

# What is a Shared Well? – The Ultimate Guide with Pros and Cons



In many parts of the country as well as our hometown of Vero Beach people are asking the question; “What is a Shared Well and what are the Pros and Cons?”.

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**The definition of a Shared Well** is a water well that provides water for home or irrigation use to two to several homes. In most cases, a shared water well that provides water to more than four homes would be categorized as a community well.

## How does a Shared Well Work?

A Shared Well most commonly involves adjacent homeowners who elect to share the water of a single private well. The water rights are outlined in a legal document called a Shared Well Agreement. Upon purchase or sale of a home the water rights as outlined in the Shared Well Agreement must be disclosed and agreed to in the closing documents.

## The Pros of a Shared Well

**Cost Savings** is in many cases the biggest benefit of a shared well. In coastal areas of Vero Beach for example the cost to drill a Flow Well can be more than \$10,000.

Additionally, the ability to share the cost of Well or Well Pump Repair Expenses and other related expenses such as water testing can be quite attractive.

Also, in some cases, a property may need to undergo significant modification just to allow drilling of a new well. For example, if a setback requirement from a Septic System requires a new well to be drilled in the back yard and the path to the viable area is blocked by fencing, trees, or other obstructions significant time, approvals and expense may be added to the well construction costs.

## The Cons of A Shared Well

Any time we share a resource we are limiting the Control of the resource. Additionally, each well has a maximum flow of water it can yield, and if the flow rate may not be high enough to meet all the parties' intended uses such as domestic water use as well as irrigation.

And lastly sharing a well if not outlined carefully and clearly in a well-written Shared Well Agreement exposes the parties to the possibility of an expensive legal battle if they can not agree upon an amicable resolution to uncertainties that may arise during the course of operation of the well.

## What is a Shared Well Agreement? – Buying a Home with a Shared Well

A Shared Well Agreement is a legally binding document agreed to by two or more parties which is intended to clearly convey a property right in the water from a well. The document should list the permissible uses of the water and the conditions including limitations of such use.

### Step by Step Guide to A Shared Well Agreement

Entering into a Shared Well Agreement is a complex legal matter with the potential for costly legal battles if not handled with careful attention to detail. It is best in every case to seek the advisement of an attorney before entering into a binding agreement.

#### Step One – Review a Sample Agreement

To begin with, here is a [Free Sample of a Shared Well Agreement](#).

Here is another source for a [Sample Shared Well Agreement](#).

#### Step Two – Consider the Terms of The Shared Well Agreement

In your agreement consider each aspect of well construction, maintenance, repairs, replacement, use, limits, non-exclusive easement rights for well access, emergencies, water quality testing, conveyance of the ownership right, enforcement of the agreement, and termination.

For example, the allowable use will be for domestic but not agricultural or commercial and will include use for irrigation between the hours of 1:00 AM and 5:00 AM only. The maximum water use at any given time may not exceed 45% of the most recently determined well maximum flow rate in gallons per minute.

#### Step Three

Review the local laws regarding Well Construction and Water Use Permitting

You can contact your local municipality for specific guidance on what steps are necessary to secure permitting for your specific well construction and use. Depending on the water use you may need a water-use permit from a regional water management authority in



addition to a well construction permit from your local municipality.

#### **Step Four – Attorney Review**

Depending on your circumstances it may be best to consider this your first step.

In other cases, it may be best to review one or more Shared Well Agreement samples to consider the unique attributes of your circumstances. This step may help you decide if a Shared Well is right for you and to be well informed before meeting with an attorney.

## How to Resolve a Shared Well Agreement Dispute

Unfortunately, disagreements occur. The best way to resolve a Shared Well Agreement is to follow these steps.

If you have a Shared Well Agreement carefully review the terms expressed in the agreement. Obviously, be sure you are honoring your part of any written terms in the agreement.

If on some matter the terms are not clearly defined and such an issue is the cause of conflict ask your neighbor to propose some ideas on how to resolve the matter. This conveys you value their input and lays a foundation for open two way communication.

Consider reasonable ways you may be able to compromise.

If your issue involves either parties' overuse have a well technician measure the maximum flow rate of the well and then subtract a safety amount such as 10% to protect the well pump or pumps from damage by cavitation. Have a well repair technician add flow control devices as appropriate to equally split the remaining volume of water to each home.

If you and your neighbor are not able to come to an equitable agreement consider proposing legal arbitration by a neutral third party to help you settle the matter without expensive litigation.

Before considering litigation carefully consider if it may not make more sense to propose an amicable way to share the cost of each home transitioning to an individual private well.

## How to Get out of A Shared Well Agreement

Discuss the termination of the agreement with your neighbor. The terminating party most commonly pays any costs associated with disconnecting their water from the shared system as well as any property restoration costs that may be necessary as a result of the work to be disconnected.

Remember to adjust the remaining parties' percentage of shared liability to reflect the change in ownership.

In a Termination of the Agreement, you should outline the timeline before the termination date to allow for the appropriate time for the construction of a new private well or connection to a municipal water source.

If these details and other relevant terms for termination were not clearly outlined in your original Shared Well Agreement seek the counsel of an attorney before proceeding.

## Conclusion

In the right case, a shared well can be of wonderful benefit to two or more parties. A well-written Shared Well Agreement is a critical piece of working together ensuring everyone involved understands their role and responsibilities in the relationship.