

4/7/2017

40-O-17

AN ORDINANCE

Amending City Code Section 7-12-4-2, "Installation and Maintenance of Service Pipe from Tap to Fixtures"

NOW BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:

SECTION 1: Legislative Statement. At the time of the adoption of this ordinance, the City Council determined that a voluntary shared program to replace lead water service lines in the City is a prudent step to improve the safety and durability of water distribution infrastructure. The voluntary program will be reasonably implemented on a cost share, or loan basis, as the case maybe, with an affected residential property owner.

Article VII, Section (6)a of the Illinois Constitution of 1970, states that the "powers and functions of home rule units shall be construed liberally," and written "with the intention that home rule units be given the broadest powers possible" (*Scadron v. City of Des Plaines*, 153 Ill.2d 164). Pursuant to 65 ILCS 5/1-2-1, the City may make all rules and regulations to carry out powers granted to the City, which are broad complementing the City's home rule powers. At meetings held in compliance with the provisions of the Illinois Open Meetings Act (5 ILCS 120/1 *et seq.*), the City Council considered this Ordinance, heard public comment, and made findings. It is well-settled law in Illinois that the legislative judgment of the City Council must be considered presumptively valid (*see Glenview State Bank v. Village of Deerfield*, 213 Ill.App.3d 747(1991)) and is not

subject to courtroom fact-finding (see *National Paint & Coating Ass'n v. City of Chicago*, 45 F.3d 1124 (1995)).

SECTION 2: Section 7-12-4-2, "Installation and Maintenance of Service Pipe from Tap to Fixtures," of the Evanston City Code of 2012, as amended, is hereby further amended as follows:

7-12-4-2. - INSTALLATION AND MAINTENANCE OF SERVICE PIPE FROM TAP TO FIXTURES.

(A) *Service Pipe Requirements.*

1. Every person desiring to be supplied with water from the City water system shall, at his/her own cost and expense, lay the service pipe from the tap in the main to the fixtures or outlets he/she desires supplied.
2. No such service pipe hereafter laid shall be less than one (1) inch in diameter between the main and the shutoff box, and from the shutoff box to the water meter.
3. The owner of the premises supplied with water shall keep the service pipe in repair from the service valve located in the shutoff box to the outlets, including all fixtures supplied through such pipe, at his/her expense.

(B) *Notice To Repair.* If any such person shall permit any such pipe after the service valve to become broken or out of repair so that the water is wasted thereby, the City Manager, or his/her designees may, after two (2) days' notice in writing to such person to repair such pipe, turn off the water from such premises. Whenever the water is so turned off, it shall not be turned on again until the pipe and appurtenances on such premises, or in the buildings thereon, have been placed in proper repair. The notice herein provided for may be served by personal service upon the owner or by mailing such notice to the person in possession, charge or control.

(C) *Voluntary Lead Service Line Replacement Program.*

1. The City offers a program where it may share the cost of replacing a lead service line with residential property owners. The residential property owner must first replace the water service line running from his/her home to the valve located in the parkway. This work must be done by the homeowner at his/her expense. Once this work is satisfactorily completed, the City will replace the water service line running from the connection point in the parkway to the connection at the water main located in the street.

2. This voluntary program will only replace a lead water service line. All new water service lines must be the exact size as the existing water service lines.
3. If the property owner increases the size of the water service, they can only do so at his/her sole expense, and are responsible for the quality of the work performed. A property owner increasing/upgrading the size must replace the entire length of the water service line running and connecting from the home to the water main.
4. The property owner must hire a licensed plumber to perform the water service line replacement between the house and the parkway valve. The City will not be responsible for the means and methods of any of the residential property owner's work, or the work done by the owner's agents/contractors.
5. The property owner's plumber must obtain a permit from the City's Community Development Department prior to performing the work. As part of the permit application, the plumber must indicate that it will replace the shutoff valve (curbstop and B-box) located in the parkway. Once the property owner's portion of the water service line and shutoff valve is replaced, the City will schedule the replacement of the lead water service connecting from the valve in the parkway to the water main. Completion of the work depends upon the operational needs of the City and other work performed by the City's water distribution employees.

(D) *Lead Service Line Replacement Program and Annual Water Main Replacement Program.*

1. As part of the City's water main replacement program, the City will replace the portion of the water service pipe from the water main to the service valve. This replacement will be done at the City's expense. If City's water main replacement project occurs on the residential property owner's block, and his/her water service line is lead and connects to the water main being replaced, the City may offer a loan to the property owner for the replacement of his/her individual lead water service pipe. The loan may be provided at the residential property owner's request.
2. This loan will have a one-time service fee of \$50.00, and this fee will apply to each loan. The loan funding will disburse from the City's Water Fund. The money loaned for replacement of the lead service pipe will not exceed four thousand eight hundred dollars (\$4,800.00) and will be payable back to the City over a forty-eight (48) month period.
3. The loan repayment will be charged as a one hundred (\$100) dollar per month (\$200 every two months) charge that will appear on the property owners bi-monthly City water utility bill. The first billing statement of the repayment period will include the one-time service of \$50.00, in addition to the \$200 loan repayment amount. All loan repayment amounts or loan service fees are in addition to all other regular City utility bill charges.

4. The property owner must hire a licensed plumber to satisfactorily perform and complete the water service pipe replacement between the house and the parkway. The selected plumber must obtain a permit from the City's Community Development Department prior to performing the work. The City will not be responsible for the means and methods of any of the residential property owner's work, or the work done by the owner's agents/contractors.
5. To be eligible for loan consideration under this subsection, a residential property owner must be current in paying any utility charges owed to the City. The property must have an operable AMR water meter. If a property owner fails to repay the loan balance, the City reserves the right to terminate water service, or take other actions as provided for under the City Code or state law.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity will not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 5: The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and will be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois. Nothing in this Ordinance abridges, negates, or limits, the City's immunities under state law, including but not limited to, the Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/et seq. The City will exercise reasonable care in implementing this ordinance.

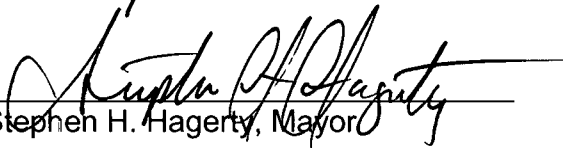
SECTION 6: This ordinance will be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: April 24, 2018

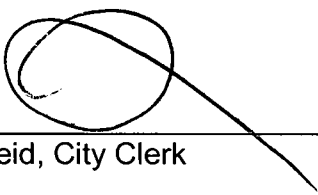
Adopted: May 22, 2018

Approved:

Sept 27, 2018


Stephen H. Hagerty, Mayor

Attest:



Devon Reid, City Clerk

Approved as to form:



Michelle L. Masoncup, Corporation
Counsel