



ORDINANCE NO. 34-2005

Series of 2005

AN ORDINANCE OF THE TOWN OF ERIE, COLORADO, APPROVING AN AMENDMENT TO THE CERTIFICATE OF DESIGNATION TO OPERATE A SOLID WASTE DISPOSAL SITE AND FACILITY; ADOPTING CERTAIN FINDINGS OF FACT AND CONCLUSIONS FAVORABLE TO THE AMENDMENT; AND, APPROVING A SOLID WASTE DISPOSAL SITE AND FACILITY IN ACCORDANCE WITH STATE STATUTES.

WHEREAS, on the 18th day of October, 2005 the Board of Trustees of the Town of Erie, Colorado ("Board"), considered the application of Republic Services of Colorado, LLC ("Republic"), 1830 Weld County Road 5, Erie, Colorado, for an Amendment to the Certificate of Designation to Operate a Solid Waste Disposal Site and Facility and approve a solid waste disposal site and facility on the following real property; to wit:

THE NORTHEAST QUARTER AND THE WEST HALF OF SECTION 28,
TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE 6TH P.M., TOWN OF ERIE,
COUNTY OF WELD, STATE OF COLORADO; and

WHEREAS, by Ordinance No. 504, the Board approved a "PD Planned Development" zoning for industrial uses as a sanitary landfill for the above described property; and

WHEREAS, as part of Ordinance No. 504, adopted on March 28, 1996, the Board accepted, ratified, and incorporated into that Ordinance the Certificate of Designation to Operate a Solid Waste Disposal Site and Facility ("Certificate of Designation") and Site Specific Development Standards ("Development Standards") initially issued by Weld County to Environmental Recycling and Disposal, Inc.; and

WHEREAS, as part of Ordinance No. 632, adopted on April 13, 1999, the Certificate of Designation was transferred to Republic; and

WHEREAS, Colorado Revised Statutes Section 30-20-104, as amended, requires the Board to take into account certain factors to approve an amendment to a Certificate of Designation and to approve a solid waste disposal site and facility and, having taken into account said factors, the application and related materials submitted by Republic and public comment, the Board finds, as of the date of adoption of this Ordinance, as follows:

1. The conditions of approval contained herein and the revised Development Standards approved hereunder have been adopted following consideration of the effect the facility will have on the surrounding property, taking into consideration the types of processing to be used, surrounding property uses and values, and wind and climactic conditions.



2. The location of the solid waste disposal site and facility will be convenient and accessible to potential users.
3. Republic has demonstrated in the submitted application materials an ability to comply with the health standards and operating procedures of the Solid Waste Disposal Site and Facilities Act, Title 30-20, Part 1, C.R.S.
4. The Colorado Department of Public Health and Environment and the Weld County Department of Public Health and Environment have reviewed the submitted application materials and have recommended approval of the Amendment to the Certificate of Designation to Operate a Solid Waste Disposal Site and Facility and approve a solid waste disposal site and facility on the real property described above.
5. The proposed solid waste disposal site and facility conforms to the goals and policies of the Town of Erie 1999 Comprehensive Plan, as amended in 2001, and the Town zoning in effect as of the date of adoption of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO, as follows:

Section 1. Findings of Fact. The application and supporting documents are in substantial compliance with Colorado Revised Statutes Section 30-20-104, as amended.

Section 2. Conclusions and Order Approving the Amendment to the Certificate of Designation to Operate a Solid Waste Disposal Site and Facility and approving a solid waste disposal site and facility. The Board hereby approves the Amendment to the Certificate of Designation to Operate a Solid Waste Disposal Site and Facility and approves a solid waste disposal site and facility (sometimes herein referred to as the "facility" or the "landfill") on the real property described above, subject to the following conditions:

1. EDOP PLAN: Republic shall revise the Engineering Design and Operations Plan ("EDOP") to reflect the Board's approval of Republic's application and the conditions contained herein.
2. In order to maintain compatibility with residential homes that have been built south of the landfill – the southern border of the landfill shall be limited to the original boundary of the landfill which was approved in 1990, and the landfill shall not be allowed to encroach any further south than the approved 1990 footprint. This does not apply to re-vegetation and final closure operations.
3. The landfill shall maintain the hours of operation as permitted and issued in the original Certificate of Designation, from 6:00 am to 8:00 pm, and process the solid waste until 10:00 pm, Monday through Saturday.



4. The landfill does not, and will not, accept regulated hazardous waste (40 CFR, Part 261) and regulated radioactive wastes. The landfill shall not knowingly accept hazardous waste material, friable asbestos containing materials or waste streams that have not been approved by this Ordinance or Ordinance 33-2005.
5. There shall be a minimum of a 500 foot setback from the landfill property line for any composting operation at the landfill.
6. All material recovery (recycling operations) shall be located 500 feet from residentially zoned property.
7. The landfill does not, and will not, accept regulated hazardous waste (40 CFR, Part 261) and regulated radioactive wastes. The landfill shall not knowingly accept any hazardous waste material or regulated radioactive waste at any time, nor apply for any future permits for such use to the State, Weld County, or the Town of Erie.
8. After the site entrance is relocated as described in Condition 12 below, auxiliary turning traffic lanes that are recommended in Republic's letter, dated August 3, 2004, shall be provided at the Sheridan Boulevard/CR 4 intersection if warranted. Republic shall also provide traffic improvements as necessary to access the landfill when Sheridan Boulevard is extended through Republic's property.
9. A new traffic signal is scheduled to be installed at the intersection of State Highway 7 / Sheridan Boulevard. Erie should work with Broomfield on a cost sharing and/or reimbursement agreement so that developments on the north and south side of SH 7 have equal participation. Vista Ridge may have responsibility for a portion of this signalization. Republic shall provide the remainder of Erie's share but not less than 15% as stated in the Transportation Impact Analysis Addendum dated as of January 26, 2005. If an alternative funding source is used to pay for the installation of the new traffic signal, the payment received from Republic as the Town of Erie's portion of the cost shall be retained by the Town.
10. Republic shall install at its own expense a planting of evergreen trees along a berm on the west side of Sheridan Boulevard from beginning at 5 lots south of Skyline Drive, north to the intersection of Weld County Road 4. The quantity and size of the trees shall be agreed upon with the Town. The purpose of the evergreen barrier is to mitigate the effects of truck traffic noise and air pollution to residents along this portion of Sheridan Boulevard. Republic shall also install an irrigation system for the evergreen trees installed by Republic and pay associated water tap fees, unless a water source is already available. Republic shall pay the reasonable costs, if any, associated with irrigating the evergreen trees installed by Republic until the evergreen trees are established.



11. Vista Ridge Academy School Property – Republic has arranged and paid for the installation of a fence and landscaping along the Academy's property boundary that runs parallel to Sheridan Boulevard to limit children from accessing Sheridan Boulevard. School and speed zones are regulated by the Uniform Traffic Code. Republic shall furnish the cost of flashing lights to establish a school zone along Sheridan Boulevard for the benefit of the Academy when warranted.
12. Republic shall relocate the existing landfill entrance within 3 years from the effective date of this Ordinance to the southeast corner of the site, entering at the intersection of Sheridan Boulevard and Weld County Rd. 4.
13. A detailed phasing plan including timetable, plant material specification, detailed planting plan with plant material schedule and a site plan indicating phasing areas (the "Landscape Plan") shall be prepared by Republic and submitted to the Town for its review and approval within 60 days of the effective date of this Ordinance. Republic shall be responsible for ongoing maintenance and/or replacement of all plant material for a period of 5 years following facility closure. The Landscape Plan shall indicate areas to be landscaped upon the earliest seasonal opportunity following recordation of the Ordinances. The Town shall inspect the landscaping on an annual basis.
14. Republic shall record a conservation easement, which shall include public trail easements for passive recreational and educational purposes. The conservation easement shall prohibit any and all future commercial or industrial development on the landfill property with the exception of any activities or equipment necessary to continue post-closure requirements, to implement the Landscape Plan, or associated with the collection, storage, and conversion of landfill gas to energy. The Landscape Plan shall indicate proposed landscape phasing and trail easements, and shall be submitted to the Town within 60 days of the effective date of this Ordinance.
15. Airport: In the event marking and/or lighting are installed on a voluntary basis, such marking and lighting shall be installed and maintained in accordance with Federal Aviation Administration ("FAA") Advisory Circular 70 / 7460-1K.
16. Airport: Any future construction or alteration, including increase in height, power, or the addition of other transmitters, requires separate notice to the FAA.
17. Airport: Temporary construction equipment such as cranes, derricks, etc. which may be used during actual construction on the landfill shall not exceed the over all heights as approved by the FAA. Equipment which has a height greater than the studied structure requires separate notice to the FAA.
18. Airport: The landfill shall comply with all applicable laws, ordinances, and regulations of any Federal, State, or local government body relating to air safety and travel.



19. Airport: The landfill shall comply with all FAA height restrictions and federal and state regulations regarding bird control, at landfills in proximity of an airport. A Bird Mitigation Control Plan has been approved by the State and included as a part of this condition.
20. Republic shall propose for Town approval, and implement following such approval, a program and facilities for the reduction of solid waste through source reduction, recycling, and composting by developing and incorporating additional recycling programs, or other programs as may be appropriate, which would help promote the conservation of natural resources, maintain a healthy living environment by reducing consumption and waste, as well as reducing the demand on existing solid waste landfills by implementing source reduction and recycling measures per State and Federal regulations and widely accepted standards of practice in this industry. The recycling program shall be subject to Town review.
21. Both the Town and Republic shall execute the Development Agreement negotiated between the Town of Erie and Republic Services of Colorado I, LLC prior to the effective date of this Ordinance. In the event the Development Agreement is not executed by both parties prior to the effective date of this Ordinance, then, in that event, this Ordinance shall not become effective, and shall be null and void.
22. Both the Town and Republic shall execute the Front Range Landfill Surcharge Fee Prepayment Agreement negotiated between the Town of Erie and Republic Services of Colorado I, LLC prior to the effective date of this Ordinance. In the event the Front Range Landfill Surcharge Fee Prepayment Agreement is not executed by both parties prior to the effective date of this Ordinance, then, in that event, this Ordinance shall not become effective, and shall be null and void.
23. The facility shall not knowingly accept any liquid waste for solidification or disposal.
24. The facility shall be subject to and governed by State of Colorado statutory noise limitations applicable to residential zones as set forth in Colorado Revised Statutes Section 25-12-101 *et seq.*
25. The facility shall comply with the Town of Erie Municipal Code as now exists or may be amended in the future, regarding lighting.
26. The facility shall not interfere with the operations of the Town's Systems Control and Data Acquisition (SCADA) System for the water tank and pump station. In the event that the facility interferes with the SCADA system, Republic must mitigate such interference and must provide a means to relay the SCADA system information, without interference.



- 27. The facility shall be subject to the Development Standards attached hereto, marked Exhibit "A," and incorporated herein by this reference.
- 28. Pursuant to the condition of approval from the Colorado Department of Public Health and Environment, the facility shall conduct shear strength testing of the top soil (root zone) layer and perform a reevaluation of the cover slope stability presented in Appendix E-4 of the EDOP based on the top soil (root zone) shear strength test data. The results of the final cover stability reevaluation and corresponding final cover design revisions, if applicable, shall be submitted to the Colorado Department of Public Health and Environment and the Town of Erie representative for review and approval before construction of any portion of the final cover is implemented and the Front Range Landfill.

Section 3. Severance Clause. If an article, section, paragraph, sentence, clause or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts may be declared invalid or unconstitutional.

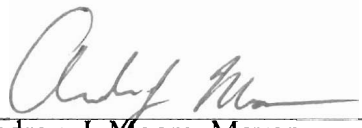
Section 4. Repeal. All other ordinances, or parts of any ordinances or other Code provisions in conflict herewith are hereby repealed.

Section 5. Effective Date. This Ordinance shall take effect Thirty (30) days after publication following final passage.

INTRODUCED, PASSED, ADOPTED AND ORDERED PUBLISHED IN FULL BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE THIS 18TH DAY OF OCTOBER, 2005.

PUBLISHED IN FULL ON THE 18th DAY OF November, 2006.

TOWN OF ERIE, a Colorado municipal corporation

By: 
Andrew J. Moore, Mayor

ATTEST:

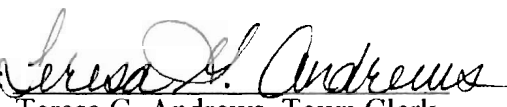
By: 
Teresa G. Andrews, Town Clerk





EXHIBIT A

DEVELOPMENT STANDARDS

Development Standard 1

These Site Specific Development Standards apply to the Republic Services of Colorado I, LLC ("Republic") solid waste disposal site and facility located in Erie, Colorado and referred to as the Front Range Landfill. The Front Range Landfill may accept solid waste from 6:00 a.m. to 8:00 p.m. and process such waste until 10:00 p.m., Monday through Saturday. The Front Range Landfill shall be operated in accordance with the application materials on file with the Town of Erie and subject to the Development Standards stated herein. Republic shall operate the facility in compliance with the standards established under the Colorado Solid Waste Disposal Sites and Facilities Act and applicable Federal laws and their accompanying regulations as may be amended from time to time.

Development Standard 2

Republic has established a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended.

Development Standard 3

The Front Range Landfill shall comply with the landscaping plan approved by the Town of Erie. The landscape plan shall include a detailed phasing plan including a timetable and plant material specifications, a detailed planting plan with a plant material schedule and a site plan indicating the proposed landscape phasing areas. Republic shall be responsible for on-going maintenance and/or replacement of all plant material from date of initial planting through 5 years following facility closure. The landscaping plan shall also indicate areas to be landscaped upon the earliest seasonal opportunity. Town shall inspect the landscaping on an annual basis.

Development Standard 4

Only non-hazardous and non-radioactive household, industrial and commercial solid and semi-solid and other wastes as specified in the approved Engineering Design and Operations Plan shall be accepted. No domestic septic sludge shall be accepted for disposal.

Development Standard 5

A manager or site foreman knowledgeable in operating a solid waste disposal site and facility shall be on the site during operations. An up to date list of the manager or site foreman shall be provided to the Town of Erie.

Development Standard 6

The maximum size of the working face of the disposal site shall be the smallest area consistent with handling traffic to be unloaded.



Development Standard 7

All wastes shall be inspected and accepted for approval in accordance with the approved Engineering Design and Operations Plan, the Hazardous Waste Exclusion Program and Waste Acceptance and Review Program.

Development Standard 8

There shall be a single primary entrance to the facility. The primary commercial haul route shall be from State Highway 7 to Sheridan Parkway. Weld County Road 7 shall not be used as a primary commercial haul route.

Development Standard 9

The Front Range Landfill shall be designed and constructed in compliance with all applicable federal, state and local laws, regulations, rules, standards and ordinances and the approved Engineering Design and Operations Plan, as may be amended. Construction of the landfill liner system shall be certified by a Colorado Registered Professional Engineer. The engineer shall prepare a map showing the location of the liner system within the cell under construction. The engineer shall prepare a construction report certifying that the liner system within the cell under construction complies with the approved design and construction specifications. The report shall also identify any fault location and evaluate conditions discovered during excavation. Additional monitoring and permeability evaluations may be required of fault locations. Each liner certification report and map shall be reviewed and approved by the Colorado Department of Public Health and the Environmental and the Town of Erie before the cell can be used for landfilling.

Development Standard 10

The facility shall be operated in a manner which protects against surface and ground water contamination. Surface, groundwater and leachate monitoring shall be conducted in accordance with the approved Monitoring and Reporting Program for the Front Range Landfill.

Development Standard 11

The Monitoring and Reporting Program shall conform with all applicable federal, state and local laws, regulations, rules, standards and ordinances, as may be amended from time to time. Any requested modifications to the Monitoring and Reporting Program shall be approved by the Colorado Department of Public Health and Environment and the Town of Erie.

Development Standard 12

The facility shall be operated in a manner to control blowing debris at all times. Operation during windy periods shall be conducted in a manner that controls blowing debris. The working face will be closed to disposal when high wind warning conditions exist as defined in Section 1 of 6 CCR 1007-2 of the Regulations Pertaining To Solid Waste Disposal Sites and Facilities.



The following operation measures shall be employed to control blowing or illegally dumped debris:

- a. Any debris found outside the working face shall be picked up within 24 hours.
- b. The following shall be patrolled daily by facility staff to pick up all debris and return it to the recycling drop-off area or working face:
 - i. the fence along the perimeter of the facility boundary;
 - ii. Weld County Road 5 between Weld County Roads 4 and 6;
 - iii. Weld County Road 6 between County Roads 5 and 7;
 - iv. Weld County Road 7 for a distance of one-mile south of County Road 6;
 - v. Sheridan Boulevard extension between Weld County Road 4 and State Highway 7, and from Weld County Road 4 to Weld County Road 7 when it opens at some future date;
 - vi. Weld County Road 4 between the Sheridan Boulevard extension and Weld County Road 5; and
 - vii. State Highway 7 between Sheridan Parkway and Weld County Road 7.
- c. The manager of the facility shall respond to requests for picking up debris within 24 hours of notification by Town of Erie personnel.
- d. A minimum of 6-inches of soil cover or other approved daily cover shall be applied at the end of each operating day, or more frequently as needed to control blowing litter.
- e. During windy periods, the size of the working face shall be reduced to a size that controls blowing litter.

Development Standard 13

The facility shall be operated in a manner which controls odor. Odors detected off-site shall not equal or exceed the regulatory thresholds as established under Regulation 2 of the Colorado Air Pollution Control Regulations, as may be amended.

Development Standard 14

The Front Range Landfill shall be operated in accordance with its Title V Operating Permit and Construction Permit issued by the Colorado Department of Public Health and



Environment, Air Pollution Control Division, which may be amended from time to time, to control fugitive dust.

Development Standard 15

The Front Range Landfill shall notify the Colorado Department of Public Health and Environment and the Town of Erie within 24 hours and implement the approved contingency plan, if required, for perched water conditions encountered during excavation activities.

Development Standard 16

The facility shall obtain any emissions permit required by the Colorado Department of Public Health and Environment, Air Pollution Control Division.

Development Standard 17

Facility operations shall not exceed the maximum permissible noise levels for a residential zone established under C.R.S. § 25-12-103, as may be amended.

Development Standard 18

A bathroom with adequate toilet facilities, served by an individual sewage disposal system, is required for the facility. The bathroom shall be installed in accordance with the Weld County Individual Sewage Disposal and Building Code Regulation. Construction of any new facilities or buildings on the property shall be in accordance with all applicable Town of Erie building codes and zoning ordinances, the Mountain View Fire Protection District codes and all other applicable state, county or local building codes and regulations.

Development Standard 19

Republic shall comply with the off-site road improvements agreement approved by the Board of County Commissioners for Weld County and ratified by the Town of Erie.

Development Standard 20

The facility shall maintain an adequate water supply during the operating life of the facility. The source of water for construction, operation, drinking, and sanitary facilities shall be approved by the Colorado Division of Water Resources.

Development Standard 21

The facility shall be operated in compliance with the requirements of the Federal Aviation Administration.



Development Standard 22

The facility shall be operated in compliance with the requirements of the Mountain View Fire Protection District.

Development Standard 23

All stockpile overburden, soil, and associated materials shall be managed to prevent nuisance conditions in accordance with Section 2 of 6 CCR 1007-2 of the Regulations Pertaining To Solid Waste Disposal Sites and Facilities. The facility shall incorporate into the approved Engineering Design and Operations Plan recommendations from the National Resource Conservation Service regarding seeding of stockpiles.

Development Standard 24

Operation Inspection Reports for the Front Range Landfill shall be made on an annual basis during the operating life of the facility. The inspection report shall be prepared under the supervision of a Colorado Registered Professional Engineer experienced with landfill operations. The Operation Inspection Report shall provide certification that the Front Range Landfill is being operated in accordance with the Certificate of Designation, the Site Specific Development Standards and the approved Engineering Design and Operations Plan. A copy of the Operation Inspection Report bearing the seal of the supervising Colorado Registered Professional Engineer shall be submitted to the Colorado Department of Public Health and Environment and the Town of Erie.

Development Standard 25

All buildings associated with landfill operations shall be painted and maintained in an off-white or earth-tone color.

Development Standard 26

Republic shall comply with Weld County Ordinances 164 and 164-A or any ordinance subsequently enacted by the Town of Erie in accordance with applicable laws which imposes surcharge fees at the Front Range Landfill.

Development Standard 27

All recyclable materials shall be stored in an approved area and screened from off-site views.



Development Standard 28

The facility shall be responsible for maintaining existing screening and implementing the approved landscape plan following closure activities.

Development Standard 29

"Two metal signs shall be posted at the customer entrance. The first sign shall state: "ALL UNCOVERED LOADS SHALL BE CHARGED TWICE THE NORMAL FEE." The second sign shall state: "ABSOLUTELY NO HAZARDOUS MATERIAL, TOXIC SUBSTANCES, OR DOMESTIC SEPTIC SLUDGE ACCEPTED."

Development Standard 30

The facility shall maintain the following records available for review by the Colorado Department of Health and Environment and the Town of Erie at all reasonable times:

- a. Operations Inspection Reports.
- b. Volume and types of incoming wastes.
- c. Volume and types of incoming waste determined unacceptable for recycling.
- d. Results of wind, methane, and water quality monitoring.
- e. Cell Construction Reports.
- f. Any special waste accepted at the facility.

Development Standard 31

The Engineering Design and Operations Plan and monitoring programs are subject to revisions pending the receipt of pertinent data and/or changing site conditions. All requests for revisions shall be submitted in writing to the Town of Erie, Community Development Department for review in accordance with the Town of Erie Zoning Code Ordinance 602, as may be amended.

Development Standard 32

The facility shall be operated and all construction on the property shall be in accordance with the Town of Erie's applicable building and zoning codes, as may be amended.



Development Standard 33

The Front Range Landfill may be inspected by authorized representatives of the Colorado Department of Public Health and Environment, Weld County Health Department and the Town of Erie to evaluate facility compliance with the Certificate of Designation and its accompanying documentation and with the Regulations Pertaining To Solid Waste Disposal Sites and Facilities, 6 CCR 1007-2, and other applicable regulations. Authorized personnel from these agencies shall be granted access onto the facility property at all times.

Development Standard 34

The landfill permit area and waste disposal footprint shall be defined by and limited to the area indicated on the plans contained in the approved Engineering Design and Operations Plan and the Certificate of Designation. Any revisions to the Engineering Design and Operations Plan, Certificate of Designation or the Site Specific Development Standards shall be submitted in writing to the Town of Erie or the Colorado Department of Public Health and Environment, as appropriate, and implemented upon approval.

Development Standard 35

The property owner or operator shall be responsible for complying with all of the foregoing Development Standards. Noncompliance with any of the foregoing Development Standards may be reason for revocation of the Certificate of Designation issued by the Board of Trustees, for the Town of Erie, after a public hearing.