

**ORDINANCE 2026-
AN AMENDMENT TO THE
CASS COUNTY ZONING ORDINANCE FOR CARBON SEQUESTRATION STANDARDS**

WHEREAS, the General Assembly of the State of Indiana granted powers to the counties to adopt zoning ordinances for their jurisdiction according to IC 36-7-4-600 series; and

WHEREAS, the County of Cass County, Indiana adopted the Cass County Zoning Ordinance which became effective on October 3, 1986, and has had subsequent amendments as listed on the title page of the Cass County Zoning Ordinance; and

WHEREAS, The General Assembly of the State of Indiana granted powers to counties to amend the text of an adopted zoning ordinance according to IC 36-7-4-602 (b), and Section 906 of the Cass County Zoning Ordinance allows for the amendment of said Ordinance; and

WHEREAS, the Cass County Plan Commission held a public hearing on Tuesday May 5, 2026 and continued to June 2, 2026, on the proposed textual amendments to the Cass County Zoning Ordinance for Carbon Capture and Sequestration; and

WHEREAS, The Cass County Plan Commission did send a favorable recommendation for the text amendments to the Cass County Commissioners; and

WHEREAS, The Cass County Board of Commissioners reviewed the recommended textual additions and made recommended changes on August 27, 2026 back to the Cass County Plan Commission

WHEREAS, The Cass County Plan Commission certified an unfavorable recommendation for the proposed changes

WHEREAS, The Cass County Board of Commissioners believes there is merit in keeping their proposed changes as is for the Ordinance, in order to promote the public health, safety, comfort, morals, convenience and general welfare of the community; now therefore, be it

NOW THEREFORE BE IT ORDAINED by the Cass County Board of Commissioners of Cass County, Indiana, as follows:

SECTION 1: That the Cass County Zoning Ordinance be amended according to the amendments, as follows:

Definitions Section 201:

Carbon Sequestration Project (CSP) means any project that involves the underground storage of carbon dioxide in a reservoir pursuant to at least one (1) UIC Class VI permit.

Carbon Sequestration Project (CSP) Storage Facility means the subsurface area consisting of the extent of a carbon dioxide plume which is required to be delineated on an approved UIC Class VI permit of a storage operator.

Emergency personnel all public health and safety including but not limited to law enforcement, fire department having jurisdiction, emergency management personnel and first responders

Person means an individual, a corporation, a limited liability company, a government or governmental subdivision or agency, a business trust, an estate, a trust, a partnership or association, or any other legal entity.

Project Owner means any person engaged in or organized for the purpose of owning, operating, or controlling a project and/or development.

Property Owner means the owner or owners, together with his, her, it's or their heirs, successors and/or assigns, of the land or property under which, a project and/or development, or any part of it, including any related facilities, may be located and which is subject to the regulations and restriction of this Zoning Ordinance.

Plume includes the proposed plume space for the CSP project pore space.

Industrial site: includes businesses located within the I1, light industrial; I2, heavy industrial; CG, County Gateway or allowed through board of zoning appeals approval for an industrial use.

Sequestration Facility: A facility for the permanent storage of carbon dioxide, including but not limited to the carbon dioxide pipeline(s) and injection well(s).

TRANSPORTATION, COMMUNICATIONS, UTILITIES	AG	RR	R1	B1	B4	AB	I1	I2	CG	Buffer Class	Parkin g Class
25. Carbon Capture and Sequestration (CCS) (see section 526)	X	X	X	X	X	X	S	S	S	N/A	N/A

Section 526:

Unless otherwise specified, this ordinance only applies to permanent structures and routine operations for CSP.

For the purpose of this ordinance carbon dioxide from a carbon sequestration project can only be piped and injected on the property that is capturing the carbon dioxide for the CSP purposes.

Documents including but not limited to all state and federal permits, submittals, studies and reporting must be met and made available to the Planning Department or the County Commissioners upon request. There must be updated contact information on file with the Planning Department at all times.

Hours of Operation during construction, except for well drilling, and seismic testing will be limited to 7am-7pm.

Before Seismic Testing can start for the project a road use agreement must be approved by the County Commissioners. The developer must notify all residences within the testing area that seismic testing will be done. Any properties in the defined seismic testing area that receive damage due to seismic testing activity must be compensated by the project owner. No seismic testing is permitted within 300' of a residence. Copies of the seismic surveying reports of the underground geology must be provided by the project owner. The County will have the seismic surveying reports reviewed by its own consultants to determine the suitability of the location selected by the project owner.

An operations and maintenance plan must be provided. No permit is required for the implementation of the operation and maintenance plan, but these plans must be approved by the County Commissioners before the issuance of a building permit.

An emergency response and preparedness plan, hazard mitigation plan and training plan for the fire department(s) having jurisdiction is required and must meet any State and/or Federal codes. In addition, any emergency equipment needed must be provided to emergency personnel at the expense of the project owner. These plans must be approved by the County Commissioners and fire department having jurisdiction before the issuance of a building permit.

An Economic Development Agreement, which may include but not limited to drainage and road agreements, must be approved by the County Commissioners. The agreement shall be developed in conjunction with the Cass County Economic Development Department and signed copies provided to the Planning Department. These agreements must be signed before any building permit is issued. Any new project owner must get a new Economic Development Agreement approved.

If outside an industrial site a noise potential study shall be performed by a 3rd party and included in the application. Noise from an CSP shall be no greater than sixty (60) decibels measured from nearest property line or forty-five (45) decibels from a residence, whichever is more restrictive. If outside an industrial site a post construction noise study shall be performed by a 3rd party and shall be provided before the Certificate of Occupancy is issued, to make sure the required decibels are being met.

Any CSP injection site, excluding any security fencing necessary shall be compliance with 312 IAC 29-13-1 and shall not be within two hundred (200') feet of a house, barn, building, or other structure (other than fences) existing at the time of the well application with the Indiana Department of Natural Resources without the express consent of the property owner of the structure, only if the independent agreement with the property is setback more than the ordinance the agreement must be followed. They must also be 75' off the centerline of any legal tile ditch or 75 feet off the existing top edge of a legal open ditch or tile, unless either are approved by the drainage board for a lesser setback.

All monitoring and testing wells shall be totally on the property that the well will be located: Before a building permit can be issued a consent of owner must be provided to the Planning Department for the intended monitoring and testing well property.

The project owner must record a document on each property that will be within the Plume, and provide the recorded version to the Planning Department within 30 days of the recorded date.

No portion of the CSP or fencing shall contain or be used to display advertisement. The CSP shall comply with the prevailing sign regulations for that zoning district. Signage at the gate(s) must include warning signs and contact information for emergencies. The Planning Department must receive notification within 60 days of ownership change or management change and their contact information.

Although lighting is not required, any lighting used at an CSP shall be full-cutoff and directed down.

A Sequestration Facility shall not exceed 35' in height. The height is determined from the ground to the top of the equipment.

The County Council will take such action as to create a Sequestration Fund and to define the use of such Fund for possible mitigation, contamination clean up and maintenance. Fees collected for the Fund shall duplicate any fees collected by the State of Indiana under IC 14-39-2-9, as amended from time to time. The Project owner shall present a quarterly report to the County Commissioners listing the tonnage of CO2 injected and the fee amount due. Such fee shall be payable at the time of the quarterly report.

If all the property owners of the Plume do not agree to participate under Indiana Code 14-39-2-4 and within the similar timeframe the Department of Natural Resources is issuing an order requiring the property owners to participate, the Project Owner must demonstrate that all Plume property owners receive the same compensation as the participating property owners.

Notification and next steps for decommissioning and abandonment for monitoring and testing wells must be provide within 30 days of CO2 injection ceasing to the Planning Department, County Commissioners and property owners within the Plume. Removal of all physical material pertaining to these well improvements is required at a depth of 48" beneath the soil surface and restoration of the area must be similar to the condition before said CSP. The certified of project completion issued pursuant to Indiana Code 14-39-2-13 must be provided to the County Commissioners and Planning Department within 30 days of issuance.

SECTION 904 ENFORCEMENT REMEDIES AND PENALTIES: In case any structure or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained, or used in violation of this Ordinance is hereby declared to be a common nuisance. Failure, by any person, to abide by any provision of this Ordinance shall be deemed a violation of this Ordinance and shall be guilty of a Class C Infraction. Upon conviction, a violator shall be responsible for reasonable attorney fees and fines of not less than \$100 and not more than \$300 per violation, and for each day that the violation continues unabated, a separate offense shall be deemed to have been committed, except for a carbon sequestration project, which will be fined \$2,500 per day.

SECTION 2: That this amendment be in full force and effect upon its passage by the Cass County Board of Commissioners.

Adopted this _____ day of _____ 2026.

Ruth Baker, President

Mike Dietrich, Member

Roger Spencer, Member

ATTEST:

Alicia Pifer, Cass County Auditor