

**MONTGOMERY COUNTY
BOARD OF COMMISSIONERS**

Ordinance 2025-1

Adopting Text Amendments to the Zoning Ordinance

Whereas, the Montgomery County Plan Commission conducted a public hearing on December 18, 2024 on text amendments to the Montgomery County Zoning Ordinance which would add Article 21, Carbon Sequestration, to the Zoning Ordinance, and the Commission voted unanimously on December 18, 2024 to send a favorable recommendation on such text amendment to the Commissioners; and

Whereas, on December 19, 2024, the Plan Commission certified its recommendation to the Commissioners; and

Whereas, having considered the proposed amendments and additions and comments from members of the public and having paid reasonable regard to the comprehensive plan, current conditions and the character of current structures and uses in each district, the most desirable use for which the land in each district is adapted, the conservation of property values throughout the district, and responsible development and growth, the Board of Commissioners hereby finds as follows:

1. Approving the proposed text amendments is consistent with the Comprehensive Plan in that it designates at least one district for a new use and adopts regulations to promote harmonious land use;
2. Approving the proposed text amendments is consistent with the current conditions and character of current structures and uses in each district by providing for regulations to mitigate any adverse impacts to existing uses;
3. Approving the proposed text amendments is consistent with the most desirable use for which the land in each district is adapted because the amendment provides for such carbon sequestration projects to be in Industrial Districts and be subject to certain regulation and the special exception process;
4. Approving the proposed text amendment will lead to the conservation of property values throughout the jurisdiction by providing for standards that promote growth but protect current uses that are of a different type in adjacent properties;
5. Approving the proposed text amendment is consistent with responsible growth and development in that the amendments will promote harmonious development by regulating the situs of such use and mitigating adverse impacts to existing land use; and

6. The proposed text amendment to the Zoning Ordinance should be approved.

IT IS, THEREFORE, ORDAINED that the Montgomery County Zoning Ordinance is hereby amended by added the attached Article 21, Carbon Sequestration, to the existing Zoning Ordinance.

IT IS FURTHER ORDAINED that all other provisions of the Montgomery County Zoning Ordinance, not expressly amended by this Ordinance, will remain in full force and effect.

IT IS FURTHER ORDAINED that this ordinance shall become effective upon adoption.

Ordained this 27 day of January, 2025.

Montgomery County
Board of Commissioners:



Jake Bohlander, Member




James D. Fulwider, Member



Dan Guard, Member

Attest:


Mindy Byers, Auditor

Article 21 Carbon Sequestration

21.01 Purpose

The purpose of this section is to manage, regulate, and administer carbon sequestration siting and surface impacts based on the enabling legislation of I.C. 14-39 as amended from time to time. These regulations allow carbon sequestration projects and facilities in certain areas, and, therefore, do not have the effect of unreasonably restricting the use of such facilities other than for preservation and protection of public health and safety, and the County's natural and constructed resources. These regulations are not intended to and do not have the effect of significantly increasing the cost of the carbon sequestration projects, decreasing the efficiency of carbon sequestration, or impeding alternative projects of comparable cost and efficiency.

21.02 Definitions

Carbon sequestration projects mean any project that involves the underground storage of carbon dioxide in a reservoir utilizing at least one (1) UIC Class VI well which is regulated by the federal Safe Drinking Water Act's Underground Injection Control program, as provided for in 42 U.S.C. §300f et seq and 40 C.F.R. §146(H).

21.03 Permitted Districts

Carbon sequestration projects are allowed only in Industrial Zoning Districts by special exception.

21.04 Setbacks

All carbon sequestration project wellheads and appurtenant facilities (not including underground pipelines or equipment) used for carbon storage, transport, or injection shall be at least one thousand five hundred (1,500) feet from the property line if adjoined by property that is zoned residential, commercial, or institutional, and one thousand (1,000) feet if the property is adjoined by property that is zoned agricultural.

21.05 Application Requirements

The applicant for a rezone, development plan review, or permit shall provide a copy of the following applications or permits:

- (A) A copy of the State's application documents required under I.C. 14-39-2-6(e)(1)(A) or I.C. 14-39-1-4(C), whichever is applicable, as well as project authorization from the State of Indiana and a valid permit issued by the Indiana Department of Natural Resources. If the State of Indiana has not issued a permit,

then a copy of the applicant's application for the permit and a letter of completeness from the State of Indiana will suffice. If the State of Indiana has not opened its application process, the applicant may apply for a rezone if the applicant has applied for a permit from the federal government.

- (B) A copy of applicant's application for a UIC Class VI permit, along with all required submittals, and the permit issued under the Federal State Drinking Act's Underground Control Program, as amended from time to time. If no such permit has been issued, then a copy of the application and a letter of completeness from the United State Environmental Protection Agency (EPA) will suffice.
- (C) A copy of a letter indicating project approval or waiver from the Montgomery County Drainage Board.
- (D) A copy of the shallow water quality monitoring plan the applicant submitted to the EPA.
- (E) A copy of an agreement or statement which satisfies mitigation to agricultural operations as required by I.C. §14-39-1-4(a)(4)(F) as amended from time to time.
- (F) A copy of the subsurface leak detection plan submitted to the EPA
- (G) A copy of the soil monitoring plan submitted to the EPA.
- (H) A copy of the post-injection site care and site closure plan, required under 40 C.F.R. §146.93, submitted to the EPA.

21.06 Fencing

The entire perimeter of all facilities shall be surrounded by a security fence of not less than the height of ten (10) feet to prevent unauthorized access. Fences shall be black opaque vinyl coated chain link. All gates will be locked. The applicant will place a sign, not to exceed eight (8) feet in area, which contains the name and address of the operator and an emergency telephone contact number for the operator.

21.07 Screening

All facilities shall be surrounded by a vegetative screening along the outside of the perimeter of the fence at a suitable height and density to minimize the view of the systems. Screening shall, at a minimum, be the height of the required fencing and shall, at a minimum, include one evergreen for every 60 lineal feet. The landscape screen shall be part of a required buffer yard that is at least 50 feet in width from the required fencing.

21.08 Exterior Lighting

All exterior safety lighting will be developed in a manner which precludes light trespass onto adjoining parcels and which is limited to the amount of light needed for maintenance, safety, and security.

21.09 Fire Prevention/Suppression Plan and Requirements

At the time of any application for a rezone or development plan review, the applicant shall submit a fire prevention and suppression plan which consists of the following:

1. Description of potential fire and emergency scenarios that may require a response from fire, emergency medical services, police, and other emergency responders.
2. Emergency procedures to be followed in the case of fire, explosion, or other potentially dangerous conditions. Procedures shall include notifying and providing access to the Crawfordsville Fire Department or the closest volunteer fire department.
3. Other procedures as determined necessary by the County to provide for the safety of occupants, neighboring properties, and emergency responders.
4. Details of the applicant's plan to comply with the National Fire Prevention Association (NFPA) standard, and all applicable Indiana and local building, fire, safety, and construction rules, orders, ordinance, and regulations.
5. Description of public or private water sources and fire hydrants on the site which can be accessed for fire suppression.
6. Description of site access for fire and other first responders.
7. Description of the hazardous material signage plan.

21.10 Decommissioning

The operator of any carbon sequestration project will comply with any and all EPA regulations, rules, and orders in the care of the site and site closure, as required by 40 C.F.R. §146.93, when injections cease. The operator will provide to the Zoning Administrator any and all amendments or modifications or additional submittals to the EPA regarding post-injection site care and closure and all EPA orders, rules, and directives regarding the operator's plan.

21.11 Development Plan Review

A development plan review is required. An applicant for a development plan review must submit a site plan prepared by a licensed engineer, an access and traffic circulation plan, lighting plan, signage plan, landscape plan, fire prevention plan, drainage plan, decommissioning plan, and other plans required by the Zoning Administrator. Within 60 days of receiving a complete application, the Plan Commission will conduct a public hearing and either approve or disapprove the application.

21.12 Permit

If the Plan Commission approves the development plan, and if the applicant has received all required federal and state approvals and permits, the applicant may apply for an improvement location permit. No work, excavation or construction may occur prior to the applicant receiving an improvement location permit. Within 15 days of receipt of an application for a permit, the

Zoning Administrator will determine whether the application is complete. The Zoning Administrator will notify the applicant in writing of his determination. If the application is complete, the application will be reviewed by the Zoning Administrator. The Administrator will either grant the permit or deny the permit within thirty (30) days of receiving a complete application. If the application is denied, the Administrator will provide written notice of the reasons for denial. If the application is not complete, the applicant must provide to the Zoning Administrator the supplemental information within sixty (60) days. If the applicant fails to provide the supplemental material for the application in a timely manner, the application will be dismissed.

21.13 Permit Fee

At the time of submission, the applicant will submit to the Zoning Administrator a nonrefundable fee in the amount of \$500.00. If the project area exceeds twenty-five (25) acres, the following additional fee is required:

Acres	Additional Fee
25+ to 50	\$500
50+ to 75	\$1,500
75+ to 100	\$2,000
100+	\$2,500

21.14 Noise

No facility will produce sound levels that are more than 32 decibels as measured on the dB(A) scale at the property lines of the system site. At the time of submission of a petition to rezone, development plan review and application for permit, the owner will submit a noise study by a licensed acoustician selected by the Zoning Administrator. This study will be paid for by the applicant or owner. This study will include a description and map of the project's noise-producing features, including the range of noise level expected and the basis of the expectation, a survey and report on the potentially affected residences, schools, public buildings, and other noise sensitive land uses located within two (2) miles of the proposed site. The study will include decibels for both A and C weighted scales. The study will also include a description and map of the cumulative noise impacts and any problem areas identified and a description of the project's proposed noise control features and specific measures proposed to mitigate noise impacts for sensitive land uses. These noise limitation regulations do not apply prior to the commencement of injection, but the operator will limit construction, maintenance, and repair operations to a period of not earlier than 7 a.m. and not later than 7 p.m. These noise limitation regulations do not apply to the drilling of project wells, but the period of this exemption is limited to a period of sixty (60) days per well, commencing when drilling begins.

21.15 Height Limitations

The facility may not exceed thirty-five (35) feet in height as measured from the natural grade to the top of the facility.

21.16 Legal Drains: Unless the operator obtains approval from the Montgomery County Drainage Board, no facility may encroach upon the seventy-five (75) foot easement of any legal drain or ditch. If the construction of the facility requires the relocation of any legal drain or ditch, such relocation must be approved by the Montgomery County Drainage Board.

21.17 Private and Mutual Drains: Unless the operator and landowners enter into a written encroachment agreement, no facility may encroach upon any private or mutual drain or ditch. If the construction of the system requires the relocation of any private or mutual drain or ditch, such relocation must be approved in writing by the parties to the private or mutual drain or ditch, performed at the expense of the operator, and relocated in a manner so as not to materially impede the function of the drain or ditch. This obligation to refrain from encroaching upon any private or mutual drain or ditch continues and applies even if the encroachment is discovered after construction of the project.

21.18 Enforcement: In the event of a violation of this Section, the Zoning Administrator may enforce the Ordinance using the rights and remedies provided for in Section 5.04 of the Zoning Ordinance.