

**PUBLIC HEALTH CODE (EXCERPT)**  
**Act 368 of 1978**

PART 127

WATER SUPPLY AND SEWER SYSTEMS

**333.12701 Definitions used in MCL 333.12701 to 333.12715.**

Sec. 12701. (1) As used in sections 12701 to 12715:

- (a) "Person" means a person as defined in section 1106 or a governmental entity.
- (b) "Pump" means a mechanical equipment or device used to remove water from a well.
- (c) "Pump installer" means a person who is qualified to engage in the installation, removal, alteration, or repair of water well pumping equipment in connection with a water well.

(d) "Well" means an opening in the surface of the earth for the purpose of removing fresh water or a test well, recharge well, waste disposal well, or a well used temporarily for dewatering purposes during construction.

(e) "Well drilling contractor" means a person qualified to engage in well construction, well alteration, or well repair and pump installation, who supervises the construction of water wells and the installation of pumps, and who owns, rents, or leases equipment used in the construction of water wells.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of the division of environmental health and the division of water supply from the director of the department of public health to the director of the department of environmental quality, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

**Popular name:** Act 368

**333.12703 Applicability of MCL 333.12701 to 333.12715.**

Sec. 12703. (1) Sections 12701 to 12715 shall not apply to:

(a) A well, pump, or other equipment used temporarily for dewatering purposes during construction when the well is not more than 2 inches in diameter and not more than 25 feet in total depth below the natural ground surface or is used in the relief of artesian pressure at hydroelectric projects or is used with the drilling of oil or gas wells.

(b) A brine, test, storage, or disposal well regulated pursuant to part 625 (mineral wells) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.62501 to 324.62518 of the Michigan Compiled Laws.

(2) Sections 12701 to 12715 shall not prevent a person from constructing a well or installing a pump on property owned or leased by the person which is intended for use only in a single family house which is that person's permanent residence, or intended for use only for farming purposes on that person's farm, and where the waters to be produced are not intended for use by the public or in any residence other than his or her own. The person shall submit the drilling record required by section 12707 and comply with the rules and construction code promulgated under section 12714.

(3) Sections 12701 to 12715 shall not restrict a master plumber licensed under Act No. 266 of the Public Acts of 1929, being sections 338.901 to 338.917 of the Michigan Compiled Laws, from engaging in the licensee's legally recognized trade. A licensed master plumber may perform the work of a pump installer prescribed in sections 12701 to 12715 or rules and construction code promulgated under section 12714 without a certificate of registration as a pump installer.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1996, Act 67, Imd. Eff. Feb. 26, 1996.

**Popular name:** Act 368

**333.12704 Certificate of registration as well drilling contractor, pump installer, water well drilling contractor, or dewatering well pump installer; application; fees; exemption.**

Sec. 12704. (1) Before engaging in the business of well drilling or pump installing, a person shall obtain a certificate of registration annually as a well drilling contractor or pump installer, using an application prepared by the department.

(2) Before engaging in the business of constructing dewatering wells or installing dewatering well pumps, a person shall obtain a certificate of registration annually as a water well drilling contractor limited to the construction of dewatering wells or as a dewatering well pump installer, using an application prepared by the department.

(3) The applicant shall pay a registration fee with the application. The initial registration fee and the annual renewal registration fee for a well drilling contractor is \$40.00 and for a pump installer is \$25.00. A well drilling contractor shall pay an additional annual fee of \$10.00 for each additional drilling machine. A registered well drilling contractor may do any of the work of a pump installer without payment of the fee for a pump installer.

(4) A county, city, village, township, or other governmental unit engaged in well drilling or pump installing shall be registered under sections 12701 to 12715, but shall be exempt from paying the registration fees if the drilling or installing is done by regular employees of, and with equipment owned by, the governmental unit and the work is on wells or pumps intended for use by the governmental unit.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12705 Certificate of registration; issuance; nontransferable; expiration; renewal; examination; eligibility; reciprocity.**

Sec. 12705. (1) The department shall issue certificates of registration to well drilling contractors and pump installers who meet the requirements of sections 12701 to 12715.

(2) A certificate of registration is not transferable and expires on April 30 of each year. After July 1 of each year a certificate of registration may be renewed only upon application for renewal and payment of a fee of 50% of the basic registration fee in addition to the regular registration fee.

(3) A new applicant for a certificate of registration shall be examined in accordance with the rules and construction code promulgated under section 12714. The advisory board created by section 12711 shall determine and advise the department as to the eligibility of a well drilling contractor or pump installer for registration. A well drilling contractor or pump installer which is a firm, partnership, or corporation shall designate at least 1 partner, officer, or responsible full-time employee to take the examination on its behalf.

(4) The department, upon application and payment of the prescribed fees, may issue a certificate of registration as a well drilling contractor or a pump installer to a person who holds a similar certificate of registration in another state or a foreign country, if the requirements for the registration of a well drilling contractor and pump installer under which the certificate of registration was issued do not conflict with this part, are of a standard not lower than that specified by the rules and construction code promulgated under section 12714, and if equal reciprocal privileges are granted to a registrant of this state.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12706 Numbers, seal, and words to be placed on well drilling machine.**

Sec. 12706. A well drilling contractor shall place the registration number, including the county code number for the business location, in figures not less than 2 inches high in a conspicuous location on both sides of the contractor's well drilling machine. A seal furnished by the department designating the year the certificate of registration was issued or renewed and the words "Michigan registered water well drilling contractor" shall be affixed directly adjacent to the registration number.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12707 Record required; contents; copies; forms; sufficiency of record for drive point well.**

Sec. 12707. Not later than 60 days after the completion of a well, a well drilling contractor shall provide the owner with a copy and the department, or local health department, with 2 copies of a record indicating the well owner's name, location of the well, well depth, geologic materials and thicknesses of materials penetrated, amount of casing, static water levels, and any other information which may be required by the rules and construction code promulgated under section 12714. The department or local health department shall send 1 copy of the record to the director of the department of natural resources not later than 30 days after its receipt from the well drilling contractor. Standard forms for the record shall be provided by the department or the contractor's forms may be used if approved by the department. A record for a drive point well where no earth materials are removed from the well bore is sufficient if the owner's name, well location, depth, casing, static water level, and screen data are stated.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12708 Entering and inspecting installation.**

Sec. 12708. The department or local health department may enter and inspect, at reasonable hours, an installation on public or private property for the development or abandonment of ground water supplies.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12709 Inspection of violation; order; notice of suspension of certificate of registration; petition for hearing; revocation of certificate of registration.**

Sec. 12709. (1) When the department or local health department determines that there are reasonable grounds to believe there has been a violation of sections 12701 to 12715 or a rule or the construction code promulgated under section 12714, the department or the local health department shall investigate the violation. If the department or local health department establishes that a violation has been committed, the department or the local health department shall order the responsible person to make the proper corrections.

(2) When the department finds that the holder of a certificate of registration has engaged in a practice in violation of sections 12701 to 12715 or a rule, construction code, or order issued pursuant to those sections, the department may give written notice to the holder of the certificate of registration that the certificate of registration is suspended. A person who receives notice from the department that his or her certificate of registration is suspended, upon request, shall be granted a hearing before the department or an authorized representative of the department. If a petition for a hearing is not filed within 30 days after the day on which the certificate of registration was suspended, the certificate of registration is automatically revoked.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12711 Advisory board; creation; appointment and qualifications of members.**

Sec. 12711. An advisory board of 9 members is created in the department composed of the following: 5 members who are residents of this state registered under sections 12701 to 12715, at least 4 of whom are well drilling contractors, and who shall be appointed by the governor with the advice and consent of the senate; an employee of the bureau of environmental and occupational health of the department, and a representative of a local health department, each to be appointed by the director; an employee of the geological survey section of the department of natural resources appointed by the director of the department of natural resources; and an employee of the water resources commission appointed by the executive secretary of the water resources commission. Of 4 well drilling contractors 1 shall be from each of 4 geographic regions:

(a) Region 1: The Upper Peninsula.

(b) Region 2: That part of the Lower Peninsula bordered on the south by Oceana, Newaygo, Mecosta, Isabella, Midland, and Bay counties and the area north of those counties.

(c) Region 3: The area bordered on the north and west by Huron, Tuscola, Saginaw, Shiawassee, Livingston, Washtenaw, and Lenawee counties and the area south and east of those counties.

(d) Region 4: The area bordered on the east and north by Hillsdale, Jackson, Ingham, Clinton, Gratiot, Montcalm, Kent, and Muskegon counties and the area south and west of those counties.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibilities of the water well drillers advisory committee to the director of the Michigan state department of public health, see E.R.O. No. 1994-1, compiled at MCL 333.26322 of the Michigan Compiled Laws.

**Popular name:** Act 368

### **333.12712 Advisory board; terms of members; vacancies.**

Sec. 12712. Each member of the advisory board shall be appointed for a 3-year term. The terms of the 5 members registered under sections 12701 to 12715 shall alternate so that not more than 2 are appointed each year, except that of the first appointees, 1 shall be appointed for 1 year and 2 each shall be appointed for 2 and 3 years. The terms of the members representing the department of natural resources, the water resources commission, and the local health department shall alternate so that only 1 is appointed each year, except that of the first appointees 1 member shall be appointed for 1 year, 1 for 2 years, and 1 for 3 years. Vacancies shall be filled by appointment for the balance of the unexpired terms by the respective officials designated in section 12711.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12713 Advisory board; election of chairperson; secretary; number of meetings; quorum; conducting business at public meeting; notice of meeting; compensation and expenses.**

Sec. 12713. (1) The members of the advisory board, as soon as appointed, shall organize and elect from their number a chairperson. Thereafter, annually when new members are appointed to the board, a chairperson shall be elected at the next board meeting. The member from the department shall be the secretary of the board.

(2) The board shall hold not less than 1 meeting each year for the purpose of examining candidates for registration. Additional meetings may be called by the chairperson or director as may be reasonably necessary to carry out sections 12701 to 12715. Five members shall constitute a quorum. The business which the advisory board may perform shall be conducted at a public meeting of the advisory board held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended.

(3) The per diem compensation of the members of the advisory board registered under sections 12701 to 12715 shall be established annually by the legislature. Expenses shall be reimbursed pursuant to section 1216.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 143, Imd. Eff. June 2, 1980.

**Popular name:** Act 368

### **333.12714 Rules and construction code.**

Sec. 12714. The department, with the advice of the advisory board, shall promulgate rules and a construction code reasonably necessary to implement sections 12701 to 12715. The rules and construction code shall include provisions for qualifications and examination of well drilling contractors and pump installers, standards for the construction and installation of developments of ground water supplies, dewatering wells, abandonment of wells and dewatering wells, and for the administration of sections 12701 to 12715.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

**Administrative rules:** R 325.1601 et seq. of the Michigan Administrative Code.

### **333.12715 Violation as misdemeanor; penalties; prosecution.**

Sec. 12715. (1) Except as provided in subsection (2), a person who violates sections 12701 to 12714, a rule or the construction code promulgated under section 12714, or an order issued by the department or local health department under sections 12701 to 12714 is guilty of a misdemeanor.

(2) A member of the advisory board who intentionally violates section 12713(2) shall be subject to the penalties prescribed in Act No. 267 of the Public Acts of 1976, as amended.

(3) The attorney general or local prosecuting attorney shall be responsible for prosecuting a person who violates sections 12701 to 12715.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 143, Imd. Eff. June 2, 1980.

**Popular name:** Act 368

### **333.12721 Adding fluoride to water.**

Sec. 12721. (1) A state department, board, commission, or agency shall not order a county, city, township, village, or any combination thereof to add fluoride to water which is supplied to the public that may be consumed by human beings.

(2) A county, city, township, village or any combination thereof which supplies water to the public may add fluoride to the water, in a manner and amount to be prescribed by the department, unless the addition of fluoride is rejected by an ordinance of the or by a majority of the electors of the county, city, township, village or any combination thereof.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12751 Definitions used in MCL 333.12752 to 333.12758.**

Sec. 12751. As used in sections 12752 to 12758:

(a) “Acceptable alternative greywater system” means a system for the treatment and disposal of waste water which normally does not receive human body wastes or industrial waste and is approved for use by a local health department.

(b) “Acceptable innovative or alternative waste treatment system” means a decentralized or individual waste system which has been approved for use by a local health department and which is properly operated and maintained so as not to cause a health hazard or nuisance. An acceptable innovative or alternative waste treatment system may include, but is not limited to, an organic waste treatment system or compost toilet

which operates on the principle of decomposition of heterogeneous organic materials by aerobic and facultatively anaerobic organisms and utilizes an effectively aerobic composting process which produces a stabilized humus. Acceptable innovative or alternative waste treatment system does not include a septic tank/drain field system or any other system which is determined by the department to pose a similar threat to the public health, safety and welfare, and the quality of surface and subsurface waters of this state.

(c) "Available public sanitary sewer system" means a public sanitary sewer system located in a right of way, easement, highway, street, or public way which crosses, adjoins, or abuts upon the property and passing not more than 200 feet at the nearest point from a structure in which sanitary sewage originates.

(d) "Person" means a person as defined in section 1106 or a governmental entity.

(e) "Public sanitary sewer system" means a sanitary sewer or a combined sanitary and storm sewer used or intended for use by the public for the collection and transportation of sanitary sewage for treatment or disposal.

(f) "Structure in which sanitary sewage originates" or "structure" means a building in which toilet, kitchen, laundry, bathing, or other facilities which generate water-carried sanitary sewage are used or are available for use for household, commercial, industrial, or other purposes.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 421, Eff. Mar. 31, 1981.

**Popular name:** Act 368

### **333.12752 Public sanitary sewer systems; declaration of necessity.**

Sec. 12752. Public sanitary sewer systems are essential to the health, safety, and welfare of the people of the state. Septic tank disposal systems are subject to failure due to soil conditions or other reasons. Failure or potential failure of septic tank disposal systems poses a threat to the public health, safety, and welfare; presents a potential for ill health, transmission of disease, mortality, and economic blight; and constitutes a threat to the quality of surface and subsurface waters of this state. The connection to available public sanitary sewer systems at the earliest, reasonable date is a matter for the protection of the public health, safety, and welfare and necessary in the public interest which is declared as a matter of legislative determination.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12753 Structures in which sanitary sewage originates to be connected to public sanitary sewer; approval; time.**

Sec. 12753. (1) Structures in which sanitary sewage originates lying within the limits of a city, village, or township shall be connected to an available public sanitary sewer in the city, village, or township if required by the city, village, or township.

(2) Structures in which sanitary sewage originates lying outside the limits of the city, village, or township in which the available public sanitary sewer lies shall be connected to the available public sanitary sewer after the approval of both the city, village, or township in which the structure and the public sanitary sewer system lies and if required by the city, village, or township in which the sewage originates.

(3) Except as provided in subsection (4), the connection provided for in subsections (1) and (2) shall be completed promptly but not later than 18 months after the date of occurrence of the last of the following events or before the city, village, or township in which the sewage originates requires the connection:

(a) Publication of a notice by the governmental entity which operates the public sanitary sewer system of availability of the public sanitary sewer system in a newspaper of general circulation in the city, village, or township in which the structure is located.

(b) Modification of a structure so as to become a structure in which sanitary sewage originates.

(4) A city, village, or township may enact ordinances, or a county or district board of health, may adopt regulations to require completion of the connection within a shorter period of time for reasons of public health.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12754 Failure to connect structure to public sanitary sewer; notice; action to compel connection.**

Sec. 12754. (1) When the structure in which sanitary sewage originates is not connected to an available public sanitary sewer system within the time specified in section 12753, the governmental unit in which the structure lies shall require the connection to be made immediately after notice, which may be by first class or certified mail to the owner of the property or by posting on the property.

(2) The notice shall give the approximate location of the public sanitary sewer system which is available

for connection of the structure involved and shall advise the owner of the requirements and enforcement provisions of sections 12752 to 12758 and any applicable ordinance or regulation.

(3) Where a structure in which sanitary sewage originates is not connected to an available public sanitary sewer system within 90 days after the date of mailing or posting of the written notice, the governmental unit which operates the available sanitary sewer system may bring an action for a mandatory injunction or order in the district, municipal, or circuit court in the county in which the structure is situated to compel the owner to connect to the available sanitary sewer system immediately. The governmental unit may join any number of owners of structures situated within the governmental unit in the action to compel each owner to connect to an available sanitary sewer system immediately.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

**333.12756 Tap-in fee for connection; deferment of payment by reason of hardship; application; evidence of hardship; ordinance defining hardship and permitting deferred or partial payment; condition to granting deferred or partial payment.**

Sec. 12756. (1) An owner of property who by reason of hardship is unable to comply with provisions of sections 12752 to 12758 requiring connection to an available sanitary sewer system when the local unit of government charges a tap-in fee for connection may have the fee payment deferred by application to the assessing officer. Upon receipt of evidence of hardship, the local unit of government may defer partial or total payment of the fee.

(2) The local unit of government may enact ordinances to define hardship in its area and to permit deferred or partial payment of the tap-in fee. As a condition to the granting of the deferred or partial payment of the tap-in fee, the local unit of government may require mortgage security on the real property of the beneficiary payable on or before death, or, in any event, on the sale or transfer of the property.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

**333.12757 Installation and use of acceptable innovative or alternative waste treatment system alone or in combination with acceptable alternative greywater system; regulation by local health department; guidelines; exemption from special assessments not permitted; connection to available public sanitary sewer system not required; payment of sewer availability fee in lieu of connection or user fees; exemption from connection or user fees.**

Sec. 12757. (1) Notwithstanding sections 12752 to 12756, a person may install and use in a structure an acceptable innovative or alternative waste treatment system or an acceptable innovative or alternative waste treatment system in combination with an acceptable alternative greywater system. The installation and use of an acceptable innovative or alternative waste treatment system or an acceptable innovative or alternative waste treatment system in combination with an acceptable alternative greywater system in a structure shall be subject to regulation by the local health department in accordance with the ordinances and regulations of the local units of government in which the structure lies. A local health department may inspect each acceptable innovative or alternative waste treatment system within its jurisdiction at least once each year to determine if it is being properly operated and maintained. A local health department may charge the owner of an acceptable innovative or alternative waste treatment system a reasonable fee for such an inspection and for the plan review and installation inspection. A copy of the approved application or permit to install and use an alternative system and a copy of each maintenance inspection report shall be forwarded to the department and to the local unit of government in which the structure lies. The department shall maintain a record of approved alternative systems and their maintenance and operation.

(2) The department, after consultation with the state plumbing board, shall adopt guidelines to assist local health departments in determining what are acceptable alternative greywater systems and what are acceptable innovative or alternative waste treatment systems. The department shall advise local health departments regarding the appropriate installation and use of acceptable innovative or alternative waste treatment systems and acceptable innovative or alternative waste treatment systems in combination with acceptable alternative greywater systems.

(3) A person who installs and uses an acceptable innovative or alternative waste treatment system or an acceptable innovative or alternative waste treatment system in combination with an acceptable alternative greywater system shall not be exempt from any special assessments levied by a local unit of government for the purpose of financing the construction of an available public sanitary sewer system.

(4) Notwithstanding sections 12752 to 12756, an owner of a structure using an acceptable innovative or alternative waste treatment system in combination with an acceptable alternative greywater system shall not be required to connect to an available public sanitary sewer system.

(5) An owner who does not connect to an available public sanitary sewer system pursuant to subsection (4), shall not be required to pay connection or user fees to a local unit of government except those connection or user fees which are allocated for financing of construction of an available public sanitary sewer system. In lieu of connection or user fees, an owner may be required by the local unit of government to pay a sewer availability fee if that fee is to be used for the purpose of paying a proportionate share of financing the construction of an existing available public sanitary sewer system. The exemption from connection or user fees under this subsection shall not apply to an owner connected to an available public sanitary sewer system on the effective date of this act.

(6) A local unit of government may exempt an owner proposing to use an acceptable innovative or alternative waste treatment system in combination with an acceptable alternative greywater system from connection or user fees related to the financing, construction, use, or maintenance of an available public sanitary sewer system.

**History:** Add. 1980, Act 421, Eff. Mar. 31, 1981.

**Popular name:** Act 368

### **333.12758 Voluntary connection to public sanitary sewer system; provisions cumulative.**

Sec. 12758. (1) Sections 12752 to 12758 shall not limit the right of the owner of a structure in which sanitary sewage originates voluntarily to connect the structure to a public sanitary sewer system where the operator of the system agrees to the connection.

(2) Sections 12752 to 12758 are in addition to and not in limitation of the power of a governmental unit to adopt, amend, and enforce ordinances relating to the connection of a structure in which sanitary sewage originates to its public sanitary sewer system.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.12771 Outhouses; requirements; rules; violation as misdemeanor; public nuisance; "outhouse" defined.**

Sec. 12771. (1) A person shall not maintain, or permit to be maintained, on premises owned or controlled by the person an outhouse unless the outhouse is kept in a sanitary condition, and constructed and maintained in a manner which will not injure or endanger the public health.

(2) The department shall promulgate rules governing the construction and maintenance of outhouses to safeguard the public health and to prevent the spread of disease and the existence of sources of contamination.

(3) A person who violates this section is guilty of a misdemeanor. An outhouse not constructed or maintained as required by this section or the rules promulgated pursuant to this section shall be a public nuisance.

(4) As used in this section, "outhouse" means a building or other structure not connected with a sewer system or with a properly installed and operated sewage disposal system, and which is used for the reception, disposition, or storage, either temporarily or permanently, of feces or other excreta from the human body.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

**Administrative rules:** R 325.421 et seq. of the Michigan Administrative Code.