

ORDINANCE NO. 61

AN ORDINANCE AMENDING CERTAIN PROVISIONS OF THE MSD CODE  
RELATING TO THE DISPOSAL OF INERT MATERIALS, VARIANCE PROCEDURES,  
AND THE DEFINITION OF TRANSFER FACILITY.

METROPOLITAN SERVICE DISTRICT  
BOARD ACTION

NO. 78-1198 DATE 12-8-78

	YES	NO	ABST.
BARTELS	/		
BUCHANAN	/		
DURIS	/		
McCREADY	/		
ROBNETT			
SALQUIST			
SCHUMACHER			

*Jean M. Wood*  
Chairman of the Board

NOTE: THE UNDERLINED MATERIAL IS TO BE ADDED; THE (BRACKETED)  
MATERIAL IS TO BE DELETED.

O R D I N A N C E      N O.      61

THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

SECTION 1. SECTION 12.02.070(5) OF THE MSD CODE IS HEREBY AMENDED TO READ:

(5) OPERATORS OF SOLID WASTE DISPOSAL SITES RECEIVING ONLY CLEAN, UNCONTAMINATED EARTH, (SUCH AS) ROCK, SAND, SOIL, (AND) STONE, HARDENED CONCRETE, HARDENED ASPHALTIC-CONCRETE, BRICK AND OTHER SIMILAR MATERIALS ARE EXEMPT FROM THE REQUIREMENTS OF SUBSECTION 12.02.060(1) PROVIDED THAT SUCH CLEAN, UNCONTAMINATED (EARTH INCLUDES) MATERIALS ARE ONLY THOSE MATERIALS WHOSE PHYSICAL AND CHEMICAL PROPERTIES ARE SUCH THAT PORTIONS OF THESE MATERIALS WHEN SUBJECTED TO MODERATE CLIMATICAL FLUCTUATIONS IN HEAT, EXPOSURE TO MOISTURE OR WATER, ABRASION FROM NORMAL HANDLING BY MECHANICAL CONSTRUCTION EQUIPMENT OR PRESSURE FROM CONSOLIDATION WILL NOT PRODUCE CHEMICAL SALTS, DISSOLVED SOLUTIONS, OR GASEOUS DERIVATIVES AT A RATE SUFFICIENT TO MODIFY THE BIOLOGICAL OR CHEMICAL DRINKING WATER QUALITY PROPERTIES OF EXISTING SURFACE OR (AND) GROUND WATERS, OR NORMAL AIR QUALITY INDICES.

SECTION 2. SECTION 12.02.200 OF THE MSD CODE IS HEREBY AMENDED TO READ:

(1) THE BOARD (UPON RECOMMENDATION OF THE DIRECTOR) MAY GRANT SPECIFIC VARIANCES FROM PARTICULAR REQUIREMENTS OF

ANY RULE, REGULATION OR ORDINANCE TO SUCH SPECIFIC PERSONS OR CLASS OF PERSONS UPON SUCH CONDITIONS AS IT MAY DEEM NECESSARY TO PROTECT PUBLIC HEALTH, SAFETY AND WELFARE, IF IT FINDS THAT THE PURPOSE AND INTENT OF THE PARTICULAR REQUIREMENT CAN BE ACHIEVED WITHOUT STRICT COMPLIANCE AND THAT STRICT COMPLIANCE:

- A) IS INAPPROPRIATE BECAUSE OF CONDITIONS BEYOND THE CONTROL OF PERSON(S) REQUESTING THE VARIANCE; OR
- B) WILL BE RENDERED EXTREMELY BURDENSOME OR HIGHLY IMPRACTICAL DUE TO SPECIAL PHYSICAL CONDITIONS OR CAUSES; OR
- C) WOULD RESULT IN SUBSTANTIAL CURTAILMENT OR CLOSING DOWN OF A BUSINESS, PLANT OR OPERATION WHICH FURTHERS THE OBJECTIVES OF MSD OR OF MSD'S PLAN.

(2) ANY PERSON REQUESTING A VARIANCE SHALL MAKE HIS REQUEST IN WRITING AND SHALL STATE IN A CONCISE MANNER FACTS TO SHOW CAUSE WHY SUCH VARIANCE SHOULD BE GRANTED. THE DIRECTOR MAY MAKE SUCH INVESTIGATION AS HE DEEMS NECESSARY, INCLUDING REQUIRING THE FILING OF AN APPLICATION FORM ACCOMPANIED BY MAPS, DRAWINGS, PLANS, FINANCIAL STATEMENTS, AND OTHER INFORMATION THE DIRECTOR DEEMS APPROPRIATE. THE DIRECTOR (AND) SHALL GIVE NOTICE OF THE VARIANCE REQUEST (IN ACCORDANCE WITH SUBSECTION 12.02.100 (2).) IN A MANNER DESIGNED TO INFORM INTERESTED PERSONS AND THE PUBLIC.

(3) THE APPLICANT SHALL HAVE THE BURDEN OF PROOF.  
IF THE BOARD DENIES A VARIANCE REQUEST, THE DIRECTOR SHALL NOTIFY THE APPLICANT IN WRITING. (IN ACCORDANCE WITH MSD CODE CHAPTER 20.04 OF THE DENIAL. IF A HEARING IS REQUESTED, THE APPLICANT SHALL HAVE THE BURDEN OF PROOF).

(4) IF A REQUEST FOR A VARIANCE IS DENIED, NO NEW APPLICATION FOR THIS SAME OR SUBSTANTIALLY SIMILAR VARIANCE SHALL BE ACTED UPON (FILED) FOR AT LEAST SIX MONTHS FROM THE DATE OF DENIAL.

SECTION 3. SECTION 12.02.030(20) OF THE MSD CODE IS AMENDED TO READ:

TRANSFER (STATION) FACILITY MEANS A SITE OR FACILITY, FIXED OR MOBILE, (FACILITY) AT WHICH SOLID WASTES ARE CONCENTRATED, AFTER REMOVAL FROM THE PLACE OF GENERATION AND BEFORE PROCESSING OR DISPOSAL, (USED AS PART OF A SOLID WASTE COLLECTION AND DISPOSAL SYSTEM OR RESOURCE RECOVERY SYSTEM, BETWEEN A COLLECTION ROUTE AND A PROCESSING FACILITY OR DISPOSAL SITE,) INCLUDING, BUT NOT LIMITED TO, DROP BOXES MADE AVAILABLE FOR GENERAL PUBLIC USE. DROP BOXES OR OTHER SIMILAR CONTAINERS USED AS PART OF A COMMERCIAL DROP BOX BUSINESS AND WHICH ARE NOT AVAILABLE FOR GENERAL PUBLIC USE, AND SOLID WASTE COLLECTION VEHICLES, ARE EXEMPT FROM THIS DEFINITION. (THIS DEFINITION DOES NOT INCLUDE SOLID WASTE COLLECTION VEHICLES.)

SECTION 4. THIS ORDINANCE MAY BE CODIFIED INTO THE CODE OF  
THE METROPOLITAN SERVICE DISTRICT.

DATE: 12/8/78   
ROBERT SCHUMACHER, CHAIRMAN