

13.21 WELL OPERATION PERMITS AND WELL ABANDONMENT.

- (1) Purpose. The purpose of this ordinance is to prevent the contamination of groundwater and to protect the public health, safety and welfare by assuring that unused, unsafe or noncomplying wells, wells which may serve as conduits for contamination, or wells which may be illegally cross-connected to the public water supply are properly abandoned, and that existing private wells meet State requirements for construction and water quality. Improperly abandoned wells represent potential direct pathways for groundwater contamination to enter the municipal drinking water supply. This ordinance is enacted pursuant to an exercise of the City's police power and Wis. Admin. Code ch. NR 810.16. (Am. by ORD-09-00124, Pub. 8-20-09, Eff. 1-1-10)
- (2) Applicability. This ordinance applies to all wells located in the City of Madison or on premises served by the Madison Water Utility.
- (3) Definitions.

General Manager shall mean the General Manager of the Madison Water Utility, or his or her designee.

Noncomplying means a well or pump installation which does not comply with the provisions of Wis. Admin. Code ch. NR 812, in effect at the time the well was constructed, a contamination source was installed, the pump was installed or work was done on either the well or pump installation.

Pump installation means the pump and related equipment used for withdrawing water from a well including the discharge piping, the underground connections, pitless adapters, pressure tanks, pits, sampling faucets and well seals or caps.

Unsafe means a well or pump installation which produces water which is bacteriologically contaminated or contaminated with substances in excess of the standards of Wis. Admin. Code chs. NR 809 or 140, or for which a Health Advisory has been issued by the Department of Natural Resources.

Unused means a well or pump installation which is not in use or does not have a functional pumping system.

Well means an excavation or opening into the ground made by digging, boring, drilling, driving, or other methods for the purpose of obtaining groundwater for consumption or other use. Wells for the express purpose of monitoring the quality of ground water and/or gases and/or soil characteristics are exempt from this Ordinance.

Well abandonment means the filling and sealing of a well according to the provisions of Wis. Admin. Code ch. NR 812.

- (4) Abandonment Required. All wells located in the City of Madison or on premises served by the Madison Water Utility shall be abandoned by the owner of the property if there is no valid well operation permit issued by the Madison Water Utility under sub. (5) for the well, or if so required under Wis. Admin. Code § NR 812.26(2). Abandonment under this subsection shall proceed according to the requirements of sub. (6). Upon receiving an abandonment notice from the Madison Water Utility, the owner has ninety (90) days to either make an application for a well operation permit under sub. (5) or abandon the well under sub. (6), otherwise the Madison Water Utility may proceed with abatement under sub. (8). (Am. by Ord. 12,567, 5-3-00)

- (5) Well Operation Permit.

- (a) Permit Required. No person may operate or maintain a well without a valid well operation permit issued under this subsection.

- (b) Permit Process.

1. Application and Permit Fee. Well operation permit applications and requests for permit renewals shall be made on forms provided by the

Madison Water Utility. A well operation permit fee shall be set by the Water Utility General Manager, and will go into effect upon approval by the Water Utility Board. Payment of the permit fee shall accompany the application or renewal request.

2. Issuance. If the requirements of this subsection are met, the Madison Water Utility may grant a well operation permit to a private well owner to operate or maintain a well for a period not to exceed five (5) years. If the requirements of this subsection are not met, the Madison Water Utility may reject the permit application or permit renewal request, providing the applicant with the reasons for the denial of the issuance or renewal of the well operation permit in writing.
3. Renewal. An owner may request renewal of a valid well operation permit by submitting information verifying that the requirements of this subsection are met, and that there is a continued need for the well. A request to renew a valid well operation permit must be made to the Madison Water Utility within the six (6) months prior to the expiration of the permit. Failure to timely request a renewal of a valid well operation permit will result in expiration of the permit, and the issuance of an abandonment notice by the Madison Water Utility.
4. Conditions. The following conditions must be met for issuance or renewal of a well operation permit:
 1. The well and pump installation have been certified by a licensed well driller or pump installer to meet, or are upgraded to meet, the requirements of Wis. Admin. Code ch. NR 812.
 2. The well construction and pump installation have a history of producing bacteriologically safe water as evidenced by at least two (2) samplings taken a minimum of two (2) weeks apart. No exception to this condition may be made for unsafe wells, unless the Department of Natural Resources approves, in writing, the continued use of the well.
 3. There are no cross-connections between the well and pump installation and the Madison Water Utility.
5. Termination of Permit. A well operation permit issued or renewed under this subsection shall automatically terminate upon the permit holder's conveyance of the property pursuant to Wis. Stat. ch. 706.

(c) Testing and Inspection Requirements.

1. Conditional Inspection and Testing. As a condition of the issuance or renewal of a well operation permit, the Madison Water Utility, or its agent, may conduct inspections or have water quality tests conducted to obtain or verify information necessary for consideration of a permit application or renewal, including up to two (2) bacterial examinations of water samples obtained from the well, one (1) nitrate test, and the inspection of the well by a licensed well driller or pump installer to confirm that the well and pump installation meet the requirements of Wis. Admin. Code ch. NR 812. If any additional tests or inspections are required, they shall be performed at the applicant's expense.
2. Annual Testing.
 - a. As a condition of all well operation permits issued or renewed under this Subsection, the permit holder must submit periodic water quality testing data conducted at the well owner's expense to the Madison Water Utility. This testing shall be done

annually, on the anniversary date of the issuance or renewal of the well operation permit, or as otherwise determined by the General Manager.

- b. At a minimum, such annual water quality tests must include results for coliform bacteria and nitrate. Additional testing results may be requested by the Madison Water Utility.
 - c. If a water quality test under this paragraph reveals that the water quality does not meet the standards of Wis. Admin. Code ch. NR 809, the property owner shall be given ninety (90) days to bring the well into compliance. The failure to do so will result in the well operation permit being voided.
 - d. A property owner who fails to submit the annual testing data to the Madison Water Utility as required under this paragraph is subject to the penalties set forth in Section 13.23, MGO.
3. Inspection Upon Transfer of Property. Whenever real property with a well on the premises is conveyed pursuant to Wis. Stat. ch. 706, the seller shall contact the Madison Water Utility at least fourteen (14) days prior to the transfer of property. Upon proper notice, the Madison Water Utility may conduct an inspection to determine whether the well should be permitted or abandoned under this Section.
4. Periodic Inspections. A representative of the Madison Water Utility shall have the power and authority at all reasonable times, for any proper purpose, to enter upon any property in the City of Madison and make inspection thereof. If entry is refused, such representative may obtain a special inspection warrant under Wis. Stat. § 66.0119. Upon request by a representative of the Madison Water Utility, the owner, lessee or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the well on such property if such information is known to such owner, lessee or occupant. (Am. by Ord. 12,567, 5-3-00)
- (d) Appeal. If a person's application for a well operation permit, or renewal of a well operation permit, is denied by the Madison Water Utility, or a permit is voided as provided for in subdivision (c)2.c. for failure to comply with the annual testing requirement, the person may appeal within fifteen (15) days of the mailing of the permit denial or voiding notice. Appeal shall be to the Water Utility Board. All requests for appeal shall be filed with the City Clerk and the General Manager, and must inform the Water Utility Board of the reasons for the appeal. Within forty-five (45) days, the Water Utility Board shall hold a hearing at which the parties may offer testimony and documents. Either at or within twenty (20) days of the hearing, the Water Utility Board shall affirm, modify, or reverse the determination that the well operation permit should be denied or voided. Appeal from the action of the Water Utility Board shall be to Circuit Court within thirty (30) days of the determination of the Board.
- (e) Revocation of Permit. If, at any time after the issuance of a well operation permit, the General Manager determines that a well is a serious hazard to the health or safety of the public, the General Manager may immediately revoke the well operation permit and proceed under sub. (8). The General Manager shall include the reasons for the revocation of the well operation permit in the abatement order issued under that subsection.

(Am. by Ord. 12,567, 5-3-00)

- (6) Abandonment Procedures.
- (a) All wells subject to this ordinance that are abandoned shall be abandoned by a licensed well driller or pump installer according to the procedures and methods of Wis. Admin. Code § NR 812. All debris, pump, piping, unsealed liners and any other obstructions which may interfere with sealing operations shall be removed prior to abandonment.
 - (b) The owner of the well, or the owner's agent, shall notify the Madison Water Utility at least forty-eight (48) hours prior to commencement of any well abandonment activities. The abandonment of the well may be observed by the Madison Water Utility.
 - (c) An abandonment report form, supplied by the Department of Natural Resources, shall be submitted by the well owner to the Madison Water Utility and the Department of Natural Resources within ten (10) days of the completion of the well abandonment.
 - (d) The Madison Water Utility may require any person who has abandoned a well not in compliance with sub. (a) to return and take corrective action so that the well is abandoned by him or her in a complying manner. (Cr. by Ord. 12,567, 5-3-00)
- (7) Well Abandonment Rebate. Upon the proper abandonment of a well pursuant to this section, the City Engineer, in consultation with the Water Utility General Manager and the Public Health Director, is authorized to issue a rebate to the owner of a property located in the City of Madison or that is served by the Madison Water Utility of up to fifty percent (50%) of the cost to the owner of the abandonment of the well, up to a maximum rebate of one thousand dollars (\$1000.00). In determining the amount of the rebate, any contributions made by Dane County under Dane County Ordinance 46.42 or the Wisconsin Department of Natural Resources under the Well Compensation Program (Chapter NR 123) shall not be considered, provided that the rebate issued by the City under this subsection, when combined with any contribution made by Dane County and WDNR, shall not exceed the total cost to the owner of abandoning the well. No rebate shall be issued to the owner of a property against whom the City has either issued a citation or made a written referral to the City Attorney for non-compliance with the requirements of this section. Rebates issued under this subsection shall be funded out of the landfill remediation fee as set forth in Sec. 35.025, MGO. (Cr. by ORD-09-00124, Pub. 8-20-09, Eff. 1-1-10)
- (8) Abatement. If the General Manager of the Water Utility determines that an existing well is a serious hazard to the health or safety of the public, then the General Manager may order the owner or operator to abandon or repair the well at the owner or operator's expense, pursuant to this subsection. A well without a valid well operation permit issued under this section shall be deemed a public nuisance under this section.
- (a) Summary Abatement.
 - 1. Order of Abatement. If the General Manager determines that a well constitutes a public nuisance and that there is imminent danger to the public health, safety, peace, comfort or welfare, he or she may, without notice or hearing, issue an order to the owner and/or well operator reciting the existence of a public nuisance constituting imminent danger to the public and requiring immediate action be taken as he or she deems necessary to abate the nuisance, including abandonment of the well. Notwithstanding any other provisions of this subsection, the order shall be effective immediately. Any person to whom such order is directed shall comply with the order immediately.

2. Abatement by the Utility. Whenever the owner or operator shall refuse or neglect to remove or abate the condition described in the order, the General Manager may, in his or her discretion, enter upon the property and cause the nuisance to be removed or abated, including abandonment of the well, and the Water Utility shall recover the expenses incurred thereby from the owner or operator of the property. The expenses so incurred shall be levied as a special charge against the property.
- (b) Nonsummary Abatement.
1. Order of Abatement. If the General Manager determines that a well constitutes a public nuisance but that the nature of such nuisance is not such as to threaten imminent danger to the public health, safety, peace, comfort or welfare, he or she shall issue an order reciting the existence of a public nuisance and requiring the owner and/or operator of the property to remove or abate the condition described in the order within the time period specified therein, including abandonment of the well. The order shall be served personally on the owner of the property, as well as the operator if different from the owner and applicable to the described nuisance, or, at the option of the General Manager, the notice may be mailed to the last known address of the person to be served by registered mail with return receipt requested. If the owner or the operator cannot be served, the order may be served by posting it on the main entrance of the premises and by publishing as a class 1 notice under Wis. Stat. ch. 985. The time limit specified in the order runs from the date of service or publication.
 2. Abatement by the Utility. If the owner or operator fails or refuses to comply within the time period prescribed, the General Manager may enter upon the property and cause the nuisance to be removed or abated, including abandonment of the well, and the Water Utility shall recover the expenses incurred thereby from the owner or operator of the property. The expenses so incurred shall be levied as a special charge against the property.
- (c) Remedy from Order. The order of the General Manager shall not be appealable to the Water Utility Board. Any person affected by orders issued under this subsection shall timely apply to the circuit court for an order restraining the Water Utility and the General Manager from entering on the premises and abating or removing the nuisance, or be forever barred.
- (d) Abatement in Accordance with State Law. Nothing in this article shall be construed as prohibiting the abatement of public nuisances by the Water Utility or its officials in accordance with the laws of the state. The Water Utility or its officials may choose to proceed with an action under state law, upon authorization by the Water Utility Board.
- (9) This law does not supersede the State Plumbing Code, Wis. Admin. Code § NR 811 or Chapter 18 of the Madison General Ordinances entitled "Plumbing Code" but is supplementary to them.

1.08 ISSUANCE OF CITATIONS FOR VIOLATIONS OF CERTAIN ORDINANCES AND PROVIDING A SCHEDULE OF CASH DEPOSITS

(3) Schedule of Deposits.

(a) The schedule of cash deposits that follows this subsection is established for use with citations issued under this ordinance to persons seventeen (17) years of age and older.

<u>Offense</u>	<u>Ord. No./Adopted Statute No.**</u>	<u>Deposit*</u>
Failure to Comply with Notice to Connect	13.07(2)(f)	\$200
Failure to Abandon Well	13.21(4)	\$200
Operating a well without a valid well operation permit	13.21(5)(a)	\$200
Failure to Submit Annual Test Results	13.21(5)(c)2.d.	\$200