

No. 448, S.]

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### CHAPTER 562.

AN ACT to create 66.05 (6) and 340.86 of the statutes, relating to excavations for buildings and filling and covering wells and other excavations in counties having a population of 500,000 or more, and providing a penalty.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 66.05 (6) of the statutes is created to read:

66.05 (6) It shall be unlawful in any county of a population of 500,000 or more for any excavation for building purposes, whether or not completed, to be left open for more than 6 months without proceeding with the erection of a building thereon. In the event any such excavation, whether or not completed, remains open for more than 6 months, the inspector of buildings or other designated officer in any city, town or village in the county shall order that the erection of a building on the excavation begin forthwith or in the alternative that the excavation be filled to grade. The order shall be served upon the owner of the land or his agent and upon the holder of any incumbrance of record in the manner provided in subsection (1). If the owner of the land fails to comply with the order within 15 days after service thereof upon him, the inspector of buildings or other designated officer shall cause the excavation to be filled to grade and the cost shall be charged against the real estate in the same manner provided in subsection (2). The provisions of subsection (3) shall also apply to orders issued under this subsection. This subsection is intended to apply to excavations, whether or not completed, made prior to the effective date of this subsection except that its provisions shall not be enforced against such excavations until 6 months after such effective date.

SECTION 2. 340.86 of the statutes is created to read:

340.86 CAPPING AND FILLING WELLS OR SIMILAR STRUCTURES. (1) This section applies only to counties of a population of 500,000 or more.

(2) The owner of any real estate, shall securely protect any well, seepage pit, cistern, cesspool, septic tank, or other similar structures in active use with a cover of concrete, metal or wood covered with sheet metal, securely fastened and of sufficient weight so it cannot be removed by small children and so as to make it free from danger to persons going upon such real estate.

(3) Whenever any shallow dug well, seepage pit, cistern, cesspool or septic tank is

abandoned or its use discontinued, the owner of the real estate upon which it is located shall promptly fill the same to grade.

(4) Whenever any drilled, bored or deep dug well, except test wells of 10 inches or less in diameter, is abandoned or its use discontinued, the owner of the real estate upon which it is located shall promptly fill the same, either with alternate layers of sand or clay and concrete, and seal with a concrete cover at least 5 inches thick, or in accordance with recommendations of the state board of health.

(5) Whenever any mine shaft, exploration shaft or test well is abandoned or its use discontinued, the operator or contractor shall promptly fill same to grade or inclose the same with a fence of strong woven wire not less than 46 inches wide with one barbwire above or cap same with a reinforced concrete slab at least 6 inches thick or with a native boulder at least 3 times the diameter of the top of the shaft or test well bore. The strands of the woven wire shall not be smaller than No. 12 wire and the cross wires and meshes shall not be smaller than No. 16 wire; the strands shall not be more than 12 inches apart, and the meshes shall not exceed 8 inches square. All wires must be tightly stretched and securely fastened to sufficient posts firmly set not more than 8 feet apart. In case any person shall neglect to repair or rebuild such fence which he is so required to build and maintain, any person may complain to the state industrial commission or to local governing body, which shall give notice in writing to the person who is required to build and maintain such fence. The state industrial commission or the local governing body shall then proceed to examine the fence, and if it shall determine that such fence is insufficient, it shall notify the person responsible for its erection and maintenance and direct him to repair or rebuild the fence within such time as it shall deem reasonable. Any person refusing to comply with such order shall be subject to the penalties provided.

(6) Existing abandoned mine shafts, exploration shafts, or test wells shall be securely protected by owner of the real estate upon which it is located.

(7) Any person violating this section shall be fined not less than \$10 nor more than \$200 or imprisoned not exceeding 6 months, or both.

(8) Any violation of this section coming to the attention of the state industrial commission or municipal authorities shall be reported to the attorney-general or district attorney for prosecution.

SECTION 3. This act, except SECTION 1, shall take effect 6 months after passage and publication and shall then be retroactive, and SECTION 1 shall take effect upon passage and publication.

Approved July 6, 1951.

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