



Carbon Sequestration Wells: A New Land Use to Consider in Zoning Ordinances

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As green energy and climate-related regulations increase, discussion around carbon sequestration also increases. Carbon sequestration wells are used to inject carbon dioxide into deep rock formations for permanent storage. The objective is to remove that carbon dioxide from the atmosphere to mitigate climate effects. However, these wells must be extensively regulated to prevent negative side effects.

Under federal law, carbon sequestration wells are Class VI wells regulated by the Environmental Protection Agency. As such, they are subject to extensive rules pertaining to site characterization, and construction, operation, monitoring, funding, reporting, and recordkeeping requirements.

According to the Michigan Department of Environment, Great Lakes and Energy ("EGLE"), there are currently zero carbon sequestration wells in Michigan. But that may soon change. Media reports suggest that various entities are exploring possible sites for carbon sequestration across the Midwest, including in Michigan.

EGLE states that a carbon sequestration well permit application would be reviewed under the Mineral Well Program as a Waste Disposal Well. Waste Disposal Wells are heavily regulated under the Natural Resources and Environmental Protection Act, and local authority to regulate many aspects of these wells may be preempted by state law.

However, the regulation of the location, drilling, completion, operation, or abandonment of waste disposal wells is likely permissible under the Zoning Enabling Act. Therefore, municipalities can likely restrict carbon sequestration wells to certain zoning districts within their jurisdiction.

With these things in mind, now is a great time to start planning for this possible land use to ensure that your municipality is prepared to handle any applications that it may receive. Contact our municipal law team today to get started.

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