

ORDINANCE NO. 951

AN ORDINANCE AMENDING ORDINANCE NO. 793 REGARDING AN EXCLUSIVE RIGHT, PRIVILEGE AND FRANCHISE FOR A PERIOD OF FIVE (5) YEARS TO ESTABLISH, OPERATE AND MAINTAIN A BUSINESS OF GATHERING, COLLECTING, TRANSFERRING AND DISPOSING OF ALL SOLID WASTE, WASTE AND RECYCLABLE MATERIAL; AND DECLARING AN EMERGENCY.

WHEREAS, the franchisee, Canby Disposal Company, through Canby Transfer and Recycling Inc, applied and received a conditional use and design review approval to construct and operate a new transfer and recycling center; and

WHEREAS, as a condition of approval of said operation, the City and franchisee were to renegotiate the prior franchise agreement to include lack of performance or violations of the conditions under the Conditional Use Permit and Design Review Application as grounds for breach of the franchise agreement; NOW THEREFORE

THE CITY OF CANBY ORDAINS AS FOLLOWS:

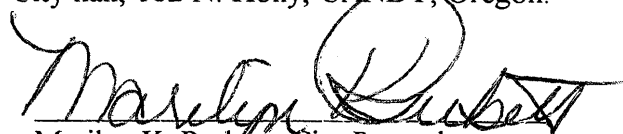
Section 1. Section 11 is amended by adding the following new paragraph:

The franchisee shall:

“g.) Comply with all conditions of approval in its Conditional Use Permit approval and design review approval granted by the CANBY Planning Commission on January 23, 1995. Said conditions are attached hereto as Exhibit “A” and by this reference, incorporated herein. Although franchisee does not include K.B. Recycling and Canby Transfer Recycling, Inc, Canby Disposal Company acknowledges full and complete responsibility to comply with all conditions of Exhibit “A” which relate to recycling even if K.B. Recycling and Canby Transfer and Recycling, Inc. actually perform the duties covered by the conditions of approval.”

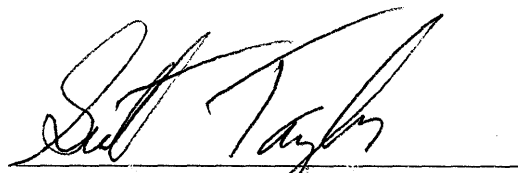
Section 2. Emergency Clause. In view of the necessity for solid waste management and recycling services to better promote the health, safety and welfare of the citizens of CANBY, an emergency is hereby declared to exist and this ordinance shall take effect immediately upon final reading.

SUBMITTED to the CANBY City Council and read the first time at a regular meeting therefore on Wednesday, August 21, 1996, ordered posted as required by the CANBY City Charter and scheduled for second reading on Wednesday, September 4, 1996, after the hour of 7:30 p.m. at the Council Chambers at the CANBY City hall, 182 N. Holly, CANBY, Oregon.

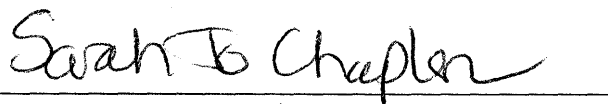

Marilyn K. Perlett, City Recorder

PASSED on second and final reading by the CANBY City Council at a regular meeting thereof on the 4th day of September, 1996, by the following vote:

YEAS 6 NAYS 0


Scott Taylor, Mayor

ATTEST:



Sarah Jo Chaplen, Assistant to Administrator

Exhibit "A"

ORDER

Based upon the AMENDED application and drawings submitted, facts, findings and conclusions of this Order, and with benefit of public hearings, the Planning Commission approves CUP 94-05/DR 94-14/LLA 94-08 with the following conditions:

1. Full curbs, sidewalks and paving is required for Township Road and the new 4th Avenue. Paving of 4th Avenue shall be a full-width and for the full length of the ownership parcel. Township Road shall be repaved for a half-street width designed to City standards as determined by the Public Works Supervisor and shall also be approved by Clackamas County Transportation and Development Department.
2. Prior to occupancy, a "Spill Response Plan" for wastewater and stormwater shall be reviewed and approved by the City of Canby Pretreatment Coordinator.
3. At least 180 days prior to occupancy, a local wastewater disposal permit shall be acquired from the City's Pretreatment Coordinator, including a plan for disposal of wastewater in excess of local discharge limits. Testing and documentation of testing shall be kept by City staff.
4. The building permit and operations shall be in full compliance with 40 CFR, Parts 122 and 403 and RCRA/DEQ Solid Waste Regulations. A DEQ Solid Waste Permit shall be secured prior to occupancy and a copy of the approved permit shall be given to the Canby Planning Director.
5. In compliance with Code Section 16.88.090, significant noncompliance of conditions of approval, including local limits or conditions set forth in the Wastewater Discharge Permit, will result in revocation for noncompliance of the Conditional Use Permit. In terms of wastewater, significant noncompliance is as defined in the Wastewater Discharge Permit and 40 CFR, Part 403.

6. A 12" water line shall be installed along S.E. 4th Avenue for the full length of the property ownership to the railroad, as approved by the Canby Utility Board.
7. The proposed biofiltration swales shall be redesigned with the addition of drywell disposal. Swales used for any pretreated stormwater runoff shall be no more than 1/2" to 1" deep, and a minimum of 100 feet in length or as approved by the City of Canby contract engineer and Public Works Supervisor.
8. The 12" proposed sewer trunk from Redwood shall extend the full width of Tax Lot 1805 within S.E. 4th Avenue right-of-way, or as approved by the Public Works Supervisor.
9. Extension of electric and water infrastructure shall be provided, designed, and installed to Canby Utility Board specifications and practices, and at the developer's expense.
10. A preconstruction meeting with City staff, the Fire Marshal, the Canby Utility Board, Canby Telephone Association, and Northwest Natural Gas representatives shall be held, coordinated by the Planning Department, and all issues resolved prior to construction. The Trost Elementary School "Local School Committee" shall be given opportunity to attend this conference.
11. A detailed Fire Hydrant, Sprinkler System, and Fire Suppression Plan shall be reviewed and approved by the Fire Marshal at time of Building Permit review.
12. The applicant is to receive and continually comply with all required permits of the Oregon Department of Environmental Quality (DEQ), and any other State or federal agencies with regulatory authority over this sort of operation. Copies of such required permits shall be given to the Planning Director prior to approval of the building permit.

13. No private individual will be allowed to utilize the transfer station for unloading personal garbage.
14. As proposed by the applicant, and as illustrated on Drawing A0.3, Landscape Plan, a landscaped berm is to be provided to help minimize visual impacts. Such berm shall be extended so as to entirely encircle the subject site. In addition, the entire site is to be enclosed by a fence. Adequate vision clearance shall be provided at each driveway.
15. Wastewater from restrooms and office plumbing may be drained directly to the City's sanitary sewer system. All other wastewater from garbage handling areas is to be subject to the City's requirements for sewage pretreatment.
16. Recyclables are to include, but are not limited to: glass, metals, corrugated paper, newsprint, and tin cans. The only recyclables to be stored outside in partially filled containers shall be glass and metal. The metals shall not be oil- or grease-coated. Recyclable or recycled oil shall be stored under cover and in a manner so as to protect against spills. The paved surfaces in the storage and processing areas shall include an impervious layer below the hard surface. All processing of waste or recyclables and filling of containers is to take place within the building. Except for the "public recycling" area, as illustrated on Drawing A0.2, and the storage in the yard of partially filled storage containers of recyclables, no storage of garbage or recyclable material is to occur on any surface located outside the building. All parking, loading and maneuvering areas are to be paved of concrete or asphalt. All roads and driveways are to be paved of asphalt or concrete and properly drained. Outdoor areas used for the storage of empty dumpsters, trucks, or empty drop boxes, are to be completely paved and adequately maintained. The partially filled storage containers of recyclables stored in the yard are to be kept covered and shall be leakproof. No grounding of recyclables in the yard is permitted. All

processing and loading of storage containers is to occur within the building. Only glass and metals are allowed to be stored outside in partially filled containers.

17. The applicant is to establish and maintain a daily litter clean-up process on the site and along the truck route coming to the site. The clean up shall include the entire roadway length adjacent to the site, S.E. 4th Avenue, between Redwood and the railroad, and S. Redwood, from Township to S.E. 3rd Avenue. If it becomes necessary at any time for the City to conduct a clean-up of the public roadway, the applicant will be given a one (1) day written notice of the City's intention to conduct the clean-up, at the applicant's expense. The applicant is to post a \$1,000 bond, or other surety, to the satisfaction of the City Attorney, strictly for this purpose.
18. The site is not to handle any sewage sludge or septic tank pumpings.
19. The applicant is not to knowingly handle any electrical transformers or hazardous or toxic waste at the site.
20. No burning of any kind is to be permitted at the site.
21. Washdown locations for trucks, trailers, or other equipment are to be drained to the sanitary sewer system after testing and pretreating, if required, as approved by the City Public Works Department and the wastewater management staff.
22. Trucks and trailers hauling garbage to or from the site are to be of leakproof construction, as defined by DEQ.
23. Appropriate procedures are to be taken to eliminate any potential problems from rodents, flies, and birds. The applicant is to comply with any lawful order or requirement of the City, the County, or DEQ for the abatement of any such nuisances.

24. Loads are to be hauled to the landfill as soon as they are full. In no case is garbage to remain on the premises for longer than twenty four (24) hours. The transfer area is to be washed down nightly, or more often, as prescribed by the Canby Industrial Pretreatment Officer. On-site storage of full garbage containers is to be kept to a minimum and not exceed twelve (12) hours of stay on the premises.
25. Normal growth of the Canby Disposal operation in terms of such things as amount hauled, number of employees, and number of trucks, will not be regarded as an expansion of this conditional use, and will not require additional public hearings.
26. Utility easements, water and electric services, and street lighting shall be provided to meet the requirements of the Canby Utility Board and other service-providers.
27. A "STOP" sign constructed to meet City Public Works standards is to be provided at the applicant's expense and installed at the corner of S.E. 4th Avenue and S. Redwood Street.
28. Other than garbage trucks engaged in their normal pick-up activities, no truck traffic is to use S. Redwood or S. Township, beyond the limit of the designated truck route.
29. Before handling any other materials not approved within the DEQ Permit, the applicant is to secure the approval of the Canby Planning Commission, acting on an expansion of this conditional use permit.
30. Since a sign for the property has not been reviewed under these applications [CUP or DR], any separate sign application for the property will not be approved by the City Planner or Building Official until at least six (6) months have elapsed after the issuance of the occupancy permit for the site.

31. Erosion-control during construction shall be provided by following the recommendations of the "Erosion Control Plans Technical Guidance Handbook," as used by Clackamas County, dated August 1991, and as revised.
32. The site is to be inspected at least every two (2) months within the first two years, and every three (3) months for the next year, and every six (6) months thereafter by the City Planner and Building Official. The inspections may be more often, at the discretion of the staff if violations are suspected. The Trost Elementary "Local School Committee" shall be given the opportunity to participate in these inspections with City representatives.
33. The City franchise agreement for the collection of solid waste shall be negotiated between the parties at the earliest practicable time and shall include lack of performance or violations of the conditions under this Conditional Use Permit and Design Review Application as grounds for breach of the franchise agreement. The Planning Commission strongly recommends that the City review the franchise agreement at least annually, especially in relation to land use performance.
34. If the approval by DEQ takes longer than one (1) year from the date of this Conditional Use Permit approval, the time period for revocation, under Section 16.88.090(A) is hereby extended by six (6) months.
35. Street trees, from the City's approved Street Tree List (with spacing as recommended on that list) shall be provided along Township Road, Redwood Street, and S.E. 4th Avenue. "Cleveland" Norway Maples shall be utilized along S. Redwood Street, with approximately 50 foot spacing. Maples shall not be used along S.E. 4th Avenue and Township Road.
36. Occupancy and use of the subject site shall not be permitted and shall not occur until the proposed traffic light at Highway 99-E and Pine Street is operational.

37. If the site should become unsightly due to public abandonment or drop-off of waste or recyclables, the management shall provide a 24-hour attendant. Tickets may be issued to the public, upon complaint. (The City Planner will decide when this becomes a problem requiring an attendant.)
38. Traffic routing for all trucks to and from the subject site shall be **ONLY** by way of Highway 99-E, S. Pine, S.E. 3rd, S. Redwood, and S.E. 4th Avenue. Enforcement of this routing shall be monitored by the Code Enforcement officer. Code Sections 16.88.090(B), 16.88.110, and 16.88.120, including the payment of all costs and attorney fees per Section 16.88.110(B), may be utilized for enforcement, but not limited to those remedies.
39. The required bioswales shall be regularly tested by a competent Bioswale maintenance expert, approved by the City Planner. A report and recommendations by such expert regarding the inspection shall be submitted to the City Planner. Any problems shall be immediately corrected. Costs shall be borne by the applicant.
40. If solid waste and recyclables are improperly processed and/or stored on the subject site, such events shall be considered violations of this Conditional Use Permit and shall be processed, as appropriate, under provisions of Code Section 16.88.090(B), Revocation for Noncompliance, and/or Section 16.88.110, Penalties and Civil Remedies, and 16.88.120, Enforcement Procedures, including the payment of all costs and attorney fees per 16.88.110(B), but not limited to those remedies. Furthermore, any violation of any condition or noncompliance with any condition shall be considered a violation of the Conditional Use permit and shall be processed under under provisions of Code Section 16.88.090(B), Revocation for Noncompliance, and/or Section 16.88.110, Penalties and Civil Remedies, and 16.88.120, Enforcement Procedures, including the payment of all costs and attorney fees per 16.88.110(B), but not limited to those remedies.

41. Tires, batteries, and yard debris are not permitted as solid waste or recyclables at the subject site.
42. *Combined with Condition #16.*
43. All landscaped areas shall be provided with a permanently installed underground irrigation system.
44. A detailed landscape construction plan shall be submitted with the building permit. The detailed landscape plan shall show: the number of plants, plant spacing/location of planting, the type of plants, the size of plants, the schedule for planting, and irrigation plans. The plan shall be reviewed and approved by the City Planner to ensure consistency with the preliminary landscape plan.
45. The landscaping shall be planted at such a density so as to provide a minimum of 95% coverage of the landscape areas with vegetation, within a 3-year time period. Bark mulch and similar material shall consist of not more than 5% of the total landscape area after the 3-year period. The plant spacing shall meet the ODOT plant spacing standards.
46. The design and supervision of construction of the paved surfaces used for parking or maneuvering of vehicles, drop boxes, and storage containers shall be performed by a licensed professional engineer and shall be appropriate for the activities planned for each area on the site, and maintained at these appropriate levels.
47. The proposed 24 parking spaces, as illustrated on Drawing A0.1, is approved. If an unanticipated expanded need develops, additional on-site striped parking spaces shall be provided without reduction of landscaped areas.
48. Prior to occupancy, the applicant shall establish with the City an agreed-upon detailed plan and program for regular on-going inspection, testing, and monitoring. This plan and program shall include, but is not limited to the following potential performance concerns: noise, odor, traffic, groundwater contamination, vermin and vectors, debris, hazards, maintenance, smoke,

unsightliness, and emergencies. The detailed plan and program shall specify responsibilities and scheduling for each concern.

49. The solid waste transported to and from the subject site shall not originate beyond the current franchise agreement service area, as approved by the City of Canby and/or Clackamas County.