



INTER-OFFICE CORRESPONDENCE

TO: TROY ADAMS
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DATE: MARCH 19, 2024
SUBJECT: LEAD SERVICE LINE (LSL) REPLACEMENTS, SDWLP ALTERNATIVE
REVENUE PLEDGE
ACTION REQUESTED: RECOMMENDATION TO REVISE CITY ORDINANCE

Since 2017, MPU has participated in the WDNR the Safe Drinking Water Loan Program (SDWLP) to assist in the replacement of private LSLs. A municipality may receive SDWLP funds as a loan or as principal forgiveness or as a combination, depending on eligibility.

A municipality receiving SDWLP funds as a loan must provide security for the loan. To date, MPU has received safe drinking water loans with 100% principal forgiveness; these loans did not require a revenue pledge. In 2024, MPU qualified for SDW loans that are not 100% principal forgiveness, so they will require a loan security. Security may be provided as a general obligation pledge or a revenue pledge from MPU's water utility charges. However, Public Service Commission approval under Wis. Stat. § 196.372 is needed to provide a revenue pledge based on water utility revenues for a SDWLP loan used to fund private lead service lines replacements.

MPU currently has a PSC-approved LSL Revolving Loan Program, but the available funds will not be adequate to cover the anticipated LSL loan needs. Increasing the funds will require PSC approval.

Municipalities now have another option for providing a revenue pledge to secure a SDWLP loan to fund private lead service lines replacements. Wisconsin Statute § 66.0627(8)(ag) permits a municipality to establish a loan program for property owners to replace private lead service lines. For 2024 and going forward, the WDNR will accept a municipality's pledge of these loan repayments as security for the SDWLP loan.

A municipality is authorized to collect loan repayments under Wis. Stat. § 66.0627(8)(ag) by placing a special charge on the property owner's tax bill. Special charges are then collected like taxes.

In order to use this alternative, the City of Manitowoc would need to adopt an ordinance establishing a loan program under Wis. Stat. § 66.0627(8)(ag). It is important that this loan program be established and administered by the municipality, not the water utility. Because this is a municipal program and water utility funds will not be used, PSC approval is not required for this alternative.

As described by the MPU 2024 LSL Replacement Program, MPU will be administering multiple LSL replacement programs in 2024: a 100% principal forgiveness program, a 75% PF program, and a 50% PF program. SDW loan security is required for the 75% PF and 50% PF programs; MPU is working with City Finance Director Shawn Alfred in establishing a new Municipal LSL Loan Program administered by the City, which would act as the Alternative Revenue Pledge for the SDWLP LSL Loans.

An LSL loan agreement between the City of Manitowoc and the LSL property owner would set forth the amount of the loan, the interest rate, the length of the term, and collection of loan repayments as a special charge on the property owner's tax bill.

Here is an example of how MPU would structure the 75% PF program:

1. MPU is qualified to request up to \$4.208M from the WDNR for the LSL project costs; 25% of this amount would be an SDW loan, or \$1,052,000. As part of the SDWLP application, MPU would indicate the Alternate Revenue Pledge as the loan security.
2. MPU bids and awards the project to a Plumber/Contractor, with established bid prices.
3. The Contractor completes the work, and MPU pays the Contractor in full.
 - a. MPU can submit Contractor invoices to the WDNR for reimbursement; the WDNR reimburses MPU for 75% of the eligible expenses on the invoice.
4. MPU invoices each individual property 25% of the work completed at their property, representing their cost share.
 - a. The property owner can pay this full amount to MPU if they choose.
 - b. Or the property owner can choose the Municipal LSL Loan Program, administered by the City.
5. Monies collected by MPU (direct payments) or the City (annual special charges) are paid to the WDNR in annual installments.

The WDNR requires some key municipal ordinance language to be adopted before approving the use of the Alternative Revenue Pledge for the SDWLP LSL Loans:

- Establishment of a new municipal ordinance for Private Lead Service Line Replacement Municipal Financing. See the attached example.
- Revision of the existing municipal ordinance 12.110 that allows the City of Manitowoc to provide financial assistance to property owners replacing lead service lines. See the attached proposed revision.
- Revision of the existing municipal ordinance 17.090 to include language required for the Alternative Revenue Pledge. See the attached proposed revision.

Action Requested: Request to have the City Council approve a new Municipal LSL Loan Program administered by the City, which would act as the Alternative Revenue Pledge for the SDWLP LSL Loans. Also request to create and revise municipal ordinances as required for the Alternative Revenue Pledge program; these proposed changes have been reviewed by Attorney William Nelson, with Godfrey Kahn.

PROPOSED CHANGES TO THE MUNICIPAL ORDINANCES FOR THE ALTERNATIVE REVENUE PLEDGE

12.110 Water Laterals.

(1) Responsibility for Lateral Repairs and Replacements. The service pipe, fittings and appurtenances from the main to the building control valve in the premises served are owned by the property owner. The owner of any property to which a water lateral is connected shall make all required repairs or replacements to the water lateral. Should the City of Manitowoc and/or the Manitowoc Public Utilities determine that a water lateral requires repair or replacement, the owner shall be notified by First Class U.S. Mail of the need for the repair or replacements. If the owner cannot be located, a notice posted on one of the doors to the property shall be sufficient notice. If an owner fails to repair or replace a leaking or broken service lateral from the water main to the point of metering or use within such time as may appear reasonable to the water utility after notification has been served on the owner by the water utility, the water will be shut off and will not be turned on again until the repair or replacement has been completed or the water utility may make the necessary repair or replacement to the water lateral and such costs shall be billed to the property owner.

(2) Street Excavation. In the case of street excavations required because of repair to water laterals, the Manitowoc Public Utilities shall be responsible for the permanent street restoration costs.

(3) Assessment. Any work done by the Manitowoc Public Utilities hereunder shall be charged against the property as a special assessment authorized by Wis. Stat. Ch. 66.

(4) MPU Loan and Grant Program. Manitowoc Public Utilities is authorized to operate a lead service lateral replacement loan program, as approved by the Manitowoc Public Utilities Commission.

(5) Municipal Loan Program. The City may establish a program to provide financial assistance to property owners replacing lead service lines.

[Ord. 19-520 § 1, 2019; Ord. 17-514 § 1, 2017; Ord. 12-070 § 2, 2012; Ord. 08-490 § 1, 2008. Prior code § 12.11]

17.090 Additional Requirements.

(1) Service Pipe Minimum Size. The minimum size of a water service pipe shall be three-quarters of an inch ID. 3/4".

(2) Water Heaters, Water Softeners – Installation – Registration – Inspection – Fee.

- (a) Permit Required. See definition of **plumbing**, MMC 17.010; also Wis. Stat. § 145.01(10)(a) through (e).
- (b) Supply Pipe. Every gas water heater shall be provided with an adequate gas supply pipe. No such supply pipe shall have a diameter less than the inlet pipe of the heater, and all such supply pipes shall be provided with a shut-off valve.
- (c) Vent Pipe. Every gas water heater shall have an entirely separate and independent vent pipe of adequate size (except when connected to a chimney) extended vertically, or nearly so, through the roof and shall have a suitable anti-down draft hood, cowl, or cap attachment, approved by the Plumbing Inspector, and must be furnished and installed by or provided for by the person, firm or corporation installing the heater, and no damper shall be installed in such vent pipe.
- (d) Installation of Vent Pipe. Every gas water heater vent pipe shall be constructed and installed in a safe, secure, and workmanlike manner so as not to be a fire hazard to the building in any way or a menace to the health of the occupants.
- (e) Basement Floor Drains. All basements shall have installed therein, in the manner prescribed by State code, at least one floor drain, the outlet of which shall be connected to a sanitary sewer.
- (f) Outside Water Meters Required. Outside registers for the purpose of obtaining water meter readings shall be required:
 - 1. For any water meter installed after December 15, 1977; or
 - 2. Where any type of remodeling is commenced after December 15, 1977, for which a plumbing permit is required.

(3) Water Services and Private Water Mains Construction Materials. Water service laterals and private water mains from the public water main in the street to the curb stop and up to the building control valve shall be of ductile iron, PVC, PE or of Type K copper materials, as set forth in Wis. Adm. Code SPS Chapter 384.

(4) Lead and Galvanized Iron Water Service Line Replacement.

- (a) Findings and Intent. Lead and galvanized iron water service lines pose a threat to the public health based on the potential for lead to leech into drinking water. The City of Manitowoc finds it in the public interest to revise its lead and galvanized iron water service line replacement program to further encourage elimination of lead and galvanized iron water service lines from within the City in order to:
 - 1. Ensure that the water quality for Manitowoc Public Utilities customers meets the water quality standards of the Federal Safe Drinking Water Act; and
 - 2. Reduce the lead in City drinking water to meet Federal and State standards; and
 - 3. Encourage lead and galvanized iron water service lines be replaced concurrent with other construction projects in order to minimize excavations into rights-of-way.

(b) Authorization. This ordinance is enacted pursuant to Wis. Stat. §§ 62.11(5) and 281.12(5), and as mandated by 42 U.S.C. Sec. 300g, of the Federal Safe Drinking Water Act, enforced by the United States Environmental Protection Agency and the Wisconsin Department of Natural Resources.

(c) ~~Definitions~~ DEFINITIONS. Definitions of terms used in this section are provided below:

1. “City water system” means the water supply system owned by and located within the City.
2. “Customer service line” means the entire water service line that extends from the outlet of the corporation stop at the main to the inlet of a customer's water meter.
3. “Lead service line” means (i) all or a portion of a customer service line constructed of lead, and/or (ii) all or a portion of a customer service line constructed of galvanized material that is or was downstream of lead.
4. “Utility” means the City’s water utility.

(b) ~~de~~ Identification and Recordkeeping. Pursuant to Wis. Stat. § 196.171 and upon notice from the water utility, any person or entity who owns, manages, or otherwise exercises control over a property connected to the distribution system shall allow the water utility to inspect the service line to determine the service line material. If entry is refused, the Utility shall obtain a special inspection warrant under Wis. Stats. § 66.0119. The water utility shall create and maintain a record of the location of all identified lead and galvanized iron service lines in the City.

(e) ~~cd~~ Line Replacement – When Required.

1. Lead and galvanized iron water service lines shall be replaced in their entirety from water main to building control valve, when it appears that any portion of a lead or galvanized iron water service has failed or whenever a public works project may impact the water lines. Such projects include, but are not limited to, water main replacement, sewer lateral repair or replacement, nearby utility excavation, street reconstruction, street surface reconstruction that includes base material replacement, and terrace tree removal.
2. Lead and galvanized iron water service lines, from curb stop to building control valve, shall be replaced whenever any lead or galvanized iron water service line within the street or municipal right-of-way is replaced under order from the Wisconsin Department of Natural Resources or the United States Environmental Protection Agency in order to comply with Wis. Admin. Code § SPS 382.22(2)(b), or other applicable statutes, ordinances, rules or regulations of the City of Manitowoc or the State of Wisconsin.
3. Lead and galvanized iron water service lines tested by the water utility in accordance with Wisconsin Department of Natural Resources lead and copper monitoring that exceed the lead level established by the Environmental Protection Agency’s lead and copper rule shall be replaced within 120 days’ notice.

(d) ~~fe~~ Scheduling. Replacement of water service lines pursuant to this section shall be completed prior to or concurrent with the public works project triggering such replacement. Scheduling of all replacements shall be coordinated between the property owner’s contractor and the water utility within 30 days’ notice that the project has been scheduled. Additional time to schedule the replacement may be granted by the general manager of the water utility for good cause.

Affected property owners may contract with a licensed contractor to replace the entire lateral from the water main to the building meter before the start of construction of the public works project.

Street portion: On public works projects, the water utility will replace the water service from the water main to the curb stop (street portion), at the property owner’s expense.

Home portion: The water utility may, as part of any public works project, add an alternative to the public works contract requesting unit bid prices for the calculation of the cost for private lead or galvanized water service lateral replacement (curb stop to the building meter).

1. If available, and should the property owner select this option, the property owner will be charged the cost of the removal and replacement. In addition, all restoration will be the responsibility of the property owner (for example, top soil, concrete, steps, asphalt, bushes, and porches).

2. If the water utility is not offering the option to replace the home portion as part of the public works project, the property owner shall cause the home portion to be replaced by a contractor of their choice within 10 days of the street portion being replaced.

(~~egf~~) Requirements. All existing lead and galvanized iron water service lines connected to the water distribution system, when replaced, shall be replaced with water service lines constructed of materials as authorized in this section. Repairs, partial replacements, and reconnections of lead or galvanized iron water service lines are prohibited.

(~~fhg~~) Authority to Discontinue Service. As an alternative to any other method provided for obtaining compliance with the requirements of this section, the water utility may, no sooner than 30 days after giving notice of the need to replace, discontinue water service to such property served by the lead or galvanized iron water service line, after reasonable notice by the water utility.

[Ord. 22-002 § 1, 2022; Ord. 19-520 § 4, 2019; Ord. 17-515 § 1, 2017. Prior code § 17.09]

NEW LANGUAGE FOR THE MUNICIPAL CODE FOR THE ALTERNATIVE REVENUE PLEDGE
Proposed Ordinance for Special Charges

PRIVATE LEAD SERVICE LINE (LSL) REPLACEMENT FINANCING

- (1) **PURPOSE.** The Common Council finds that the replacement of private lead service lines protects public health and promotes the general welfare of City residents. The purpose of this section is to facilitate loans to property owners to replace private lead service lines by treating principal and interest repayments, fees and other charges for these loans as special charges eligible for inclusion on the tax bill for these properties.
- (2) **DEFINITIONS.**
 - (a) "Annual installment" means the portion of the private LSL replacement loan amount that is due for a particular year under the private LSL replacement loan agreement.
 - (b) "Borrower" means a property owner who enters into a private LSL replacement loan agreement with the City to fund the replacement of a private lead service line on the Borrower's property.
 - (c) "Loan agreement" means a written agreement among a Borrower and the City as provided in subsection 4.
 - (d) "Loan amount" means the amount of principal, interest, administrative fees, and other loan charges under the loan agreement to be paid by the Borrower under the private LSL replacement loan.
 - (e) "LSL" means lead service line.
 - (f) "Private LSL replacement loan" means a loan made by the City to a Borrower under this section for the replacement of a private lead service line on a subject property.
 - (g) "Private LSL" means a customer-side water service line, as defined in Wis. Stat. § 196.372(1)(a), constructed of lead or constructed of galvanized material that is or was downstream of lead.
 - (h) "Subject property" means any property on which a private lead service line replacement has been made and financed through an outstanding private LSL replacement loan.
- (3) **LOAN APPLICATION AND APPROVAL.** A prospective Borrower applying for a private LSL replacement loan must comply with the loan application process established by the City. The City will review and determine whether to approve the loan application.
- (4) **LOAN AGREEMENT.** The City and the Borrower must execute a loan agreement which at a minimum:
 - (a) Sets forth the total loan amount, the annual interest rate on the loan, the loan term, the amount of each annual installment, and any applicable City fee.

- (b) Informs the Borrower that the loan amount shall be considered a special charge, and each year's annual installment shall be levied onto the property tax bill of the subject property as a special charge and be a lien against the subject property pursuant to Wis. Stat. § 66.0627, as amended.
- (5) PRIVATE LSL REPLACEMENT LOAN AS SPECIAL CHARGE. A private LSL replacement loan shall be considered a special charge and lien on the subject property. Each year's annual installment shall be levied onto the property tax bill of the subject property as a special charge pursuant to Wis. Stat. § 66.0627, as amended.
- (6) COLLECTION OF SPECIAL CHARGES. The City shall follow its customary practice in collecting special charges placed on the tax rolls, including assessing penalties and charging interest, and initiating foreclosure proceedings where appropriate.
- (7) SEGREGATED FUND. Special charges collected for private LSL replacement loan repayments shall be placed in a segregated fund and disbursed in accordance with the requirements of the City's funding sources.
- (8) RECORD KEEPING. The City shall keep an accounting of private LSL replacement loans and payments received by the City and provide Borrowers with that information upon request.
- (9) ADMINISTRATION FEE. The City may establish a reasonable fee to charge a Borrower for administering a private LSL replacement loan and include this fee in the loan agreement.