



City of Columbus Legislation Report

Office of City Clerk
90 West Broad Street
Columbus OH 43215-9015
columbuscitycouncil.org

File Number: 1627-2024

30-Day

File ID: 1627-2024

Type: Ordinance

Status: Passed

Version: 1

***Committee:** Rules & Policy Committee

File Name: Lead Service Line Replacement
Lead Service Line Replacement

File Created: 05/30/2024

Final Action: 07/18/2024

Auditor Cert #:

Auditor: When assigned an Auditor Certificate Number I , the City Auditor, hereby certify that there is in the treasury, or anticipate to come into the treasury, and not appropriated for any other purpose, the amount of money specified hereon, to pay the within Ordinance.

Contact Name/No.: Alana Shockey

Floor Action (Clerk's Office Only)

Mayor's Action

Council Action

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|-------|------|----------------------|----------------------|
| Mayor | Date | Date Passed/ Adopted | President of Council |
|-------|------|----------------------|----------------------|

| | | |
|------|------|------------|
| Veto | Date | City Clerk |
|------|------|------------|

Title:

To enact Chapter 1119 of the Columbus City Codes to establish the Lead Service Line Replacement Program; to declare lead service lines in the public water systems to be a public nuisance; to amend section 1101.03 of the Columbus City Codes; and to authorize the Director of the Department of Public Utilities to implement the Lead Service Line Replacement Program to replace lead and galvanized steel water lines in the City distribution system.

Sponsors: Christopher Wyche

Attachments: Chapter 1119, Section 1101.03

Related Files:

Approval History

| Version | Seq # | Action Date | Approver | Action | Due Date |
|---------|-------|-------------|--------------------|----------|----------|
| 1 | 1 | 6/2/2024 | UTILITIES DIRECTOR | Approved | 6/3/2024 |
| 1 | 2 | 6/3/2024 | John Newsome | Approved | 6/6/2024 |
| 1 | 3 | 6/3/2024 | ATTORNEY APPROVER | Approved | 6/5/2024 |

Notes: Inb

History of Legislative File

| Ver. | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return Date: | Result: |
|------|-----------------------|------------|---------------------------|----------|-----------|--------------|---------|
| 1 | Columbus City Council | 06/10/2024 | Read for the First Time | | | | |
| 1 | Columbus City Council | 06/24/2024 | Postponed to Date Certain | | | | Pass |
| 1 | Columbus City Council | 07/15/2024 | Approved | | | | Pass |
| 1 | COUNCIL PRESIDENT | 07/15/2024 | Signed | | | | |
| 1 | ACTING MAYOR | 07/17/2024 | Signed | | | | |
| 1 | CITY CLERK | 07/18/2024 | Attest | | | | |

ODI: Following the review and approval, when required, the Office of Diversity and Inclusion certifies compliance with Title 39 as of date listed.

City Attorney: Following review and approval, when required, this ordinance has been reviewed by the City Attorney's Office as to its form and legality only.

Explanation

This ordinance enacts a new chapter of the Columbus City Codes, Chapter 1119, “Lead Service Line Replacement Program,” to establish the Lead Service Line Replacement Program; to declare lead service lines in the public water systems to be a public nuisance; and to authorize the Director of the Department of Public Utilities to implement the Lead Service Line Replacement Program to replace lead or galvanized steel water lines in its distribution system whether they are publicly or privately owned. This ordinance also authorizes the amendment of Section 1101.03 of the Columbus City Codes to clarify that water service termination related to the Lead Service Line Replacement Program will be pursuant to Chapter 1119.

Fiscal Impact: There is no direct fiscal impact from this legislation. Implementation of the Lead Service Line Replacement Program authorized by this legislation will be authorized by future ordinances which will appropriate necessary funds. It is estimated that the Lead Service Line Replacement Program will cost approximately \$1.2 billion over the next 13 years.

Title

To enact Chapter 1119 of the Columbus City Codes to establish the Lead Service Line Replacement Program; to declare lead service lines in the public water systems to be a public nuisance; to amend section 1101.03 of the Columbus City Codes; and to authorize the Director of the Department of Public Utilities to implement the Lead Service Line Replacement Program to replace lead and galvanized steel water lines in the City distribution system.

Body

WHEREAS, under the authority provided in the Ohio Constitution, the Ohio Revised Code, and the City of Columbus Charter, the City provides drinking water through its service lines and can permit and install water connections; and

WHEREAS, the City's public water system is subject to regulation by the United States Environmental Protection Agency and the Ohio Environmental Protection Agency; and

WHEREAS, the United States Environmental Protection Agency regulates lead service lines in public water systems through the Lead and Copper Rule at 40 CFR 141 Subpart I, and the Ohio Environmental Protection Agency regulates lead service lines in the public water systems through Ohio Administrative Code §§3745-81-80 through 3745-81-90; and

WHEREAS, the United States Environmental Protection Agency and the Ohio Environmental Protection Agency have proposed more stringent lead service line replacement requirements, including mandatory replacement of private lead service lines; and

WHEREAS, 40 CFR 141 Subpart A defines a lead service line that is owned by the water system, owned by the property owner, or owned by both to include a galvanized service line if the galvanized service line ever was or is currently downstream of any lead service line or service line of unknown material; and

WHEREAS, the water distribution system is comprised of service lines owned by the City on the public side, and by individual property owners on the private side, where the public side includes from the main to the curb stop and the private side includes from the curb stop to the meter; and

WHEREAS, the Center for Disease Control and Prevention states that no safe blood lead level in children has been identified and even low levels of lead in blood are associated with developmental delays, difficulty learning, and behavioral issues. <https://www.cdc.gov/nceh/lead/prevention/default.htm>; and

WHEREAS, in 1991 the United States Environmental Protection Agency established the level at which no known or anticipated adverse effects on the health of a person would occur for lead in drinking water at zero. U.S. EPA. (1991). Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper; Final Rule. Federal Register 56 FR 26460. June 7, 1991; and

WHEREAS, the research supports a finding that public health and safety is endangered by the ingestion of drinking water that contains lead; and

WHEREAS, the City excluded lead as an approved material for service lines in 1963; and

WHEREAS, Lead Service Lines currently exist in both the public and private side of the City service lines; and

WHEREAS, the use of a Lead Service Line to deliver drinking water from a water main to a residence, business, school, or other building or structure, increases the risk of lead content in the water; and

WHEREAS, the continued use of Lead Service Lines for an indefinite period of time, without a systematic plan for replacing those lead lines, is a threat to the health and safety of the utility customers as well as the residents, occupants, and visitors to the City; and

WHEREAS, repair or replacement of only part of a Lead Service Line, leaving some but not all of the Lead Service Line in service, poses a higher risk of releasing lead into the drinking water on the property being served than when the whole existing Lead Service Line is left undisturbed, and this risk should be reduced to the extent practically possible; and

WHEREAS, it is necessary and appropriate and in the best interest of the City, its inhabitants, and the operations of the City's drinking water utility to establish the Lead Service Line Replacement Program to replace all lead service lines in the City, whether publicly or privately owned, to protect public health, and to avoid any noncompliance with federal or state law; and

WHEREAS, it is necessary to amend Section 1101.03 of the Columbus City Codes to clarify that water service termination related to the Lead Service Line Replacement Program will be pursuant to Chapter 1119; and

WHEREAS, it is necessary and appropriate and in the best interest of the operations of the City's

drinking water utility and the public health of the utility customers to expend utility ratepayer funds to pay for Lead Service Line replacements on the public and private line side, and to establish financing and/or funding mechanisms as necessary to offset costs for implementation of the Lead Service Line Replacement Program, **NOW, THEREFORE,**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. City Council finds Lead Service Lines to be a threat to public health and to constitute a public health nuisance. Lead Service Lines are hereby prohibited in the City's service area.

SECTION 2. City Council finds that the complete replacement of Lead Service Lines is essential to protect the public safety and health and authorizes the City to provide utility-funded public and private lead service line replacement, subject to the availability of appropriated funds.

SECTION 3. That Chapter 1119 of the Columbus City Codes is hereby enacted to read as follows:
SEE ATTACHMENT - CHAPTER 1119.

SECTION 4. That Section 1101.03 is hereby amended to read as follows:
SEE ATTACHMENT - SECTION 1101.03.

SECTION 5. That the existing Section 1101.03 is hereby repealed.

SECTION 6. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

1119 – LEAD SERVICE LINE REPLACEMENT

1119.01 – Purpose and Objectives.

The purpose of chapter 1119 of the Columbus City Codes is to establish the Lead Service Line Replacement Program, to protect the public health, and to authorize the Director of the Department of Public Utilities to administer and enforce chapter 1119. The provisions of Columbus City Codes chapter 1119 shall be applicable to service lines that are connected to the water service system of the Division of Water. The objectives of this chapter are:

- (A) To protect the public health by decreasing the public’s potential exposure to lead in drinking water;
- (B) To protect the Division of Water operations; and
- (C) To establish requirements for the replacement of Lead Service Lines, within the corporate limits that receive water service from the system of the Division of Water.

1119.02 – Definitions.

Whenever used in this section, the meaning of the following words and terms shall be as defined in this section:

- (A) “Lead Service Line” means a tap or a service line, as those terms are defined in CCC section 1105.01, that is either made of lead or is Galvanized Requiring Replacement.
- (B) “Galvanized Requiring Replacement” means a galvanized steel tap or service line that is or was, at any time, downstream of a Lead Service Line or is currently downstream of a Lead Status Unknown service line.
- (C) “Lead Status Unknown” means a service line material is not known to be lead, Galvanized Requiring Replacement, or a Non-lead Service Line, such as where there is no documented evidence supporting material classification.
- (D) “Non-lead Service Line” means a service line that is determined through an evidence-based record, method, or technique not to be lead or Galvanized Requiring Replacement.

1119.03 – Public Nuisance.

The use of a Lead Service Line to deliver drinking water from a water main to a residence, business, school, or other building or structure, increases the risk of lead content in the water; and the continued use of Lead Service Lines for an indefinite period of time, without a systematic plan for replacing those lead lines, is a threat to the health and safety of the utility customers as well as the residents, occupants, and visitors to the City. As such, Lead Service Lines are hereby declared to be a public nuisance.

1119.04 – Lead Service Line Replacement Program.

- (A) The Lead Service Line Replacement Program is hereby established for the purpose of abating the public nuisance caused by Lead Service Lines. The Director of the Department of Public Utilities may develop rules and regulations to implement the Lead Service Line Replacement Program and set forth guidelines for replacing all Lead Service Lines within the water system of the Division of Water.
- (B) The Director may update the Lead Service Line Replacement Program rules and regulations, as necessary, to comply with changes to federal or state law, regulation or rule or in response to operational needs of the Department of Public Utilities.

- (C) City contribution to or payment for Lead Service Line replacement costs incurred pursuant to the Lead Service Line Replacement Program shall be determined in accordance with the Lead Service Line Replacement Program rules and regulations.
- (D) The property owner shall be responsible for the maintenance of any new service line provided pursuant to the Lead Service Line Replacement Program. Any costs of repair, replacement, or maintenance incurred after the replacement of the service line by the City shall be paid by the owner and shall not be subject to reimbursement by the City. The City will, if applicable, transfer any warranty for the work to the owner of the property.

1119.05 – Lead Service Lines Prohibited.

Lead Service Lines are prohibited.

- (A) Existing Lead Service Lines shall be prohibited as of the effective date of this section. The Division of Water shall not approve the installation or repair of any Lead Service Line.
- (B) In accordance with the schedule laid out in the guidelines established pursuant to section 1119.04, the Division of Water will issue written notice to the owner of premises requiring Lead Service Line replacement. Within 30 days of written notice by the Division of Water, the owner of any dwelling, building, or structure serviced by a Lead Service Line is required to replace the Lead Service Line by one of the following methods:
 - (1) Signing up for the Lead Service Line Replacement Program and allowing the Division of Water, or its agent, to access their property to conduct the replacement; or
 - (2) Contracting with a licensed contractor to replace the Lead Service Line with non-lead pipe that complies with Division of Water specifications; or
 - (3) Providing the Division of Water with written proof from a licensed contractor that the dwelling, building, or structure is not serviced by a Lead Service Line and/or that the Lead Service Line was previously removed and replaced.

1119.06 – Failure to replace a Lead Service Line.

Following the issuance of notice pursuant to section 1119.05(b) and the failure of an owner to replace a Lead Service Line by one of the methods described in that section within the required timeframe, the Director is authorized to take either or both of the following actions:

- (A) Termination of Water Service.
 - (1) After twenty-one (21) days' written notice, the Director may terminate water services to the property.
 - (2) The notice shall indicate the basis upon which service is being terminated and date after which service will be terminated if the Lead Service Line is not replaced. The notice shall also indicate the hearing rights afforded to any person affected by the termination notice by which the person may contest the water service termination. The notice shall be mailed or hand delivered to the address of the customer of record and to the service address.
 - (3) Any affected person desiring a hearing concerning a termination of water service under this section must request a hearing with the Director by submitting a written and signed request to the Division of Water no later than ten (10) days after receipt of a termination notice. Failure of an affected person to file a request for hearing within the allotted ten (10) day period shall constitute a waiver by that person of their right

to a hearing under this section. A request for hearing shall be made in the manner approved by the Director and shall include at a minimum: name, address and telephone number of affected person; date; a statement requesting a hearing; and a description of the nature of the dispute, including the location of the affected property.

- (4) The Director or designee shall convene a hearing on the matter within ten (10) days of receiving the request for hearing. If a hearing cannot be scheduled within this ten (10) day period, then the water service termination shall be automatically stayed, pending the holding of a hearing on this matter. The Director shall adopt regulations establishing procedures by which hearings will be conducted pursuant to this section.
 - (5) For the purposes of this section the meaning of "affected person" shall include, but is not limited to, an owner, occupant, resident or tenant of the affected property.
- (B) Lead Service Line Replacement.
- (1) The Director may replace or contract for the replacement of the Lead Service Line.
 - (2) Pursuant to sections 1119.08 and/or 1119.09, this may include entry onto the property and/or into the building.

1119.07 – Powers of the Director.

The Director of the Department of Public Utilities may promulgate rules and regulations and adopt policies as necessary to enforce or implement the provisions of chapter 1119. Rules or Regulations promulgated pursuant to this chapter shall be published in the City Bulletin, with copies made available for public review at the Director's office and other locations which may be designated by the Director.

1119.08 – Right of Entry.

- (A) Upon presentation of proper credentials and at reasonable times, the Director, or the Director's duly authorized representatives, shall have the right to enter the property of any person in the areas identified pursuant to the guidelines developed under section 1119.04 to perform inspections or other work as authorized by this chapter. The purpose of the entry is limited to the performance of the inspection and work related to the replacement of Lead Service Lines.
- (B) The Director, or the Director's duly authorized representatives, shall provide the owner or the person in possession written notice at least five days in advance nor more than thirty days prior to the date of such entry, by both leaving a notice at the property and mailing the notice to the utility billing address. The property owner or person in possession shall allow such access to the Director and such entry shall not constitute a trespass.
- (C) No person shall prohibit the Director, or the Director's duly authorized representatives, from entering the property, provided notice is given as required herein.
- (D) The City shall or cause to be made restitution or reimbursement for any actual damage resulting to such property and to improvements or personal property located in, on, along, over or under such property, as a result of such activities. If the parties are unable to agree upon restitution or other settlement, damages are recoverable by civil action to which the City hereby consents.

1119.09 – Legal Action.

No person shall fail to comply with any Rule or Regulation adopted by the Director of the Department of Public Utilities pursuant to this chapter. Whenever a person has violated any provision(s) of this chapter,

the City may seek any and all remedies otherwise allowed by law, including, but not limited to, disconnection of service, seeking injunctive relief against said person, and/or a civil action for damages.

1101.03 Termination of water service.

- (a) After twenty-one (21) days' notice, the Director may terminate water services to any person or real estate using city water in violation of this chapter for any of the following conditions:
 - (1) Nonpayment of accounts pursuant to City Code Section 1105.12
 - (2) Violation of any rule and regulation promulgated pursuant to City Code Section 1101.01
 - (3) Violation of City Code Section 1105.038
 - (4) Violation of City Code Chapter 1113
- (b) The notice shall indicate the basis upon which service is being terminated and date after which service will be terminated if the violations are not corrected, or applicable payment or payment agreements are not received by the Division of Water pursuant to City Code Section 1105.12. The notice shall also indicate the hearing rights afforded to any person affected by the termination notice by which the person may contest the water service termination. The notice shall be mailed or hand delivered to the address of the customer of record and to the service address.
- (c) Any affected person desiring a hearing concerning a termination of water service under this section or billing dispute under City Code Section 1105.12(E) must request a hearing with the director by submitting a written and signed request to the Division of Water no later than ten (10) days after receipt of a termination notice, or ten (10) days after the due date of the bill in question, whichever date is later. Failure of an affected person to file a request for hearing within the allotted ten (10) day period shall constitute a waiver by that person of their right to a hearing under this section. A request for hearing shall include as a minimum: name, address and telephone number of affected person; date; a statement requesting a hearing; and a description of the nature of the dispute, including the location of the affected property. The director or designee shall convene a hearing on the matter within ten (10) days of receiving the request for hearing. If a hearing cannot be scheduled within this ten (10) day period, then the water service termination shall be automatically stayed, pending the holding of a hearing on this matter. The director shall adopt regulations establishing procedures by which hearings will be conducted pursuant to this section. For the purposes of this section the meaning of "affected person" shall include, but is not limited to, an owner, occupant, resident or tenant of the affected property.
- (d) This section is not applicable to emergency termination of water services pursuant to City Code Section 1101.06, water service termination for the purpose of enforcing the termination of sewer services pursuant to City Code Section 1145.83, voluntary termination of water services pursuant to City Code Section 1101.07, water service termination for the purpose of enforcing the Lead Service Line Replacement Program pursuant to City Code Section 1119.06, or disruption of water service due to routine or scheduled maintenance of the water system or emergency circumstances.