

City of Sun Prairie, Wisconsin

**ORDINANCE CREATING CHAPTER 13.08.350 -
REPLACEMENT OF LEAD SERVICE PIPE**

Presented: August 21, 2018

Adopted: August 21, 2018

Published: August 28, 2018

Ordinance No.: #741

ORDINANCE

The Common Council of the City of Sun Prairie, Dane County, Wisconsin, hereby ordains as follows:

SECTION 1. That Chapter 13.08.350 is hereby created as follows:

13.08.350 – Replacement of lead service pipe.

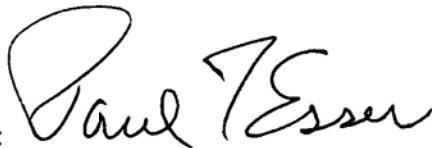
- A. Purpose. Lead service lines have the potential to leach lead into drinking water. Disturbing or reconnecting to an existing lead service line may increase lead levels in drinking water. Elevated lead levels in drinking water have been determined to cause health problems in young children, pregnant women and their unborn children, and are also potentially harmful to adults. The Common Council therefore finds it in the public interest to establish a comprehensive program for removing and replacing all lead service lines within and connected to the Sun Prairie Utilities water distribution system.
- B. Authority. This ordinance is enacted pursuant to §§ 62.11(5) and 196.372, Wisconsin Statutes.
- C. Definitions. This ordinance shall be interpreted so that the intent and purpose described may be accomplished. Words and phrases shall be understood according to common meanings unless the contrary is clearly indicated. Definitions of terms used in this Section are listed below:
 - 1. Customer-side Lead Service Line or Customer-side LSL. A Customer-side Service Line constructed of lead.
 - 2. Customer-side Service Line. The Property Owner's water service line from the outlet of the curb stop to the inlet of the customer's water meter. The outlet joint of the curb stop is considered customer-owned.
 - 3. Distribution System. The network of water pipes, including mains and service lines, owned and operated by SPU.
 - 4. Lead Service Line or LSL. A water service line constructed of lead. The term covers both a Customer-side Lead Service Line and/or a Utility-side Lead Service Line.
 - 5. Non-Compliance Penalties. These may include, but not necessarily be limited to, violation citations, elimination of financial assistance, service disconnection, or other actions deemed permissible by the PSC and/or City.
 - 6. Plumbing Contractor. A person, firm, corporation or other entity licensed by the State of Wisconsin to perform plumbing work in the City.
 - 7. Property. Real property as defined in § 70.03, Wisconsin Statutes.
 - 8. Property Owner. A person or legal entity, or his, her or its representative, having an ownership interest, legal or equitable, in the Property. The term Property Owner includes an estate or trust.
 - 9. PSC. Public Service Commission of Wisconsin.
 - 10. SPU. The abbreviation will identify Sun Prairie Utilities, the City utility responsible for operating the City's public water system.

11. Utility Manager. The general manager of the SPU or his or her designee.
 12. Utility-side Lead Service Line or Utility-side LSL. A Utility-side Service Line constructed of lead.
 13. Utility-side Service Line. The Utility owned portion of the water service line from the water main to the outlet of the curb stop, including the curb stop.
- D. Lead Service Line Replacement Requirement.
1. As provided in this ordinance, all existing Lead Service Lines connected to the SPU Distribution System shall be replaced with water service lines constructed of materials approved by the City.
 2. Where both the Customer-side and Utility-side Service Lines are constructed of lead, the replacement of both sides of the service line shall be completed at the same time following the process set out in Subsection F.
 3. Where only the Customer-side Service Line is constructed of lead, the replacement of the Customer-side LSL shall be completed within 36 months of notification by SPU following the process set out in Subsection G.
- E. Identification of Customer-Side Lead Service Lines.
1. SPU will create a contact list of homes that potentially have Lead Service Lines based on the building's date of construction.
 2. Upon notice from SPU, a Property Owner or Customer who exercises control over a Property connected to the SPU Distribution System shall schedule an inspection of the Customer-side Service Line by an authorized SPU Water Operator in order to allow SPU to confirm the service line's material of construction. SPU may use various methods to contact the Property Owner or Customer, including but not limited to phone calls, bill stuffers, emails, mailers, and door-to-door contact.
 3. In the event that a Property Owner or Customer refuses or fails to provide access to the interior of any improvement in order to accomplish such inspection, the Utility Manager shall take the steps necessary to complete the inspection and confirm the service line's material of construction, including and up to the issuance of Non-Compliance Penalties.
 4. As an alternative to SPU inspection, the Property Owner or Customer may arrange to have a Plumbing Contractor perform the inspection and provide inspection results to SPU. This option is not available if a Utility-Side LSL replacement is being conducted.
 5. Upon confirmation that a Customer-side Service Line is constructed of lead, SPU will notify the Property Owner of the requirement to replace the Customer-side Lead Service Line following the steps detailed in Subsections F or G, depending on the circumstance.
 6. SPU shall create and maintain records of all inspected, identified and replaced Lead Service Lines in the City, until such time that no Lead Service Lines exist.
- F. Replacement of Customer-Side Lead Service Lines in conjunction with replacement of Utility-Side Lead Service Lines.
1. Although not prevalent, the SPU Distribution System contains a very small percentage of Utility-side Lead Service Lines. Utility-side LSLs will be replaced as part of a City street reconstruction project if possible. Before undertaking a project which will replace Utility-side LSLs, SPU shall identify those properties that connect to the Utility-side LSLs planned for replacement.
 2. Prior to scheduling the replacement of Utility-side LSLs, a certified SPU water operator or SPU employee proficient at determining lead service line materials, shall inspect all connected and affected Customer-side Service Lines for the presence of lead.
 3. If a Customer-side Service Line is found to be constructed of lead, SPU will notify the Property Owner of that fact in writing. SPU will also notify the Property Owner that the Property Owner must replace the Customer-side LSL in conjunction with SPU's scheduled replacement of the Utility-side LSL, and that failure to do so may subject the Property Owner to Non-Compliance Penalties.
 4. At least forty-five (45) days prior to the date of the scheduled replacement of the Utility-side LSL, SPU shall notify the Property Owner with a Customer-side LSL in writing of the scheduled date of replacement of the Utility-side LSL.

5. Within thirty (30) days of receipt of the replacement notice, the Property Owner must schedule the replacement of the Customer-side LSL to coincide with the scheduled replacement of the Utility-side LSL. The Property Owner shall promptly notify SPU that the replacement of the Customer-side LSL has been scheduled and provide the name of the Plumbing Contractor who will complete the replacement work.
 6. Upon a Property Owner's request, SPU may assist the Property Owner with getting bids from Plumbing Contractors. SPU's contractor for Utility-side LSL replacement work may be available to perform Customer-side LSL replacement work.
 7. Customer-side LSL replacement work must be completed at the same time as the Utility-side LSL is replaced unless an extension is allowed under par. 8. Failure to commence Customer-side LSL replacement work as required by this ordinance or to complete such work within a reasonable time after commencement of the work, may result in the issuance of Non-Compliance Penalties.
 8. Upon the Property Owner's written request, and with the Property Owner's demonstration of a compelling need, the Utility Manager may, at his or her discretion, extend the time for replacing the Customer-side LSL, unless the Utility Manager determines that granting such an extension will create an imminent threat to the health, safety or welfare of the public.
 9. A Property Owner who follows the procedures detailed in both this Subsection and Subsection H may be eligible to receive financial assistance for the Customer-side LSL replacement.
- G. Replacement of Customer-side Lead Service Line where only the Customer-Side portion of the Service Line is Lead.
1. If SPU confirms that a Customer-side Service Line is constructed of lead and notifies the Property Owner of that fact in writing as provided by Subsection E, the Property Owner must, unless Subsection F applies, arrange for the replacement of the Customer-side LSL to be completed within 36 months of notification. Failure to complete the replacement of the Customer-side LSL within that time period may result in Non-Compliance Penalties.
 2. Upon the Property Owner's written request, and with the Property Owner's demonstration of a compelling need, the Utility Manager may, at his or her discretion, extend the time for replacing the Customer-side LSL, unless the Utility Manager determines that granting such an extension will create an imminent threat to the health, safety or welfare of the public.
 3. A Property Owner who follows the procedures detailed in both this Subsection and Subsection H may be eligible to receive financial assistance for the Customer-side LSL replacement.
- H. Financial Assistance for Customer-Side LSL Replacements.
1. SPU is authorized to establish a program to provide eligible Property Owners with financial assistance to replace Customer-side LSLs. SPU must seek PSC approval of any SPU financial assistance program to replace Customer-side LSLs. If SPU's financial assistance program has received PSC approval and has available funding, SPU may provide eligible Property Owners with financial assistance to replace Customer-side LSLs as provided in this Subsection H.
 2. SPU may provide an eligible Property Owner with financial assistance to pay the Property Owner's Customer-side LSL replacement costs. SPU may provide a grant to pay for up to fifty percent (50%) of the Property Owner's Customer-side LSL replacement costs. The grant may not exceed a maximum amount of \$2,000. Financial assistance for the remainder of the Property Owner's Customer-side LSL replacement costs may be provided in the form of a loan.
 3. SPU may loan an eligible Property Owner funds to pay the Property Owner's remaining Customer-side LSL replacement cost after the receipt of any grant monies under par. 2. SPU may provide an eligible Property Owner a 60-month, zero percent interest, loan. The amount of the loan shall be no greater than the lowest bid amount under par. 6, less any grant monies awarded under par. 2. A Property Owner shall repay the loan in equal monthly installments. Loan repayments shall be included on SPU's monthly utility bill. Loan repayments that are past due may be placed on the property tax roll as provided in Wis. Stat. § 66.0809.
 4. A Property Owner is eligible for financial assistance for the purpose of replacing the Customer-side LSL if the Property Owner satisfies all of the following criteria:

- a. The Property Owner alone, or collectively with others, owns the entire fee simple title to the Property served by the Customer-side LSL.
 - b. The Property Owner's Customer-side LSL is either attached to a Utility-side Service Line that is not a LSL, or a Utility-side LSL scheduled for replacement and for which the Property Owner has been notified by SPU of such scheduled replacement.
 - c. The Property Owner agrees to have the replacement work done by a Utility-approved Plumbing Contractor in compliance with this ordinance.
5. Written applications for financial assistance shall include the following:
 - a. A completed application on a form furnished by SPU 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 par. 4 are met.
 - b. Copies of written quotes from at least two pre-qualified Plumbing Contractors for the replacement of the Property Owner's Customer-side LSL. A pre-qualified Plumbing Contractor is one that has went through the approval process and been placed on SPU's prequalified Plumbing Contractor list. To be placed on the prequalified Plumbing Contractors list, a licensed Wisconsin Plumbing Contractor must fill out a Prequalification Form at the SPU office located at 125 West Main Street in Sun Prairie and be officially approved by SPU.
 6. A Property Owner will be eligible for financial assistance based only on the lowest bid amount included in the written quotes received from the pre-qualified Plumbing Contractors under par. 5.b., unless an extraneous circumstance exists that will require the approval of the Utility Manager. In general, financial assistance amounts will strictly be on base bid pricing and will not include change orders. In certain circumstances and where deemed appropriate, the Utility Manager, in conjunction with the Property Owner, may approve a contractor requested change order for inclusion in the financial assistance portion of the work.
 7. After a complete application is received, and prior to the commencement of any replacement work, SPU shall determine if the Property Owner is eligible for financial assistance, and 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.
 8. Customer-side LSL replacement work must be accomplished in a workmanlike manner and be coordinated with any SPU Utility-side LSL replacement work as required by Subsection F.
 9. Upon completion of the Customer-side LSL replacement, the Property Owner shall provide SPU with a copy of the invoice from the Plumbing Contractor. Upon proof of completion satisfactory to the Property Owner and SPU, SPU shall directly pay the Plumbing Contractor the amount of money approved by SPU for financial assistance for replacement of the Customer-side LSL. SPU shall provide the Property Owner with documentation of such payment.
 10. The total amount of money provided by SPU as financial assistance in the form of a grant and loan may not exceed the actual cost of replacement of the Customer-side LSL.
 11. Disputes regarding eligibility for financial assistance may be appealed to the Sun Prairie Utilities Commission.
- I. Severability. If any subsection or portion of this ordinance is for any reason determined to be invalid or unconstitutional by the decision of a court of competent jurisdiction, that subsection or portion shall be deemed severable and shall not affect the validity of the remaining subsections or portions of this ordinance.
 - J. Authority to Discontinue Service. If a Property Owner fails to replace a Customer-side LSL as required by this ordinance, SPU may in accordance with its water utility tariffs discontinue water service to such Property until the Customer-side LSL is replaced.

SECTION 2. Effective Date. This Ordinance shall become effective upon passage and publication as provided by law.

APPROVED: 
Paul T. Esser, Mayor

Date Approved: August 21, 2018

Date Signed: August 23, 2018

This is to certify that the foregoing Ordinance was adopted by the Common Council of the City of Sun Prairie at a meeting held on the 21st day of August 2018, and was submitted for signatures on the 23rd day of August, 2018.


Elena Hilby, City Clerk