



Legislation Text

File #: 14-1557, **Version:** 1

Approval of a Restrictive Deed Covenant on the City of Ann Arbor Landfill Property

The City of Ann Arbor maintains a closed landfill located at the southwest corner of Platt and Ellsworth Roads. A release from the Ann Arbor landfill (AALF) of the volatile organic compound vinyl chloride was discovered in 1992 in Southeast Area Park. The City of Ann Arbor has been actively recovering the affected groundwater and has been completing quarterly groundwater sampling to monitor the plume in accordance with an agreement with the Michigan Department of Environmental Quality (MDEQ).

The City of Ann Arbor is finalizing an Offsite Remedial Action Plan (Offsite RAP) with MDEQ for final remediation requirements. As part of this process, MDEQ requires that the AALF parcel have a groundwater use restriction attached to the property.

The purpose of this Offsite RAP is to: 1) describe how the practical and technically feasible remedies presented in the Onsite Remedial Action Plan (approved by the State in March, 1994) for the AALF and subsequent documents address offsite groundwater impacts; 2) present a schedule to implement and maintain the remedies; and 3) explain how the remedies address relevant offsite exposure pathways. This Offsite RAP follows the MDEQ Remediation and Redevelopment Division's *Suggested Format and Content for Remedial Action Plans and Plans for Interim Response Activities Designed to Meet Criteria* (March, 2004). The Offsite RAP was prepared pursuant to the requirements of Section 20120a(1) of Michigan's Natural Resources and Environmental Protection Act (NREPA), 1994 Public Act (PA) 451, as amended. Potential exposure pathways are evaluated and compared to applicable criteria outlined in the *MDEQ Remediation Division, Operational Memorandum No. 1: Part 201 Cleanup Criteria and Part 213 Risk-Based Screening Levels*, dated March 25, 2011 (Part 201 Criteria) for residential groundwater impacts. This Offsite RAP demonstrates how Part 201 and Part 115, Rule 444 of the MDEQ's landfill rules are satisfied using multiple components including: 1) maintenance of the existing slurry wall around the majority of the exterior portions of Phases I and II; 2) maintenance of an active groundwater recovery system near the northern AALF property boundary; 3) continuation of groundwater monitoring; 4) recording of deed restrictions on affected offsite properties; 5) recording of a deed restriction on the landfill for Phase I; 6) maintenance of the landfill gas collection system; and, 7) ongoing landfill cap inspections and maintenance.

As part of the Offsite RAP, the City is required to place a groundwater use restriction on two City properties (the AALF property and Southeast Area Park), and approve an environmental license agreement with the Michigan Department of Transportation (MDOT) for a section of MDOT right-of-way north of Southeast Area Park.

A groundwater use restriction implemented by deed restriction is a common precautionary approach by MDEQ to insure that there is no human contact with potentially contaminated groundwater. As a practical matter, this restriction does not impose a substantive change on the use of the property because Ann Arbor City Code prohibits the installation and use of wells for drinking water purposes

and requires parcels within the city to connect to the City's water supply.

Attached for your approval is the restrictive deed covenant for the AALF. Upon approval, the document will be recorded with the Washtenaw County Register of Deeds.

Budget/Fiscal Impact

The work to implement this resolution will not have any budget/fiscal impacts.

Sustainability Framework

In addition to meeting the MDEQ requirements for the RAP, the work to implement this resolution also moves the city towards implementing recommendation furthers the Clean Air and Water goal of the City's Sustainability Framework.

Prepared by Matthew Naud, Environmental Coordinator

Reviewed by Craig A. Hupy, P.E., Public Services Area Administrator

Approved by Steven D. Powers, City Administrator

Whereas, The City of Ann Arbor maintains a closed landfill located at the southwest corner of Platt and Ellsworth Roads;

Whereas, A release from the landfill of the volatile organic compound vinyl chloride was discovered in 1992 in Southeast Area Park;

Whereas, The City of Ann Arbor has been actively recovering the affected groundwater and has been completing quarterly groundwater sampling to monitor the plume in accordance with an agreement with the Michigan Department of Environmental Quality (MDEQ);

Whereas, The City of Ann Arbor is finalizing an Offsite Remedial Action Plan (Offsite RAP) with MDEQ for final remediation requirements;

Whereas, MDEQ requires that certain parcels have a groundwater use restriction attached to the property;

Whereas, A groundwater use restriction implemented by deed restriction is a common precautionary approach by MDEQ to insure that there is no human contact with potentially contaminated groundwater; and

Whereas, The restriction implemented by the proposed restrictive deed covenant for the AALF does not impose a substantive change on the use of the property because Ann Arbor City Code prohibits the installation and use of wells for drinking water purposes and requires parcels within the city to connect to the City's water supply;

RESOLVED, That the Ann Arbor City Council approves the attached restrictive deed covenant to place restrictions on use of the City of Ann Arbor landfill property;

RESOLVED, That the Mayor and City Clerk are authorized and directed to execute the restrictive deed covenant for the City of Ann Arbor landfill property after approval as to substance by the City Administrator and approval as to form by the City Attorney; and

RESOLVED, That the City Administrator and City Attorney be authorized and directed to take the necessary administrative actions to implement this resolution, including the recording of the approved restrictive deed covenant with the Washtenaw County Register of Deeds.