

ADOPTED: January 19, 2022
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Office of the City Clerk

8-22

AN ORDINANCE CREATING SECTION 20-44 OF CHAPTER 20 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO LEAD AND GALVANIZED WATER SERVICE LINE REPLACEMENT.

(Utilities Committee – 12-15-2021)

The Common Council of the City of Appleton does ordain as follows:

Section 1: That Section 20-44 of Chapter 20 of the Municipal Code of the City of Appleton, relating to lead and galvanized water service line replacement, is hereby created to read as follows:

Section 20-44. Lead and galvanized water service line replacement.

(a) ***Intent and purpose.*** The Common Council of the City finds that it is in the public interest to establish a comprehensive program for the removal and replacement of lead and/or galvanized water service lines in use within the city water utility system and in private systems, and to that end, declares the purposes of this section to be as follows:

- (1) To ensure that the water quality at every tap of utility customers meets the water quality standards specified under the federal law;
- (2) To reduce the lead in city drinking water to meet the Environmental Protection Agency (EPA) standards in city drinking water for the health of city residents;
- (3) To meet Wisconsin Department of Natural Resources (WDNR) requirements for local compliance with EPA's Lead and Copper Rule.

(b) ***Authorization.*** This Section is enacted pursuant to §62.11(5) and §281.12(5), Wis. Stats., and as mandated by 42 U.S.C. Sec. 300g, of the Federal Safe Drinking Water Act, enforced by the EPA and with WDNR.

(c) ***Definitions.*** The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Customer-side water service line means the water conduit pipe running from the customer's meter to the curb stop which is the water utility shut-off valve usually located behind the curb on public property.

Director means the City of Appleton's Director of Public Works or their authorized representative.

EPA means the United States Environmental Protection Agency.

Lead and/or Galvanized Water Service Line means a water service line comprised of lead and/or galvanized piping.

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

Notice means written notification provided to the property owner and, if different, the tenant or occupant of the property identified on the water utility bill.

Utility means the City of Appleton Water Utility.

Water Utility System Construction Project means a utility project whereby the lead and/or galvanized water service lines may be replaced as part of a utility project.

Water Service Line Replacement Program means a program developed by the City and/or Utility to offer financial assistance to property owners for the purpose of replacing lead and/or galvanized water service lines. It shall also be referred to as the "Replacement Program" within this section.

WDNR means the Wisconsin Department of Natural Resources.

(d) ***Identification of lead and galvanized service lines.***

- (1) Upon notice from the Utility, any person or entity who owns, manages or otherwise exercises control over a property connected to the Utility distribution system shall allow the Director to inspect the customer-side service line to determine the material of construction as authorized pursuant to Wis. Stats. §196.171 et. seq.
- (2) The Utility and/or the Director 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 the service line. If entry is refused, the Director may obtain a special inspection warrant under Wis. Stats. §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 on such property.

- (3) The Utility shall create and maintain a record of the location of all identified lead and/or galvanized service lines in the City of Appleton.
- (4) If the property has been identified as having lead and/or galvanized water service lines, the Utility shall provide written notice of the presence of lead and/or galvanized water service line.

(e) ***Replacement of lead and/or galvanized service lines.***

- (1) All lead and/or galvanized water service lines must be replaced regardless of whether on the Utility-side or the customer-side. As of the effective date of the ordinance from which this division is derived, no lead and/or galvanized service line will be allowed to connect to a Utility line once replaced.
 - a. **Owner to Replace Lead and/or Galvanized Service Line.** Known existing lead and/or galvanized water service lines connected to the Utility shall be replaced with water service lines made of suitable material and at the owner's expense. Replacement shall be completed within one year (365 days) of written notification by the Utility unless an exception is granted pursuant to section (f)(2) of this section.
 - b. **Service Line Replacement in conjunction with Water Utility System Construction.**
 1. *Notification to Property Owners.* Notice shall be provided detailing the utility-side replacement of lead and/or galvanized service lines. The notification shall occur in the calendar year prior to commencement of the construction.
 2. *Inspection Required.* The Director or their designee shall endeavor to inspect all water service line connections in which the material comprising the water service lines are unknown to the Utility. The Director may perform the inspection of the customer-side water service line for the presence of lead or galvanized pipe prior to the time that the Water Utility system is to be reconstructed. If there is a refusal or failure to permit the Director access to inspect the service line, the Director may pursue a special inspection warrant to compel inspection of the property, may discontinue service pursuant to section (h), and/or may impose a forfeiture pursuant to section (l), of this section.

3. **Replacement.** In the event that a customer-side water service line is found to contain lead and/or galvanized pipe, the Director shall notify the owner, in writing, of that fact.
 - i. The affected property may contract with a licensed contractor to complete the replacement; or
 - ii. The property owner may request to be included in the Water Utility System Construction Project. The Utility shall include an alternative to the contract requesting unit bid prices for the calculation of the cost for customer-side water service line replacement. The property owner will be charged the entire cost of the removal and replacement if funded by the Utility. In addition, all restoration of the owner's property shall be the responsibility of the property owner (including, but not limited to top soil, concrete, steps, asphalt, bushes, porches, and the like).

(f) **Exceptions.**

- (1) The Utility may modify the inspection requirement set forth under section (d) if the customer submits a request in writing to the Director of Public Works. The Director of Public Works or their designee shall have sole discretion in whether to grant a request to modify the inspection requirements.
- (2) The Utility may modify the 365-day replacement requirement set forth under section (e)(1)a. if the customer submits a request in writing to the Director of Public Works detailing reasons for the delay. The Director of Public Works shall have sole discretion in whether to grant an extension of time for compliance.

(g) **Financial Assistance.** In the event funding is made available for the purpose of replacing customer-side water service lines, the City will establish a Water Service Line Replacement Program. A property owner may opt into the Program for the replacement of the lead and/or galvanized customer-side water service line under the terms of the Replacement Program. Eligibility requirements as well as conditions of participation for the Replacement Program will be kept on file in the Department of Public Works. Disputes regarding eligibility for financing may be appealed to the Utilities Committee, unless otherwise noted in the Replacement Program eligibility and participation policy.

(h) **Authority to discontinue service.** The Water Utility is authorized to discontinue water service to such property served by a lead and/or galvanized water service line after reasonable notice and in a manner consistent with the rules and regulations of the City of Appleton

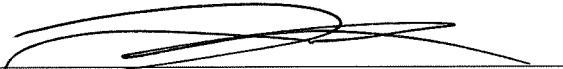
Utility and the Public Service Commission of Wisconsin governing discontinuance of water service.

(i) **Penalties.** Any person who violates any provision of this chapter, including failing to comply with the applicable customer-side water service line replacement requirements as set forth in this section, or directly or indirectly preventing or hindering the Appleton Water Utility employee from making an inspection, examination, removal, or installation, shall be fined not more than \$25 for each offense. Each day a violation continues may be considered a separate offense.

(j) **Severability.** If any subsection or portion of this chapter is for any reasons held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, that subsection or portion shall be deemed severable and shall not affect the validity of the remaining portions of this chapter.

Section 2: This ordinance shall be in full force and effect from and after its passage and publication.

Dated: January 19, 2022



Jacob A. Woodford, Mayor



Kami Lynch, City Clerk

