

Utilities & Environmental Protection Report to
SPC on Utilities and Corporate Services
2019 March 20

ISC: UNRESTRICTED
UCS2019-0365

Waste Management Storage Site Operational Practices – Interim Approach to Address Safety Risks

EXECUTIVE SUMMARY

Proper waste management, including recycling, is important for both Calgarians and Albertans. Public expectations continue to expand around having services and facilities to support garbage disposal, hazardous waste management, recyclables diversion, and composting. Along with these increasing business opportunities, is the need to ensure companies operating in the waste and recycling sector do so safely, adhering to regulatory requirements and reasonable standards.

In November 2018, Council brought forward Notice of Motion C2018-1356 that highlighted situations in the sector where Waste Management Storage Site operations may present a risk to public safety through such practices as materials not being moved in a timely manner and large amounts of waste being improperly stored. This report responds to Council's direction to Administration to report back on an interim approach to minimize the safety risks of these operations, in advance of reporting back in Q4 2019 with recommendations to further limit safety and liability risks through the establishment of potential policy and regulatory requirements.

Administration has completed the following actions to provide improved assurance that safety risks are being managed in the interim:

- Identified six Waste Management Storage Sites that meet the working definition and are included in the scope of the initial work.
- Assessed the jurisdictional authorities of the Government of Alberta and The City of Calgary (The City), Attachment 1.
- Assessed the history of safety incidents that have occurred at the identified sites.
- Conducted development permit and Alberta Fire Code compliance inspections on all identified sites to understand current state.
- Initiated discussions to enhance coordination between Alberta Environment and Parks (AEP) and The City on the regulation of these sites.

Early analysis has shown that AEP regulates these sites through notification requirements under the Activities Designation Regulation and that no provincial environmental legislation applies specifically to the operation of Waste Management Storage Sites; and The City's authorities are land use development permit and business licensing, and enforcement of the Alberta Fire Code. Of The City's authorities and practices, the Alberta Fire Code is the mechanism by which The City influences the safe operation of Waste Management Storage Sites through the oversight of stockpile content, height and/or separation.

To that end, the historical review of safety incidents and recent Alberta Fire Code inspections has confirmed three sites with active Alberta Fire Code compliance issues. The City's interim approach to minimizing the safety risks of these operations is addressed through identification of these sites, and Calgary Fire Department initiating enforcement actions and actively working with the businesses to address outstanding safety concerns.

Additional early findings have identified gaps or challenges related to the definition, identification and approval of existing and new Waste Management Storage Sites, as well as the absence of

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regulations to govern their operations. Longer term solutions will be investigated and informed by industry, municipal and provincial best practices review, with recommendations provided in Q4 2019, as directed by Council.

ADMINISTRATION RECOMMENDATION:

That the Standing Policy Committee on Utilities and Corporate Services:
1. Receive this report for information.

PREVIOUS COUNCIL DIRECTION / POLICY

On 2018 November 19, Council brought forward a Notice of Motion C2018-1356 on Waste Management Storage Site Operational Practices, directing Administration to report back through Standing Policy Committee (SPC) on Utilities and Corporate Services no later than Q1 2019 on an interim approach to minimize the safety risks of these operations.

Administration was also directed to return no later than Q4 2019 with a scoping report on The City's authority to use existing controls to limit the safety hazard, risk and liability of The City of Calgary from the operation of Waste Management Storage Sites; and recommendations for potential policy and potential regulatory requirements to standardize practices that reflect best practices.

BACKGROUND

The Waste and Recycling Industry Value Chain consists of public and private companies providing services and facilities to support garbage disposal, hazardous waste management, recyclables diversion, composting, hauling, and landfilling. Within this Value Chain are companies that operate Waste Management Storage Sites where materials are collected or received from multiple sources, sorted, and then either sold for recycling or sent to landfill. At some of these sites, operational practices have resulted in fires; non-compliance with the Alberta Fire Code with regards to stockpile content, height, and/or separation; and concerns for public safety. Other concerns raised include impacts on adjacent properties, and risk of landowner and potential City financial liabilities. The effective regulation of the operation of Waste Management Storage Sites by the Government of Alberta and The City of Calgary is required to minimize these and other risks.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

To minimize potential safety risks associated with Waste Management Storage Sites, the interim approach includes:

- Assessing the jurisdictional authorities of the Government of Alberta and The City.
- Identifying Waste Management Storage Sites.
- Assessing the number of safety incidents at identified sites.
- Conducting development permit and Alberta Fire Code compliance inspections.
- Initiating discussions to enhance coordination between AEP and The City.

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Jurisdictional Authorities

Administration has begun to assess the authorities and regulatory framework governing Waste Management Storage Sites. A summary of these authorities is provided in Attachment 1. Some initial gaps have been identified related to the definition and approval of sites, and the oversight of site operations.

Under provincial legislation, no approval is required for these sites; an operator is only required to notify AEP of their operation. AEP does not have operational requirements specific to Waste Management Storage Sites; however, as with all businesses operating in Alberta, these sites must comply with general environmental provisions set out by provincial legislation. If there is a contravention of the provincial legislation, such as a contaminant release or the facility is accepting hazardous waste, AEP can issue enforcement orders and environmental protection orders to remedy the situation.

Current City authorities for these sites are limited to land use development permit and business licensing, and enforcement of the Alberta Fire Code. The City does not have operational requirements for these sites.

Identification of Sites

The analysis of the regulatory context identified issues with how these sites are defined and identified. While Waste Management Storage Site is the term used for these operations in this initial assessment, the existing terminology in the Waste Control Regulations is 'Storage Site'.

For this initial assessment, The City has defined Waste Management Storage Site as any site with an AEP notification, and limited the initial scope to locations within Calgary boundaries. Currently there are six sites identified. The City will continue to refine this categorization and add new sites, as identified.

Administration also identified inconsistencies on how existing and new Waste Management Storage Sites are approved by The City and subsequently regulated by the Province. There is currently limited coordination with the Province and The City in regards to the approval of these sites. Under Land Use Bylaw 1P2007, Waste Management Storage Sites can be accommodated under several use definitions, none of which reference Subdivision and Development Regulation setback requirements. This poses a challenge in identifying new sites with setback requirements and better regulating the location of Waste Management Storage Sites in Calgary. Additional analysis will form part of the Q4 report.

Compliance Inspections

The City has current authorities to oversee these six sites through the Land Use Bylaw and enforcement of the Alberta Fire Code. The Land Use Bylaw (1P2007) gives The City authority over the specific type of development that can occur on the site. The Alberta Fire Code is provincial jurisdiction and has clear rules with respect to stockpile content, height, separation, etc. The City is enabled through the designation of safety code officers to ensure compliance with the Code.

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SPC on Utilities and Corporate Services
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**Waste Management Storage Site Operational Practices - Interim Approach to
Address Safety Risks**

The City recently conducted compliance inspections for the development permits and Alberta Fire Code for all identified sites. Of the six sites currently identified as Waste Management Storage Sites, all six were in compliance with their development permit, and three out of six have non-compliances identified with the Alberta Fire Code. Enforcement actions are underway for the Alberta Fire Code non-compliances.

None of the six sites have AEP enforcement orders against them.

Enhanced Coordination between AEP and The City

Administration has initiated discussion with AEP on our respective regulatory frameworks for Waste Management Storage Sites. Areas of discussion included identification of sites and site operations oversight.

The City has means to identify sites through development permit and business licensing processes. Provincially, AEP maintains a list of the sites for which a notification has been submitted. Effective and coordinated approval and regulation of the operation of Waste Management Storage Sites by the Province and The City is required to mitigate potential risks related to site identification. Given the current challenges in regulating new Waste Management Storage Sites through The City of Calgary Land Use Bylaw, the Province and The City have agreed to inform one another, as an interim measure, when either jurisdiction is aware of a new application request.

The City can inspect sites to ensure compliance with development permits and the Alberta Fire Code. AEP can also inspect sites, but does not do this routinely. Inspections are often only initiated if there is a public complaint.

Through these early discussions, AEP and The City have identified potential opportunities to enhance coordination on identification and approval processes, and operational oversight of Waste Management Storage Sites. These opportunities will be further investigated and described in the Q4 report.

Ongoing Actions

Additional sites of interest may be identified as The City works to identify best practices, further controls and potential policy and regulatory changes to improve the safe management of Waste Management Storage Sites. These sites will undergo development permit and Alberta Fire Code compliance inspections, and enforcement and corrective actions for non-compliances will be monitored. In addition, if Administration identifies immediate actions that can be taken to improve processes or reduce risk related to Waste Management Storage Sites, these may be implemented prior to the subsequent report in Q4 2019.

Stakeholder Engagement, Research and Communication

In support of this report, Administration has established an internal working group with representatives from Calgary Building Services, Calgary Growth Strategies, Environmental & Safety Management, Calgary Fire Department, Intergovernmental & Corporate Strategy, Law,

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and Waste & Recycling Services, and engaged with AEP. Additional engagement will be on-going with AEP and initiated with regional partners, industry, and others, as necessary, in support of the Q4 report.

Strategic Alignment

This report aligns with the 2019-2022 Citizen Priorities of: A Prosperous City, A City of Safe & Inspiring Neighbourhoods, and A Healthy & Green City.

Social, Environmental, Economic (External)

Waste Management Storage Sites provide positive environmental benefits by supporting citizen and industry recycling efforts to better manage their full waste stream; however, these sites may also potentially negatively impact the environment by contributing to air, land, and water contamination if not properly operated.

Socially, there may be increased public safety risks associated with contamination and fires, both to citizens and first responders, especially where the materials may not be clearly identified. The sites may also become neighborhood eyesores.

Economically, Waste Management Storage Sites support economic wellbeing and growth as businesses remain viable and continue to enter the sector; however, sites may lead to potential financial liabilities for landowners and The City if cleanup of abandoned sites and materials is required.

Financial Capacity

Current and Future Operating Budget:

The actions taken in support of this report have been achieved within current operating budgets. The Q4 report will identify any potential impacts on future budgets.

Current and Future Capital Budget:

The actions taken in support of this report have no impact on current capital budgets. The Q4 report will identify any potential impacts on future budgets.

Risk Assessment

The current steps of identification of sites, on-site inspections, and enhanced coordination with AEP provide interim mitigation of the safety risks potentially posed by these operations until additional analysis and recommendations can be made on process, policy, and/or regulatory improvements in Q4.

REASON(S) FOR RECOMMENDATION(S):

This report provides Committee with information on the interim steps The City has taken to minimize safety risks at identified Waste Management Storage Sites within the current regulatory environment.

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ATTACHMENT(S)

1. Attachment 1 – Regulatory Authorities Applicable to Waste Management Storage Site Operations