

ORDINANCE NO. 2024-O-13

An Ordinance Requiring Lead Service Line Replacements

Recitals, Intent, and Purpose

The Common Council of the City of Whitewater finds that it is in the public interest to establish a comprehensive program for the removal and replacement of lead and galvanized water service laterals in use within utility owned and customer owned portions of the service laterals and to that end declares the purposes of this ordinance to be as follows:

- (a) To ensure the water quality at the tap of each Utility customer meets the water quality standards specified under the Federal Safe Drinking Water Act; and
- (b) In locations where lead services are present, to reduce the potential of lead leaching into the drinking water so as to meet Environmental Protection Agency (EPA) standards and ideally to reduce the lead contaminant level to zero for the health of City residents; and
- (c) To meet the Wisconsin Department of Natural Resources (WDNR) requirements for local compliance with the Lead and Copper Rules (56 C.F.R. § 6460, 40 C.F.R. §§ 141.80-141.91, Wis. Admin. Code §§ NR 809.54-809.55); and
- (d) To effect the replacement of all high risk (as defined in the Lead and Copper rules) lead service lines and the replacement of all remaining lead pipe water service lines in use in the City.

Therefore, the Common Council of the City of Whitewater do ordain as follows:

1. Section 16.04.255 of the Code of Ordinances of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, is hereby created as follows:

SECTION 16.04.255 LEAD WATER SERVICE REPLACEMENT PROGRAM

- (a) **Definitions.** In this section:
"Program" means the Lead Water Service Replacement Program.
"Utility" means the City of Whitewater Water Utility.
- (b) **Applicability Dependent on Funding.** This Program shall be effective only if and when the City receives funding to do so from federal and/or state programs. In the event funding is not available for this purpose for any reason, the utility has the option to discontinue the Program until funding is available.
- (c) **Identification of Lead Water Service Lines.**
 - (1) Pursuant to Wis. Stat. § 196.171(1), upon notice from the Utility, any person or entity who owns, manages or otherwise exercises control over a property connected to the Utility's water distribution system shall allow the Utility, or its designee, to inspect the customer side service line to determine the material of construction.
 - (2) Prior to or at the time of any repairs to or reconstruction of the Utility's public

water mains, the Utility, or its designee, shall inspect all private connections to the public water mains for the presence of lead pipe.

- (3) The Utility shall have the right to request entry at any reasonable time to examine any property served by a connection to the public water system of the Utility for inspection of service line. If entry is refused, the Utility may apply for a special inspection warrant under Wis. Stat. § 66.0119. Upon request, the owner, lessee or occupant of any property so served shall furnish to the Utility any pertinent information regarding the piping system on such property.
- (4) The Utility shall create and maintain a record of the location of all identified lead service lines in the Utility's service area.
- (5) If the Utility determines a private service line does contain lead, the Utility, or its designee, shall notify the property owner of that fact in writing, along with information about the Lead Water Service Lateral Replacement Program.

(d) Replacement of Lead Water Service Lines.

- (1) At least 30 days prior to commencement of construction, the Utility shall provide written notice to the owner, lessee, or manager of property where the Utility intends to replace a lead water service line.
- (2) If selected under this Program, the Utility will replace an existing lead water service lateral from the curb stop box to the water meter inside the property with a water service lateral made of suitable material. Replacement shall be completed on schedule with the replacement lead service replacement program as determined by the Utility; provided, however, the Utility will replace a lateral within 45 days if required by the Lead and Copper Rule.

(e) Cost of Inspection and Replacement.

- (1) The Utility shall request bid prices to calculate the cost for each private lead water service lateral replacement. The unit bid price shall include removing the entire lateral from the curb stop box to the water meter inside of the house, replacing all lead piping with suitable material from the curb stop box to the water meter inside of the house, and appropriate restoration.
- (2) If funding is available to the Utility, the replacement of lead water service from the curb stop box to the water meter inside the property, including inspection costs, will be done at no cost to the property owner.

(f) Property Owner Self-Repair.

Upon selection and notice to the landowner, pursuant to Section 16.04.255(d) herein, replacement of the existing lead water service lateral shall be mandatory. The property owner may elect to contract with a licensed contractor to complete the replacement. If the owner selects this option, the property owner shall, within 14 days of receipt of the notice from the Utility under Section 16.04.255(d) herein, provide the Utility with written notice of the property owner's election to self-repair under this Section, and the lead water service lateral shall be replaced before the start of or during construction of the Utility project for that calendar year. The property owner shall pay the entire cost of removal and replacement as required by the Utility to meet the requirements of the Program. All restoration shall be the responsibility of the owner (including, but not limited to, top soil, concrete, steps, asphalt, bushes, and porches.)

Any replacement of water service done outside of this Program shall follow all state and federal regulations and comply with city and utility requirements for connections, materials, and restoration. The Utility has the right to inspect the installation at the property owner's expense. In the event that a property owner: i) fails to timely notify the Utility of the owner's election to self-repair or ii) upon timely election to self-repair, fails to timely replace the existing lead water service lateral as required herein, then the Utility shall complete the replacement pursuant to the Program.

(g) Authority to Discontinue Service.

If a property owner fails to replace a customer-side Lead Water Service Line as required by this ordinance, the Utility may in accordance with PSC Chapter 185.37 discontinue water service to such property until the customer-side Lead Water Service Line is replaced.

2. Severability. The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

3. This ordinance shall take effect and be in full force after its passage and publication as provided by law.

Ordinance introduced by Council Member Hicks, who moved its adoption.
Seconded by Council Member Dawsey Smith.

AYES: Council President Singer, Council members Schanen, Majkrzak, Smith, Dawsey Smith, Brown, Hicks.

NOES:

ABSENT:

ADOPTED: September 3, 2024



John Weidl, City Manager



Heather Boehm, City Clerk