



City of Racine

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Legislative Report

File Number: Ord.0009-16

Agenda Date: 11/1/2016

Version: A

Status: Official Text (Legal Use)

In Control: City Attorney's Office

File Type: Ordinance

Agenda Number:

Alderman McCarthy

Ordinance 09-16

To amend Chapter 98 - Utilities, Article III. - Water Utility, Division 1, Generally, of the Municipal Code of the City of Racine, Wisconsin.

The Common Council of the City of Racine, Wisconsin do ordain as follows:

Part 1: Amend Chapter 98 - Utilities, Article III. - Water Utility, Division 1, Generally, of the Municipal Code of the City of Racine, Wisconsin by adding the following section:

"Sec. 98-64. - Replacement of Privately Owned Lead Service Lines.

(a) There are water mains buried underneath the streets and public rights of way in the city. Properties receive water from a water main via two service lines. One service line runs from the water main to a stop valve located either in the grass parkway, sidewalk or driveway of a property. That service line is owned by the water utility and is referred to as the "Utility's Service Line". Another service line extends from that stop valve to the water meter assembly in the basement of the home or other structure located on the property. That service line is owned by the private property owner and is referred to as the "Private Service Line".

(b) At the time of adoption of this ordinance, there are approximately 9,000 properties in the city where both the Utility's Service Line and the Private Service Line are made of lead. Additionally, there are properties in the City where the Utility's Service Line is made of lead and the Private Service Line is made of copper, cast iron or galvanized iron. Lead Private Service Lines and iron Private Service Lines that are connected to lead Public Service Lines are collectively referred to herein as the "Eligible Private Service Lines".

(c) There are two types of public works projects normally performed by the Racine Water Utility (collectively the "Public Works Projects") that include work performed on behalf of the water utility, as funds are available, to replace the Utility's Service Lines that are made of lead in the city. One project involves the replacement of a water main under a street. In that type of project, in addition to replacing the water main, the water utility also removes the Utility's Service Lines made of lead in the area of the project and replaces those lines with copper tubing or pipe ("copper pipe"). The other project

type involves a road replacement where the condition of the water main is such that it does not need to be replaced. In that type of project, the water utility only replaces the Utility's Service Line made of lead with copper pipe.

(d) The Private Service Lines are on private property. Accordingly, the replacement of Private Service Lines are the responsibility of the private property owners and not the Utility. The Wisconsin Public Service Commission (PSC) does not recognize Private Service Lines as the property or responsibility of the water utility in its rules and regulations and does not permit the water utility to apply the money it collects from its water service rates to pay for the replacement of any private service lines.

(e) It is expected that from time to time the Wisconsin Department of Natural Resources ("WDNR"), United States Environmental Protection Agency ("USEPA") or United States Congress will make funds available to the water utility or the City ("Outside Funds") that are earmarked to fund the replacement of Eligible Private Service Lines with copper pipe. Any Outside Funds that are made available to the water utility may be required to be expended during the year in which the funds were made available. The City may also be allowed to utilize Community Development Block Grants (CDBG) funds for the funding of Eligible Private Service Lines.

(f) The USEPA and WDNR have indicated to the water utility that the removal of only a portion of a lead service line serving a property and replacement thereof with copper pipe may negatively impact a property owner's water quality and could increase the amount of lead in the homeowner's water for a period of time. Accordingly, the USEPA and WDNR had expressed a preference that partial lead service line replacement projects be minimized and whenever possible all lead service lines connected to a property be replaced to enhance the safety of the water that is delivered to the property.

(g) During each year that Outside Funds are made available to the water utility, the water utility shall make the determination to use those funds in the following order of priority until the funds are expended:

(1) Priority One Projects: To fund the replacement of Eligible Private Service Lines in connection with Public Works Projects (i.e. total lead service line replacements). If sufficient funds are not available to replace all Eligible Private Service Lines in a given funding cycle, the Water Works Commission shall develop a priority list for use in determining the Eligible Private Service Lines that will be replaced.

(2) Priority Two Projects: If there are Outside Funds remaining after funding the Priority One Projects, then the Outside Funds may be used to fund the replacement of Private Service Lines that are made of lead or iron, where:

a. A lead Utility Service Line serving a property was previously replaced with a copper pipe, or

b. The water utility decides to replace a lead Utility Service Line serving a property with copper pipe if the replacement is not part of the work included in a Public Works Project.

i. This could involve replacement of a previous lead service where houses in the distribution system are being reconstructed to be viable dwellings once again

ii. This could also involve requests from residents that were previously sampled for lead and where high lead results above EPA standards are known to exist

If there are not enough Outside Funds to pay for all Priority Two Projects in any given year, the water utility may choose to allocate the funds expended within the Priority Two classification to locations discussed in paragraph b. above or at schools, nursing homes, day care centers and other multi-resident properties if such properties and entities are willing recipients. Eligible Private Service Lines that are leaking or in otherwise poor condition may be given higher priority than other Priority Two Projects that are not leaking or are in otherwise fair condition.

(h) The Outside Funds cannot be used for the replacement of copper or plastic Private Service Lines that are broken or leaking.

(i) All Private Service Line replacements shall be performed by licensed contractors and conform to all applicable state and local codes, regulations and ordinances.

(j) Payments for replacement of Private Service Lines may be made as rebates to private property owners or directly to contractors who replace the lines for private property owners.

(k) The water utility shall formulate and carry out a private lateral replacement program that conforms to this ordinance. The above program shall be subject to approval by the Water Works Commission and may be amended as circumstances warrant, provided that the program shall at all times comply with this ordinance.

(l) The status of the material comprising each public and private service line will be recorded on the City Geographic Information System (GIS) as part of any replacement effort. Should a homeowner decline to participate, this will also be recorded.

Part 2: Sections 98-65-98-70 are hereby reserved.

Part 3: This ordinance shall take effect upon passage by a majority vote of the members-elect of the City Common Council and publication or posting as required by law.

Passed by the Common Council:

Fiscal Note: N/A