

ORDINANCE NO. 27

AN ORDINANCE ESTABLISHING A NONPROCESSABLE SOLID WASTE PROGRAM;
ESTABLISHING PROCEDURE FOR THE ISSUANCE OF CERTIFICATES FOR THE
OPERATION OF WASTE DISPOSAL SITES; PROVIDING FOR ADMINISTRATION
AND ENFORCEMENT; AND PROVIDING FOR COLLECTION OF FEES.

PUBLIC HEARINGS

JANUARY 24, 1975
FEBRUARY 14, 1975
FEBRUARY 28, 1975
MARCH 14, 1975
MARCH 23, 1975

ADOPTED:

MARCH 28, 1975

MODIFICATIONS:

ORDINANCE No. 32

March 4, 1975

METROPOLITAN SERVICE DISTRICT

ORDINANCE NO. 27

An ordinance establishing a nonprocessable solid waste ^{management} program; establishing procedure for the issuance of certificates for the operation of waste disposal sites; providing for administration and enforcement; and providing for collection of fees.

providing for the flow of S.W.

APPROVED METROPOLITAN
SERVICE DISTRICT
BOARD OF DIRECTORS

ACTION NO. 25-327

DATE 3-28-75

BY Jean M. Wood
CLERK OF THE BOARD

O R D I N A N C E N O. 27

The Metropolitan Service District hereby ordains:

SECTION 1. Definitions

As used in this ordinance, unless the context requires otherwise:

1. BOARD. Board means the Board of Directors of the Metropolitan Service District.
2. DISTRICT. District means the Metropolitan Service District and all of the land and territory included within the boundaries of the Metropolitan Service District as established by the electorate.
3. MSD. MSD means the Metropolitan Service District, a municipal corporation established and existing under the laws of the State of Oregon, ORS Chapter 268.
4. MANAGER. Manager means the chief administrative officer of the MSD.
5. NONPROCESSABLE WASTE. Nonprocessable waste means any solid waste which cannot be processed for reclamation before final disposal.
6. OPERATOR. Operator means a person who has obtained and holds a waste disposal certificate issued by the MSD pursuant to this ordinance.
7. PERSON. Person means any individual, public or private corporation, industry, partnership, association, firm, trust, estate, city, county, special district or local governmental unit and any other legal entity.
8. PROCESSABLE WASTE. Processable waste means any solid waste which may be processed for reclamation before final disposal.

9. REASONABLE DISPOSAL SITE CHARGE. Reasonable disposal site charge means the average charge imposed by waste and disposal sites within the District to accept and dispose of solid wastes. The charge shall be based on fees for uncompacted material.
10. SOLID WASTE. Solid waste means all putrescible and nonputrescible wastes, including without limitation, garbage, rubbish, refuse, ashes, waste paper and cardboard, commercial, industrial, demolition and construction wastes, discarded home and industrial appliances, provided that this definition does not include:
 - a. Environmentally hazardous wastes as defined in ORS 459.410,
or
 - b. Materials used for fertilizer or for other productive purposes which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals.
11. WASTE DISPOSAL SITE. Waste disposal site means a disposal site, whether or not open to the public, permitted by the Department of Environmental Quality to accept and dispose of solid wastes except those sites permitted as "industrial waste solid waste sites" by DEQ.

SECTION 2. Policy

To protect the health, safety and welfare of the people of the District, the Board has determined the necessity of providing a coordinated District-wide program for the safe, economical and efficient disposal of nonprocessable solid wastes, and to insure an adequate number of disposal sites for nonprocessable solid waste, criteria for the need, location and operation of such sites, and the flow of all processable solid wastes into the processable waste stream, and this ordinance shall be liberally construed for the accomplishment of these purposes.

SECTION 3. Administration and Enforcement

The Manager shall be responsible for the administration and enforcement of this ordinance and any rules or regulations promulgated hereunder.

SECTION 4. Rules and Regulations

The Board shall promulgate reasonable rules and regulations pertaining to the administration of this ordinance and for the disposal of nonprocessable solid wastes, including without limitation the following:

- A. Standards of service to be provided to the public.
- B. Evaluation criteria to determine:
 - 1) Need for and location of nonprocessable disposal sites.
 - 2) Number and priority of nonprocessable disposal sites required in the District.
 - 3) Orderly flow of nonprocessable solid wastes and processable solid wastes.
 - 4) Use of nonprocessable disposal sites as a backup system in the event of a breakdown or overloading of the processable system.

SECTION 5. Activities and Practices Regulated

- A. Except as otherwise provided in this ordinance, it shall be unlawful:
 - 1) For any person to operate a waste disposal site within the District without a certificate from the MSD.
 - 2) For an operator holding a certificate to operate a processable solid waste disposal site to receive, accept and dispose of any nonprocessable wastes.
 - 3) For an operator holding a certificate to operate a non-processable site to receive, accept and dispose of any processable wastes.
- B. In case of an emergency or the breakdown or overloading of the processable system, the Manager may provide to any operator a written waiver from section 5.A.(2) or 5.A.(3).

SECTION 6. Application for Certificates

- A. Applications for Certificates shall be on forms acceptable to the Manager. The Manager may accept applications on forms provided by other city, county, state or federal agencies.
- B. Applicants for Certificates shall state:
- 1) The kind of disposal site to be operated.
 - 2) The rates to be charged.
 - 3) The location of and area occupied by or to be occupied by the disposal site.
 - 4) The estimated amount of material needed and the time required to fill the disposal site.
 - 5) The possible land uses to which the site can be put after it is filled.
 - 6) The present land use of the area to be used as a disposal site.
 - 7) An operational plan, including information covering hours of operation, material handling procedures, on-site traffic flow, emergency procedures and cover material.
 - 8) Other information required by the form or the Manager.

SECTION 7. Requirements for Certificates

The applicant must:

- 1) Have available land, equipment, facilities and personnel to meet the requirements of this ordinance and ORS Chapter 459 (Solid Waste Management) and the rules and regulations promulgated pursuant to this ordinance and ORS Chapter 459.
- 2) Have had the site and operation thereof designed by a registered professional civil, agricultural or logging engineer. This subsection shall not apply to waste disposal sites existing on the effective date of this ordinance.

- 3) Have in force public liability insurance in the amount of not less than \$250,000 per person and \$500,000 per occurrence for bodily injury or death and property damage insurance in the amount of not less than \$100,000 per occurrence which shall be evidenced by a certificate of insurance.
- 4) Submit with his application a corporate surety bond or a firm commitment therefore in an amount established by the Board, guaranteeing full and faithful performance by the applicant of the duties and obligations of a certificate under the provisions of this ordinance. A bond already issued or to be issued to city, county, state or federal agency may be acceptable so long as the bond meets the requirements of this ordinance and the MSD is a direct beneficiary thereof.

SECTION 8. Board Decision on Applications for Certificates

- A. Persons who are operating a waste disposal site on the effective date of this ordinance must make application for the required certificate within 30 days after the effective date of this ordinance and upon filing an application for said certificate, may continue to operate until a final decision is made upon said application by the Board.
- B. Applications for certificates shall be reviewed by the Manager who shall make such investigation as he deems necessary and appropriate. Written notice shall be given by the Manager to any person who holds a certificate and to other interested persons and notice of application shall be published in a newspaper having a general circulation within the District greater than 50,000. The notice shall state the name of the applicant, the type of certificate requested, the location and size of the proposed site, and that the recipient of the notice and the public shall have thirty (30) days from

the date thereof to file written comments pertinent to the application and other information the manager deems appropriate.

- C. The Board may refuse to issue a Certificate to any applicant if it has reasonable grounds to believe any of the following to be true:
- 1) That the applicant has not met the requirements of this ordinance or the rules and regulations promulgated thereunder or Chapter 459. (Solid Waste Management) or the rules and regulations promulgated thereunder.
 - 2) That the applicant has materially misrepresented the statements in the application for a certificate or in any testimony or documentary evidence given to the Manager or to the Board.
 - 3) That the applicant has been convicted of a Class A or B misdemeanor or its equivalent or of a felony, or if the applicant is a firm or corporation that the principal partners or officers have been convicted of a Class A or B misdemeanor or its equivalent or of a felony.
 - 4) That the applicant has failed to disclose all information in the applicant's possession deemed relevant to a decision on the application after written notification and a reasonable opportunity to do so.
- D. In addition to sub-paragraph 8(C) and in the case of an applicant who is not operating a waste disposal site, the Board may refuse to issue a certificate if it has reasonable grounds to believe that there are sufficient waste disposal sites already certified and operating within the District and the applicant's disposal site and the location thereof will not substantially benefit the Nonprocessable Solid Waste Program.
- E. The applicant shall be advised of the Board's action on his application in writing and shall be advised that the applicant has the right to a contested case hearing under the provisions of ORS 183.

- F. If the Board makes a final order rejecting all or part of an application for a Certificate, the applicant may not submit another application for the same or a portion of the same site for a period of 6 months unless the Board finds that the public interest requires reconsideration within a shorter period of time.
- G. The term of the Certificate shall be determined by the Board on the basis of site longevity, population to be served, probable land use and amount of investment by the applicant.

SECTION 9. Transfer of Certificates

An operator may transfer his certificate to another person only after written notice to and approval by the Board. The Board shall approve the transfer unless it has reasonable grounds to believe that the operator-transferor is in violation of any of the requirements of this ordinance or the rules and regulations promulgated thereunder or that the transferee does not meet the requirements of this ordinance or the rules and regulations promulgated thereunder. The Board may attach conditions to an approval under this section.

SECTION 10. Suspension, Modification, Revocation or Refusal to Renew a Certificate

- A. The Board may suspend, modify, revoke or refuse to renew a certificate if it has reasonable grounds to believe that an operator has:
 - 1) Willfully violated this ordinance or ORS Chapter 459 or the rules and regulations respectively promulgated thereunder; or his Certificate and any conditions attached thereto; or
 - 2) Willfully misrepresented the statements in the application for his certificate or in any testimony or documentary evidence given to the Manager or to the Board; or

- 3) Willfully refused to provide adequate service to the public after written notification and a reasonable opportunity to do so.
- B. In lieu of suspension, modification, revocation or refusal to renew a certificate, the Board may order compliance and make suspension, modification, revocation or renewal contingent upon compliance with the order within a time stated in said order.
- C. The procedures for suspension, modification, revocation or refusal to renew a certificate shall be those specified for a contested case in ORS Chapter 183.

SECTION 11. Fees

- A. The Board shall collect, in the manner and at the time provided in Section 12, from each operator, except as provided in Subsection 11.B, an annual fee equal to 2.15% of his gross cash receipts.
- B. The Board shall collect, in the manner and at the time provided in Section 12, from operators of waste disposal sites not charging fees for the use of the site or being used by the operator for disposal of solid waste generated solely by him, an annual fee equal to 2.15% of the product established by multiplying the number of cubic yards of solid waste received and disposed of by the operator times the reasonable disposal site charge.
- C. The fees imposed by this section shall be in addition to any other fees or charges the operator is required to pay.

SECTION 12. Collection of Fees

- A. The fees imposed by this ordinance shall be separately stated upon the operator's records and any receipt rendered by the operator.

- B. The operator shall pay MSD the fees imposed by Section 11 on or before the 20th day of each month following each preceding month of operation. At the time of payment, the operator must file with the Manager, a statement including without limitation the following information:
- 1) Name and address of the facility.
 - 2) The operator's MSD registration number.
 - 3) The month and year of each report.
 - 4) The number of truckloads received daily.
 - 5) The number of cars, pickups, trailers, and other small hauling vehicles.
 - 6) Total number of cubic yards of solid wastes received during the month, broken down and divided between compacted and noncompacted.
 - 7) Detailed explanation of any adjustments made to the amount of fees paid in reliance on Subsection 12.C.
 - 8) Amount of gross cash receipts.
 - 9) Signature and title of the operator or his agent.
- Willful misrepresentation of any information required above shall constitute reasonable grounds for suspension, modification, revocation or refusal to renew a certificate pursuant to Section 10 of this ordinance.
- C. An operator is released from liability for fees on accounts that have been found to be worthless and charged off for income tax purposes. If an operator has previously paid the fees, he may take a deduction from his next due payment to the MSD the amount found worthless and charged off for income tax purposes. If any such account thereafter, in whole or in part, is collected by the operator, the amount so collected shall be included in the first return filed after such collection, and the fees shall be paid with the return.

- D. Every operator shall keep such records, receipts or other pertinent papers and information in such form as the Manager may require. The Manager or his authorized agent in writing may examine during reasonable business hours the books, papers, records and equipment of any operator and may investigate the character of the business of the operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.
- E. All fees imposed by and collected by this ordinance shall be paid in the form of a remittance payable to the Metropolitan Service District. All money received by the MSD under this ordinance shall be deposited in the Nonprocessable Solid Waste Program Account and will be used only for the Nonprocessable Solid Waste Program and the administration, operation and enforcement of this ordinance and any rules and regulations promulgated thereunder.

SECTION 13. Penalties

- A. Violation of this ordinance or a certificate issued hereunder is punishable by fine of not more than Five Hundred Dollars (\$500.00).
- B. Each day a violation referred to by Subsection A of this section continues constitutes a separate offense. Such separate offenses may be joined in one indictment or complaint or information in several counts.

SECTION 14. Exclusive Contracts

Upon recommendation of the Manager, the Board may by resolution limit the number of certificates granted pursuant to this ordinance and award exclusive contracts for waste disposal sites in defined areas and set fees for such exclusive contracts. The

Board may establish rates to be charged by holders of exclusive contracts.

SECTION 15. Agreements for Administration, Operation and Enforcement

By contract, MSD may assume and perform any function of any municipal corporation, city or county, in the District or any function of the State of Oregon or any agency thereof performed or to be performed in the District which are related to the duties and functions of the District under this ordinance. The Board may contract with any city or county in the District or with the state or regional association of governments for the administration or enforcement of any of the provisions of this ordinance or of the rules or regulations adopted pursuant hereto.

SECTION 16. Abatement

The disposal of solid waste by any person in the District in violation of this ordinance or rules and regulations promulgated thereunder is deemed a nuisance and the Board may, in addition to other remedies provided by law, institute injunction, mandamas, abatement or other appropriate legal proceedings to temporarily or permanently enjoin or abate such disposal. The provisions of this section are in addition to and not in lieu of any criminal prosecution or penalties as provided by this ordinance or state law.

SECTION 17. Conformance with State Law

This ordinance shall in no way be a substitute for, nor eliminate the necessity of conforming with any and all state laws, rules and regulations which are now, or may in the future be in effect and which relate to the public health or to the operation of any

operator. This ordinance is in addition to said state laws, rules and regulations.

SECTION 18. Savings Clause

In the event any provision or section of this ordinance is declared invalid, such declaration shall not affect the validity of any other provision or section herein, which sections and provisions shall remain in full force and effect.

SECTION 19. Waiver for Local Jurisdiction

The Board may waive some or all of the requirements of this ordinance and rules and regulations promulgated thereunder where an applicant, operator or certificate holder is a city, county, special district or local governmental unit.

SECTION 20. Review of Board Action

All decisions of the Board under this ordinance, except those decisions where the right to a contested case hearing is involved, shall be reviewable by the Circuit Court of the County in which the Board has its principal office or of the county in which the waste disposal site in question is located under the provisions of ORS Chapter 34.010 - 34.100 which shall be the sole and exclusive remedy for review.

SECTION 21. Effective Date

- A. This ordinance shall take effect 60 days subsequent to the completion and Board approval of the following items:
- 1) Evaluation of existing sites.
 - 2) Rules and regulations governing the:
 - a) Standards of service to be provided to the public.

- b) Evaluation criteria to determine:
 - (1) need for and location on nonprocessable disposal sites required in the District;
 - (2) number and priority of nonprocessable disposal sites required in the District;
 - (3) orderly flow of processable and nonprocessable solid waste;
 - (4) use of nonprocessable disposal sites as a back-up system in the event of a breakdown or overload of the processable system; and
 - c) The administration of this ordinance.
- 3) MSD staff request to the respective local jurisdictions to advise the District as to whether refuse collectors will be allowed to pass on the fees proposed under Section 11 of this ordinance to their customers.
- B. The Board shall notify all local jurisdictions when the ordinance will take effect and when the imposition of the fees provided herein will begin.

Date of Adoption:

March 28, 1975



Robert Schumacher, Chairman

File #

ORD 27

HEAD LINES COMMENTS

NONPROCESSABLE WASTE USER CHARGE ORDINANCE

The Metropolitan Service District Board of Directors hereby ordains:

Section I Policy Statement

In the past solid waste disposal sites have been permitted with little regard to the number of sites in existence, or the locations of sites in relation to each other, or the quantity of waste landfilled at each site for the period of time the site existed, or the actual need of the community for additional future sites. As a result there have been more sites in operation within given areas than were necessary to meet the public need which resulted in the prolonged life of each site, inefficiency of operation and poor maintenance of the site causing inconvenience to the public using these sites. There is a need for a regional program regulating waste disposal sites to guarantee:

1. That there will be an adequate number of waste disposal sites now and in the future;
2. That waste disposal sites in existence will be filled as rapidly as possible, insuring a more efficient operation, improved site conditions for public use and minimizing inconvenience to the surrounding neighborhood;
3. That processible waste, so much as possible, does not go into ^{WASTE DISPOSAL SITES BUT RATHER} ~~the~~ _{IS TAKEN INTO THE} processible waste system and converted into a reusable product or energy;
4. That a backup system to the processible system is available in event of breakdowns or overloading of the processible system;

Section II Definitions

1. ^{Waste Regulatory Charge} "User charge" is defined to mean: a fee charged the disposal site operator by M.S.D. who receives and disposes of by burying and covering items of waste not acceptable into the processible waste system;
2. "Operator" is defined to mean: the named permittee holding a valid SOLID WASTE DISPOSAL PERMIT issued by The Department of Environmental Quality and is registered with the M.S.D.;
3. "Processible Waste" is defined to mean: any waste, reject, discarded items or refuse which can be milled and processed into a usable product or converted to energy;

Term "USER CHARGE" has had connotation as a penalty for disposing of something not processible.

774160
78 4

Soil & earth left out as landfill operators do purchase for earth cover material

4. "Nonprocessable waste" is defined to mean: rock, concrete rubble, asphalt paving, masonry, plaster, street sweepings, logs, stumps, slash, brush, leaves, yard clippings, furniture, car seats, bed springs, mattresses, items of especially large dimensions, tailings or end product of milling-transfer stations, quantities of processible waste so contaminated by the foregoing that separation is infeasible and other such waste as the M.S.D. or its agent may designate.
5. "Nonprocessable waste disposal site" is defined to mean: any waste disposal site, whether or not open to the public, where more than twenty percent (20%) by volume of the waste received at the site in any one month is in the form of nonprocessable waste or, until processible waste is directed by the M.S.D. into the processible waste systems, any waste disposal site receiving nonprocessable and processible waste.

Section III Imposition of User charge

Charge to % off top of disposal and all fees means for collector from sites not open to public.

1. There is imposed a ^{Waste Regulatory Charge} user charge of \$ _____ on each cubic yard of waste received at nonprocessable waste disposal sites.
2. Measurement for payment of the user charge shall be as computed on the per cubic yard basis as measured in the hauling vehicle. Loads containing less than one cubic yard shall be reported as one cubic yard.
3. The ^{Waste Regulatory Charge} user charge imposed by subsection 1 of this section shall commence on the first day of _____, 19__ and will be increased to \$ _____ on the first day of _____, 19__ and to _____ on the first day of _____, 19__.
4. Each operator shall be registered with the M.S.D.
5. Where fees are charged for disposal, the ^{Waste regulatory Charge} user charge shall be included.

Section IV Returns

1. Each operator shall pay to the M.S.D. the ^{Waste regulatory charge} user charge on or before the 20th day of each month following each preceeding month of operation.
2. Each operator shall report monthly on a form provided by the M.S.D. which shall include the following information:
 - A. The name and address of the facility.
 - B. The M.S.D. registration number issued to the operator.
 - C. The month and year of each report.
 - D. The number of truck loads received daily.
 - E. The number of cars, pickups, trailers, and other small hauling vehicles

received daily.

- F. The total number of cubic yards of waste received during the month.
 - G. The total amount of user charge due.
 - H. Any adjustments for the preceeding month.
 - I. Any penalty due for late payment of user charge.
 - J. Certification as to correctness of the report.
 - K. The signature and title of the operator or his agent.
 - L. Operators telephone number.
3. (Deficiencies)
4. (Hearings & petitions for redetermination)
5. (Posting of security) \$5000 payment bond or cashiers check as deposit
6. (Collection of delinquencies) provided for in subsection 5.
7. Every operator shall keep such records, receipts and other pertinent papers and information in such form as the M.S.D. project manager may require. The M.S.D. Project Manager or any person authorized in writing by him may examine during reasonable business hours, the books, papers, records and equipment of any operator and any person liable for the user charge and may investigate the character of the business of the operator in order to verify the accuracy of any return made, or, if no return is made by the operator, to ascertain and determine the amount required to be paid. The M.S.D. Project Manager may require the filing of reports by any person or class of persons having in his or their possession or custody information relating to disposal of processible and nonprocessible waste generated, transported in or disposed of within the M.S.D.
8. All ^{Waste Regulatory Charge} user charge imposed by and collected by this ordinance shall be paid in the form of remittances payable to the Metropolitan Service District. All money received by the M.S.D. under this ordinance shall be deposited in the nonprocessible waste account.

Section V Penalties

Violation of any provisions of this ordinance is punishable by a fine of not more than \$500.