

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING A) ORDINANCE NO. 17-1401
LANDFILL CAPACITY POLICY AND)
AMENDING METRO CODE CHAPTERS 5.00) Introduced by Councilor Bob Stacey
AND 5.05)

WHEREAS, Metro regulates solid waste disposal generated within the Metro region through issuance of non-system licenses and designated facility agreements, pursuant to Metro's constitutional, statutory, and charter authority as set forth in Metro Code Chapter 5.05; and

WHEREAS, the capacity of existing permitted landfills available for the disposal of waste generated within the Metro region, without expanding existing landfills or constructing new landfills, can serve the needs of the region at current rates of disposal for at least 100 years; and

WHEREAS, the Metro Council has considered, as part of the Solid Waste Roadmap, a policy that would prohibit the use of new or expanded landfills beyond the current disposal supply available to the region; and

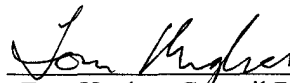
WHEREAS, the Metro Council finds that a landfill capacity policy that prohibits disposal of waste generated in the Metro region at a new or limited capacity landfill will conserve limited land and resources in and around the Metro region and encourage waste reduction; and

WHEREAS, the Metro Council finds that implementation of the landfill capacity policy should be consistent with the timeline for the Solid Waste Roadmap, including the procurement process to plan for the January 1, 2020 expiration of Metro's 30 year disposal contract; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. A landfill capacity policy that prohibits disposal of waste generated in the Metro region at a new or limited capacity landfill is hereby adopted.
2. Metro Code Chapter 5.00 is hereby amended to add the language in Exhibit A to Metro Code Section 5.00.010.
3. Metro Code Chapter 5.05 is hereby amended to add Section 5.05.055 as set forth in Exhibit B.

ADOPTED by the Metro Council this 25th day of May 2017.




Tom Hughes, Council President

Attest:

Approved as to Form:



Nellie Papsdorf, Recording Secretary



Alison R. Kean, Metro Attorney

CHAPTER 5.00

SOLID WASTE DEFINITIONS

5.00.010 Definitions.

“Limited capacity landfill” means a landfill that has sought a site development plan amendment for expansion of the landfill capacity from the Oregon Department of Environmental Quality, and has not received approval from the Department by May 25, 2017, or the equivalent determination in another state.

“New landfill” means a landfill that receives its initial permission from DEQ to receive solid waste on or after May 25, 2017, or the equivalent determination in another state.

CHAPTER 5.05

SOLID WASTE FLOW CONTROL

5.05.055 Limited Capacity and New Landfills

- (a) **Prohibited Use.** After January 1, 2020, disposal of waste generated in the Metro region in a limited capacity landfill or new landfill, as those terms are defined in Metro Code Chapter 5.00, is prohibited.
- (b) **Implementation.** Effective January 1, 2020, the Metro Chief Operating Officer must implement the prohibition. Implementation of this section includes, without limitation, the authority to deny an application for designated facility status, terminate a designated facility agreement, deny an application for a non-system license, and terminate a non-system license, for putrescible or non-putrescible waste, where disposal is sought at a limited capacity or new landfill.
- (c) **Final decision and appeal.** Notwithstanding any other provision of the Metro Code, the Metro Chief Operating Officer's decision under this section is final and is appealable only as provided by Oregon law. The Chief Operating Officer's decision under this section is not subject to a contested case proceeding.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE 17-1401 FOR THE PURPOSE OF ADOPTING A LANDFILL CAPACITY POLICY AND AMENDING METRO CODE CHAPTERS 5.00 AND 5.05

May 18, 2017

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503-797-1510

The proposed ordinance amends Metro Code Chapter 5.00 (Definitions) to add definitions for “limited capacity landfill” and “new landfill,” and it amends Chapter 5.05 (Solid Waste Flow Control) to prohibit disposal of waste generated in the Metro region in a “limited capacity landfill” or “new landfill.”

BACKGROUND

Previous Council Direction and Policy Basis

In December 2014, the Metro Council approved Resolution 14-4589, which directed Metro staff to develop a landfill capacity policy to evaluate the disposal capacity of waste at new, existing or expanded landfills and to recommend changes to Metro Code to implement the policy. This direction was based on Council’s awareness that existing landfills available for the disposal of waste from the Metro region had well over 100 years of capacity (see chart below), and that Council did not want to contribute unnecessarily to the expansion of any specific landfill or to the development of a new one. As the resolution recitals noted, Council was also specifically concerned that the Riverbend Landfill in Yamhill County was almost out of space and was proceeding with expansion plans. Metro-area waste in 2016 represented 58% of total putrescible waste delivered to Riverbend.

Landfill	Projected life remaining*
Coffin Butte Landfill, Benton County, OR	40 years
Columbia Ridge Landfill, Arlington, OR	117 years
Finley Buttes Regional Landfill, Boardman, OR	186 years
Hillsboro Landfill, Hillsboro, OR**	39 years
Riverbend Landfill, McMinnville, OR	1-2 years
Wasco County Landfill, The Dalles, OR	106 years

*According to Oregon Department of Environmental Quality (DEQ), 2015

**Not currently authorized as a putrescible waste landfill

In May 2016, Metro staff completed the policy development task directed by Council. The proposed policy approach incorporates input staff received from Council at three work sessions. The drafted approach uses an amendment of a landfill’s DEQ-required Site Development Plan (SDP) to expand capacity as the trigger for removing that landfill’s eligibility to accept Metro-area waste. Given the significant amounts of capacity at most of the existing landfills that serve or can serve the disposal needs of the Metro region, only new landfills and Riverbend Landfill are likely to be affected by a policy based on the SDP approach.

On May 26, 2016, the Council adopted resolution 16-4710, which:

- Found that the Chief Operating Officer (COO) had met the direction to develop a draft Landfill Capacity Policy by June 30, 2016; and
- Resolved that Metro Council would defer its consideration of Metro Code changes to implement the draft policy; and
- Directed the COO to seek direction from Metro Council no sooner than Dec. 1, 2016 on scheduling these code changes for Council action.

The proposed ordinance brings forward those code changes.

Recent Developments

Unrelated to Metro's work on a landfill capacity policy, in December 2016 Waste Management staff informed Metro staff that the Riverbend Landfill would reach its capacity within a few months. Waste Management staff further stated that any decision by the DEQ related to the proposed expansion may be significantly delayed due to appeals and litigation. Waste Management indicated that it wanted to reserve the limited remaining capacity for its customers outside the Metro region e.g. Willamette Valley and coastal communities. Therefore, it needed to stop accepting Metro-area waste, whether delivered by its own hauling operations or others.

In response to this information, Metro Council authorized five short-term, non-system licenses (NSL) in December 2016 that allowed the licensees to transport waste to the Columbia Ridge Landfill until June 30, 2017. The Metro Council also authorized the Chief Operation Officer (COO) to subsequently direct each licensee to use another alternate landfill if necessary to better serve the public and minimize disruption to the solid waste system. In February 2017, after receiving information about a signed two-year agreement between Waste Management and Republic Waste, the COO amended each of these non-system licenses to authorize the use of Coffin Butte Landfill as a disposal option as authorized by Metro Council. This agreement and the resulting redirection of the Metro region's Riverbend flow were fully phased in on April 1, 2017. Metro Council will consider extending these five NSLs until December 2018 in June 2017.

Waste Management staff also indicated in the December 6, 2016 Metro Council work session that the company does not intend to pass on the increased transportation or disposal costs related to redirecting flow from Riverbend to Metro region customers for a period of two years.

Impacts of Proposed Policy

This proposed landfill capacity policy would go into effect on January 1, 2020 in order to align with other significant changes in Metro's management of the solid waste disposal system. If the DEQ does not authorize Waste Management to expand Riverbend, then this ordinance would have little, if any, direct impacts on services or customer rates. If DEQ authorizes expansion, then this ordinance may likely have some impacts on rates. It is difficult to predict those impacts, because after that date and the expiration of the 90 percent flow guarantee to Waste Management-owned landfills, the Metro region's waste is expected to be able to flow to any properly authorized landfill.

ANALYSIS/INFORMATION

1. Known Opposition

In early 2016, Waste Management, the Westside Economic Alliance and the Washington County Board of Commissioners indicated their opposition to the policy as drafted, which included the

prospect of immediate implementation. Even with the delayed implementation to January 1, 2020 and the changes that Waste Management has made on its own to divert Metro region waste from Riverbend, staff would expect these parties will still be opposed to this Metro action.

Legal Antecedents

Any change to the Metro Code requires an ordinance of the Metro Council.

2. Anticipated Effects

Effective January 1, 2020, no person may deliver waste generated in the Metro region to any new landfill or limited capacity landfill.

3. Budget Impacts

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

RECOMMENDED ACTION

Staff recommends adoption of Ordinance 17-1401.