

Ordinance 0007-23 – Lead Service Line Replacement

An ordinance to repeal Chapter 98, Article III, Division 1, Section 98-64, to create Chapter 98, Article X, and to create Chapter 2, Article III, Division 8, Section 2-263(g) 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Part 1: Chapter 98, Article III, Division 1, Section 98-64 of the Municipal Code of the City of Racine, is repealed in its entirety.

Part 2: To create Chapter 98, Article X of the Municipal Code of the City of Racine as follows:

ARTICLE X. – LEAD SERVICE LINE REPLACEMENT

DIVISION 1. – GENERALLY

Sec. 98-500. – Authority.

This article is enacted pursuant to Wis. Stat. §§ 62.11(5) and 196.372.

Sec. 98-501. – Purpose and intent.

Lead service lines have the potential to leach lead into drinking water. Disturbing or reconnecting to existing lead service lines may increase lead levels in drinking water. Elevated lead levels in drinking water have been determined to cause health problems in young children, pregnant women and their unborn children, and potentially adults. The common council finds it beneficial for the health, safety, and welfare of the public to establish a comprehensive program for removing and replacing all lead service lines within and connected to the city's water distribution system in furtherance of the federal Safe Drinking Water Act, Environmental Protection Agency's Lead and Copper Rule, and Wisconsin Department of Natural Resource's requirements.

Sec. 95-502. – Severability.

In the event any division, section, subsection, or portion of this article is for any reason determined to be invalid or unconstitutional by the decision of a court of competent jurisdiction, that division, section, subsection, or portion shall be deemed severable and shall not affect the validity of the remaining divisions, sections, subsections, or portions of this article.

Sec. 95-503. – Limited applicability.

This article is applicable to a property owner whose property is serviced by a lead service line that is connected to the distribution system.

Sec. 98-504. – Utility outreach.

The utility shall provide to city residents and property owners by mail, upon request, and through nonprofit organizations information related to the potential hazards of a lead service line and information about the requirement to replace a lead service line under this article to spread awareness and encourage participation.

Sec. 98-505. – Utility contractors.

Contractors performing lead service line replacement work within the city pursuant to a utility contract shall abide by any and all applicable federal and state funding requirements and the Racine Works Program Ordinance.

Sec. 98-506. – Definitions.

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

Customer-side service line means the property owner's water service line, from the utility's curb stop valve to the inlet of the customer's water meter.

Distribution system means the network of water pipes, including mains and service lines, owned and operated by the City of Racine Water Utility.

Lead service line means a water service line constructed of lead or galvanized material that is or was downstream of lead, which may include the customer-side service line and/or utility-side service line.

Plumbing contractor means a person, firm, corporation, or other entity licensed by the State of Wisconsin to perform plumbing work in the City of Racine.

Prequalified plumbing contractor means a person, firm, corporation, or other entity on the utility's Prequalified Plumbing Contractor list or is a plumbing contractor that is properly licensed to work in the State of Wisconsin, has filled out a prequalification form at the City of Racine Water Utility office, and has been accepted by the utility. All prequalified plumbing contractors must comply with the Racine Works Program Ordinance.

Property means real property as defined in Wis. Stat. § 70.03.

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

Planned replacement means the anticipated replacement of either the customer-side or the utility-side lead service line.

Service line means the water service line that extends from the water main to the inlet of the customer's water meter, which includes both a utility-side and a customer-side water service line.

Unplanned replacement means the unanticipated replacement of either the customer-side or the utility-side lead service line.

Utility means the City of Racine Water Utility.

Utility-side service line means the utility-owned portion of the water service line from the utility's water main to the utility's curb stop valve.

State Law reference– Definition of real property, Wis. Stat. § 70.03.

Cross reference– Racine Works Program, § 46-41.

Secs. 98-507—98-509. – Reserved.

DIVISION 2. – REQUIREMENTS

Sec. 98-510. – Lead service line replacement.

As prescribed by this article, all existing lead service lines that are part of or connected to the distribution system shall be replaced with service lines constructed of materials approved by the city. When replacing a lead service line, galvanized steel pipes may not be used as a replacement material for any portion of the service line. All replacement pipes must be lead-free.

Sec. 98-511. – Full lead service line.

Where both the customer-side service line and utility-side service line is constructed of lead or galvanized material that is or was downstream of lead, the replacement of both sides of the service line shall be completed according to a schedule established by the utility, except in cases of emergency as determined by the utility.

Sec. 98-512. – Partial lead service line.

Where only the customer-side service line is constructed of lead or galvanized material that is or was downstream of lead, the replacement of the customer-side lead service line shall be completed according to a schedule established by the utility, except in cases of emergency as determined by the utility.

Sec. 98-513. – Lead service line connection prohibited.

As of the effective date of this article, no person, other than a utility employee or agent, may connect a customer-side lead service line to any utility-side service line, except as a temporary emergency repair as determined by the utility.

Sec. 98-514. – Testing for lead.

Upon the request of a city resident or property owner, the utility shall schedule and perform at no cost to the resident or property owner a test of the water being dispersed from the distribution system to such residence for the presence of lead. The requestor shall receive written notification of the test results, along with information about the requirement to replace a lead service line under this article.

Sec. 98-515. – Utility inspection.

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 customer-side service line to determine the material of construction. In the event such person or entity fails to provide access to the interior of any improvement to accomplish such inspection, the utility shall take steps necessary to make the determination and shall collect the cost therefore from the property owner, including by imposition of a special charge.

Sec. 98-516. – Record.

The utility shall create and maintain a record of all identified lead service lines in the City of Racine.

Sec. 98-517. – Priority schedule.

Lead service line replacements shall be planned by the utility in accordance with the following priority schedule.

- (a) For properties with failed or leaking customer-side or utility-side service lines.
- (b) For properties where the City of Racine Public Health Department has determined both that a resident residing there had been diagnosed with a high lead level and that a customer-side lead service line had been a potential contributing factor.
- (c) For properties where the utility is replacing the utility-side service line, on either a scheduled or emergency basis.
- (d) For properties with licensed child care facilities and schools.
- (e) For properties where the utility-side service line is not a lead service line.
- (f) For all remaining properties with customer-side lead service lines.

Secs. 98-518—98-519. – Reserved.

State Law reference— Examination of meters, pipes, fittings, wires and works; entering buildings for, Wis. Stat. § 196.171.

DIVISION 3. – NO-COST REPLACEMENT

Sec. 98-520. – No-cost requirement.

In accordance with this chapter, the property owner shall receive a grant in the amount of the actual cost to replace the customer-side lead service line that is connected to the distribution system and that services the owner's property.

Sec. 98-521. - Complete financial assistance.

Available funding shall be granted to the property owner for the actual cost of the customer-side lead service line replacement in the manner prescribed by this section.

- (a) Available funding from a federal or state agency that is designated for customer-side lead service line replacements shall be granted to the property owner for the cost of the customer-side lead service line replacement.
- (b) So long as the utility maintains a financial assistance program that has been approved by the Public Service Commission of Wisconsin (PSC) and that has available funding, then the utility shall provide the property owner with a grant up to either fifty percent or the maximum PSC-authorized amount of the cost of the customer-side lead service line replacement that is not covered under subsection (a).
- (c) So long as funding is available, the city shall provide the property owner with a grant equal to the actual cost of the customer-side lead service line replacement that is not covered by grants under subsections (a) and (b).

Sec. 98-522. – Direct payment.

Any and all funding granted to the property owner for the cost of the customer-side lead service line replacement pursuant to section 98-521 shall be provided by the utility and/or the city directly to the plumbing contractor.

Secs. 98-523—98-529. – Reserved.

DIVISION 4. – LEAD SERVICE LINE REPLACEMENTS

Sec. 98-530. – Planned no-cost replacements.

Where the utility-side lead service line is scheduled for replacement and the customer-side service line is constructed of lead or galvanized material that is or was downstream of lead, replacement of both sides of the service line shall conform to this section at no cost to the property owner.

- (a) Inspection. Prior to scheduling the replacement of utility-side service lines, the utility shall inspect all affected customer-side service lines for the presence of lead or galvanized material that is or was downstream of lead.
- (b) Notifications. If the customer-side service line is found to be constructed of lead or galvanized material that is or was downstream of lead, the property owner will be notified of such in writing, along with notification that the property owner must replace the customer-side lead service line.
- (c) Simultaneous replacement. The customer-side lead service line and the utility-side lead service line must be replaced at the same time unless an extension is allowed under subsection (f).
- (d) Utility-side replacement schedule. The property owner with a lead service line will be notified in writing at least 45 days prior to the date of the scheduled replacement of the utility-side lead service line.
- (e) Replacement work. Within 30 days of receipt of the replacement notice, the property owner shall contract with and allow the utility's plumbing contractor to replace the customer-side and utility-side lead service lines simultaneously and shall execute a temporary right of entry and construction easement that authorizes the utility to access the dwelling or any improvement as needed.
- (f) Extension. If the property owner demonstrates a compelling need, the utility may, at its discretion, extend the time requirement for replacement of the customer-side lead service line, unless the utility determines that doing so would create an imminent threat to the health, safety, or welfare of the public.

Sec. 98-531. – Unplanned no-cost replacements.

Where only the customer-side lead service line or both the customer-side lead service line and the utility-side lead service line require(s) an unplanned replacement (e.g. emergency and/or failed or leaking service lines), the replacement(s) shall conform to this section at no cost to the property owner.

- (a) Inspection. The utility shall inspect all affected customer-side service lines for the presence of lead or galvanized material that is or was downstream of lead.
- (b) Notifications. If the customer-side service line is found to be constructed of lead or galvanized material that is or was downstream of lead, the property owner will be notified of such in writing, along with notification that the property owner must replace the customer-side lead service line.
- (c) Contractors and quotes. The utility shall provide the homeowner with a list of prequalified plumbing contractors. The property owner shall obtain from a

prequalified plumbing contractor at least one quote to replace the customer-side lead service line. The utility at its discretion may request that the property owner obtain from a different prequalified plumbing contractor a second or subsequent quote.

- (d) Simultaneous replacement. The customer-side lead service line and the utility-side lead service line must be replaced at the same time, if applicable, unless an extension is allowed under subsection (f).
- (e) Replacement work. Within 30 days of the receipt of the replacement notice, or sooner if necessary, as determined by the utility, the property owner's plumbing contractor shall replace the customer-side lead service line. If applicable, the property owner's plumbing contractor shall coordinate with the utility such that the customer-side and utility-side lead service lines are replaced simultaneously.
- (f) Extension. If the property owner demonstrates a compelling need, the utility may, at its discretion, extend the time requirement for replacement of the customer-side lead service line, unless the utility determines that doing so would create an imminent threat to the health, safety, or welfare of the public.
- (g) Completion and payment. Upon completion of the customer-side lead service line replacement, the property owner's plumbing contractor shall provide the utility with a copy of the invoice for the work. Upon proof of completion satisfactory to the utility, the utility and/or the city shall pay directly to the property owner's plumbing contractor the actual cost of the replacement work.

Sec. 98-532. – Independent replacements.

Where the customer-side lead service line requires replacement, whether planned or unplanned, the property owner may elect to coordinate a plumbing contractor to replace the customer-side lead service line in a manner that does not conform to either section 98-530 or section 98-531, but in doing so must also decline to receive any grant pursuant to section 98-521 and thus assumes full responsibility for the cost of the customer-side lead service line replacement work. The property owner shall nonetheless abide by the requirements of division 2 of this chapter. The customer-side lead service line and the utility-side lead service line must be replaced at the same time, if applicable.

Secs. 98-533—98-539. – Reserved.

DIVISION 5. – APPEALS AND ENFORCEMENT

Sec. 98-540. – Appeals.

A property owner aggrieved by a determination of the utility under this article may appeal such to the due process board within ten days from the date written on the notification of that determination. The appeal shall be in writing and must be delivered to the utility as

indicated on the notification. As soon as practicable thereafter, but not more than 30 days from the delivery date of the written appeal, the due process board shall hear the appeal and allow the recipient of the order an opportunity to present evidence that disputes the utility's determination. After such hearing, the board shall either affirm or reverse in whole or in part the determination of the utility.

Cross reference– Due Process Board, § 2-261 et seq.

Sec. 98-541. – Enforcement.

The provisions of this article shall be enforced by the utility and chief plumbing inspector.

Sec. 98-542. – Discontinuation of service.

As an alternative to any other methods provided for obtaining compliance with this article regarding replacement of a customer-side lead service line, the utility may, after reasonable opportunity has been given to make the appropriate replacement and after at least thirty (30) days of the written date on the notification, discontinue water service to such property served by a customer-side lead service line.

Secs. 98-543—98-549. – Reserved

Part 3: To create Chapter 2, Article III, Division 8, Section 2-263(g) of the Municipal Code of the City of Racine as follows:

(g) Lead service line replacements.

Conduct due process hearings on appeal filed by a property owner aggrieved by a determination of the utility relating to a customer-side service line replacement, including the determination of eligibility for financial assistance. After such hearing, the board shall either affirm or reverse in whole or in part the determination of the utility.

Cross reference– Appeals, §§ 98-540.

Part 4: This ordinance shall take effect upon passage by a majority vote of the members-elect of the City of Racine Common Council and publication or posting as required by law.

Fiscal Note: The utility requires an additional full-time staff member to administer this ordinance.

Pursuant to Wisconsin Statutes section 62.09(8)(c), the mayor shall have the veto power as to all acts of the common council, except such as to which it is expressly or by necessary implication otherwise provided. All such acts shall be submitted to the mayor by the clerk and shall be in force upon approval evidenced by the mayor's signature, or upon failing to approve or disapprove within 5 days, which fact shall be certified thereon by the clerk. If the mayor disapproves the mayor's objections shall be filed with the clerk, who shall present them to the council at its next meeting.

A two-thirds vote of all the members of the council shall then make the act effective notwithstanding the objections of the mayor.