

pollution of any public watercourse, the commissioner of health shall operate the system and make whatever changes he deems necessary in the system, including reconstruction, repair or alteration to attain its proper operation; or the commissioner of neighborhood services shall cause connection to be made to the sanitary or combined sewer, and the cost of reconstruction, repair or alteration and the cost of operation of the system shall be made at the expense of the city; the cost of the connection to the sanitary or combined sewer and the sums so expended in the abatement or removal of any nuisance or nuisances in such cases shall be a lien in the same manner as any tax upon real estate upon the premises served by the individual sewage disposal system; the sums to be collected in the manner specified in s. 17-12, city charter.

4. Nothing in this subchapter shall be construed so as to take away any of the powers of the city to abate a nuisance by an action under applicable provisions of state law, charter or simple ordinance, in cases where there is the development of any public health nuisance or the pollution of any watercourse.

**225-19. Hearings.** 1. BY WRITTEN REQUEST. If the commissioner of health refuses to issue a permit for construction or alteration of an individual sewage disposal system, the applicant for the permit may file in the office of the commissioner of health a written request for a public hearing by the commissioner. The commissioner shall hold a public hearing at a time and place designated by him within 20 days of the date on which the written request was filed. The petitioner for the hearing shall be notified of the time and place of the hearing not less than 5 days prior to the date on which the hearing is to be held. The proceedings of such hearings, together with the findings and decision of the commissioner of health, shall be reduced to writing and placed on file in the office of the commissioner, and a copy shall be served on the petitioner by the commissioner of health or by delivery to the petitioner by registered mail, return receipt requested.

2. REVIEW. Any persons, jointly or severally, aggrieved by the decision of the commissioner of health, or any taxpayer, or any officer, department, board or bureau of the city, may seek relief by having the decision reviewed by the circuit court by certiorari, if the petition for the writ is presented to the court within 20 days after the date on which a copy of the hearing proceedings with the commissioner's decision was

served on the person who filed the petition for hearing, and if the person aggrieved notifies the commissioner within 10 days after a copy of the hearing proceedings with the commissioner's decision was served on him of his intention to present such petition to the court. Such petition, duly verified, shall set forth that such decision is illegal in whole or in part, specifying the grounds.

**225-20. Rules and Regulations.** The commissioner of health is authorized to make and adopt written rules and regulations necessary to carry out the provisions of this subchapter. Such rules and regulations shall have the same force and effect as the provisions of this code, and the penalty for violation thereof shall be the same as the penalty for violation of the provisions of this subchapter. A copy of such rules and regulations shall be kept on file in the city clerk's office, in the legislative reference bureau, and in the office of the commissioner of health.

**225-21. Inspection and Enforcement.** Within 3 days after the commissioner of health issues a permit for the construction or alteration of an individual sewage disposal system, he shall transmit to the commissioner of neighborhood services a copy of the permit. The commissioner of neighborhood services, or an authorized representative, shall make such inspections as necessary to assure that every individual sewage system is constructed, installed or altered in accordance with the requirements set forth in the permit, and the commissioner of neighborhood services may prosecute any person who violates the terms of a valid permit issued by the commissioner of health.

**225-22. Municipal Service.** To preserve public health, comfort and safety, every building intended for human habitation or occupancy and located adjacent to a sanitary sewer, storm sewer or water main shall be connected to each or all in a manner prescribed in this section.

1.a. Every building shall be provided with a supply of potable water in compliance with this section.

b. All property shall be connected to the water main prior to sale, except as provided in par. c.

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c. If a property is not connected to the water main because of an existing well, the owner is not required to connect if a statement concerning the property is recorded by the property owner with the register of deeds stating that there is no connection to the public water main at this time and connection is required by ordinance to be made within 30 days after the sale of such property.

d. All property shall be connected to the public water main within 30 days of sale.

e. All property shall be connected to the public water main immediately if upon inspection the private well proves not to be working properly or if the well proves to be tested unsafe in accordance with s. 225-37-4.

f. All property shall be connected to the public water main in a manner consistent with the provisions of s. 225-22.5, to the extent that the provisions of that section apply to the property's water connection.

2. When sanitary sewers approved by the Wisconsin department of natural resources and the department of public works become available, the use of a private sewerage system shall be discontinued within the time stipulated by order of the commissioner but not to exceed a period of one year.

a. When public sewers become available to any premises served by a private sewage disposal system, the private sewage system shall be discontinued and the building sewer shall be connected to the public sanitary sewer within the time allotted under sub. 2 except where a hardship can be justified by letter, but not to exceed 30 days after the sale of such properties. Such properties shall be connected to the public sewer immediately if upon inspection the private disposal system proves not to be working properly.

b. A building shall be deemed to have the facility available if the premises on which the building is located has been determined by the commissioner of public works to be served by the respective facility.

### 225-22.5. Lead Service Line Replacement. 1.

FINDINGS. a. The common council finds that:

a-1. Disturbance of lead water service lines, particularly partial lead service line replacement, has been shown to increase lead levels in drinking water.

a-2. Reconnection of existing lead water service lines to new copper water service lines has been shown to increase lead levels in drinking water.

a-3. Full replacement of lead service lines, as opposed to partial replacement, can reduce exposure to lead in drinking water.

a-4. Because of the significant risks to public health and safety posed by disturbance of lead water service lines and reconnection of lead to copper service lines, the city has a strong public interest in remediating privately-owned lead water service lines under certain circumstances.

a-5. Residential properties containing 5 or more dwelling units are typically investment properties operated for a profit and better able to bear the costs of water service line replacement than residential properties containing one to 4 dwelling units.

b. For the reasons stated in par. a, and under the authority granted to the city to regulate connections to public water mains by ss. 66.0911 and 281.45, Wis. Stats., to act for the health, safety and welfare of the public by s. 62.11(5), Wis. Stats., and consistent with the purpose of this code set forth in s. 200-002, the common council finds that it is necessary and appropriate to establish and enforce requirements for the full replacement of lead water service lines under certain conditions and to provide a funding mechanism to assist affected property owners in complying with those requirements.

2. DEFINITIONS. In this section:

a. "Lead water service line" means a service made of lead which connects the water main to the building inlet and any lead pigtail, gooseneck or other fitting which is connected to such lead line.

b. "Privately-owned portion of a lead water service line" means the section of water service piping from the outlet joint of the curb stop to the outlet of the water meter outlet valve with the exception of the water meter itself, regardless of the ownership of the property upon which the piping is located.

c. "Utility-owned portion of a lead water service line" means the section of water service piping from the main to, but not including, the outlet joint of the curb stop.

3. REPLACEMENT REQUIREMENT.

The privately-owned portion of a lead water service line shall be replaced whenever any of the following occurs:

a. A leak or failure has been discovered on either the privately-owned or utility-owned portion of the service line.

b. The utility-owned portion of the line is replaced on either a planned or emergency basis.

4. REPAIR OR RECONNECTION PROHIBITED. No repair of a privately-owned lead water service line, or reconnection of a privately-owned lead water service line to a utility-owned water service line, shall be permitted under any of the circumstances specified in sub. 3.

5. EXCEPTION. The commissioner of public works or commissioner's designee may, at his or her discretion, grant a temporary exception to the requirement of sub. 3 and the prohibition of sub. 4 if the commissioner or commissioner's designee determines that doing so will not create an imminent threat to the health, safety or welfare of the public.

6. NOTICE. a. Leak or Emergency Replacement. In the event of a service line leak or failure under sub. 3-a or emergency replacement of the utility-owned portion of the service line under sub. 3-b, the commissioner of public works or commissioner's designee shall provide written notice of the replacement requirement to the owner upon the commissioner's or designee's determination that replacement of the utility-owned portion of the line is required.

b. Planned Replacement. In the event of a planned replacement under sub. 3-b, the commissioner of public works or commissioner's designee shall provide written notice of the replacement requirement to the owner at least 45 days prior to the commencement of the planned replacement of the utility-owned portion of the service line.

7. OWNER ELECTION. Upon receipt of the notice in sub. 6, the owner shall, within 10 business days, do one of the following:

a. Replace the privately-owned portion of the lead service line at the owner's expense by contracting with a licensed contractor. The work shall be performed in accordance with all applicable state, local and utility regulations.

b. Elect to have a city contractor replace the privately-owned portion of the lead service line:

8. FINANCING OF REPLACEMENT BY CITY CONTRACTOR. If the owner elects to have a city contractor complete the replacement under sub. 7-b, the cost of replacing the privately-owned portion of the lead service line shall be paid in the following manner:

a. The owner shall be responsible for the average current cost of replacing the privately-owned portion of the lead water service line. The average current cost shall be established each year by the commissioner of public works, subject

to adoption by common council resolution. The owner may be eligible for a city subsidy under sub. 9.

b. The owner's share of the cost shall be assessed to the property as a special assessment. Upon receipt of an invoice for this special assessment from the commissioner of public works or the commissioner's designee, the owner may pay the invoice, without interest, by remitting payment to the city treasurer within 45 days of the date of the invoice. If such invoices are not paid in full within the specified time, they shall be placed upon the tax roll under the following terms and conditions and in the following manner:

b-1. If the total amount of the principal of the invoice remaining unpaid equals or exceeds \$125, it shall be spread equally over the first available and next succeeding 9 tax rolls.

b-2. If the total amount of the principal of the invoice remaining unpaid is less than \$125, the amount shall be placed on the first available tax roll.

b-3. In addition to the principal remaining, interest shall be added commencing after the billing date of the invoice. A 45-day grace period for payment shall be granted from the date of billing, and if not paid within the period, interest shall be charged on a restorative basis to the date of the billing. The interest rate charged shall be set annually as of the last business day in June as an approximation of the prime rate plus 1%. For the purpose of this subdivision, the prime rate shall be defined as the Wall Street Journal prime rate published in the Wall Street Journal. The monthly rate of interest shall be computed by dividing the average prime rate plus 1% by 12 rounded to the nearest 100th of one percent. The comptroller shall review the interest rate annually and shall notify the commissioner of public works of the interest rate. The interest rate shall become effective as of the public hearing date in September at which annual assessment rate changes are submitted to the appropriate committee of the common council as provided in s. 115-43. The interest rate in effect at the time the special assessment is levied shall be fixed for the 10-year duration of the installment payments.

b-4. After being placed on the tax roll in annual installments or otherwise, the amounts of special assessments shall be paid within the time allowed for the payment of general property taxes. If the property owner fails to pay a special assessment within the time allowed for payment, it shall become delinquent and shall be treated in the same manner and subject to the same laws as a delinquent general property tax.

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9. CITY SUBSIDY. a. Payment Method. Subject to availability of public funds, a property owner who meets the criteria in par. b shall be eligible to receive a subsidy of the cost of replacing the privately-owned portion of the lead water service line required by sub. 3 in the following manner:

a-1 The property owner's share of the cost shall be the lesser of one-third of the average current cost to replace the privately-owned portion of the lead service line or \$1,600. Each March 1, the city clerk shall adjust the fixed-dollar amount based on the most recent monthly constant-quality (Laspeyres) price index for new single-family home construction published by the U.S. census bureau, compared to the same index for January, 2017.

a-2. The city shall pay the balance of the cost to replace the privately-owned portion of the lead service line.

b. Eligibility Criteria. A property owner shall be eligible for the city subsidy provided in par. a if the property owner submits to the commissioner of public works or commissioner's designee documentation, on a form furnished by the commissioner or designee, attesting that all of the following conditions are met:

b-1. The property is a one-, 2-, 3- or 4-family dwelling.

b-2. The owner agrees to have the work performed by a city contractor.

b-3. The owner signs a hold-harmless agreement holding the city harmless and free from any claim or liability for damage done in performance of the water service line replacement work.

b-4. The owner executes a temporary right of entry and construction easement authorizing the city and its contractor access into the dwelling as needed in order to complete the connection.

10. REQUIREMENTS FOR OWNERS INELIGIBLE FOR SUBSIDY. Any owner who elects to have a city contractor perform water service line replacement required by sub. 3 and is not eligible for city subsidy under sub. 9 shall, prior to the commencement of this work:

a. Execute a hold-harmless agreement holding the city harmless and free from any claim or liability for damage done in performance of the water service line replacement work.

b. Execute a temporary right of entry and construction easement authorizing the city and its contractor access into the dwelling as needed in order to complete the connection.

11. REPORTS OF FINANCIAL IMPACTS ON PROPERTY OWNERS. a. Quarterly Reports. Prior to April 1, 2017 and every 3 months thereafter, the commissioner of public works or the commissioner's designee shall submit to the common council a report on the financial impacts of implementation of this section on property owners who have had their water service lines replaced under this section.

b. Report Contents. Prior to February 1, 2017, the commissioner of public works or the commissioner's designee shall submit, to the appropriate common council standing committee, a description of the types of financial impacts and other information that will be provided to the common council in the reports required by par. a.

12. ENFORCEMENT. a. Performance of Work by City. If the owner fails to comply with sub. 3 within the time specified in sub. 7, the commissioner of public works or the commissioner's designee may apply for and obtain an appropriate court-issued warrant pursuant to ss. 66.0119 and 196.171, Wis. Stats., to gain access to the property and have the required work performed pursuant to s. 281.45, Wis. Stats. The cost of this work shall be assessed and collected as a special assessment on the property.

b. Penalty. Upon determination that a violation of this section exists, the commissioner of neighborhood services is authorized to issue a citation in the amount of \$100 to the property owner. Each day of violation shall constitute a separate offense.

c. Discontinuation of Service. As an alternative to any other methods provided for obtaining compliance with this section, if the commissioner of public works or the commissioner's designee, in consultation with the commissioner of health, determines that the owner's failure to comply with sub. 3 will create an imminent threat to the health, safety or welfare of the public, the commissioner of public works or the commissioner's designee may discontinue water service to the property upon notice to the owner and reasonable opportunity to comply with the requirements of this section, and in a manner consistent with the rules and regulations of the Milwaukee water works and the public service commission of Wisconsin governing discontinuation of water service.