

IN CONSIDERATION OF ORDINANCE NO. 20-1451 FOR THE PURPOSE OF UPDATING METRO CODE CHAPTER 5.10 TO IMPROVE CLARITY, REMOVE OUTDATED SECTIONS AND ALIGN WITH THE REGIONAL WASTE PLAN AND TO ADD A NEW METRO CODE CHAPTER 5.15 AND TO UPDATE DEFINITIONS IN METRO CODE CHAPTER 5.00

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Length: 20 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 to provide the framework for implementation of the 2030 Regional Waste Plan.

ACTION REQUESTED

Adopt Ordinance No. 20-1451 to repeal existing Metro Code Chapter 5.10 (Regional Waste Plan) and replace with two Chapters: a revised Chapter 5.10 which covers overall Plan requirements and a new Chapter 5.15 focused specifically on local government requirements under the Plan. The proposed ordinance also includes various other housekeeping revisions to improve clarity and consistency, remove obsolete state law provisions and to conform to current code and rule format. Related definitions in Chapter 5.00 will also be updated as part of this process.

IDENTIFIED POLICY OUTCOMES

The policy framework that Council will set by adopting these changes will direct new service standards that enable implementation of the 2030 Regional Waste Plan and guide associated administrative rules. These changes help move the region toward a more clear and 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. The proposed updates to Metro's solid waste code also remove unnecessary and outdated provisions, clarify terms, and respond to needed changes in the solid waste and recycling sector.

POLICY QUESTION(S)

1. Should the current Chapter 5.10 (Regional Waste Plan) be repealed and split into two separate chapters (5.10 and 5.15) to update and differentiate those requirements under the overall Regional Waste Plan from those that apply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 a portion of specific implementation detail 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 result in making the code easier to read and understand and will differentiate between overall Regional Waste Plan requirements and those that apply only to local governments.
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 Metro 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 attached Exhibit A to avoid confusing tracked changes.

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. The proposed ordinance also includes various other housekeeping revisions to improve clarity and consistency as described below and provided in Exhibit A.

Staff recommends updating Metro Code Chapter 5.10 as described below:

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. Establish new standards for multifamily residential solid waste services including collection container colors, service volume and frequency minimums and requiring the use of regional decals and signs.
6. 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.
7. Move and reword some specific implementation detail 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.
8. General housekeeping to Metro Code Section 5.00 to update definitions.

KNOWN OPPOSITION

There is no known opposition to the proposed revisions to Metro Code Chapter 5.10. Metro received 19 comments during the 30-day public comment period, none of which resulted in any changes to the proposed code amendments. Public comments indicated general support for the policy.

PUBLIC OUTREACH

Metro provided an opportunity for the public to review and submit comments on the proposed updates. The public comment period was open from September 15 through October 15, 2020. Local government elected officials, city and county managers, residential property managers and owners, community-based organizations, tenant organizations and garbage and recycling companies were notified via email about the opportunity to comment. A call for comments paired with an infographic was posted on Metro's three social media platforms (Facebook, Twitter and Instagram). Some local governments also publicized the comment period through their communication channels. Metro staff met with the region's local government solid waste directors several times, presented to the Regional Waste Advisory Committee on three occasions (May, June and July 2020), to Metro's Committee on Racial Equity (July and September 2020) and to MPAC (September

2020). These committees all responded favorably to the proposal and offered no additional changes.

Most of the comments received during the public comment period were supportive and were in reference to the proposed administrative rules. Three changes were made to the rules based on comments received—all to improve clarity. If Council adopts Ordinance 20-1451, the associated rules will have an additional 30-day public comment period in early 2021 prior to consideration by Metro's Chief Operating Officer.

Some comments received were outside the scope of the proposed code updates and housekeeping improvements. The full public comment report is provided as Attachment 1 to this report.

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

Approval of this ordinance would repeal the existing Metro Code Chapter 5.10 and replace it with an updated Chapter 5.10 and a new Chapter 5.15 to improve clarity and reflect the Regional Waste Plan as provided in Exhibit A.

BUDGET IMPACTS

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

However, 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 required multifamily collection container color standard 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 are necessary not only to bring current systems up to a minimum standard, but also to ensure standardization as more multifamily homes and affordable housing are being constructed throughout the region.

BACKGROUND

In March 2019, the Metro Council adopted the 2030 Regional Waste Plan and set the policy direction for the region's solid waste and recycling system. The new plan 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 the associated administrative rules are the mechanism used to implement the required elements of the plan. Chapter 5.10 of the Metro Code is now obsolete and needs 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 verbatim state statute and regional requirements that are no longer in place. The proposed changes will remove old state statute and clarify that the code implements 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. At the direction of the Metro Council, Metro staff has been working to update Metro’s solid waste code and administrative rules overall 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 to fulfill Council’s direction 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 code chapter described above, administrative rules are being updated to reflect the current Regional Waste Plan. If the Metro Council adopts the proposed changes to Chapter 5.10 and establishes a new Chapter 5.15, the associated administrative rules will be posted for public comment and an oral hearing in January 2021 in accordance with Metro Code Chapter 5.08.

ATTACHMENTS

- Attachment 1: 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.*
- Attachment 2: Draft Administrative Rules (AR 5.15-1000, 2000, 3000, 5000)
- Attachment 3: Public Comment Report
- Attachment 4: Overview of Proposed Revisions to Metro Code Chapter 5.10