

**CHAPTER 3  
PRIVATE WATER SYSTEMS ORDINANCE**

**SECTION:**

<b>9-3-1:</b>	<b>Authority and Adoption</b>
<b>9-3-2:</b>	<b>Jurisdiction</b>
<b>9-3-3:</b>	<b>Purpose</b>
<b>9-3-4:</b>	<b>Intent</b>
<b>9-3-5:</b>	<b>Effective Date</b>
<b>9-3-6:</b>	<b>Severability and Non-liability</b>
<b>9-3-7:</b>	<b>Repeal</b>
<b>9-3-8:</b>	<b>Definitions</b>
<b>9-3-9:</b>	<b>County Responsibilities</b>
<b>9-3-9-1:</b>	<b>Well and Drill Hole Abandonment</b>
<b>9-3-9-2:</b>	<b>Private Well Location Permits</b>
<b>9-3-10:</b>	<b>Administrator</b>
<b>9-3-10-1:</b>	<b>Qualifications of Administrator</b>
<b>9-3-10-2:</b>	<b>Powers</b>
<b>9-3-10-3:</b>	<b>Duties of Administrator</b>
<b>9-3-11:</b>	<b>Requirements and Permits</b>
<b>9-3-12:</b>	<b>Appeals</b>
<b>9-3-13:</b>	<b>Violations</b>
<b>9-3-13-1:</b>	<b>Notice of Noncompliance</b>
<b>9-3-14:</b>	<b>Administrator Directives and Orders</b>
<b>9-3-14-1:</b>	<b>Field Directive</b>
<b>9-3-14-2:</b>	<b>Formal Directive</b>
<b>9-3-14-3:</b>	<b>Correction Order</b>
<b>9-3-15:</b>	<b>Enforcement Actions</b>
<b>9-3-16:</b>	<b>Fee Schedule</b>

**9-3-1: AUTHORITY AND ADOPTION**

1. This ordinance is adopted under the authority granted to the County by §§59.70(6) and 280.21, Wis. Stats., and ch. NR 845, Wis. Adm. Code.
2. This ordinance is subject to the provisions of §§59.70(6) and 280.21, Wis. Stats., and all rules promulgated thereunder regulating private water systems.
3. Failure to comply with any of the provisions of such regulations shall constitute a violation of this ordinance, actionable according to the penalties provided herein.
4. This ordinance applies to the entire county and includes cities, towns, villages and sanitary districts in the county.

**9-3-2: JURISDICTION**

The provisions of this ordinance shall apply to all private water systems within Green County pertinent to well abandonment and drill hole abandonment.

**9-3-3: PURPOSE**

The purpose of this ordinance is to protect the drinking water and groundwater resources of the county by governing access to groundwater through regulating private well locations and well abandonment and drill hole abandonment. This ordinance does not pertain to ground water monitoring wells or any community water system. (Ord. 08-0801, 8/12/2008)

**9-3-4: INTENT**

The intent of this ordinance is to regulate well abandonment and drill hole abandonment and to provide for administration and enforcement of this ordinance.

**9-3-5: EFFECTIVE DATE**

This ordinance shall be effective upon its adoption by the Green County Board of Supervisors.

**9-3-6: SEVERABILITY AND NON-LIABILITY**

If any section, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected. The County asserts that there is no liability on the part of the Board of Supervisors, its agencies, or employees for any health hazards or damages that may occur as a result of reliance upon, and compliance with, this ordinance.

**9-3-7: REPEAL**

All other county ordinances or parts of ordinances inconsistent or conflicting with this ordinance, to the extent of the inconsistency only, are repealed.

**9-3-8: DEFINITIONS**

**ADMINISTRATOR:** The county employee designated by the County Board of Supervisors to administer ch. NR 812, Wis. Adm. Code pertinent to well abandonment and drill hole abandonment in the county as authorized by the department.

**CENTRAL OFFICE:** The bureau of water supply, located in Madison, Wisconsin, which functions as the coordinating authority for the statewide water supply program.

**COMMUNITY OFFICE STAFF:** County office personnel trained to answer general well abandonment and drill hole abandonment questions.

**COMMUNITY WATER SYSTEM:** Has the meaning designated in ch. NR 811.02(9), Wis. Adm. Code.

**DELEGATION LEVEL:** The program level, as set forth in ch. NR 845.05, Wis. Adm. Code, at which a county is authorized to administer and enforce ch. NR 812, Wis. Adm. Code.

**DEPARTMENT:** The Department of Natural Resources.

**DISTRICT OFFICE:** The department office located in Madison, Wisconsin.

**EXISTING INSTALLATIONS:** Has the meaning designated in ch. NR 812, Wis. Adm. Code.

**HEALTH HAZARD:** A condition which constitutes:

1. A violation of ch. NR 812, Wis. Adm. Code, regarding the installation, construction, operation or maintenance of a private well; or
2. Confirmed bacteriologically-unsafe well water quality.

**NON-COMMUNITY WATER SYSTEM:** A public water supply system that is not a community water system. It serves at least 25 persons per day at least 60 days each year. A non-community water system commonly serves a transient population rather than permanent year-round residents. This is typically an individual well serving a restaurant, industry, service station, tavern, motel, campground or church.

**NON-COMPLYING WELL OR PUMP INSTALLATION:** A private water system not in compliance with all provisions of ch. NR 812, Wis. Adm. Code, in effect at the time the well was constructed or the pump was installed.

**PERSON:** An individual, corporation, company, association, cooperative, trust, institution, partnership, state, public utility, sanitary district, municipality or federal agency.

**PERSONAL INTEREST:** Having a financial interest in a property or being related by marriage or birth to a person having a financial interest in a property.

**PRIMARY DRINKING WATER STANDARDS:** Those maximum contaminant levels which represent minimum public health standards set forth in ch. NR 809, Wis. Adm. Code.

**PRIVATE WATER SYSTEM ORDINANCE:** A county ordinance, approved by the department, regulating private water systems at the county's authorized delegation level.

**PRIVATE WELL:** For the purpose of this ordinance, any drilled, driven point, dug, bored or jetted well constructed for the purpose of obtaining groundwater for potable use, including wells constructed in special well casing depth areas and non-community wells. It does not include springs, or private or public wells that require written plan approval from the department.

**PUBLIC WATER SYSTEMS:** Has the meaning designated in ch. NR 812, Wis. Adm. Code.

**PUMP INSTALLER/PLUMBER:** Any person that works on a new or existing well or water system. (Ord. 08-0801, 8/12/2008)

**VARIANCE:** An approval issued by the department under ch. NR 812, Wis. Adm. Code, allowing a private water system to vary from ch. NR 812, Wis. Adm. Code requirements if department approved conditions are met.

**WATER SYSTEM:** The water collection, storage, treatment facilities and all structure, piping and appurtenances by which water is provided.

**WELL:** Has the meaning designated in §280, Wis. Stats.

**WELL CONSTRUCTION:** The procedures, methods, materials and equipment used during the construction or reconstruction of a private well.

**WELL DRILLER:** Any person who constructs a well and is licensed in the state of Wisconsin. (Ord. 08-0801, 8/12/2008)

**WELL LOCATION PERMIT:** A permit or comparable registration system, issued by the County, which allows the construction or reconstruction of a private well. (Ord. 08-0801, 8/12/2008)

### **9-3-9: COUNTY RESPONSIBILITIES**

#### **9-3-9-1: WELL AND DRILL HOLE ABANDONMENT**

The permanent abandonment of unused or contaminated wells or drill holes in noncomplying water systems is an important step of the protection of local ground water quality. Wells, especially those with structural defects, may act as conduits for the vertical movement of contamination from or near the ground surface to the ground water or from one aquifer to another.

The County requires the proper abandonment of wells not in service, or that will be taken out of service, if the well is abandoned, or non-complying in accordance with §NR 812.26, Wis. Adm. Code. The County may require abandonment of a well with water exceeding a primary drinking water standard listed in ch. NR 809, Wis. Adm. Code, or other chemical compounds for which state health advisory limits have been issued including inorganic and organic compounds, after consultation with and approval by the department.

The County shall cooperate with all other governmental units and agencies in the enforcement of all state and local laws and regulations pertaining to matters in this ordinance. (Ord. 05-0601, 6-14-05)

#### **9-3-9-2: PRIVATE WELL LOCATION PERMITS**

The County requires the issuance of a permit authorizing the location of new and replacement private wells, including drilled, driven point, dug, bored or jetted wells, or the reconstruction or rehabilitation of existing private wells. (Ord. 08-0801, 8/12/2008)

#### **9-3-10: ADMINISTRATOR**

The County Land Conservationist shall act as the Green County Administrator and is assigned the duties of administering the private water system program in accordance with department rules.

The administrator or authorized assistant shall have the power and duty to enforce the provisions of this ordinance and all other ordinance, laws and orders of the County and of the State of Wisconsin which relate to the abandonment of all private water systems within the County at the County's authorized delegation level.

### **9-3-10-1: QUALIFICATIONS OF ADMINISTRATOR**

The administrator shall be informed on the principles and practices of well abandonment and drill hole abandonment.

### **9-3-10-2: POWERS**

The County Administrator or authorized assistant shall have all the powers necessary to enforce the provisions of this ordinance commensurate with the level or levels of the County's delegated authority including the following:

- A. In the performance of his or her duties, the administrator or an authorized assistant may enter any building or property upon presentation of the proper credential, during reasonable hours for the purpose of inspecting the private water system for purposes pertinent to well abandonment and drill hole abandonment. No person may interfere with the administrator or an authorized assistant in the performance of his or her duties. Any person interfering shall be in violation of this ordinance and subject to penalty as provided by this ordinance. If consent to enter property for inspection purposes is denied, the administrator may obtain a special inspection warrant under §§66.0119(1)&(2) and 66.0119(3), Wis. Stats.
- B. Order any person owning, operating or installing a private water system to abandon, repair or place it in a complying safe or sanitary condition if the system is found to be abandoned, or if not in compliance with ch. NR 812, Wis. Adm. Code, or the county ordinance.

### **9-3-10-3: DUTIES OF ADMINISTRATOR**

It shall be the duty of the administrator or authorized assistant to enforce the provisions of this ordinance and perform the following duties commensurate with the level or levels of the County's delegated authority.

- A. Provide the department with copies of all abandonment inspection forms and correspondence as required by ch. NR 845, Wis. Adm. Code.
- B. Investigate and record all private water system complaints. (Ord. 08-0801, 8/12/2008)
- C. Investigate cases of noncompliance with this ordinance, ch. NR 812, Wis. Adm. Code, and §280, Wis. Stats., issue orders to abate the noncompliance and submit violations to the District Attorney or Corporation Counsel for enforcement.
- D. Refer complaints and cases of noncompliance believed to be or known to be beyond the scope of the County's delegation level to the department.
- E. Cooperate with all other government units and agencies in the enforcement of all state and local laws and regulations of matters related to this ordinance.
- F. Assist the department as specified in ch. NR 845, Wis. Adm. Code.
- G. Refer variance requests and actions which require department approval to the department.
- H. Advise owners not to drink or use water from private water systems under conditions specified in ch. NR 845, Wis. Adm. Code.

- I. Record all permits, fees, inspections and other actions, and make an annual report thereon to the County Board of Supervisors. (Ord. 08-0801, 8/12/2008)
- J. Inspect the location of new private water systems upon completion. (Ord. 08-0801, 8/12/2008)

**9-3-11: REQUIREMENTS AND PERMITS**

1. No person may install a private well or water system unless the owner of the property on which the private water system is to be installed holds a valid well location permit issued by the County or has made arrangements to acquire a permit by notifying the Land Conservationist, or his/her designee, prior to construction. Notification shall include providing the Land Conservationist, or his/her designee with the property owner's name and address, property legal description, proposed starting date and identification of the person who will be obtaining the permit.
2. No private water system may be located, installed or operated within the jurisdictional limits of the county without the appropriate permit being obtained in compliance with sub. (1) above and without being in full compliance with the provisions of this ordinance and all other applicable state and local laws and regulations. Permit applications for the location of a well shall be made by the property owner. Permits shall be issued from the office of the Land Conservationist, or his/her designee.
3. The permit application shall be on forms provided by the Land Conservationist, or his/her designee, and shall include the following:
  - a. A site plan diagram. The plan diagram shall be submitted on paper not less than 8½ by 11 inches and shall include the location of all structures, all other wells (used or unused) or sources of water, septic tanks, septic absorption fields, underground fuel storage tanks, animal yards and other sources of contamination; at least one property line, the property access road and nearest public road. Distances shall be provided by dimension or to scale. For large parcels the plan must include a small scale diagram showing all property lines and adjacent roads in addition to the large scale diagram showing site details.
  - b. A copy of any variance granted by the department including proof that the variance has been properly recorded.
4. Well location permit applications shall be signed by the property owner. Well location permit applications shall be submitted to the Land Conservationist, or his/her designee, at least 2 working days prior to construction. The well driller shall be responsible for maintaining full compliance with all provisions of ch. NR 812, Wis. Admin. Code. The permit application shall be submitted by the property owner and shall be issued to the property owner.
5.
  - a. The Land Conservationist, or his/her designee, shall assist applicants by answering questions and providing forms, reviewing applications and approve, disapprove or notify an applicant of the need to seek a variance or special approval from the department or return the permit application due to incompleteness for all private water systems to be constructed or modified in the county within 7 working days following submission of the permit application. The Land Conservationist, or his/her designee, may reserve final approval or disapproval of a permit which requires department action until the variance or special approval request has been acted on by the department.

- b. If a permit is disapproved because an applicant submits an incomplete or inaccurate application, one-half of the application fee shall be retained by the County. Any reapplication shall require the same fee as a new application.
6. The Land Conservationist, or his/her designee, shall issue written notice to each applicant whose permit application is disapproved. An application shall be disapproved if the well construction would result in noncompliance with ch. NR 812, Wis. Admin. Code, or if a well construction variance or special approval request was denied by the department. Each notice shall:
  - a. State the specific reason for denial.
  - b. Inform the applicant of the right to request a special approval or a variance from the department and the procedures for making such a request.
7. When construction occurs on a weekend or holiday, notification shall be provided to the Land Conservationist, or his/her designee, on the first workday following the weekend or holiday in the same manner as described in sub. 4 above. Unless other arrangements are made with the Land Conservationist, or his/her designee, the permit application shall be obtained on the first workday following the weekend or holiday. The well driller shall be responsible for maintaining full compliance with all provisions of ch. NR 812, Wis. Admin. Code.
8. All unused wells on the property shall be properly permanently abandoned within 30 days of construction of the new or replacement well. In accordance to ch. NR 12, Wis. Admin. Code, County staff shall be informed of well abandonment.
9. A permit transfer application shall be submitted to the county when there is a change of property owner after the application is submitted but before well construction is completed. Failure to submit a transfer application to the County shall invalidate a previously issued permit. The application shall be on a form made available by the Land Conservationist, or his/her designee.
10. As soon as the well location permit is received, it shall be displayed conspicuously at the well site during construction, for a minimum of seven (7) days following completion of construction.
11. A well location permit shall be valid for a period of one year or until construction is completed, whichever comes first. If the permit expires, a new application shall be submitted to the Land Conservationist, or his/her designee. Reapplications shall be evaluated so that construction will comply with the provisions of ch. NR 812, Wis. Admin. Code, in effect at the time of the reapplication. The Land Conservationist, or his/her designee, may require additional inspection and fees for reapplications.
12. A well location permit is not required nor shall be issued by the County for private water systems requiring written plan approval from the department.
13. Any permit issued under this section shall be void if any false or inaccurate statement is made or if any inaccuracy is shown on any application for a permit.
14. No permit may be issued to any property owner or designated agent of the property owner who is in violation of this ordinance until the violation has been corrected.

**9-3-12: APPEALS**

Persons seeking to appeal decisions of the administrator under this ordinance shall file written letters of appeal with the administrator. The administrator shall place the appeal on the agenda of the Land Conservation Committee and the appeal shall be given a due process proceedings in accord with §59.69(2)(e), of the Wisconsin Statutes. The Committee shall decide whether to uphold, uphold with modifications or reverse the administrator's decision based upon the terms and intent of this ordinance and the relevant state laws and administrative rules. No appellate decision of the Committee shall have the effect of approving an existing or proposed condition that would violate this ordinance or state law or administrative rule. Appeals that may only be approved by the granting of a variance to ch. NR 812, Wis. Adm. Code, shall be referred to the department pursuant to ch. NR 845.09(11)(b), Wis. Adm. Code. Board appellate decisions shall be made in writing and shall be filed in the administrator's office. Appeals of decisions made by authorized agents on behalf of the administrator shall be made first to the administrator and then be appealable as provided herein.

**9-3-13: VIOLATIONS**

The administrator shall investigate violations of the Private Water System Ordinance and ch. NR 812, Wis. Adm. Code, relating to the County's authorized delegation level(s), issue orders to abate the violations and submit orders to the District Attorney or Corporation Counsel for enforcement.

**9-3-13-1: NOTICE OF NONCOMPLIANCE**

- A. A well driller or pump installer/plumber shall submit a notice of noncompliance to the Department of Land Conservation of known unused or improperly abandoned wells located on properties where work was completed on wells or existing water systems.
- B. The notice shall include the landowner's name, address, and location of the unused well with a site diagram on paper not less than 8½ x 11 inches.

(Ord. 08-0801, 8/12/2008)



**9-3-14: ADMINISTRATOR DIRECTIVES AND ORDERS**

**9-3-14-1: FIELD DIRECTIVE**

The administrator, after investigation and a determination that a violation exists, may issue a written field directive. This field directive may consist of a handwritten note on an inspection report, or similar paper, identifying the violation that has occurred and assigning a date by which the violation must be corrected, and shall include the inspector's telephone number and office address.

**9-3-14-2: FORMAL DIRECTIVE**

A formal letter may be issued, which states the violation, the ordinance (administrative rule or statutory) section violated, the date the violation was noted, the inspector who noted the violation and assigns a date by which the correction must be made.

**9-3-14-3: CORRECTION ORDER**

Upon discovery and after documentation of a violation, the administrator may issue a corrective order. The administrator may use a stepped enforcement procedure by issuing a directive before an order, or may proceed directly to issuing a correction order. An order shall include the following:

- A. The location of the violation (site).
- B. The name of the parties involved, owner, permittee, well constructor, or pump installer.
- C. The section of the ordinance and Wisconsin Administrative Code section violated.
- D. The date of inspection of the site where the violation occurred.
- E. The name of the person who conducted the inspection which revealed the violation.
- F. The date by which the correction must be completed.
- G. The name of the person who must be contacted regarding subsequent inspection of the site.
- H. A statement that, if the order is not complied with, the administrator will refer the violation to the District Attorney or Corporation Counsel with a recommendation to seek injunctive relief and/or forfeitures from the Circuit Court of Green County. Orders must be signed by the administrator of the private water system ordinance.
- I. The administrator shall report all orders that have not been complied with to the Green County Corporation Counsel for enforcement.

**9-3-15: ENFORCEMENT ACTIONS**

- A. An enforcement action may be brought by the Corporation Counsel against a person or persons for any of the following violations:
  - 1. Failure to comply with any provision of this ordinance.
  - 2. Failure to comply with any directive or order issued by the county administrator.
  - 3. Resisting, obstructing or interfering with the county administrator, or an authorized assistant, actions undertaken pursuant to this ordinance.

B. The County Corporation Counsel may, for any violation, seek:

1. Injunctive relief and/or
2. Forfeitures of not less than \$50.00 but not more than \$200.00
3. Each day of violation is a separate offense.
4. Failure to obtain a permit as required under this Ordinance shall be assessed a forfeiture of \$500.00.

(Ord. 03-1201; 12/09/2003; Ord. 08-0801, 8/12/2008)

**9-3-16: FEE SCHEDULE**

A. The fee for a well permit shall be \$50.00.

B. The fee for a transfer of a well-setting permit shall be \$40.00.  
(Ord. 08-0801, 8/12/2008)