

Memorandum

Date: December 1, 2011

To: Sara Hensley, Director Parks and Recreation Department
Greg Meszaros, Director Austin Water Utility
Greg Guernsey, Director Planning and Development Review Department

From: D. Clark Cornwell, Assistant City Attorney

Re: *Question:* Is a waiver or variance from the purple pipe requirement available that would allow the City to re-use existing in-ground white PVC potable water irrigation lines in a reclaimed water irrigation system?

Answer: No. Using existing buried non-purple pipe in a reclaimed water system has been excluded as a possible alternative method of compliance with the Plumbing Code's purple pipe requirement.

The Plumbing Code requires all subsurface piping within a reclaimed water irrigation system to be purple and have a warning label printed in black no less than every five feet stating "CAUTION: NONPOTABLE WATER, DO NOT DRINK". *Plumbing Code §1626.2*. When strict compliance with a Plumbing Code provision cannot be met, the Plumbing Code allows for alternate materials or methods for construction equivalency. The City's department with jurisdictional authority over the applicable section of the Plumbing Code, PDRD, has discretion to approve the use of alternate materials, methods, or devices, provided that the material, method, or device is demonstrated to have equivalent or superior effectiveness and safety over the materials, methods, or devices prescribed by the code. *Plumbing Code §301.2*.

However, the Plumbing Code as adopted by the City of Austin contains a specific exclusion that prohibits reusing existing pipes or other concealed pipes in a reclaimed irrigation system if the pipes do not conform to the identification requirements (purple with "CAUTION: ..."). *Plumbing Code §1622.0(1)*.

When interpreting code, specific provisions control over general. Although the general provision in Chapter 3 of the Plumbing Code gives discretion to approve a demonstrated equivalent alternative, the City's proposal to utilize existing non-purple irrigation lines as an alternative to strict purple-pipe compliance was specifically prohibited. The specific code provision §1622.0(1) prohibits re-using existing buried non-purple pipe in a reclaimed irrigation system as an alternate method of compliance.

The Texas Commission on Environmental Quality (TCEQ) also regulates reclaimed water producers, providers, and users. The TCEQ reclaimed water regulations in 30 TAC 210 parallel the Plumbing Code requirement to use purple pipe. Any proposed deviation from the TCEQ rules requires the reclaimed water user to request that the TCEQ executive director grant approval for an alternate reclaimed water proposal. The executive director is prohibited from approving an alternative that poses a significant threat to water quality or risk to human health.

In summary, the City's local amendments to the Plumbing Code prohibit the use of existing in-ground non-purple pipe as a reclaimed water irrigation system. While the state regulations have a process for petitioning the TCEQ executive director for approval of an alternative method of compliance, the Plumbing Code would have to be amended to allow the City to consider an alternative that re-used existing buried non-purple pipe in a reclaimed water system.