

CHAPTER 23

PRIVATE WATER SYSTEMS ORDINANCE

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23.01 Introduction.

- (1) This ordinance is adopted pursuant Wis. Stat. secs. 59.70(6) and 280.21 and any rules promulgated thereunder. It may be referred to as the Private Water Systems Ordinance or as the Well Code.
- (2) The purpose of this ordinance is to protect the county's drinking water and groundwater resources by regulating private well location and by regulating well and drill hole abandonment.
- (3) This ordinance applies throughout the entire county, including all of its cities, towns, villages, and sanitary districts.

23.02 Well Location Permit.

No person may construct a private well or reconstruct or rehabilitate an existing private well unless the owner of the property where the well is or will be located holds a valid well location permit issued by the Wisconsin Department of Natural Resources. Any private well that is constructed, reconstructed, or rehabilitated must comply with all applicable state and local laws, ordinances, and regulations.

23.03 Well and Drill Hole Abandonment Permit.

- (1) No person may abandon a well or drill hole unless the owner of the property where the well or drill hole is located holds a valid abandonment permit issued by the county. Wells and drill holes must be abandoned in accordance with all applicable state and local laws, ordinances, and regulations, including the standards established in Wis. Admin. Code § NR 812.26.

- (2) Abandonment permit applications must be:
 - (a) on forms provided by the Administrator;
 - (b) signed by the owner or the owner's agent; and
 - (c) submitted to the Administrator at least two working days prior to abandonment.
- (3) The Administrator will review applications and approve or disapprove complete applications or return incomplete applications. The Administrator will issue written notice to each applicant whose application is disapproved stating the specific reasons for disapproval and describing the amendments, if any, that would render it subject to approval.
- (4) An abandonment permit is valid for a period of 60 days or until abandonment is complete, whichever occurs first. If the permit expires, a new application must be submitted.
- (5) The abandonment permit must be conspicuously displayed at the well or drill hole site from the time it is received until at least seven days following completion of abandonment or until the site has been inspected by the county, whichever occurs first.
- (6) A permit transfer application must be submitted if the owner or well constructor changes after the application is submitted and before abandonment is complete. Failure to submit a transfer application invalidates any previously issued permit. The application must be on a form provided by the Administrator.
- (7) The owner must notify the Administrator that abandonment has been completed on the first business day following completion.
- (8) Any permit issued under this section is void if the permit application contains any false or inaccurate information.

23.04 Prohibitions.

- (1) It is unlawful for any person to interfere with the Administrator in the performance of his or her official duties.
- (2) It is unlawful for any person to remove a posted permit or a stop work order without proper authorization.
- (3) It is unlawful for any person to perform work in violation of a stop work order.

23.05 Orders.

- (1) The Administrator may issue correction, stop work, and abandonment orders. Each order must be in writing, served in person or by certified mail, and include:
 - (a) the date of the order;
 - (b) the identity of the person to whom it is issued;
 - (c) the location of the well or drill hole site which is the subject of the order;
 - (d) the statute, ordinance, regulation order under which the order is issued;
 - (e) a statement that the owner is responsible for obtaining any required permits, paying any fees, and complying with all requirements of this chapter;
 - (f) a statement of the procedure by which the order may be appealed to the Board of Adjustment;
 - (g) a statement that the Administrator may issue a citation or refer the matter to the Corporation Counsel for enforcement if the order is not complied with in a timely manner; and
 - (h) the signature of the Administrator.
- (2) Correction Orders. A correction order shall state the corrective action which must be taken and date by which the action must be completed. It shall also contain a statement that the owner is responsible for contacting the Administrator to schedule the inspection site within 2 business days following the date by which the action must be completed.
- (3) Stop Work Orders. The Administrator may issue stop work orders if the Administrator determines that the location, construction, or abandonment of a well does not comply with this ordinance. The Administrator shall post a copy of the stop work order in a conspicuous place at the site.
- (4) Abandonment Orders.
 - (a) The Administrator may order the abandonment of any well or drill hole that is not in service.
 - (b) The Administrator may order the abandonment of any well that is bacteriologically unsafe or a health hazard.

- (c) The Administrator may order the abandonment of any well that will be taken out as the result of the construction, reconstruction, or rehabilitation of a private well for which a well location permit is issued under this chapter.
- (d) The Administrator may order the abandonment of any well that does not comply with the requirements of any state or local statute, ordinance, or regulation.
- (e) The Administrator may order the upgrade or replacement of any private well that does not comply with the casing height, well cap, or minimum private well separation distances specified in Wis. Admin. Code ch. NR 812 .
- (f) The Administrator may, after consultation with and approval by DNR, order the abandonment of any well for which the water exceeds a primary drinking water standard listed in Wis. Admin. Code ch. NR 809 or any state health advisory limit.

23.06 Citations.

The Administrator may issue citations for a violation of any provision of this chapter.

23.07 Penalties.

- (1) A person who violates any provision of this chapter shall forfeit not less than \$50 nor more than \$500 for each offense, together with the costs of prosecution. A separate offense shall be deemed committed on each day or part of each day during which a violation occurs or continues.
- (2) A person who defaults in the payment of a forfeiture or the costs of prosecution may be imprisoned in the county jail until the forfeiture and costs are paid, but such imprisonment shall not exceed 30 days. This paragraph does not preclude the county from taking any appropriate action to prevent, abate, or remedy a violation of any provision of this chapter.

23.08 Administration.

- (1) This chapter shall be administered by an Administrator, who shall have the powers necessary to issue permits, conduct inspections, issue orders, and take such other administrative action as may be necessary to enforce the provisions of this chapter and any state laws or regulations relating to the location and abandonment of wells and drill holes.

- (2) Inspection Authority. The Administrator may require the production of any permit required under this chapter, may enter buildings or property during normal business hours for the purpose of inspecting a well or drill hole upon presentation of proper credentials, and may obtain a special inspection warrant under Wis. Stat. § 66.0119 if consent for entry for inspection purposes is refused.
- (3) Investigation Authority. The Administrator may investigate complaints regarding noncompliance with any provision of this chapter and any state law or regulation relating to the location and abandonment of wells and drill holes within the county.
- (4) Referral Authority. The Administrator may refer matters to the DNR that are beyond the scope of this chapter or that require DNR approval. The Administrator may refer matters to the Corporation Counsel for enforcement.

23.09 Appeals.

- (1) A person aggrieved by an order of the Administrator may, within 30 days of the date of the order, seek a review of the order by the board of adjustment. The appeal must be in writing and on a form provided by the Administrator.
- (2) An appeal that requires the granting of a variance to Wis. Admin. Code ch. NR 812 shall be referred to the DNR pursuant to Wis. Admin. Code § NR 845.09(11)(b). Otherwise, the board shall fix a time for a hearing on the appeal, given notice to the parties and the public, conduct a hearing, and issue a written decision within a reasonable time. The Board may affirm, modify, or reverse, in whole or in part, the appealed order.

23.10 Enforcement.

This chapter shall be enforced by the Corporation Counsel who may bring an action against any person or seek injunctive relief for a violation of any provision of this chapter.

23.11 Definitions.

- (1) The definitions contained in Wis. Stat. ch. 280 are incorporated by reference.
- (2) Administrator means the Code Administrator appointed pursuant to sec. 8.18(2) and includes any person authorized by the Administrator to perform duties required of the Administrator under this chapter.
- (3) DNR means the Wisconsin Department of Natural Resources.

23.12 Fee Schedule.

- (1) The fee for a well siting permit is \$100.
- (2) The fee for the transfer of a well siting permit is \$25.
- (3) The fee for an inspection is \$50.
- (4) There is no fee for a well abandonment permit.

23.13 Severability.

The provisions of this ordinance are severable, and the invalidity of any part of this ordinance does not affect the validity or effectiveness of the remainder of the ordinance.

23.14 Effective Date.

- (1) All provisions of this ordinance except sec. 23.02 shall become effective on August 1, 2004.
- (2) The provisions of sec. 23.02 shall become effective on July 1, 2007.

HISTORY

7/20/04: Created by Ord. No. 2004/2005-54 effective July 29, 2004.

9/26/06: Sec. 23.02 amended by Ord. No. 2006/2007-64 effective October 5, 2006.