



Legislation Text

File #: 06737, Version: 1

Fiscal Note

No expenditure required.

Title

Amending Section 13.06(2) of the Madison General Ordinances to clarify regulations for water meter pits and to establish abatement procedures for water meter pit hazards.

Body

DRAFTER'S ANALYSIS: This proposal amends the City's existing regulations regarding water meter pits to clarify that a property owner or operator is responsible for removing standing water in a water meter pit at the request of a city employee engaged in reading a meter; that repairs must conform to city standards and that the city may abate water meter pit hazards if the property owner does not do so. The proposal states that the costs of such abatement may be assessed against the property owner.

The Common Council of the City of Madison do hereby ordain as follows:

Subsection (2) entitled "Maintenance of Water Meter Pits" of Section 13.06 entitled "Access To Premises And Maintenance Of Water Meter Pits" of the Madison General Ordinances is amended to read as follows:

"(2) Maintenance of Water Meter Pits.

- a-(a) Water meter pits are the responsibility of the owner or operator of the property and the owner or operator bears the responsibility for all required pit maintenance and repairs. Water meter pits shall be maintained in a clean, dry and safe condition and shall be free from leaks or standing water. Water meter pits shall be maintained in a manner that provides for adequate accessibility, security, safety and for protection against freezing and flooding for the meter. No plants, landscaping or other physical objects shall limit the accessibility of the water meter pit. The water meter pit lid shall be maintained in safe condition and shall be capable of supporting the weight of pedestrians and lawn care equipment. The owner or operator of the property shall provide for proper grading of the surface around the water meter pit so that water will not collect around or course over the water meter pit lid.
- b-(b) It shall be the responsibility of the owner or operator of the property to remove any standing water from a water meter pit, at the request of a City employee who is engaged in the performance of duty pursuant to Sec. 13.06(1), MGO. Any owner or operator who fails to remove such standing water upon request shall be subject to the penalties contained in Sec. 13.23, MGO. The penalties in this subsection may be imposed in addition to any penalties that result from nonconformance with Sec. 13.06(2)(a), MGO, or any other applicable ordinance that does not conflict with this subsection.
- (c) Any water meter pit built after the effective date of this ordinance shall meet the standards and specifications of the Water Utility in effect at the time of construction. It shall be the responsibility of the owner or operator of the property to ensure that a water meter pit meets such standards and specifications. The Water Utility shall make its standards and specifications available for public inspection at the office of the Water Utility during normal business hours. (d) Repairs and modifications to existing water meter pits that are commenced after the effective date of this ordinance shall conform to the standards and specifications of the Water Utility in effect at the time of the repair or modification. The owner or operator of the property shall only use parts or materials approved by the Water Utility or contained in the Water Utility's standards and specifications. It shall be the responsibility of the owner or operator of the property to ensure that repairs and modifications meet such standards and specifications, or have such approval.
- (e) Abatement of Water Pit Hazards. If the General Manager of the Water Utility, or his or her designee, determines that the design or condition of an existing water meter pit is a serious hazard to the health or safety of the Utility's employees or to the public, then the General Manager may order the owner or operator to repair or replace the water meter pit at the owner or operator's expense, pursuant to this subsection. An owner or operator may also comply with such an order by removing the water pit.

1. Summary Abatement of Water Pit Hazard.
 - a. Order of Abatement. If the General Manager of the Water Utility determines that a water meter pit 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 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. 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.
 - b. Abatement by the Utility. Whenever the owner or operator shall refuse or neglect to remove or abate the condition described in the order, the Director of the Water Utility may, in her or his discretion, enter upon the property and cause the nuisance to be removed or abated and the Water Utility shall recover the expenses incurred thereby from the owner or operator of the property. The expenses so incurred may be assessed as a special tax against the property.
2. Nonsummary Abatement of Water Pit Hazard.
 - a. Order to Abate Nuisance. If the Director of the Water Utility determines t a water meter pit 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 or operator of the property to remove or abate the condition described in the order within the time period specified therein. 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 Director of the Water Utility, the notice may be mailed to the last known address of the person to be served by registered mail with return receipt. 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 3 notice under Chapter 985, Wis. Stats. The time limit specified in the order runs from the date of service or publication.
 - b. Abatement by the City. If the owner or occupant fails or refuses to comply within the time period prescribed, the Director of Water Utility may enter upon the property and cause the nuisance to be removed or abated and the Water Utility shall recover the expenses incurred thereby from the owner or occupant of the property. The expenses so incurred may be assessed as a special tax against the property.
 - c. Remedy from Order. The order of the Director of the Water Utility shall not be appealable to the Board of Water Commissioners. Any person affected by orders issued under this subsection shall, within thirty (30) days of service or publication of the order, apply to the circuit court for an order restraining the Water Utility and the Director of the Water Utility from entering on the premises and abating or removing the nuisance, or be forever barred. The court shall determine the reasonableness of the order for abatement of the nuisance.
- (f) Authority to Assess Costs. The cost of abatement or removal of a nuisance under this section shall be collected from the owner, operator or person causing, permitting or maintaining the nuisance and, if notice to abate the nuisance, if applicable, has been given to the owner, such cost shall be assessed as a special tax against the property.
- (g) 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 Board of Water Commissioners.
- (h) Severability. The provisions of any part of this section are severable. If any provision or subsection hereof or the application thereof to any person or circumstances is held invalid, the other provisions, subsections and applications of such ordinance to other persons or circumstances shall not be affected thereby. It is declared to be the intent of this section that the same would have been adopted had such invalid provisions, if any, not been included herein."