



Borough of Chatham

BOROUGH HALL

54 FAIRMOUNT AVENUE • CHATHAM • NEW JERSEY 07928

ORDINANCE #23-11

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF CHATHAM, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 267 “WATER,” OF THE REVISED GENERAL CODE OF THE BOROUGH OF CHATHAM TO ESTABLISH REGULATIONS FOR THE MANDATORY REPLACEMENT OF LEAD AND GALVANIZED SERVICE LINES

WHEREAS, pursuant to N.J.S.A. 40:48-2, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good of government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and,

WHEREAS, lead in drinking water poses a serious health and safety risk to the public, particularly to infants and children, and the replacement of lead service lines is necessary to immediately and effectively reduce the exposure of lead to the public; and,

WHEREAS, pursuant to N.J.S.A. 58:12A-39 (P.L. 2019, c. 291), a municipality is authorized to adopt an ordinance that allows the municipality and its agents to enter a property within the municipality’s boundaries to perform a lead service line replacement; and,

WHEREAS, the replacement of lead and galvanized service lines is necessary to immediately and effectively reduce the exposure of the public to lead, and the Borough will require access to privately-owned property where lead lines are located to complete this critical task under the authority provided by New Jersey law; and,

WHEREAS, the Mayor and Council have determined that it is necessary and appropriate to establish procedures governing the mandatory replacement of lead and galvanized service lines within the Borough of Chatham.

NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF CHATHAM, as follows:

Section 1:

Chapter 267 of the Code of the Borough of Chatham, “**Water**,” is hereby amended to add a New Article IV entitled “Mandatory Replacement of Lead and Galvanized Service Lines,” to read as follows:

Article IV Mandatory Replacement of Lead and Galvanized Service Lines

§267-19 Definitions.

As used in this Article, the following terms shall have the meanings indicated:

BOROUGH

The Borough of Chatham and/or the Chatham Borough Water Utility.

CONTRACTOR

A licensed vendor that contracts with the Borough to replace lead service lines or is retained by an owner to replace lead service lines.

DWELLING

A building or structure or part thereof containing one or more dwelling units. This Article shall also apply to buildings and structures that are not used for residential purposes.

DWELLING UNIT

Any room or groups of rooms or any part thereof located within a building and forming a single habitable unit with facilities that are used or designed to be used for living, sleeping, cooking, eating, or bathing.

LEAD SAFE

Any condition that does not allow access or exposure to lead, in any form, to the extent that adverse human health effects are possible.

LEAD SERVICE LINE

A water line on private property that is not lead-free (including a galvanized pipe that is or has been connected to any upstream component made of lead or unknown material) that is connected to the Borough's main water line and that runs from the water main into the structure or building. This definition includes service lines composed of lead, galvanized iron or steel pipe.

OCCUPANT

A person or persons in actual possession of and living in the building or dwelling unit.

OWNER

Any person who has legal title to any dwelling, with or without accompanying actual possession thereof; or, who has equitable title and is either in actual possession or collects rents therefrom; or, who is executor, executrix, trustee, guardian, or receiver of the estate of the owner; or as mortgagee; or as vendee in possession either by virtue of a Court order or by agreement or voluntary surrender of the premises by the person holding the legal title; or as collector of rents that has charge, care, or control of any dwelling or rooming house.

§267-20 Lead Service Lines Prohibited.

It is hereby established that lead service lines are prohibited in the Borough of Chatham and any existing lead service lines are required to be replaced under the procedures established by New Jersey law and the Borough Code.

§267-21 Exemptions; required proof.

An owner shall be excluded from the requirements of this Article by providing the Borough, within one hundred and eighty (180) days of the effective date of this Ordinance, with written documentation from a licensed and certified plumber that there is not a lead service line on the subject property, and/or that the lead service line was previously removed and replaced. Alternatively, the Borough may accept other competent evidence in its discretion that demonstrates that there is not a lead service line on the property.

§267-22 Mandatory replacement of lead service line.

The owner of any dwelling, building, or structure serviced by a lead service line is required to replace any lead service line on its property in the manner established by this Article.

§267-23 Methods of replacement of lead service line.

The owner of a dwelling, building, or structure shall replace a lead service line by either of the following methods:

1. Registering for the Borough's Lead Service Line Replacement Program within one hundred and eighty (180) days after the effective date of this Ordinance and authorizing the Borough's designated contractor access to the subject property to conduct the replacement. The owner shall execute any necessary documents supplied by the Borough and/or its contractor allowing for access to the subject property in order to verify whether a lead service line is present on the property, under such terms and conditions as the Borough may determine. If the service line is found to be lead or galvanized, the Borough will replace the service line and the owner will be assessed the cost of the replacement of the lead or galvanized service line. The cost of such replacement will be paid by the owner to the Borough either at one time, or over a period not to exceed five (5) years pursuant to N.J.S.A. 40:56-35, with legal interest thereon waived by the Borough.
2. Replacing the lead service line using the owner's selected contractor. If an owner selects this option, then replacement must be completed within 180 days of the effective date of this Article. An extension of time may be granted at the Borough's discretion if the owner can demonstrate, to the satisfaction of the Borough's designee, that a good-faith effort has been made to comply with this Article. Upon replacement of the lead service line, the owner must provide the Borough with sufficient proof that the work has been successfully completed. Proof shall include all of the following minimum documentation: (i) a permit issued by the Borough to

a licensed plumber authorized to perform the replacement; (ii) an invoice from the contractor who completed the replacement; and (iii) an inspection report by a licensed plumbing inspector confirming the replacement has been completed in accordance with all applicable codes and standards.

§267-24 Borough's Right of Entry to Replace Lead Service Lines.

If the owner of a dwelling, building, or structure does not register for the Lead Service Line Replacement Program or does not replace a lead service line within 180 days of the effective date of this Ordinance (or upon the expiration of any extension granted), then the Borough shall have the authority to enter any property within the Borough to perform a lead service line replacement. The Borough shall provide the owner and any residents of the property with notice at least 72 hours before entering the property, except in the case of an emergency as determined by the New Jersey Department of Environmental Protection, and shall follow the procedures established in N.J.S.A. 58:12A-39 in all respects. The Borough will thereafter provide a bill for the cost of the lead service line replacement to the owner and payment shall be made within thirty (30) days of the billing date. If the Borough does not receive payment by that date, then late charges may imposed as provided for in §267-6(C)(1) and a lien shall be placed upon the property as provided for in §267-6(D), in addition to the penalties established in §267-26.

§267-25 Proof of replacement required for Certificate of Occupancy or Continuing Occupancy.

- a. Upon the sale or transfer of ownership of any dwelling, building, or structure within the Borough that has not been exempted from the requirements of this Article pursuant to §267-21, or except as set forth in §267-25(b), the owner must provide proof to the Borough that the lead service line has been replaced in order to receive a Certificate of Occupancy or a Certificate of Continuing Occupancy.
- b. Upon the sale of any Borough-owned property, within 90 days of the closing, the buyer is responsible for replacing the lead service line as provided for in §267-23.

§267-26 Violations and penalties.

Any person violating or failing to comply with any of the provisions of this Article shall, upon conviction thereof, be subject to the penalties established by §1-14 of the Borough Code.

Section 2:

Repeal of Inconsistent Provisions. All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all ordinances or part of ordinances now existing or in effect unless the same being conflict or inconsistent with any provision of this Ordinance shall remain in effect.

Section 3:

Severability. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remain in effect; it being the legislative intent this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4:

Codification. This Ordinance shall be a part of the Code of the Borough of Chatham as though codified and fully set forth therein. The Borough Clerk shall have this ordinance codified and incorporated in the official copies of the Code. The Borough Clerk and the Borough Attorney are authorized and directed to change any Chapter, Article and/or Section number of the Code of the Borough of Chatham in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

Section 5:

This Ordinance shall take effect upon passage, adoption, and publication in the manner prescribed by law.

Name	Motion	Second	Yes	No	Abstain	Absent
Koronkiewicz						
Mathiasen						
Dempsey						
Resto						
Treloar						
Truilo						

Introduced: October 10, 2023

Adopted: October 23, 2023

Attest:

BOROUGH OF CHATHAM

Vanessa L. Nienhouse, RMC
Borough Clerk

Thaddeus J. Kobylarz
Mayor

CERTIFICATION

I, Vanessa L. Nienhouse, Borough Clerk for the Borough of Chatham, County of Morris, State of New Jersey, do hereby certify this is a true and correct copy of an Ordinance that was read on second reading and approved by the Borough Council at its Regular Meeting held on October 23, 2023.

Vanessa L. Nienhouse, Borough Clerk