


CITY COMMISSION POLICY

 GRAND RAPIDS MICHIGAN	NUMBER: 900-43	HISTORY	
	DATE:	FILE #	DATE
	FILE NUMBER:	70880	February 2, 2003
	DEPARTMENT: Economic Dev.	85939	July 26, 2016

SUBJECT: REVIEW PROCEDURES FOR NOTICES OF INTENT AND APPLICATIONS TO ESTABLISH GROUNDWATER RESTRICTED ZONES

PURPOSE: To establish Staff review and implementation procedures for Notices of Intent and Applications filed with the City for the establishment of Groundwater Restricted Zones pursuant to Article 3 of Chapter 72 of Title VI of the City Code.

BACKGROUND:

Article 3 of Chapter 72 of Title VI of the City Code provides a procedure for the establishment of Restricted Zones within which the installation or use of groundwater wells is prohibited. Article 3 provides that a person seeking to establish such a Restricted Zone must first file a Notice of Intent with the City. The City will review the Notice of Intent and provide a preliminary and non-binding response as to its willingness to adopt the proposed Restricted Zone. If the City indicates a willingness to adopt the proposed Restricted Zone, the person filing the Notice of Intent may file a detailed Application after obtaining the MDEQ’s written approval of the proposed Restricted Zone.

POLICY:

- A. RESPONSIBILITY FOR IMPLEMENTING THIS POLICY
 - 1. The Economic Development Office shall implement this Policy.
 - 2. The Economic Development Office Staff (“Staff”) may consult with the City Attorney’s office or special counsel for environmental matters, as necessary, when questions/issues arise concerning the implementation of this Policy.

CITY COMMISSION POLICY

NUMBER: 900-43

Page 2 of 6

B. PROCEDURE FOR REVIEWING AND PROCESSING A NOTICE OF INTENT

1. Upon the City's receipt of a Notice of Intent, Staff shall confirm that the Notice includes upfront payment to the City of fifty percent (50%) the nonrefundable fee.
2. Staff shall review the Notice of Intent to confirm that it is complete and includes the following:
 - a. A description of the location of the proposed Restricted Zone;
 - b. A description of the nature and scope of the proposed restrictions on the use of groundwater;
 - c. A preliminary map of the Restricted Zone;
 - d. A proposed time schedule for the adoption of the Restricted Zone; and
 - e. Background information concerning the source/site of the contamination, the Applicant's connection to the source/site and involvement with the contamination, the status of any plans to remediate the contamination, close existing wells, or mitigate the impact of the proposed Restricted Zone (e.g., provide substitute water service for persons using wells).
3. If the Notice is incomplete, Staff shall provide written notice to the Applicant which identifies the specific deficiencies in the Notice of Intent.
4. If the Notice is complete and the fee has been paid, Staff shall consult with the City Manager or his/her designee to determine the City's response to the Notice. If the response is positive, the City's written correspondence to the Applicant should: (1) clearly state that the City's response is preliminary and non-binding; and (2) state that the Applicant may file an Application for establishment of a Restricted Zone after obtaining the MDEQ's written approval of the proposed Restricted Zone.

C. PROCEDURE FOR REVIEWING AND PROCESSING AN APPLICATION

1. Upon the City's receipt of an Application, Staff shall confirm that the Application includes the remaining fifty percent (50%) nonrefundable payment due to the City as an advance payment of the City's costs to process the Application.

CITY COMMISSION POLICY

NUMBER: 900-43

Page 3 of 6

2. Staff shall review the Application to confirm that it is complete and includes the following:
 - a. Name, address and telephone number of the Applicant and each person having an interest as owner, tenant, easement holder or mortgagee in the property which is the source or site of the contamination;
 - b. Street address and legal description of the property which is the source or site of the contamination, and nature of the Applicant's relationship to the property and any involvement concerning the contamination;
 - c. The nature and extent of the contamination, in plain English and technical terms, and a map or survey of its current location; a statement of the likely impact on the groundwater and the risks to the use of the groundwater; identification of the likely path of migration if not remediated; and a detailed statement of any plan to remediate or contain the contamination;
 - d. A detailed map and legal description of the proposed Restricted Zone;
 - e. The street address, permanent parcel number, and legal description of all affected premises;
 - f. The name, mailing and street addresses, and telephone numbers of all persons with an interest as owner, tenant, easement holder or mortgagee of all affected premises within the Restricted Zone;
 - g. The location, status and nature of use of all existing groundwater wells within the proposed Restricted Zone;
 - h. A detailed description of the nature and scope of the proposed regulation or prohibition of the use of existing and future wells within the proposed Restricted Zone, including a description of permissible uses, if any.
 - i. A description and time schedule for the actions the Applicant will take to close any existing wells within the Restricted Zone and any actions to implement any remediation plan or mitigate the adverse impact of the regulations (e.g., provide substitute water service).

CITY COMMISSION POLICY

NUMBER: 900-43

Page 4 of 6

- j. A complete copy of the proposed groundwater use regulations and all the supporting documentation which was submitted to the MDEQ.
 - k. A copy of MDEQ's written approval of the proposed Restricted Zone and accompanying groundwater use regulations.
 - l. Copies of the notice provided to the Kent County Health Department concerning the proposed imposition of the Restricted Zone and the Health Department's written acknowledgement that it will not issue permits within the Restricted Zone after it is established by action of the City Commission.
 - m. The Applicant's agreement to pay the City's costs to process the Application.
3. If the Application is incomplete, Staff shall provide written notice to the Applicant which identifies the specific deficiencies in the Application.
4. If the Application is complete and the advance cost payment has been received, Staff shall schedule the Application on the Commission's Agenda for a public hearing and do the following:
 - a. At least 10 days before the hearing, but not more than 20 days before, send written Notice by first class mail to: (i) all persons identified in the Application as having a property interest within the proposed Restricted Zone, providing notice of the public hearing and a brief statement concerning the Application and its impact on the recipients of the Notice; and (ii) the MDEQ representative who signed the MDEQ approval letter included in the Application.
 - b. Within 30 days after the public hearing, schedule the Application for action by the Commission, unless the Commission determines that it needs more information and time before it acts.
5. Staff shall place the advance payment received from the Applicant into an escrow account. Staff shall use the funds in the account to pay the City's actual costs to process the Application as such costs are incurred. These costs shall include reimbursement for Staff time, fees for consultants or attorneys, costs for mailing or publishing notices, and per diems or other costs paid to public officials to attend any special meetings or hearings. If the City's costs exceed the advance payment,

CITY COMMISSION POLICY

NUMBER: 900-43

Page 5 of 6

- Staff shall submit an invoice to the Applicant for the additional costs. If the escrow account is depleted and staff anticipates that the City will incur a significant amount of additional costs, staff shall require the Applicant to advance additional funds to the escrow account to cover the estimated costs. If the City's costs are less than the advance payment or any higher amount placed into escrow, Staff shall remit the remaining balance (without interest) to the Applicant.
6. After the Commission acts upon an Application and establishes the requested Restricted Zone and accompanying regulations, Staff shall confirm that the Applicant performs its obligations to:
 - a. record a Notice of the City Commission action and the Restricted Zone with the Kent County Register of Deeds;
 - b. provide the City Clerk, Kent County Health Department, and the MDEQ with copies of the recorded Notice; and
 - c. complete any actions required by the Application (as it may be modified by the Commission's approval) to close and abandon any existing wells or to take any actions to mitigate any adverse impacts of the Restricted Zone on owners or occupants of the affected premises.
 7. If the Applicant fails to meet any of its obligations in paragraph 6 above, Staff shall notify the City Attorney's office and request that the City Attorney's office issue a letter to the Applicant providing notice of the non-compliance and specifying a time period for curing the non-compliance. If the Applicant fails to cure the non-compliance, the City Attorney's office shall consult with the City Manager's office to determine the appropriate actions to address the non-compliance pursuant to Section 6.35 of the Ordinance.
 8. If the Applicant meets its obligations identified in paragraph 6 above, Staff shall notify the Neighborhood Improvement Department concerning the: (a) establishment of the Restricted Zone; (b) the parcels of property subject to the Restricted Zone, and (c) that the Department shall not issue a Building Permit for any premises found in violation of the regulations related to the Restricted Zone.
 9. Staff shall review the particular circumstances concerning the Restricted Zone and groundwater use regulations and provide notice to other City Departments as appropriate.

CITY COMMISSION POLICY

NUMBER: 900-43

Page 6 of 6

D. PROCEDURE FOR REVIEWING AND PROCESSING A REQUEST TO AMEND OR REPEAL A RESTRICTED ZONE

1. Upon the City's receipt of a written request that the City amend or repeal an existing Restricted Zone or its regulations, Staff shall treat it administratively as an Application and shall:
 - a. Review the request to determine whether it includes: (i) a clear statement of the requested action; (ii) the justification for the requested action; (iii) the written approval of the MDEQ for that action; and (iv) the payment to the City of an advance payment for its costs pursuant to the same requirements for an Application.
 - b. If the requirements of (a) are satisfied, consult with the City Manager or his/her designee to determine whether to present the request for the Commission's consideration.
 - c. If the request is presented for the City Commission's consideration, schedule the matter on the City Commission's Agenda for a public hearing and provide written notice to the Applicant, the affected property owners, the MDEQ representative who approved the original Application for the Restricted Zone, and to the Director of MDEQ.
 - d. After the public hearing, schedule the matter for such further action as directed by the Commission.