

Ordinance No. 3 of 2023

Carbon dioxide injection well and Carbon Sequestration impact fee Ordinance

For

Throop Borough, Lackawanna County, Pennsylvania

S101. Title. This Ordinance shall be known and may be cited as the “Carbon dioxide injection well and Carbon Sequestration impact fee Ordinance.”

S102. Definitions. The following words when used in this ordinance shall have the meanings ascribed to them in this section, except where the context clearly indicates otherwise:

“Annually” period defined as January 01 through December 31 of any year.

“Borough Manager” the person appointed by council that is charged with the administration and enforcement of the provisions of this Ordinance.

“Business days” means count of calendar days Monday through Friday excluding federal holidays.

“Carbon dioxide injection well.” A well that is used to inject carbon dioxide into a reservoir for carbon sequestration under a UIC Class VI permit.

“Carbon dioxide plume.” The physical extent underground of the injected carbon dioxide stream.

“Carbon sequestration.” The underground storage of carbon dioxide in a reservoir.

“Carbon sequestration project.” A project that involves the underground storage of carbon dioxide in a reservoir pursuant to at least one UIC Class VI permit.

“CO₂” means Carbon dioxide.

“Council” means The Borough Council of Throop.

“Days” means count of calendar days including federal holidays.

“DEP” The Department of Environmental Protection of the Commonwealth of Pennsylvania.

“EPA” The United States Environmental Protection Agency

“Borough Secretary” Secretary of the Borough of Throop

"Storage facility." 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 or an amendment to a UIC Class VI permit of a storage operator.

"Storage operator." An individual, corporation or other legal entity that operates a carbon sequestration project.

"UIC" underground injection control program

"UIC Class VI permit." A permit issued under 40 CFR Pt. 144(relating to underground injection control program) that allows the operation of a carbon dioxide injection and storage well .

"Quarterly" period defined as 3 months generally 4 quarters in a calendar year.

"Q1" all days inclusive January 01 to March 31

"Q2" all days inclusive April 01 to June 30

"Q3" all days inclusive July 01 to September 30

"Q4" all days inclusive October 01 to December 31

S103. Purpose. The purpose of this ordinance is to require the Storage operator of a Carbon dioxide injection well, Carbon Sequestration storage facility and/or Carbon sequestration project as defined herein to pay an impact fee provided for by this ordinance to protect and promote the public health, safety, and welfare.

S104. Carbon dioxide injection well and Carbon Sequestration impact fee

- A) The storage operator will pay an impact fee of One Dollar and Fifty cents (\$1.50) per metric ton of Carbon dioxide injected into a Carbon dioxide injection well or wells located in the Borough of Throop. This fee is in addition to any fees imposed by or enforced by the EPA or DEP.
- B) A new account will be established at the Borough of Throop for the Carbon dioxide injection well and Carbon Sequestration impact fee.
- C) The impact fee will be used to purchase equipment for our First Responders, Police and DPW to ensure public safety should a carbon dioxide release or any other emergency occur from sequestration. This fee will also be used to maintain and/ or replace storm and or sanitary sewer infrastructure deemed deficient by the Boroughs Street Commissioner or Engineer to prevent and or mitigate the seepage of carbon dioxide into public, residential, commercial, and industrial facilities.

- D) This fee may be increased or decreased by the majority vote of Council. The council must notify the storage operator 90 days prior to any fee increase or decrease taking effect.
- E) This fee can be paid quarterly (Q1,Q2,Q3,Q4) or annually based on the operating model of the storage operator, if the fee is paid quarterly a discount of five cents (\$0.05) per metric ton will be applied.
- F) Council may elect to forgo this fee in exchange for a negotiated agreement by a majority vote of Council. The negotiated agreement by the Council and storage operator cannot be enforced longer than a two-year term, the negotiated agreement must have a start date and expiration date clearly defined, if a new agreement is not negotiated by the time of any current negotiated and recorded agreements expiration date, the above impact fee defined in S104.A) will be in effect. No part of the negotiated agreement shall contain language to extend or omit any part of S104.F) of the Carbon dioxide injection well and Carbon Sequestration impact fee. The negotiated agreement must have a public hearing prior to a Council vote, the public hearing must be advertised 30 days prior to the public hearing. The acceptable forms of advertising shall follow the Commonwealth of Pennsylvania's Sunshine Act. The passed agreement by majority vote of Council, shall be recorded at the Lackawanna County courthouse.

S105 Reporting and impact fee collection requirements.

- A) The storage operator will report on an annual or quarterly basis (if quarterly it should include Q1, Q2, Q3, Q4 to identify reporting quarter) to the borough secretary, the Mass of CO₂ Injected (metric tons) in the well or group of wells. The report should include the Facility name, contact name, address, contact number and flow meter identification number. The report should include the EPA permit number DEP permit number.
- B) The storage operator is responsible for submitting the impact fee along with the annual or quarterly report. The fee calculation is in simple format Mass of CO₂ Injected (metric tons) X 1.50 if reporting annually or Mass of CO₂ Injected (metric tons) X 1.45 if reporting quarterly. There will be a 15% penalty if payment is not received within 15 business days of the close of the quarterly or annual reporting period.
- C) The Borough of Throop accepts the following forms of payment.
 - 1. A company check made payable to the Borough of Throop
 - 2. A direct deposit to the Carbon dioxide injection well and Carbon Sequestration impact fee account please contact the Borough Manager or Borough Secretary for routing/account number information @ 570-489-8311.

D) The storage operator will ensure compliance with the quality assurance requirement in 40 CFR § 98.444:

CO2 received:

- The quarterly flow rate of CO2 will be reported from continuous measurement at the main metering station.
- The CO2 concentration will be reported as an average from measurements obtained at least quarterly from the CO2 compressors.

Flowmeter provision:

- Operated continuously, except as necessary for maintenance and calibration.
- Operated using calibration and accuracy requirements in 40 CFR § 98.3(i).
- Operated in conformance with consensus-based standards organizations including, but not limited to, American Society for Testing and Materials (ASTM) International, the American National Standards Institute, the American Gas Association, the American Society of Mechanical Engineers, the American Petroleum Institute, and the North American Energy Standards Board.

S106. Enforcement. The Borough Manager, excluding any EPA or DEP reporting requirements or provisions, is charged with the enforcement of this Ordinance.

S107. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate and distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

S108. Repealer. All Ordinances or parts thereof which are inconsistent with this Ordinance are hereby repealed to the extent of their inconsistencies.

S109. Assignability. This Ordinance shall be binding upon any owner/purchaser of permit rights to a carbon sequestration project in Throop including successors and assigns and any subsequent purchaser, assignee or transferee of assets and / or permit rights.

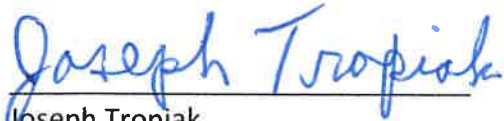
S110. Effective Date. This Ordinance shall become effective from the date of its approval and adoption, as provided for by law.

ENACTED AND ORDAINED this 24th day of October 2023

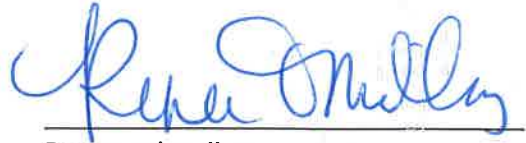


Richard Kucharski
Council President

Attest:



Joseph Tropiak
Mayor



Renee O'Malley
Secretary