

IN CONSIDERATION OF ORDINANCE NO. 24-1508 FOR THE PURPOSE OF AMENDING METRO CODE SECTION 5.05.055 TO ALLOW THE DISPOSAL OF CLEANUP MATERIAL AT A LIMITED CAPACITY LANDFILL UNDER CERTAIN CONDITIONS

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Department: Waste Prevention and  
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Presenter: Will Ennis

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Length: 15 minutes

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### **ISSUE STATEMENT**

Metro staff recommend that Metro Council amend Metro's landfill capacity policy to allow the disposal of cleanup material generated in the Metro region at a limited capacity landfill when the material is used solely for permitted closure activities.

As currently codified, Metro Code Chapter 5.05 does not allow cleanup material generated in the Metro region to be disposed of at a limited capacity landfill. This prohibition has the potential to delay the closure of limited capacity landfills which often need cleanup material to reach approved engineered grade before placing final cover and capping the landfill.

### **ACTION REQUESTED**

Adopt Ordinance No. 24-1508. This would amend Metro Code Section 5.05.055 to allow a person to dispose of cleanup material at a limited capacity landfill under certain prescribed conditions, as discussed below.

### **IDENTIFIED POLICY OUTCOMES**

The proposed amendment would establish that the landfill capacity policy does not apply to a person disposing of cleanup material generated in the Metro area at a limited capacity landfill when the material is used solely to facilitate closure in accordance with a Disposal Site Closure Permit provided that the person obtains a Metro Solid Waste Facility Non-System License.

### **POLICY QUESTION(S)**

1. Should Metro amend its landfill capacity policy to allow cleanup material to be disposed of at a limited capacity landfill for the sole purpose of facilitating closure?

2. Should Metro Council amend Metro Code Chapter 5.05 to establish that Metro's landfill capacity policy does not apply to any person disposing of cleanup material at a limited purpose landfill for the sole purpose of facilitating closure provided that that person obtains a Metro Solid Waste Facility Non-System License?

### **POLICY OPTIONS FOR COUNCIL TO CONSIDER**

1. Adopt the proposed amendment to Metro Code Chapter 5.05 to update Metro's landfill capacity policy as described in this staff report. This option will allow Metro area cleanup material to be disposed of at a limited capacity landfill to facilitate closure.
2. Adopt alternate amendments to Metro Code Chapter 5.05 that are different than those described in this staff report. The potential implications of this option are unknown at this time because they would be dependent on the extent of the alternate proposal.
3. Do not adopt the proposed amendment. This option would result in maintaining the landfill capacity policy as codified and prohibit Metro area cleanup material from being disposed of at a limited capacity landfill. This option may affect landfills outside of the region achieve timely compliance with a Solid Waste Disposal Site Closure Permit.

### **STAFF RECOMMENDATION**

Staff recommends that Council adopt Ordinance No. 24-1508 to amend Metro Code Chapter 5.05 to update Metro's landfill capacity policy as described in this staff report.

### **STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION**

Adoption of Ordinance No. 24-1508 would result in amending Metro Code Chapter 5.05 to establish that the landfill capacity policy does not apply to a person disposing of Metro area cleanup material at a landfill to facilitate timely compliance with a Solid Waste Disposal Site Closure Permit provided that the person obtains a Metro Solid Waste Facility Non-System License.

Staff recommends updating Metro Code Chapter 5.05 as described below:

Add new Subsection 5.05.055(e) to establish that the landfill capacity policy does not apply to a person who disposes of cleanup material, such as contaminated soil or sediment, at a limited capacity landfill provided that:

- a. The landfill uses the cleanup material for the sole purpose of facilitating timely compliance with an Oregon Department of Environmental Quality (DEQ) Solid Waste Disposal Site Closure Permit or an equivalent permit issued by the appropriate state or federal authority; and

- b. Metro has issued the person a Solid Waste Non-System Facility License to transport cleanup material for this purpose; and
- c. Metro has confirmed that the landfill has a current DEQ Solid Waste Disposal Site Closure Permit, or an equivalent permit issued by the appropriate state or federal authority.

## **KNOWN OPPOSITION**

There is no known opposition to the proposed amendment. However, it is helpful to provide some historical context to this matter. Metro received a letter from WM (formerly known as Waste Management), dated November 14, 2023, requesting that Metro amend its landfill policy to allow a limited capacity landfill to receive Metro area cleanup material to facilitate closure. WM is the owner and operator of Riverbend Landfill, a limited capacity landfill that has been issued a Solid Waste Disposal Site Closure Permit by DEQ. WM requested the amendment so that the landfill can receive cleanup material generated in the Metro region to ensure timely compliance with its closure permit. Riverbend Landfill was formerly a designated facility of Metro's regional solid waste system but became a limited capacity landfill as defined by Metro Code when it sought a site development plan amendment for expansion from DEQ. Riverbend Landfill was subsequently removed from the list of Metro designated facilities. There was general community opposition to the proposed expansion of Riverbend Landfill at that time.

## **PUBLIC OUTREACH**

The proposed amendment would allow Metro area cleanup material to be disposed at any limited capacity landfill, including Riverbend Landfill, for the sole purpose of facilitating closure. Metro staff is aware that historically there has been general concerns from community members in Yamhill County about Riverbend Landfill and its former plans for expansion. Staff contacted a representative of the Stop the Dump Coalition (<https://stopthedumpcoalition.org/>) to seek input about the proposed amendment. A representative of that group stated that the group did not oppose the proposed amendment to Metro's landfill capacity policy. The group requests that Metro coordinate with DEQ, the regulator of Riverbend Landfill, to ensure that any Metro area cleanup material transported to that facility is used solely to facilitate closure.

Staff also contacted Yamhill County's solid waste staff to determine if the County had any concerns with the proposed amendment. County staff requested additional information about the proposed amendment and operational requirements at the landfill. Many of the questions submitted by the County fall under the jurisdiction of DEQ, the regulator of Riverbend Landfill.

## **LEGAL ANTECEDENTS**

Metro Charter, Title V of the Metro Code and ORS Chapters 268 and 459.

## **ANTICIPATED EFFECTS**

Adoption of Ordinance No. 24-1508 would result in amending Metro Code Chapter 5.05 to update Metro's landfill capacity policy as provided in Exhibit A.

## **BUDGET IMPACTS**

There are no expected budget impacts associated with the adoption of this ordinance. Metro will continue to collect the regional system fee and excise tax on Metro area waste at the time of disposal. Metro assesses a reduced regional system fee and excise tax rate of \$3.50 per ton on cleanup material.

## **BACKGROUND**

In 2017, Council adopted a landfill capacity policy that prohibited the disposal of the region's waste at any new landfill or any landfill that sought expansion after May 2017. This policy was adopted around the time that Riverbend Landfill was going through an extended process to expand its disposal capacity. The policy was intended to ensure that the region's residential and business waste didn't cause the expansion or construction of a general-purpose landfill.

The landfill capacity policy was initially adopted in the context of household garbage being disposed of at a general-purpose landfill (such as Riverbend Landfill) and applied to all landfills, regardless of the type of landfill or the waste they accepted. The policy was amended by Metro Council in 2022 to clarify that it did not apply to disposal sites with applicable permits, issued by the appropriate state or federal authority, to accept hazardous waste or to only accept cleanup material. This clarification was necessary to address several remediation and cleanup projects along the Willamette River that are expected to generate millions of tons of contaminated sediment that will require disposal over a period of many years. According to DEQ, some of this material is suitable for a general-purpose landfill while some must be disposed at a permitted hazardous waste landfill.

The landfill capacity policy was not intended to extend the timeline for a limited capacity landfill's closure due to lack of suitable fill material. As most of the cleanup material generated in the state is generated in the Metro region, staff finds that the amendment is a prudent approach to help expedite the closure of a limited capacity landfill which has been issued a DEQ Solid Waste Disposal Site Closure Permit.

Metro staff recommends that Metro Council adopt Ordinance No. 24-1508 which amends Metro Code Chapter 5.05 to establish that the landfill capacity policy does not apply to a person disposing of cleanup material at a limited capacity landfill provided that the material is used solely for facilitating the timely compliance with a Solid Waste Disposal Site Closure Permit.