

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

 X Resolution or Ordinance (Blue) _____ *Waiver of First Requested*
_____ Recommendations of Boards, Commissions & Committees (Green)
_____ Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES
FROM: Scott Niehaus, Village Manager
DATE: April 8, 2015 (BoT) DATE: April 16, 2015
TITLE: Groundwater Use Prohibition Ordinance – 435 W. Roosevelt Road
SUBMITTED BY: David P. Gorman, Asst. Director of Public Works *DRH*

BACKGROUND/POLICY IMPLICATIONS:

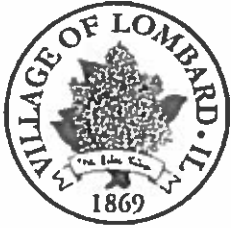
The Department of Public Works transmits for your consideration an ordinance to restrict groundwater use related to soil contamination at 435 W. Roosevelt Road.

FISCAL IMPACT/FUNDING SOURCE

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X _____ Date _____
Village Manager X _____ Date _____

NOTE: Materials must be submitted to / approved by the Village Manager's Office by 12:00 pm, Wednesday, prior to the Agenda Distribution.



April 3, 2015

TO: Scott Niehaus, Village Manager

THROUGH: Carl Goldsmith, Director of Public Works *CG*

FROM: David Gorman, Asst. Director of Public Works *DG*

SUBJECT: Groundwater Use Prohibition Ordinance, Code Amendment and Indemnity Agreement Related to Soil Contamination at 435 W. Roosevelt Road

BACKGROUND

The Village received a request from Buchanan Energy, LLC to adopt an ordinance that would ban the use of groundwater wells related to soil contamination at 435 W. Roosevelt Road. Companion actions are an Amendment to Village Code §51.02 and a Limited Environmental Liability Indemnity Agreement. This property is the former location of a Mobil service station and there had been a release of environmental petroleum as documented by the Illinois Emergency Management Agency (IEMA) in Incident Number 20081062. The petitioner has requested the Agreement as a means to protect groundwater impacted by the release. The Agreement also provides the Village the means to be reimbursed for any future costs associated with handling and disposing contaminated soils in the Finley Road right-of-way.

Should the Village Board approve of the Ordinance, the petitioner would then be able to seek a No Further Remediation (NFR) letter from the IEPA. The issuance of a NFR letter by the IEPA is evidence that the petitioner has successfully demonstrated, through proper investigation and, where warranted, remedial action, that all environmental conditions at their site does not present a significant risk to human health or the environment. The NFR letter also signifies a release of the property owner from further responsibilities under the Illinois Environmental Protection Act and is generally considered that the site does not constitute a significant risk of harm to human health and the environment, so long as the site is utilized in accordance with the terms of the NFR letter.

The Ordinance, Code Amendment and Agreement have each been reviewed and approved by the Village Attorney. It should be noted that the Ordinance and Amendment would also apply to the property at 345 W. Roosevelt Road (K-Mart).

ACTION REQUESTED

Staff recommends that the Village Board of Trustees approve the three items related to the petitioner's request: (1) the Groundwater Use Prohibition Ordinance, (2) the Groundwater Use Prohibition Code Amendment, and (3) the Limited Environmental Indemnity Agreement.

ORDINANCE NO. _____

AN ORDINANCE PROHIBITING THE USE OF GROUNDWATER AS A POTABLE WATER SUPPLY BY THE INSTALLATION OR USE OF POTABLE WATER SUPPLY WELLS OR BY ANY OTHER METHOD

WHEREAS, a certain property located within the Village of Lombard, Illinois, located at 435 W. Roosevelt Road, has been used over a period of time as a gasoline service station; and

WHEREAS, because of said use, concentrations of certain chemical constituents in the groundwater beneath the Village of Lombard may exceed Class I groundwater quality standards for potable resource groundwater as set forth in 35 Illinois Administrative Code 620 or Tier 1 remediation objectives as set forth in 35 Illinois Administrative Code 742; and

WHEREAS, the Village of Lombard desires to limit potential threats to human health from groundwater contamination while facilitating the redevelopment and productive use of properties that are the source of said chemical constituents;

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Lombard, Du Page County, Illinois, as follows:

SECTION 1: Use of groundwater as a potable water supply prohibited.

The use of, or attempted use of, groundwater, as a potable water supply, from within the property boundaries of the property located at 435 W. Roosevelt Road, Lombard, Illinois, and the properties identified in the attached map (Exhibit A) by the installation or drilling of wells or by any other method is hereby prohibited. This prohibition applies to governmental bodies, including the Village of Lombard.

SECTION 2: Penalties.

Any person violating the provisions of this ordinance shall be subject to a fine of up to \$750.00 for each violation.

SECTION 3: Definitions.

"Person" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity, or their legal representatives, agents or assigns.

"Potable water" is any water used for human or domestic consumption, including, but not limited to, water used for drinking, bathing, swimming, washing dishes, or preparing foods.

SECTION 4: Repealer.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed insofar as they are in conflict with this ordinance.

SECTION 5: Severability.

If any provision of this ordinance or its application to any person or under any circumstances is adjudged invalid, such adjudication shall not affect the validity of the ordinance as a whole or of any portion not adjudged invalid.

SECTION 6: Effective date.

This ordinance shall be in full force and effect from and after its passage, approval and publication as required by law.

SECTION 7: That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form, as provided by law.

Passed on first reading this _____ day of _____, 2015.

First reading waived by action of the Board of Trustees this ____ day of _____, 2015.

Passed on second reading this _____ day of _____, 2015, pursuant to a roll call vote as follows:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED by me this _____ day of _____, 2015.

Keith Giagnorio, Village President

ATTEST:

Sharon Kuderna, Village Clerk

Published by me in pamphlet form this _____ day of _____,
2015.

Sharon Kuderna, Village Clerk

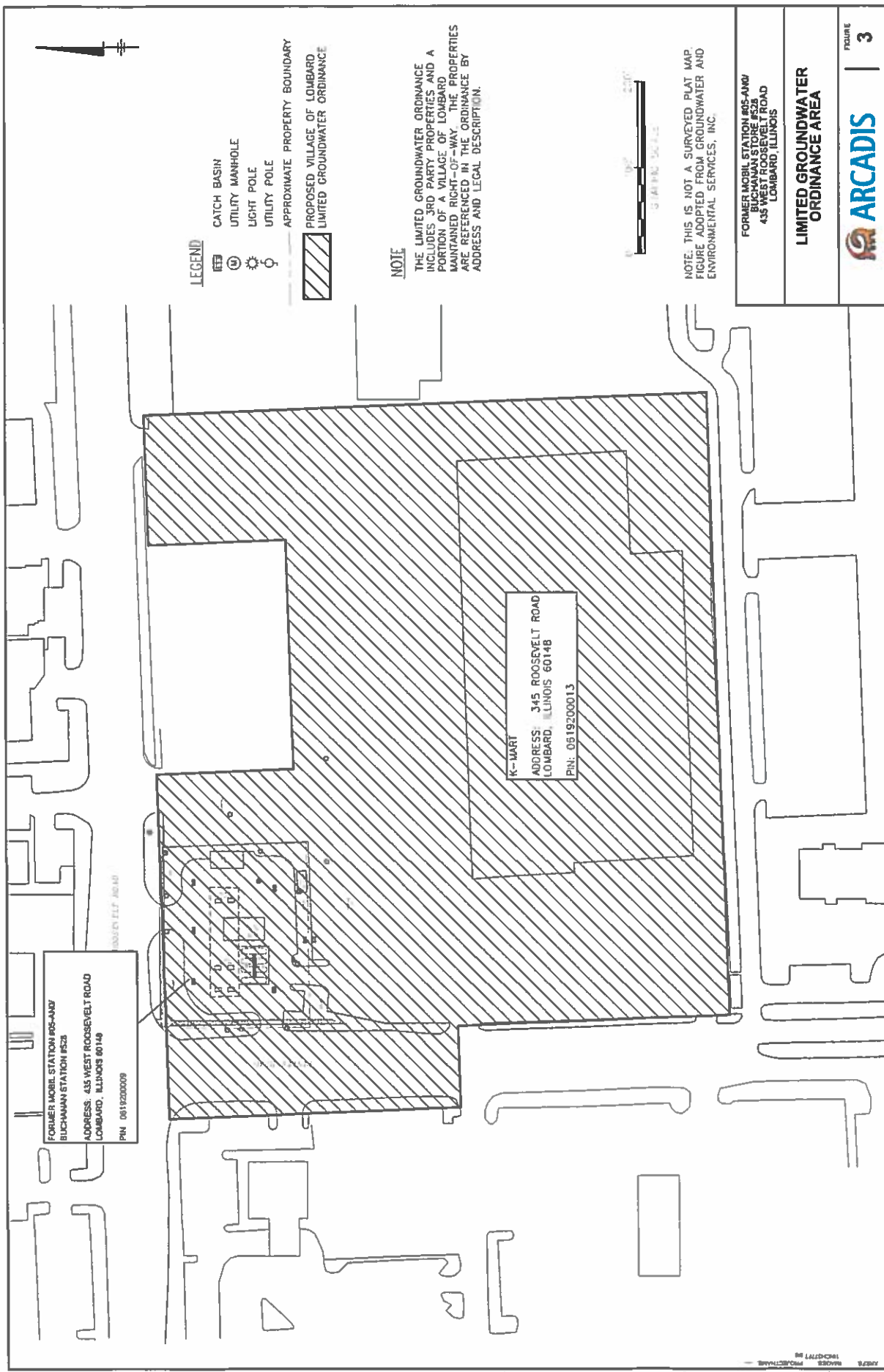


Exhibit A