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proceedings of the City of Sheboygan.

  
City Clerk

Subs. of Gen. Ord. No. 5 - 20 - 21. By Alderpersons Wolf and Sorenson.  
July 6, 2020.

AN ORDINANCE repealing and recreating Section 26-907 and Article VIII, Division 4 of Chapter 26 of the Municipal Code entitled "Sewer and Water Services."

WHEREAS, the consumption of lead in drinking water and from other environmental sources has been determined to cause health problems; and

WHEREAS, the City of Sheboygan and the Sheboygan Board of Water Commissioners find it in the public interest to establish an ongoing program for replacing lead and galvanized service lines connected to the municipal water distribution system; and

WHEREAS, galvanized steel service lines are also a health concern due to lead in coatings and the accretion of lead particles if the galvanized line was ever connected to a lead service line; and

WHEREAS, given the widespread and large number of lead and galvanized service lines installed throughout the City's history, replacement is expected to take place over many years; and

WHEREAS, the Sheboygan Water Utility maintains WDNR-approved water treatment practices intended to minimize lead leaching into drinking water from lead and galvanized service lines that were installed during the first half of the twentieth century and earlier; and

WHEREAS, property owners can also take steps to further reduce risks, such as using point-of-use devices designed to further reduce lead levels, if present; and

WHEREAS, pursuant to § 62.11(5), Wis. Stats., the Common Council has the management and control of the city property, finances, highways, navigable waters, and the public service, and shall have power to act for the government and good order of the city, for its commercial benefit, and for the health, safety, and welfare of the public, and may carry out its powers by license, regulation, suppression, borrowing of money, tax levy, appropriation, fine, imprisonment, confiscation, and other necessary or convenient means; and

WHEREAS, pursuant to § 196.372(2), Wis. Stats., a public water utility may provide financial assistance to the owner of a property to which water utility service is provided for the purpose of assisting the owner in replacing customer-side water service lines containing lead if each of the following three conditions are met:

1. The city in which the public water utility provides utility service to the property has enacted an ordinance that:
  - permits the water public utility to provide the financial assistance, and
  - requires each owner of a premises that is serviced by a customer-side water service line containing lead to replace that water service line.
2. The customer-side water service line and the water main pipe that are connected to the water service line either:
  - do not contain lead, or
  - the lead-containing portion of the customer-side water service line or water main pipe is replaced at the same time.
3. The Public Service Commission has granted its approval pursuant to § 196.372(3), Wis. Stats.; and

WHEREAS, Sheboygan Water Utility staff and the City Attorney have been working with counsel for the Public Service Commission to ensure a proposed program of financial assistance complies with both state law with regard to assessments and imposition of costs, as well as utility regulations in the Wisconsin Administrative Code, and the proposed ordinance changes should deal with both the statutory and regulatory concerns.

THEREFORE, THE COMMON COUNCIL OF THE CITY OF SHEBOYGAN DO ORDAIN AS FOLLOWS:

Section 1. Section 26-907 of the Municipal Code, entitled "Definitions" is hereby repealed and recreated to read as follows:

"Sec. 26-907. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Curb stop* means a buried shut-off valve on a service line usually located near the right-of-way line.

*Customer-side service line* means the portion of the water service line from (but not including) the corporation at the public water main to the inlet at the property's water meter.

*Distribution system* means the network of water mains or pipes, hydrants, valves and appurtenances owned and operated by the Water Utility. The Utility does not own any of the water service beyond the corporation at the public water main to the inlet at the property's water meter.

*Galvanized steel service line (GSL)* means a water service line constructed of galvanized steel.

*Lead service line (LSL)* means a water service line constructed of lead, a material commonly used prior to the 1950s. For purposes herein, GSL and LSL are considered the same in terms of requirements and qualifying for the financial assistance program described in Division 4 of this Article.

*Plumbing* means and includes:

- (1) All piping, fixtures, appliances, equipment, devices and appurtenances in connection with the water supply, water distribution and drainage systems, including hot water storage tanks, water softeners and water heaters connected with such water and drainage systems and also includes the installation thereof.
- (2) The construction, connection or installation of any drain or waste piping system from the outside or proposed outside foundation walls of any building to the mains or other sewage system terminal within bounds of, or beneath an area subject to easement for highway purposes, including private sewage systems, and the alteration of any such systems, drains or waste piping.
- (3) The water service piping from the outside or proposed outside foundation walls of any building to the main or other water utility service terminal within bounds of or beneath an area subject to easement for highway purposes and its connections.
- (4) The water pressure system other than municipal systems as provided in W.S.A., ch. 144.
- (5) A plumbing and drainage system so designed and vent piping so installed as to keep the air within the system in free circulation and movement; to prevent with a margin of safety unequal air pressures of such force as might blow, siphon or affect trap seals, or retard the discharge from plumbing fixtures, or permit sewer air to escape into the building; to prohibit cross connection, contamination or pollution of the

potable water supply and distribution systems; and to provide an adequate supply of water to properly serve, cleanse and operate all fixtures, equipment, appurtenances and appliances served by the plumbing system.

*Pre-qualified plumbing contractor* means a person, firm, or corporation or other entity licensed by the State of Wisconsin to perform plumbing work and established on the Water Utility's pre-qualified list of plumbing contractors.

*Property* means real property as defined in § 70.03, Wis. Stats.

*Property owner* means a person or legal entity having a possessory interest, legal or equitable, in property, which defined term includes an estate, trust, or lien.

*Service line* means a smaller pipe connected as a lateral to a larger public water main and intended to convey water into buildings or grounds. Service lines are the responsibility of the property owner served, or intended to be served, by the line.

*Spot lead service line* means a water service line constructed of lead (or galvanized) in only a portion of its length.

*Storm and clear drains* means a drain, sewer or pipe for conveying water, stormwater, groundwater, subsurface water or clear water wastes from any source and shall include sump pumps as defined by Chapter SPS 382, Wis. Admin. Code."

Section 2. Section 26-996 of the Municipal Code, entitled "Extension through lot line" is hereby repealed and recreated in subsection (b) thereof to read as follows:

"Sec. 26-996. - Extension through lot line.

. . .

(b) The installation and maintenance of all sewer (sanitary, storm and mini-storm) and water laterals and service lines from the city mains shall be the responsibility of the owner of the property which they serve."

Section 3. Section 26-1003 of the Municipal Code, entitled "Water services and private water mains" is hereby repealed and recreated to read as follows:

"Sec. 26-1003. - Water services and private water mains.

Water service lines and private water mains from the public water main in the street to the inlet of the water meter shall be ductile iron, soft copper, or plastic, as permitted under SPS 384.30(4), Wis. Admin. Code, with no sweat joints underground. If plastic, then the lines and mains must be installed with tracing wire."

Section 4. Section 26-1004 of the Municipal Code, entitled "Identification of lead and galvanized service lines" is hereby repealed and recreated in subsection (b) thereof to read as follows:

"Sec. 26-1004. - Identification of lead and galvanized service lines.

. . .

- (b) Upon notice from the Utility, any person or entity who owns, manages, or otherwise exercises control over a property connected to the distribution system shall allow the Utility to inspect the service line to determine the service line material as authorized by § 196.171, Wis. Stats."

Section 5. Section 26-1005 of the Municipal Code, entitled "Lead and galvanized service line replacement requirement" is hereby repealed and recreated to read as follows:

"Sec. 26-1005. - Lead and galvanized service line replacement requirement.

- (a) All existing lead and galvanized service lines connected to the water distribution system, when replaced, shall be replaced with water service lines constructed of materials as authorized in this ordinance. Repairs or reconnections shall not be allowed, except in case of emergency and only by Water Utility staff and for a duration of 10 days.
- (b) Prior to replacement of lead service lines, such as on water main replacement projects, the Utility shall inspect all affected service lines for the presence of lead or galvanized steel.
- (c) On all water main replacement projects or other projects that would directly affect lead or galvanized water service lines, all lead and galvanized service lines shall be replaced, and not reconnected, in their entirety. This generally excludes street restoration that does not involve excavation of, or near, the water service lines.
- (d) When any lead service lines within the street or municipal right-of-way is repaired or replaced under orders from the Wisconsin Department of Natural Resources or the United States Environmental

Protection Agency, the abutting property owner receiving water service shall replace any private water service material in order to become compliant with Wis. Admin. Code § SPS 382.22(2)(b), or other applicable statutes, ordinances, rules, or regulations of the city or of the State of Wisconsin.

- (e) A property owner shall have 18 months from the date of notification from the city to conform to the State Plumbing Code or other applicable statutes, ordinances, rules, or regulations of the city or of the State of Wisconsin. If a property owner fails to replace a customer-side service line as required by this ordinance, the Water Utility may, in accordance with its water utility tariffs, discontinue water service to such property until the customer-side service line is replaced."

Section 6. Section 26-1006 of the Municipal Code, entitled "Financial assistance for lead and galvanized service line replacements" is hereby repealed and recreated to read as follows:

"Sec. 26-1006. - Financial assistance for lead and galvanized service line replacements.

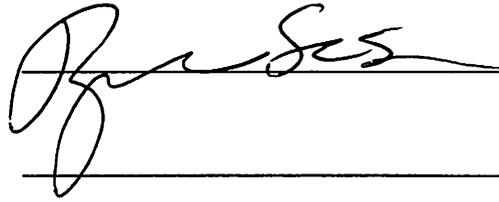
- (a) The City authorizes its Board of Water Commissioners, acting through the Water Utility, to implement and maintain a financial assistance program for the replacement of lead and galvanized service lines in accord with the requirements of the Wisconsin Public Service Commission.
- (b) If the Board of Water Commissioners implements an approved financial assistance program, the Utility may provide eligible property owners with a grant for up to fifty percent (50%) of the cost of the service line replacement, but not to exceed a maximum grant amount established by the Board of Water Commissioners, which shall periodically review and adjust the maximum grant amount. All work must be done by a Utility-approved plumbing contractor.
- (c) The remainder of the lead service line replacement cost after the grant provided in subsection (b) shall either be paid for directly by the property owner or by a zero interest (0%) loan of up to six years provided by the Water Utility. A property owner shall repay the loan in equal monthly or quarterly installments. Loan repayments shall be included on the Water Utility's monthly or quarterly utility bills, or bill prepared separately by Water Utility. Loan repayments that are past due may be placed on the property tax roll as provided in § 66.0809, Wis. Stats. Neither the Water Utility nor the City may forgive any LSL loan amount. Upon the sale of the property, the loan amount shall be paid in full prior to or on the sale date.

- (d) A property owner is eligible for financial assistance for the purpose of replacing the customer-side service line if the property owner satisfies all of the following criteria:
- (1) The property owner alone, or collectively with others, owns the entire fee simple title to the property served by the customer-side service line.
  - (2) The property owner replaces the entire LSL, leaving no remnant of lead or galvanized material.
  - (3) The property owner agrees to have the replacement work done by a pre-qualified plumbing contractor in compliance with this ordinance.
- (e) Written applications for financial assistance shall include the following:
- (1) A completed application on a form furnished by the water utility signed by the eligible property owner. The completed application form shall include a certification by the property owner that attests that all eligibility criteria listed in subsection (d) are met.
  - (2) Copies of written quotes from at least two pre-qualified plumbing contractors for the replacement of the property owner's customer-side service line. A pre-qualified plumbing contractor is one that has completed and submitted proper forms and been placed on the water utility's pre-qualified plumbing contractor list.
- (f) A property owner will be eligible for financial assistance based only on the lowest bid amount included in the written quotes received from pre-qualified plumbing contractors under subparagraph (e)(2) unless except in extraordinary circumstances and with the approval of the Utility Superintendent in his/her sole discretion. Except as provided herein, financial assistance amounts will strictly be determined pursuant to base bid pricing and will not include change orders. In extraordinary circumstances the Utility Superintendent may in his or her sole discretion, with approval of the property owner, approve a contractor-requested change order for inclusion in the financial assistance portion of the work.
- (g) After a complete application is received, and prior to the commencement of any replacement work, the water utility shall determine if the property owner is eligible for financial assistance, and shall determine the amount of financial assistance available as a

grant and the amount of financial assistance available as a loan. Such determination shall be provided in writing to the applying property owner.

- (h) Customer-side service line replacement work must be accomplished in a workmanlike manner and be coordinated with any other utility work.
- (i) Upon completion of the customer-side service line replacement, the property owner shall provide the water utility with a copy of the invoice from the plumbing contractor. Upon proof of completion satisfactory to the property owner and the water utility, the water utility shall directly pay the plumbing contractor the amount of money approved by the water utility for financial assistance for replacement of the customer-side service line. The water utility shall provide the property owner with documentation of such payment.
- (j) The total amount of money provided by the water utility as financial assistance in the form of a grant and loan may not exceed the actual cost of replacement of the customer-side service line.
- (k) Disputes regarding eligibility for financial assistance may be appealed to the Sheboygan Board of Water Commissioners.
- (l) If a property owner fails to replace a customer-side service line as required by this ordinance, the water utility may, in accordance with its water utility tariffs, discontinue water service to such property until the customer-side service line is replaced.
- (m) The property owner shall, as a condition of participating in the program described in this section, execute a temporary right of entry and construction easement authorizing the Utility and/or its contractors' access to the dwelling as needed.
- (n) Financial assistance granted to eligible property owners shall be in accordance with the following:
  - (1) Properties with licensed/certified child-care facilities or schools.
  - (2) Properties where the Utility is replacing a public water main on a planned or emergency basis, or where other street construction will significantly impact lead service lines, resulting in health concerns.
  - (3) Properties with a leaking or failed lead service line

- (4) Properties where the Utility determines that replacing a lead service line is in the best interest of health or safety.
- (5) All remaining properties with lead service lines."

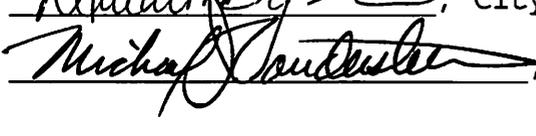


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I HEREBY CERTIFY that the foregoing <sup>substitute</sup> Ordinance was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the 6<sup>th</sup> day of July, 2020.

Dated July 9, 2020. , City Clerk

Approved July 9, 2020. , Mayor

Published July 11, 2020.  
Certified July 9, 2020 to - DPW; Atty.