

# Cedar Creek Township Deep Injection Well Ordinance

Proposed ordinance covering disposal of leachate at Wexford County landfill dated January 2, 2019 will be considered at the Planning commission meeting scheduled March 12<sup>th</sup> at 6:30 PM. After consideration and any recommended changes to this ordinance a public hearing will be scheduled for public impute.

A copy of the proposed ordinance is attached for your review.

The proposed disposal of liquid leachate in this deep well and possible disposal of other hazardous chemicals at the Wexford County Landfill located in CedarCreek Township not only effects the people in the immediate area of the landfill but all residents of Wexford County. It is important for the residents of CedarCreek Township and all other concerned residents to attend the planning commission meeting, public hearing and most of all the CedarCreek Township Board meeting on April 2<sup>nd</sup> to voice their concerns.

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## MEMO

**TO: CEDAR CREEK TOWNSHIP BOARD**  
**FROM: JEFFREY L. JOCKS, SONDEE, RACINE & DOREN, PLC**  
**DATE: JANUARY 2, 2019**  
**RE: DEEP INJECTION WELL ORDINANCE**

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You have asked me to draft a Cedar Creek Township Zoning Ordinance ("ZO") amendment to deal with deep injection wells in the Township. I have reviewed your ZO and Zoning Map and it is my legal opinion that you can adopt an ordinance to deal with them. I provide the following draft ordinance for your consideration. If you decide to go forward with this ordinance, I recommend that you adopt a motion requesting the Planning Commission to begin the ordinance review and adoption process pursuant to the Zoning Enabling Act.

As I understand it, the general concern is the use of existing and/or future deep injection wells and their potential impacts on the local groundwater, surface water, and soil. To that end, a strong ordinance requiring protections against those potential impacts as well as consideration of alternatives is what I recommend. Further, I recommend that you restrict the location of deep injection wells to certain districts so that they are not located throughout the Township.

Proposed District: Highway Commercial. The reason for this is that the Highway Commercial district appears to have the most industrial type uses allowed in the Township. I do note that Section 1802 of the ZO states that there are no industrial zoning districts in the township and will create one if there is a demonstrated need. Industrial would be the ideal place for a deep injection well.

I recommend the following amendment for your ordinance:

1. Add the following provision to Article 55, 5503. Special Uses.

"I. Waste and/or Industrial Waste Disposal Wells and Related Facilities."

2. Add the following provision to Article 16.

**"1613. Waste and/or Industrial Waste Disposal Wells and Related Facilities.**

For Waste and/or Industrial Waste Disposal Wells and Related Facilities:

- A. Purpose. It is recognized that Waste and/or Industrial Waste Disposal Wells and Related Facilities are controversial because they allow the injection of

waste into deep rock formations and there are risks of water contamination and soil contamination from these activities. This ordinance is designed to protect Cedar Creek Township natural resources and public health. This ordinance applies to all new Waste and/or Industrial Waste Disposal Wells and Related Facilities and the expansion of any existing deep injection well located in Cedar Creek Township. Expansion shall include, but not be limited to, adding any new source of waste to the waste stream of an existing deep injection well.

- B. An Application for Special Use Permit shall include a complete description of all waste and/or industrial waste, including all chemical constituents and total volumes, intended for disposal at the facility. The Applicant shall copy the Township on all data required to be delivered to the Michigan Department of Environmental Quality and/or the United States Environmental Protection Agency for the use. If the Special Use Permit is approved, the Applicant shall inform the Township, in writing, of any modification of the waste stream and/or any new waste or industrial waste that the Applicant proposes for disposal. Any such modification or new waste proposed for disposal shall require approval for modification of the Special Use Permit and be subject to all requirements of this Zoning Ordinance. If approved, the Applicant shall provide a yearly report to the Township which includes analysis of the waste stream for all chemical constituents and total volumes. The Applicant shall also allow the Township to conduct random samples of the waste stream upon reasonable notice to the Applicant at the Township's expense.
- C. An Application for Special Use Permit shall include an independent, valid and reliable groundwater analysis from at least three (3) test wells properly placed downgradient from the proposed disposal well. If approved, the Applicant shall sample these test wells for chemical constituents as required by the Township and deliver the results of these independent, valid and reliable analyses to the Township quarterly from the date of the any approved Special Use Permit. If the results of the initial groundwater analysis or the required groundwater monitoring indicate any contamination, as defined by Part 201 of the Natural Resources and Environmental Protection Act (MCL 324.20101 et seq), then the Applicant shall provide proof that the contamination is being investigated and remediated in accordance with state and federal regulations. The Township retains the authority to revoke the Special Use Permit if the Applicant fails to provide such proof. The Applicant shall also allow the Township to conduct random samples from all test wells upon a 48 hour notice to the Applicant at the Township's expense.
- D. An Application for Special Use Permit shall include an independent, valid and reliable soil analysis from five areas within the containment area surrounding the proposed disposal well. If approved, the Applicant shall provide 5 independent, valid and reliable soil analyses from within the containment area for chemical constituents as required by the Township quarterly from the date

of any approved Special User Permit. If the results of the initial soil samples or the required soil monitoring indicate any contamination, as defined by Part 201 of the Natural Resources and Environmental Protection Act (MCL 324.20101 et seq), then the Applicant shall provide proof that the contamination is being investigated and remediated in accordance with state and federal regulations. The Township retains the authority to revoke the Special Use Permit if the Applicant fails to provide such proof or if contamination is found. The Applicant shall also allow the Township to conduct random soil samples upon a 48 hour notice to the Applicant at the Township's expense.

- E. The Applicant shall provide the results of all testing and lab procedures to the Township upon the Township's request.
- F. The Application for Special Use Permit shall include proof of liability insurance with a pollution rider to the Township.
- G. If the Special Use Permit is approved, the Applicant shall furnish a performance bond or cash to the Township Clerk in an amount sufficient to insure proper closure and restoration of the well and site as determined by an independent consultant.
- H. The Applicant shall erect a fence with a locked gate at the site that completely encloses all activities.