multifamily collection container color standard required by the new administrative rules was identified as the cost-effective approach. It gives haulers the most flexibility in meeting the requirement and takes advantage of the seven year equipment depreciation schedule already built into local government franchised commercial rates. Upgrades come with cost, but are necessary not only to bring current systems up to a minimum standard, but also to ensure standardization as more affordable multifamily housing is being constructed throughout the region.

### **BACKGROUND**

In March 2019, Metro adopted the 2030 Regional Waste Plan which sets the policy direction for the region's solid waste and recycling system. It is very different than previous plans in that its values, principles, goals and actions specifically reflect the needs and aspirations of members of our community who haven't historically had a strong voice in the development of environmental plans, policies and programs. The foundation of this plan is equity—centering the voices, values and needs of communities of color and historically marginalized groups in the region's solid waste and recycling system. The plan is implemented in many ways; through collaborative programs with local government partners and community organizations, and through required actions that bring minimum standards and consistency to a large and complex system. Metro Code and administrative rules are the mechanism used to implement the required elements of the plan. The Metro Code and rules need to be re-written to reflect the goals, policies and programs of the current Regional Waste Plan.

In March of 2019, the Metro Council adopted Ordinance 19-1432 which made non-substantive changes to terms and language in Title V to align with the new Regional Waste Plan. This ordinance was the first step towards shifting from the old plan to the new terminology and set the stage for future, more substantive changes.

Currently, Metro Code Chapter 5.10 implements the requirements of the 2008 Regional Solid Waste Management Plan and contains state statute and requirements that are no longer in place. The proposed changes will remove old state statute and clarify that the code and rule implement the Regional Waste Plan, not state law. As it stands today, overall Regional Waste Plan requirements, requirements specific to local governments and regional service provision standards are scattered throughout Chapter 5.10. To better organize the chapter and provide more clarity, staff proposes to split the existing Chapter 5.10 into two chapters: Chapter 5.10 covers the overall plan, while all requirements specific to local governments are proposed for a new Chapter 5.15.

Current code is challenging to read and interpret, contains obsolete terms and does not reflect the wording in the new Regional Waste Plan. 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 changes in the solid waste and recycling system. Metro staff seeks to continue these efforts by updating Chapter 5.10, and adding a new Chapter 5.15 to improve organization and readability as well as to implement the current Regional Waste Plan.

To provide more clarity and differentiate between overall Regional Waste Plan requirements and those that specifically apply to local governments, staff proposes to split the existing Chapter 5.10 into the following two chapters:

1. Chapter 5.10 (Regional Waste Plan) will continue to govern the overall Regional Waste Plan.
2. Chapter 5.15 (Local Government Requirements Under the Regional Waste Plan) will govern the service standards that local governments are required to meet with regard to provision of garbage and recycling services.

In addition to the proposed revisions and new chapter described above, some current code sections would be transferred into administrative rules to allow Metro to more quickly address changing conditions when those conditions may affect the implementation of the Regional Waste Plan.

The proposed administrative rules will be posted for public comment and an oral hearing in January 2021 if the Metro Council were to adopt the proposed changes to Chapter 5.10 and establish a new Chapter 5.15.

## ATTACHMENTS

- Is legislation required for Council action? ☒ Yes ☐ No
- If yes, is draft legislation attached? ☒ Yes ☐ No
  - Attachment A: Draft Ordinance No. 20-1451 *For The Purpose of Updating Metro Code Chapter 5.10 to Improve Clarity, Remove Outdated Sections and Align with the Regional Waste Plan and to Add a New Metro Code Chapter 5.15 and to Update Definitions in Metro Code Chapter 5.00.*
- What other materials are you presenting today?
  - Attachment B: Draft Administrative Rules (AR 5.15-1000, 2000, 3000, 5000)
  - Attachment C: Public Comment Report