

**CHAPTER 97
WATER SUPPLY**

TABLE

97-1	Licensing Required
97-2	Licensed Plumbers to Make Repairs
97-3	Tampering With Water Works Facilities
97-4.5	Replacement of Water Meters
97-6.5	Delinquent Water and Meter Repair Bills
97-6.6	Delinquent Service Pipe Repair Bills
97-7	Water Used in Public Buildings
97-8	Emergency Sprinkling Regulations
97-9	Water Laboratory Reports
97-10	Rent Withholding
97-12	Cross-connection Control Regulations

97-1. Licensing Required. Any person who shall lay any water service pipe or introduce into or about any building or on any grounds any water pipe, or who shall make any attachments or any connection whatever with the pipes of the water works, or shall prepare any work for such connection, or shall do any plumbing work connected with the introduction or supply of water from the water works, or shall make any repairs, additions to or alterations of any pipe, tap, stopcock, water closet or any other fixture connected or designed to be connected with the service water pipes without being duly licensed to perform said work by the commissioner of public works and without first having obtained either a permit from the water works or filed an application with the commissioner of city development, as the case may be for doing such work, shall be subjected to a fine of not less than \$10 and not exceeding \$50 and costs of prosecution.

97-2. Licensed Plumbers to Make Repairs. Where water service has been extended into any premise or building and the service pipe and all plumbing fixtures connected therewith are already controlled by a water meter, licensed plumbers may make repairs, alterations or additions to such water service pipes or plumbing fixtures without securing a permit from the water works but in lieu thereof shall file with the commissioner of city development an application showing the number and kind of additional plumbing fixtures to be installed.

97-3. Tampering with Water Works Facilities.

1 PERMIT REQUIRED. It shall be unlawful for any person, corporation or other organization to connect to, disconnect, or adjust any meter, pipe, hydrant, or other facility of the Milwaukee water works in any way whatsoever without having first obtained a permit to do so from the water works.

2. BILLING. It shall be unlawful for any person, corporation or other organization to take or use any water from a facility of the Milwaukee water works by any means that do not permit that use or taking to be measured and billed by the water works.

3. OWNER RESPONSIBLE. The presentation of evidence that the acts prohibited by this section took place on privately owned property shall create a rebuttable presumption that those acts were done by the owners of record of that property.

4. VIOLATIONS. The superintendent of the Milwaukee water works, or any official or employee of the water works that the superintendent may designate, shall have the power to issue a citation for any violations of this section.

5. PENALTY. Any person, corporation or other organization which violates this section shall pay a forfeiture of no more than \$1,000, and in default of payment thereof be confined in the county jail for not more than 30 days.

97-4.5. Replacement of Water Meters. As a condition of water service to the customers of the Milwaukee water works, all meters of customers of the Milwaukee water works system used for the purpose of measuring the quantity of water consumed by such customers shall be deemed under the exclusive control and supervision of the Milwaukee water works. The Milwaukee works shall repair or replace water meters as required in order to maintain the water meters in good working condition and so that they may accurately record the quantity of water consumed. The Milwaukee water works may interchange such meters with meters of like kind, may make repairs to such meters in a manner they deem most appropriate and practical, and may carry on such further activities of the servicing of such meters as may appear to be most effective in carrying out the purposes and objectives of the water works utility.

97-6.5 Water Supply

97-6.5. Delinquent Water and Meter Repair Bills. Upon presentation to the city clerk of a list of delinquent water and meter repair bills incurred during the preceding 12 months by customers of any municipal utility residing in the city and submitted by such municipal water utility on or before November 1st of each year, the city treasurer shall pay to such municipal water utility a lump sum of such total delinquency. This payment, however, shall be conditioned upon the fact that such municipal water utility has a reciprocal agreement with the city for the payment of delinquent water bills. Thereafter the said amount of delinquent water and water meter repair bills shall become liens on the real estate to which water was furnished or upon which meters were repaired and shall be inserted in the tax roll as delinquent taxes against the property involved or shall be collected in the same manner as are other delinquent taxes.

97-6.6. Delinquent Service Pipe Repair Bills. Upon presentation to the city clerk of a list of delinquent bills for the repair of service pipes, stops or stop boxes incurred during the preceding 12 months by customers of any municipal utility residing in the city and submitted by such municipal water utility on or before November 1st of each year, the city treasurer shall pay to such municipal water utility a lump sum of such total delinquency. This payment, however, shall be conditioned upon the fact that such municipal water utility has a reciprocal agreement with the city for the payment of delinquent water bills. Thereafter the amount of delinquent bills for the repair of service pipes, stops or stop boxes shall become a lien on the real estate to which service pipes, stops or stop boxes were repaired and shall be inserted in the tax roll as delinquent taxes against the property involved or shall be collected in the same manner as are other delinquent taxes.

97-7. Water Used in Public Buildings. All public buildings wherein city water is used shall be assessed in accordance with the established rates for making water assessments and all water used by the city for flushing sewers, settling sewer or other trenches, for all city display fountains and all water used for any purpose in the public parks shall be assessed according to the established water rates or in accordance with the best information obtainable, and in all cases where water has been used as

described, the fund of the water works shall be credited annually by the city comptroller with the several amounts so assessed and the said amounts charged to the respective funds chargeable with the maintenance of the several departments so supplied with water. During the month of December in each year the commissioner of public works shall certify to the city comptroller the several amounts used for street sprinkling purposes during that year, and the city comptroller shall thereupon, before the end of each year, credit the water works fund with the several amounts so certified as having been used by said ward for street sprinkling purposes.

97-8. Emergency Sprinkling Regulations.

1. TO BE DECLARED. Whenever in his or her opinion an emergency affecting the public health and safety shall exist by reason of insufficient water pressure, the commissioner of public works is authorized to promulgate an appropriate order restricting the use of water for sprinkling of lawns, gardens and premises. Upon approval by the mayor such an order shall be filed with the city clerk and shall thereupon be in full force and effect.

2. PENALTY. Any person violating any provision of such order shall upon conviction thereof be subject to a penalty of not less than \$1 nor more than \$50, together with the costs of prosecution, and in the event of default in the payment of such penalty and costs imprisonment in the county jail or house of correction for a period not to exceed 30 days.

97-9. Water Laboratory Reports. The superintendent of the water works shall make daily analyses and bacteriological tests of the water supply and transmit a monthly bacteriological and chemical summary of the plant water and a monthly bacteriological summary of tap water from various locations in the distribution system to the health commissioner and the state of Wisconsin department of natural resources.

97-10. Rent Withholding. 1. LACK OF WATER SERVICE. a. Deposit in Escrow. Notwithstanding any other provision of law, if a lessor of residential premises fails or neglects to provide water service to the premises as a result of a discontinuance of water service due to delinquent water charges, the commissioner of public works shall authorize the tenant in writing

to deposit rental payments into an escrow account designated by the commissioner. A tenant shall not be authorized to withhold rent if there exists a written agreement whereby the tenant has assumed liability for water charges. The tenant may commence making rental deposits into the escrow account beginning with the month in which authorization is given, provided that payment is made prior to expiration of a 5-day termination notice or service of a 14-day termination notice given by the lessor under ch. 704, Wis. Stats. The lessor shall be notified of rent withholding authorization and the appeal rights set forth in par. b by regular mail within 5 days.

b. Appeal. Authorization to deposit rental payments into an escrow account pursuant to par. a shall be stayed if an appeal of rent withholding authorization is made by the lessor to the administrative review appeals board in the manner and within the time period provided by s. 320-11. In hearing such appeals, the board shall have the power to affirm or reverse the authorization of rent withholding or to require the return to the lessor of all or part of the rent paid to the city rent withholding account or postpone to a future time commencement of rent withholding. The board may determine whether the lack of water service was caused by the fault or failure of the tenants or if there exists a written agreement whereby the tenant is liable for water charges, and, in such event, shall make a specific finding of such fact. This finding shall not affect the determination of the water works to discontinue water service, but shall only effect the ability of the commissioner to authorize rent withholding.

c. Absence of Payment. If the tenant's full rental payment has not been paid into the escrow account by the first day of the rental period, the commissioner shall, within 3 days and by regular mail, notify the lessor of the absence of full payment. If the tenant's full rental payment has not been paid into the escrow account by the 5th day of the rental period, the owner shall not be prohibited from starting eviction procedures.

2. DEPOSIT BY TENANT. The right of the tenant to deposit rental payments into the escrow account established by this section shall not preclude or affect in any way the tenant's right to use any of the remedies provided by the laws of the state of Wisconsin pertaining to the relationship of landlord and tenant.

3. RELEASE OF FUNDS. Monies deposited in the escrow account shall be released under any of the following conditions:

a. To the lessor upon certification by the water works that water service is being provided to the rental premises.

b. To the water works upon written authorization from the lessor. Monies so released shall be applied toward the delinquent water charges.

c. Monies deposited in the escrow account shall be used to pay for utilities where the utilities are included as part of the rent.

d. The commissioner may withdraw monies from the escrow account to restore water service, only after the time for appeal set forth in sub. 1-b has expired, and no appeal is pending.

e. The commissioner may deduct 15% as a fee to cover the costs of establishing, maintaining and closing the escrow account.

4. EVICTION OR RETALIATION.

a. No person or tenant who complains to the commissioner of a lack of water service or complies with this section shall be evicted for nonpayment of rent or because the person or tenant has elected to act under this section, so long as rent is being deposited by that tenant in the escrow account approved by the city for the receipt of such rental amounts.

b. No person or tenant shall be evicted or retaliated against for complaining of a lack of water service or for complying with this section. It shall be presumed that any attempt to terminate the tenancy of such tenant or to evict such tenant or to raise such tenant's rental payments or to otherwise harass or retaliate against such tenant during the period from the first complaint to the commissioner to 12 months after the certification by the water works that water service is being provided is done in retaliation for the tenant's complaint to the commissioner or for his or her compliance with this section and is declared void and subject to a forfeiture of not less than \$100 nor more than \$2,000 for each such attempt. In order to overcome such presumption, the lessor must show by a preponderance of the evidence that such acts were based upon good cause. In this paragraph "good cause" means that the lessor must show a good reason for his or her action, other than one related to or caused by the operation of this section, such as normal rental increases due to tax increases or increased maintenance costs. A tenant may be evicted for

97-12 Water Supply

failure to pay rent into the escrow account when due or if the tenant commits waste upon the property.

5. PROSECUTION. Use of rent withholding shall not prohibit the city from pursuing any legal remedy available to it relative to delinquent water charges or from prosecuting violations of the code relating to the property.

6. COERCION. a. Any person who accepts, as a result of harassment or coercion, rental payments for premises subject to rent withholding under this section shall be subject to a forfeiture of not less than \$100 nor more than \$2,000, whether the rental payments are tendered by or on behalf of the tenant occupying the premises at the time rent withholding is authorized or by or on behalf of any subsequent or other tenant who occupies the premises during the existence of such rent withholding authorization. Each payment accepted shall constitute a separate violation.

b. Any tenant who willfully and maliciously uses or attempts to use this section to harass a lessor shall be subject to a forfeiture of not less than \$100 nor more than \$2,000.

97-12. Cross-Connection Control Regulations.

1. PURPOSE. The purpose of this section is to protect consumers and the public water supply system of the city from the possibility of contamination or pollution due to, but not limited to, a backflow, a backsiphonage or the interconnection of contaminants into a building's plumbing system or into the public water supply.

2. ADOPTION OF STATE CODE. Chs. SPS 381 to 387 and 390, Wis. Adm. Code, as amended, s. NR 810.15, Wis. Adm. Code, as amended, and ch. 145, Wis. Stats., as amended, are adopted by reference and incorporated into this section to the extent and with the limitations provided by this section.

3. SUPPLEMENTARY PROVISIONS. This section shall not supercede the Wisconsin Administrative Code (plumbing code), ch. 225 or the water works rules and regulations governing water service and water service piping specifications, but is supplementary to them.

4. DEFINITIONS: In this section:

a. "Backflow" means the unwanted reverse flow of liquids, solids or gases.

b. "Backpressure" means a pressure higher in the private consumer water piping system than in the public water supply system which may cause backflow.

c. "Backsiphonage" means the creation of a backflow as a result of negative pressure.

d. "Commercial premises" means a commercial or industrial premises or a residential dwelling of 3 or more units.

e. "Cross-connection" means a connection or potential connection between any part of a water supply system and another environment containing any substance in a manner that, under any circumstances, would allow the substance to enter the public water supply system by means of backsiphonage or backpressure.

f. "Cross-connection control device" means any mechanical device that automatically prevents backflow from a contaminated source into a public water supply system.

g. "Person" means an individual, sole proprietorship, partnership, limited liability company, corporation or association.

h. "Residential premises" means one or 2-family dwellings.

5. PROHIBITIONS. a. No person shall establish or permit to be established or maintain or permit to be maintained any cross-connection.

b. No person shall remove or permit to be removed a cross-connection control device or method.

c. No person shall establish an interconnection whereby any water from private, auxiliary or emergency water supply other than the regular public water supply of the city may enter the building plumbing or the public water supply system of the city unless the private, auxiliary or emergency water supply and the method of connection and use of the supply shall have been approved by the water works and by the Wisconsin department of natural resources in accordance with s. NR 810.15(2), Wis. Adm. Code.

6. CROSS-CONNECTION CONTROL PROGRAM. The water works shall develop and implement a comprehensive cross-connection control program for the elimination of all existing unprotected cross-connections and prevention of all future unprotected cross-connections to the last flowing tap or end-use device. The cross-connection control program shall include:

a. Conducting a survey of each residential premises a minimum of once every 20 years, on a schedule matching meter replacement. For normal kitchen and bathroom fixtures on residential premises, public education materials may be provided in lieu of surveys of those fixtures, as long as those materials are provided to the customer not less than every 3 years and with every cross-connection survey.

b. Conducting a survey of each commercial premises and each public authority a minimum of once every 2 years, subject to the following exceptions:

b-1. For a commercial premises with a risk of cross-connection similar to or less than a residential premises, the survey schedule may be the same as described in par. a.

b-2. For a multi-family residential or condominium premises, except a premises heated by a boiler, the survey shall be conducted a minimum of once every 5 years.

c. Maintaining results of all surveys until corrections and follow-up surveys have been made.

d. Maintaining a complete description of the methods, devices and assemblies which will be used to protect the potable water supply. These methods, devices and assemblies shall be consistent with the provisions of s. SPS 382.41, Wis. Adm. Code.

e. Providing for the discontinuance of water service, after reasonable notice, to any premises where an unprotected cross-connection exists or where a survey could not be conducted due to denial of access. See sub. 9 for additional information.

f. Submitting to the Wisconsin department of natural resources an annual report including a total number of service connections by category and the number of surveys completed in each category for that year.

7. INSPECTIONS. In addition to surveys conducted as part of the ongoing survey program described in sub. 6, a representative of the water works shall have the power and authority at all reasonable times, for any proper purpose, to examine any property served by a connection to the public water supply system. If entry is refused, the representative may obtain a special inspection warrant under s. 66.0119, Wis. Stats. A copy of any testing conducted on any testable backflow preventer shall be provided to the water works. Upon request by a representative of the water works, the owner, his

or her agent, lessee or occupant of any property so served shall furnish to the inspection agency any additional pertinent information regarding the piping system or systems on the property if the information is known to the owner, agent, lessee or occupant.

8. REINSPECTIONS. Any person who shall fail or neglect to comply with any lawful order issued by the superintendent of water works or the superintendent's designee pursuant to this section, may be assessed a reinspection fee pursuant to s. 200-33-48.

9. DISCONTINUANCE OF SERVICE.

a. The water works shall discontinue water service to any property wherein any connection in violation of this section exists or where a survey could not be conducted due to denial of access, and take any other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service may be discontinued only after reasonable notice and opportunity for a hearing pursuant to s. 320-11, except as provided in par. b. Water service to the property shall not be restored until the cross-connection has been eliminated in compliance with this section or access for a survey has been provided.

b. If it is determined by the water works that a cross-connection or an emergency causes imminent danger to the public health, safety or welfare and required immediate action, service may be immediately discontinued or ordered disconnected. The person aggrieved shall receive notice of the disconnection and shall have the right to appeal pursuant to s. 320-11.

9.5. DELEGATION OF AUTHORITY. The water works may delegate the inspection, survey, and enforcement authority and duties established in this section to the department of neighborhood services pursuant to a memorandum of understanding.

10. PENALTY. Any person who violates or fails to comply with this section shall be subject to a forfeiture of not less than \$150 nor more than \$5,000, together with the cost of prosecution, and in default of payment shall be imprisoned in the house of correction or in the Milwaukee county jail until such fine and costs are paid, such imprisonment not to exceed 90 days. Each day of violation shall constitute a separate offense.

97--Water Supply

LEGISLATIVE HISTORY CHAPTER 97

Abbreviations:

am = amended

cr = created

ra = renumbered and amended

rc = repealed and recreated

rn = renumbered

rp = repealed

<u>Section</u>	<u>Action</u>	<u>File</u>	<u>Passed</u>	<u>Effective</u>
97-1	am	960621	7/30/96	8/16/96
97-1	am	980963	12/18/98	1/1/99
97-2	am	960621	7/30/96	8/16/96
97-2	am	980963	12/18/98	1/1/99
97-4.5	am	951346	1/23/96	2/9/96
97-8-1	am	960621	7/30/96	8/16/96
97-9*	cr	86-677	7/29/86	8/16/86
97-9*	cr	872597	6/7/88	6/24/88
97-9*	rn to 97-10	880524	7/26/88	8/13/88
97-10-1-b	am	881930	3/7/89	3/25/89
97-12	cr	031241	10/11/2004	10/28/2004
97-12-1	am	111247	10/14/2014	10/31/2014
97-12-2	am	111247	10/14/2014	10/31/2014
97-12-4-a	am	111247	10/14/2014	10/31/2014
97-12-4-c	am	111247	10/14/2014	10/31/2014
97-12-4-d	am	111247	10/14/2014	10/31/2014
97-12-4-g	am	111247	10/14/2014	10/31/2014
97-12-4-h	am	111247	10/14/2014	10/31/2014
97-12-5-b	am	111233	1/18/2012	2/4/2012
97-12-5-c	am	111233	1/18/2012	2/4/2012
97-12-6	rc	111247	10/14/2014	10/31/2014
97-12-6-a	am	111233	1/18/2012	2/4/2012
97-12-6-b	rc	180869	10/16/2018	11/2/2018
97-12-6-b-2	am	111233	1/18/2012	2/4/2012
97-12-7	am	111247	10/14/2014	10/31/2014
97-12-9-a	am	111247	10/14/2014	10/31/2014
97-12-9.5	cr	180869	10/16/2018	11/2/2018

* Section 97-9 was created effective 8/16/86; in 1988, a new section of chapter 97 was created, effective 6/24/88, and inadvertently assigned the same section number (section 97-9).

Subsequently a revisor's bill was passed, effective 8/13/88, renumbering the new text created effective 6/24/88 to section 97-10.