



Legislation Text

File #: 26301, Version: 2

**Fiscal Note**

There may be a small increase in General Fund revenues derived from forfeitures.

**Title**

SUBSTITUTE Repealing and recreating Section 13.06, creating Section 13.065, and amending Section 1.08 (3)(a) of the Madison General Ordinances regarding water meter access requirements, the maintenance of water meter pits, and establishing new bond schedules for these violations.

**Body**

DRAFTER'S ANALYSIS: This ordinance makes changes to Sec. 13.06 by expanding the requirements for customers to provide the Water Utility with access to water meters to facilitate the upgrading of water meters pursuant to the advanced metering infrastructure project. Under the amendments, any premises supplied by City water services must provide access to the water meter for inspection, upgrading and maintenance purposes. The amendments create a clear notice procedure that the Utility must follow, and require that not only must a clear path to the water meter be maintained, but that the meter itself is accessible and that any electronic signal emanating from the meter be attainable. An exception procedure is also established that would give the General Manager the ability to grant a person an exception to these new requirements under certain criteria, and the person would have the ability to appeal the determination to deny such an exception request. Additionally, new penalties and a bond schedule are created for this section that are consistent with other violations of Chapter 13. Finally, this ordinance splits off Section 13.06(2) to create a new Section 13.065 regarding the maintenance of water meter pits.

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

1. Section 13.06 entitled "Access to Premises and Maintenance of Water Meter Pits" of the Madison General Ordinances is repealed and recreated to read as follows:

**"13.06 ACCESS TO THE PREMISES AND THE WATER METER.**

- (1) The General Manager of the Water Utility and persons under the General Manager's direction shall have free access at all reasonable hours to any premises supplied with City water for the purposes of inspecting, upgrading, maintaining and examining the water service appliances, including the water meter and transmission equipment. No person, firm, corporation or other entity shall prevent, delay or interfere with a City employee or contractor while he or she is engaged in the performance of any duties pursuant to this section.
- (2) Notice of Access Request. Except in emergency situations in which immediate access to a premises is necessary pursuant to the rules of the Public Service Commission and the Water Utility, the Water Utility shall provide at least twenty-four (24)-hours notice of its need to access the water service appliances at a premises. Notice shall be deemed sufficient if sent to the billing address for the water service at the premises. However, if the billing address for the water service is not the address of the premises, efforts shall also be made, with at least twenty-four (24)-hours notice, to notify occupants of the premises of the Water Utility's need to access the water service appliances. This may be done by mail, personal contact, through the use of door tags, or other reasonable means.
- (3) Water Meter Access. In order to allow Water Utility staff or contractors sufficient access to the water meter at the time access is required, a clear path to the meter must be provided and the area surrounding the meter must be clear of any debris or mechanicals. If access to the meter must be cut in (i.e. through drywall, paneling, etc.), the property owner or their designee must create a minimum opening of twenty-four inches by twenty-four inches (24" x 24") relative to the center of the meter. Removal of debris and repairs to the created access opening are the

- responsibility of the property owner.
- (4) Signal Access. If a hard-wired or wireless remote device is attached to the water meter for the purposes of communicating with the Water Utility about water usage, the signal to and from the meter must be attainable by the Water Utility. Transmission of the signal must not be blocked, altered or tampered with by any person.
  - (5) Exceptions. A person violating any of the requirements of this section may request an exception from the Water Utility by making a written request to the Madison Water Utility General Manager or his/her appointed designee within three (3) business days of the Water Utility's determination that the requirements of this section have not been met. An exception may be granted if adequate access to the water meter is still possible and/or if the signal to and from the meter may be attained by another method. The decision whether to grant or deny a timely-filed request for an exception under this subsection shall be in writing, and the person may appeal this decision within seven (7) days of the mailing of the notice of denial of the exception request. The 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 exception should be denied. Appeal from the action of the Water Utility Board shall be to Circuit Court within thirty (30) days of the determination of the Board.
  - (6) Penalty. Any person who violates this section may be subject to a forfeiture of not less than one-hundred dollars (\$100) and not more than (\$1,000). Each day a violation continues may be considered a separate offense. In addition, failure to follow the requirements of this section may subject the premises to disconnection of service pursuant to the Water Utility's service rules and Wis. Admin Code ch. PSC 185.37. If water service is disconnected, a re-connection fee will be assessed."

2. Section 13.065 entitled "Maintenance of Water Meter Pits" of the Madison General Ordinances is created to read as follows:

**"13.065 MAINTENANCE OF WATER METER PITS.**

- (1) 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.
- (2) 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 any 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 subsection (1) or any other applicable ordinance that does not conflict with this section.
- (3) 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.

- (4) 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.
- (5) Abatement of Water Meter 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 section. An owner or operator may also comply with such an order by removing the water meter pit.
  - (a) Summary Abatement of Water Meter Pit Hazard.
    1. 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 to the owner and/or 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. Notwithstanding any other provisions of this section, 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 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 levied as a special charge against the property.
  - (b) Nonsummary Abatement of Water Meter Pit Hazard.
    1. Order to Abate Nuisance. If the General Manager of the Water Utility determines that 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 and/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 General Manager 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 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 of the 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 operator of the property. The expenses so incurred may be levied as a special charge against the property.
    3. Remedy from Order. The order of the General Manager of the Water Utility 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 of the Water Utility from entering on the premises and abating or removing the nuisance, or be forever barred.

- (c) 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, if not paid, may be levied as a special charge against the property.
- (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.”

3. Subdivision (a) of Subsection (3) entitled “Schedule of Deposits” of Section 1.08 entitled “Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits” of the Madison General Ordinances is amended by deleting and creating therein the following:

<u>“Offense</u>	<u>Ord. No./Adopted Statute No.**</u>	<u>Deposit</u>
<u>Interference with access to premises.</u>	<u>13.06</u>	<u>\$50</u>
<u>Failure to provide access to premises.</u>	<u>13.06(1)</u>	<u>\$200</u>
<u>Failure to provide sufficient access to the water meter.</u>	<u>13.06(3)</u>	<u>\$100</u>
<u>Interference with water meter transmission signal.</u>	<u>13.06(4)</u>	<u>\$100</u>
<u>Maintenance of water meter pits.</u>	<u>13.065</u>	<u>\$50”</u>

EDITOR’S NOTES:

1. New bail deposits must be approved by the Municipal Judge prior to adoption. These deposits have been so approved.
2. Section 13.06 currently reads as follows:

**“13.06 ACCESS TO PREMISES AND MAINTENANCE OF WATER METER PITS.**

- (1) Access to Premises. The General Manager of the Water Utility and persons under the General Manager’s direction shall have free access at all reasonable hours to any premises supplied with City water for the purpose of inspecting and examining the water service appliances. No person, firm, corporation or other entity shall prevent, delay or interfere with a City employee while he or she is engaged in the performance of duty pursuant to this section.
- (2) Maintenance of Water Meter Pits.
  - (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) 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 to the owner and/or 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. 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 levied as a special charge against the property.
    - 2. Nonsummary Abatement of Water Pit Hazard.
      - a. Order to Abate Nuisance. If the Director of the Water Utility determines that 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 and/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 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 Chapter 985, Wis. Stats. The time limit specified in the order runs from the date of service or publication.

- b. Abatement by the Utility. If the owner or operator 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 operator of the property. The expenses so incurred may be levied as a special charge against the property.
- c. Remedy from Order. The order of the Director of the Water Utility 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 Director of the Water Utility from entering on the premises and abating or removing the nuisance, or be forever barred.

- (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, if not paid, may be levied as a special charge 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 Water Utility Board.”