

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING)	ORDINANCE NO. 91-393A
ORDINANCE NO. 88-266B ADOPTING)	
THE REGIONAL SOLID WASTE MANAGEMENT)	Introduced by
PLAN TO IDENTIFY OPTIONS FOR)	Rene Cusma
IMPLEMENTING LOCAL GOVERNMENT FACILITY)	Executive Officer
SITING STANDARDS)	

WHEREAS, Metropolitan Service District Ordinance No. 88-266B adopted the Regional Solid Waste Management Plan as a functional plan; and

WHEREAS, There is a need to clarify how a city or county may implement Policy 16.2 of the Plan to provide appropriate zoning for siting solid waste facilities; now therefore;

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

1. That the Regional Solid Waste Management Plan is amended as shown in Exhibit A to this ordinance.
2. That Chapter 16 of the Regional Solid Waste Management Plan (Local Government Solutions) as amended by Exhibit A shall supersede and take precedence over any prior ordinance or resolution previously adopted that are inconsistent with its provisions.

ADOPTED by the Council of the Metropolitan Service District on the 24th day of October, 1991.


Tanya Collier, Presiding Officer

ATTEST:

Clerk of the Council

ATTACHMENT "A"

CHAPTER 16 - LOCAL GOVERNMENT SOLUTIONS

POLICIES

- 16.0 The implementation of the solid waste management plan shall give priority to solutions developed at the local level that are consistent with all plan policies.
- 16.1 Each local government shall exercise its responsibilities for solid waste solutions in its area, in ways consistent with the regional plan.
- 16.2 Each local government shall provide appropriate zoning to allow planned solid waste facilities or enter into intergovernmental agreements with others to assure such zoning. Whether by outright permitted use, conditional use or otherwise, appropriate zoning shall utilize only clear and objective standards that do not effectively prohibit solid waste facilities.

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PURPOSE

Oregon's Statewide Planning Goal No. 11 (Public Facilities and Services), established per ORS Chapter 197, requires that all local governments provide for solid waste disposal sites in their comprehensive land use plans in order to meet current and long-range needs. The Regional Solid Waste Management Plan includes a policy framework developed through a regional decision-making process which establishes the means to satisfy Goal 11 requirements.

BACKGROUND/ANALYSIS

Policy 16.0 recognizes the significant role that local jurisdictions perform in implementing the regional plan. Cities and counties have the responsibility for solid waste collection. They also are responsible for administering local land use provisions which regulate siting of needed solid waste facilities. Policy 16.0 recognizes that cities and counties are closest to both local industry and citizen constituents and, therefore, prioritizes city and county solutions that will ensure effective design and operation of programs established by the Regional Solid Waste Management Plan.

Successful implementation of the Plan requires commitment to do so by the cities and counties. That commitment is established through Policies 16.1 and 16.2. Policy 16.1 requires each local government

to participate in the programs established by the Plan. Policy 16.2 defines that commitment, in part, by requiring each city and county to provide appropriate zoning to allow siting of solid waste facilities within its boundaries.

The operational characteristics and size of solid waste facilities are the principal determinants of the appropriate zone in which to locate solid waste facilities. Establishment of clear and objective zoning standards will control how facilities may be physically located in relation to surrounding uses on appropriate sites. Potential external effects of siting solid waste facilities include litter, noise, and impact on transportation facilities that can be addressed by local jurisdictions through the land use process.

POLICY IMPLEMENTATION

Model Ordinance -- One option for local government implementation of Policy 16.2 is using the model ordinance for siting solid waste facilities. The model includes a siting process as well as clear and objective siting standards. Adapting the model for local use includes specifying in which zones solid waste facilities will be allowed and deciding which clear and objective standards will apply to such facilities. A local government may use its own process or develop its own clear and objective siting standards as long as local regulations do not effectively prohibit solid waste facilities.

Mitigation Agreements -- Under Policy 8.4 of this Plan, mitigation agreements are another option to implement Policy 16.2. This option simplifies amendment of local land use regulations to allow solid waste facilities. A local government may specify in which zones solid waste facilities will be allowed and sign a mitigation agreement with Metro specifying siting standards and mitigation measures applicable to such facilities. The siting standards in the model ordinance may be used as a basis for preparing clear and objective standards for inclusion in a mitigation agreement.

Intergovernmental Agreements -- An intergovernmental agreement with Metro may be used by a local government if there are no sites within the jurisdiction appropriate for one or more types of solid waste facilities. The basis for Metro determining that no sites are available for such facilities would be local findings and conclusions based on this Plan, state or federal regulations, local comprehensive plan land use designations, and/or solid waste facility locational criteria. The local government would adopt clear and objective zoning provisions and/or use a mitigation agreement for other types of solid waste facilities which are not subject to an intergovernmental agreement with Metro.

Technical Assistance -- Metro will prepare and update, as needed, the following materials as technical appendices to this Plan: A

model ordinance for siting solid waste facilities, a model mitigation agreement, a model intergovernmental agreement, guidelines for using these models, solid waste facility locational criteria, and other materials. Metro will provide assistance, upon request, to local governments in their efforts to implement Policy 16.2. Assistance will include preparation and distribution of technical materials, training and other services.

Implementation Process -- Local governments will provide copies of proposed solid waste facility mitigation or intergovernmental agreements or zoning provisions to Metro before entering into such agreements or before hearings are held on adoption of such provisions. If adoption of other clear and objective standards in addition to or in lieu of those in the model ordinance are proposed, findings and conclusions supporting the use of such other standards will be provided to Metro by the local government. Metro staff will review the materials and provide comments consistent with the policies of this Plan. Metro review and comment early in the process is intended to identify potential problems before a local government takes final action to implement Policy 16.2. Local implementation of the policy will occur before or during the comprehensive plan periodic review process. Implementation would also be timely when a major effort to revise local land use regulations is initiated by a local government. The Director of Metro's Planning and Development Department will provide written notification to each local government that it is in compliance with Policy 16.2 upon finding that all actions necessary to implement Policy 16.2 have been completed by the local government.

Monitoring & Evaluation -- Metro staff will monitor and evaluate implementation of Policy 16.2 and prepare an annual status report. The report will summarize what actions were taken in the previous year by Metro, local governments, and others to implement the policy. The report will also include a summary of actions anticipated in the coming year to implement Policy 16.2. This annual evaluation and local government implementation process will be conducted consistent with the provisions of Chapter 14 of this Plan.

ch16rev4.hsm

SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF ORDINANCE NO. 91-393A, FOR THE PURPOSE OF AMENDING ORDINANCE NO. 88-266B ADOPTING THE REGIONAL SOLID WASTE MANAGEMENT PLAN TO IDENTIFY OPTIONS FOR IMPLEMENTING LOCAL GOVERNMENT FACILITY SITING STANDARDS

Date: October 16, 1991

Presented by: Councilor Gardner

Committee Recommendation: At the October 15 meeting, the Committee voted unanimously to recommend Council adoption of Ordinance No. 91-393A. Voting in favor: Councilors DeJardin, Gardner, McFarland, McLain and Wyers.

Committee Issues/Discussion: Ordinance No. 91-393A would amend the Regional Solid Waste Management Plan (RSWMP) to provide procedures and options for local adoption of clear and objective siting standards for solid waste facilities. The ordinance was considered by the Solid Waste Committee at meetings in April and May in conjunction with the adoption of a model siting ordinance for the siting of solid waste facilities in local jurisdictions (Resolution No. 91-1415). Legal and drafting questions concerning the resolution and model ordinance raised subsequent to these meetings resulted in the rereferral of the ordinance to the committee. The ordinance and the model siting ordinance have been amended to address these issues.

Committee discussion focused on the need to make minor additional amendments to the proposed RSWMP changes. Committee staff noted that two amendments previously approved by the committee had not been included in the revised documents submitted for committee consideration. In addition, Rich Carson, Planning Director, noted the need for two additional amendments, one to clarify intent and one to correct a typographical omission.

As a result, the committee adopted the following amendments:

1) In the "Policy Implementation" section dealing with intergovernmental agreements, the second sentence should read, "The basis for Metro determining that no sites are available for such facilities would be local findings and conclusions ..."

2) In the "Policy Implementation" section dealing with the implementation process a new sentence is added which provides that "If adoption of other clear and objective standards in addition to or in lieu of those in the model ordinance are proposed, findings and conclusions supporting the use of such other standards will be provided to Metro by the local government." The intent of this language is to allow Metro to review and comment on such alternative proposals early in the development process.

3) In the "Policy Implementation" section dealing with the implementation process, the fourth sentence would be revised to read: "Local implementation of the policy [may] will occur before or during the comprehensive plan periodic review process." The intent of this change is to set a time certain when compliance with requirements of the RSWMP Chapter must be completed by each local government in the region.

Committee members generally agreed that these amendments responded to concerns raised during earlier committee consideration of the ordinance.

Councilor Wyers asked Mr. Carson if he felt if the ordinance had adequate "teeth" to insure compliance by local governments. Carson responded that the requirements of the ordinance would be workable and enforceable.

ATTACHMENT "A"

CHAPTER 16 - LOCAL GOVERNMENT SOLUTIONS

POLICIES

- 16.0 The implementation of the solid waste management plan shall give priority to solutions developed at the local level that are consistent with all plan policies.
- 16.1 Each local government shall exercise its responsibilities for solid waste solutions in its area, in ways consistent with the regional plan.
- 16.2 Each local government shall provide appropriate zoning to allow planned solid waste facilities or enter into intergovernmental agreements with others to assure such zoning. Whether by outright permitted use, conditional use or otherwise, appropriate zoning shall utilize only clear and objective standards that do not effectively prohibit solid waste facilities.

* * * * *

PURPOSE INTRODUCTION

Oregon's Statewide Planning Goal No. 11 (Public Facilities and Services), established per ORS Chapter 197, requires that all local governments provide for solid waste disposal sites in their comprehensive land use plans in order to meet current and long-range needs. The Regional Solid Waste Management Plan includes a policy framework developed through a regional decision-making process which establishes the means to satisfy Goal 11 requirements.

BACKGROUND/ANALYSIS

Policy 16.0 recognizes the significant role that local jurisdictions perform in implementing the regional plan. Cities and counties have the responsibility for solid waste collection. They also are responsible for administering local land use provisions which regulate siting of needed solid waste facilities. Policy 16.0 recognizes that cities and counties are closest to both local industry and citizen constituents and, therefore, prioritizes city and county solutions that will ensure effective design and operation of programs established by the Regional Solid Waste Management Plan.

Successful implementation of the Plan requires commitment to do so by the cities and counties. That commitment is established through Policies 16.1 and 16.2. Policy 16.1 requires each local government to participate in the programs established by the Plan. Policy 16.2 defines that commitment, in part, by requiring each city and county to provide appropriate zoning to allow siting of solid waste facilities within its boundaries.

~~It is recognized that existing zoning in cities and counties may permit solid waste facilities either as an outright permitted use or as a conditional use. However, it will be desirable for local jurisdictions to work cooperatively, both among themselves and with Metro to establish clear and objective zoning standards for solid waste facilities.~~

~~As a starting point to carry out Policy 16.2, the solid waste Facilities/Zoning Matrix in this chapter lists the existing zoning districts in which operational solid waste facilities are located by facility type. The matrix is derived from Appendix E of the Solid Waste Management Plan Inventory, an informational appendix to the plan. Many types of facilities are located in industrial, transitional timber and exclusive farm use zones, but some facilities are also located in commercial, residential, and public works districts. Section IV of the Inventory describes the existing facilities and notes that surrounding land uses range from industrial, agricultural and forestry to commercial and residential.~~

The operational characteristics and size of solid waste facilities are the principal determinants of the appropriate zone in which to locate solid waste facilities. Establishment of clear and objective zoning standards will control how facilities may be physically located in relation to surrounding uses on appropriate sites. Potential external effects of siting solid waste facilities include litter, noise, and impact on transportation facilities that can be addressed by local jurisdictions through the land use process.

CONCLUSION

~~The attached matrix is provided as a starting point to assist local governments in carrying out Policy 16.2 of this Plan.~~

POLICY IMPLEMENTATION

Model Ordinance -- One option for local government implementation of Policy 16.2 is using the model ordinance for siting solid waste facilities. The model includes a siting process as well as clear and objective siting standards. Adapting the model for local use includes specifying in which zones solid waste facilities will be allowed and deciding which clear and objective standards will apply to such facilities. A local government may use its own process or develop its own clear and objective siting standards as long as local regulations do not effectively prohibit solid waste facilities.

Mitigation Agreements -- Under Policy 8.4 of this Plan, mitigation agreements are another option to implement Policy 16.2. This option simplifies amendment of local land use regulations to allow solid waste facilities. A local government may specify in which zones solid waste facilities will be allowed and sign a mitigation agreement with Metro specifying siting standards and mitigation measures applicable to such facilities. The siting standards in the model ordinance may be used as a basis for preparing clear and objective standards for inclusion in a mitigation agreement.

Intergovernmental Agreements -- An intergovernmental agreement with Metro may be used by a local government if there are no sites within the jurisdiction appropriate for one or more types of solid

waste facilities. The basis for determining that no sites are available for such facilities would be findings and conclusions based on this Plan, state or federal regulations, local comprehensive plan land use designations, and/or solid waste facility locational criteria. The local government would adopt clear and objective zoning provisions and/or use a mitigation agreement for other types of solid waste facilities which are not subject to an intergovernmental agreement with Metro.

Technical Assistance -- Metro will prepare and update, as needed, the following materials as technical appendices to this Plan: A model ordinance for siting solid waste facilities, a model mitigation agreement, a model intergovernmental agreement, guidelines for using these models, solid waste facility locational criteria, and other materials. Metro will provide assistance, upon request, to local governments in their efforts to implement Policy 16.2. Assistance will include preparation and distribution of technical materials, training and other services.

Implementation Process -- Local governments will provide copies of proposed solid waste facility mitigation or intergovernmental agreements or zoning provisions to Metro before entering into such agreements or before hearings are held on adoption of such provisions. ~~If adoption of other clear and objective standards in addition to or lieu of those in the model ordinance are proposed, findings and conclusions supporting the use of such other standards~~

will be provided to Metro by the local government. Metro staff will review the materials and provide comments consistent with the policies of this Plan. Metro review and comment early in the process is intended to identify potential problems before a local government takes final action to implement Policy 16.2. Local implementation of the policy may occur before or during the comprehensive plan periodic review process. Implementation would also be timely when a major effort to revise local land use regulations is initiated by a local government. The Director of Metro's Planning and Development Department will provide written notification to each local government that it is in compliance with Policy 16.2 upon finding that all actions necessary to implement Policy 16.2 have been completed by the local government.

Monitoring & Evaluation -- Metro staff will monitor and evaluate implementation of Policy 16.2 and prepare an annual status report. The report will summarize what actions were taken in the previous year by Metro, local governments, and others to implement the policy. The report will also include a summary of actions anticipated in the coming year to implement Policy 16.2. This annual evaluation and local government implementation process will be conducted consistent with the provisions of Chapter 14 of this Plan.

SOLID WASTE FACILITIES/ZONING MATRIX¹

Zoning Districts in which Existing Facilities Located

Types of Solid Waste Facilities	HI	GI	LI	GC	RES	TT	EFU	PWS
Transfer Stations	X	X	X			X	X	X
Material Recovery	X	X		X	X	X	X	
Yard Debris Processing		X			X			
Lumber By-Product Processing		X						
Low-Grade Waste Disposal						X	X	X
Hazardous Waste Facilities								
Mixed Waste Composting Facilities						X		
Energy Recovery Facilities							X	

- HI - Heavy Industrial
- GI - General Industry/Manufacturing
- LI - Light Industry/Manufacturing
- GC - General Commercial
- RES - Residential
- TT - Transitional Timber/Farm, Forest
- EFU - Exclusive Farm Use
- PWS - Public Works/Safety

¹ Condensed from Appendix E of the Solid Waste Management Plan Inventory. This information is provided as an indicator of the variety of zoning districts in which existing solid waste facilities are located that serve the Metro region. It should not be construed as a recommended facilities/ zoning compatibility matrix or policy.

1	Section 4.	Approval Criteria and Development Standards
2	Section 5.	Application Contents
3	Section 6.	Review Procedures and Burden of Proof
4	Section 7.	Conditions of Approval and Enforcement
5	Section 8.	Severability

6
7
8 **SECTION 1. Solid Waste Facility Definitions**

9
10 A. Conditionally Exempt Small Quantity Collection Facility. A
11 facility that receives, sorts, temporarily stores, controls, and
12 processes for safe transport hazardous waste from conditionally
13 exempt generators, as that term is defined in ORS 465.003.

14
15 B. Demolition landfill. A land disposal site for receiving,
16 sorting and disposing only land clearing debris, including
17 vegetation and dirt, building construction and demolition debris
18 and inert materials, and similar substances.

19
20 C. Household hazardous waste depot. A facility for receiving,
21 sorting, processing and temporarily storing household hazardous
22 waste and for preparing that waste for safe transport to
23 facilities authorized to receive, process, or dispose of such
24 materials pursuant to federal or state law.

25
26 D. Limited purpose landfill. A land disposal site for the
27 receiving, sorting and disposing of solid waste material,
28 including but not limited to asbestos, treated petroleum
29 contaminated soil, construction, land clearing and demolition
30 debris, wood, treated sludge from industrial processes, or other
31 special waste material other than unseparated municipal solid
32 waste.

33
34 E. Resource recovery facility. A facility for receiving,
35 temporarily storing and processing solid waste to obtain useful
36 material or energy.

37
38 F. Mixed construction and demolition debris recycling facility.
39 A facility that receives, temporarily stores, processes, and
40 recovers recyclable material from mixed construction and
41 demolition debris for reuse, sale, or further processing.

42
43 G. Solid waste composting facility. A facility that receives,
44 temporarily stores and processes solid waste by decomposing the
45 organic portions of the waste by biological means to produce
46 useful products including, but not limited to, compost, mulch and
47 soil amendments.

48
49 H. Monofill. A land disposal site for receiving, sorting and
50 disposing only one type of solid waste material or class of solid



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

To: Solid Waste Committee Members

From: John Houser, Council Analyst

Date: October 9, 1991

Re: Ordinance No. 91-393A, For the Purpose of Amending Ordinance No. 88-266B adopting the Regional Solid Waste Management Plan to Identify Options For Implementing Local Government Facility Siting Standards

Ordinance No. 91-393A is scheduled to be considered by the committee at the October 15 meeting.

Background

Ordinance No. 91-393A would amend the Regional Solid Waste Management Plan (RSWMP) to provide procedures and options for local adoption of clear and objective siting standards for solid waste facilities. The ordinance was considered by the committee at meetings in April and May in conjunction with the adoption of a model siting ordinance for the siting of solid waste facilities in local jurisdictions (Resolution No. 91-1415). Legal and drafting questions raised subsequent to these meetings resulted in the rereferral of the ordinance to the committee. The ordinance and the model siting ordinance have been amended to address these issues.

Issues and Questions

The committee may wish to address the following issues and questions concerning the ordinance:

1) The committee made two amendments to the original proposed RSWMP changes. These amendments were inadvertently not included in the proposed changes filed by staff for reconsideration by the committee. The amendments are:

On page 4 of the "RSWMP Chapter 16 Proposed Amendments, dated 10-1-91", on the first line, the sentence should read, "The basis for Metro determining that no sites are"

On page 5 of the proposed amendments, on line 6, the sentence should read, "Local implementation of the policy [may] shall occur before or during the comprehensive plan periodic process."

The committee should consider reviewing the rationale behind the amendments and readopting them.

2) Staff has added an additional amendment to the ordinance. On the bottom of page 4 and the top of page 5, a sentence has been added to provide that if the local jurisdiction intends to adopt standards in addition to or in lieu of those in the model ordinance, they must provide supporting findings and conclusions to Metro prior to adoption. The committee may wish to ask staff to explain the intent and effect of this language.

STAFF REPORT

PROPOSED REVISION TO CHAPTER 16 OF THE REGIONAL SOLID WASTE
MANAGEMENT PLAN FOR THE PURPOSE OF CLARIFYING INFORMATIONAL
REQUIREMENTS FOR LOCAL ADOPTION OF CLEAR AND OBJECTIVE SITING
STANDARDS FOR SOLID WASTE FACILITIES

October 1, 1991

By: Richard Carson
Becky Crockett

BACKGROUND

On April 2, 1991, the Council Solid Waste Committee recommended adoption of Ordinance No. 91-393A. It would amend Chapter 16 of the Regional Solid Waste Management Plan to identify options for implementing local government facility siting standards. Final action was postponed by the Council in order to allow revisions to be made to the model ordinance for siting solid waste facilities.

The Solid Waste Policy and Technical Committees and the Land Use Subcommittee have recommended approval of the revised model ordinance as well as the following additional sentence to page 4 of the proposed revisions to Chapter 16 of the Regional Solid Waste Management Plan:

If adoption of other clear and objective standards in addition to or lieu of those in the model ordinance are proposed, findings and conclusions supporting the use of such other standards will be provided to Metro by the local government.

The intent is not to preclude the adoption of "other" clear and objective standards but to provide clarification to Metro concerning why such standards have been proposed.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 91-393A and inclusion of the proposed revision to Chapter 16 of the Regional Solid Waste Management Plan and as given in Attachment "A".

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METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

TO: Tanya Collier, Presiding Officer

FROM: Jim Gardner, Councilor *JG*

RE: Request to postpone Council consideration of Resolution No. 91-1415 and Ordinance No. 91-393A

DATE: May 15, 1991

On April 2, 1991, the Solid Waste Committee voted to recommend Council adoption of Ordinance No. 91-393A. The ordinance amends Chapter 16 of the Regional Solid Waste Management Plan to identify options for implementing local government facility siting standards.

On May 7, 1991, the Solid Waste Committee voted to recommend Council adoption of Resolution No. 91-1415, which recognizes the model solid waste facility siting ordinance as one of the options. It appears that these two matters should be scheduled for consideration by the Council on the same agenda, since they deal with related topics.

Normally these items would be scheduled for consideration by the Council at its May 23, 1991 meeting. However, I have requested a legal opinion regarding Resolution 91-1415 (see attached memorandum). I request that you defer scheduling these matters until the response to my memorandum is distributed to and reviewed by Councilors.

Thank you for considering this request.

cc: Council Solid Waste Committee
Rich Carson, Planning and Development Director



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

DATE: October 28, 1991
TO: Rena Cusma, Executive Officer
FROM: Paulette Allen, Clerk of the Council *PA*
RE: TRANSMITTAL OF ORDINANCE NOS. 91-393A and 91-411

Attached for your consideration are true copies of the ordinances referenced above adopted by the Council on October 24, 1991.

If you wish to veto any of the ordinances referenced above, I must receive a signed and dated written veto message from you no later than 5:00 p.m., Thursday, October 31, 1991. The veto message, if submitted, will become part of the permanent record. If no veto message is received by the time and date stated above, these ordinances will be considered finally adopted.

I, *Paulette Allen*, received this memo and true copies of Ordinance Nos. 91-393A and 91-411 from the Clerk of the Council on 10-28-91.

ORD.MEM