

TOWN OF NEWTON

ORDINANCE 2024-19

AN ORDINANCE TO AMEND, REVISE, AND SUPPLEMENT THE TOWN CODE OF THE TOWN OF NEWTON, MOST NOTABLY CHAPTER 228, ENTITLED "SEWER AND WATER", BY ADDING A NEW ARTICLE X, SECTION 228-32, ENTITLED "LEAD SERVICE LINE REPLACEMENT."

WHEREAS, the Town of Newton ("Town") has determined that there is a need to amend, revise, and supplement Chapter 228 of the Town Code of the Town of Newton, entitled "Sewer and Water", in order to comply with the New Jersey Safe Drinking Water Act Amendments of 2021, codified at *N.J.S.A. 58:12A-40, et seq.*:

NOW, THEREFORE BE IT ORDAINED by the Mayor and Town Council of the Town of Newton, County of Sussex, State of New Jersey that the Mayor and Town Council wish to amend, revise, and supplement Chapter 228 of the Town Code of the Town of Newton, County of Sussex, State of New Jersey, entitled "Sewer and Water", by adding a new Article X, § 228-32, entitled "Lead Service Line Replacement," to read as follows:

§ 228-32 Lead Service Line Replacement.

§ 228-32.1 Definitions.

CONTRACTOR

A licensed plumber or vendor certified by the State of New Jersey and which contracts with the Town of Newton to replace lead service lines.

DWELLING

A building or structure, or part thereof, containing one (1) or more dwelling units. This Chapter 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 which are used or designed to be used for living, sleeping, cooking, eating, and/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(S)

A service line which is composed of lead and/or galvanized steel.

SERVICE LINE

The piping, tubing, and fittings which connect the main Town water line to a private property structure or building. Service Line includes that portion of the piping, tubing, and fittings which run from the Town water main to curbside or connection box and that portion of the piping, tubing and fittings which run from the curbside or connection box to the dwelling's water connection.

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 has charge, care, and/or control of any dwelling or rooming house.

§ 228-32.2 Lead Service Lines Prohibited.

All lead service lines are prohibited in the Town of Newton and shall be removed in accordance with the requirements of the New Jersey Safe Drinking Water Act Amendments of 2021.

§ 228-32.3 Mandatory Replacement of Lead Service Line.

The owner of any dwelling, building, or structure serviced by a lead service line is required to have the lead service line on their property replaced in accordance with the following options:

- A. Participation in the Lead Service Line Replacement Program offered by the Town at no cost to the owner and allowing the Town's contractor to access their property to verify the existence of a lead service line and to conduct the replacement of the lead service line if such lead service line is determined to be serving the property; or
- B. Replacing the lead service line on their own and at their own expense. If an owner selects this option, the owner is required to provide the Town with proof that the lead service line has, in fact, been replaced. Proof must include at a minimum: (1) a permit issued by the Town to a licensed plumber authorized to do the work; (2) an invoice from the contractor who completed the work; (3) a copy of the estimate along with

any report of the work completed; (4) an inspection report verifying the removal; and (5) any other information as required by the Town Manager.

- C. Participation in the Town's lead service line replacement program shall be done on a timetable determined by the Town Manager or his designee and not subject to any schedule imposed by the owner.
- D. If the owner hires a licensed contractor to replace the lead service line, the owner is responsible to restore or repair any property or dwelling damage that may occur. If the Town hires a contractor to do the work and damage occurs, the Town shall be responsible to restore or repair any property or dwelling damage.
- E. The replacement water service line must be Type "K" copper, minimum ¾" diameter, or larger size, as may be required by the Town plumbing subcode official, Town construction department official, and/or Town Water/Sewer Division of the Town Department of Public Works.

§ 228-32.4 Exclusion from Requirement; Proof Required.

A property owner may be excluded from the mandatory lead service line replacement requirement by providing to the Town written proof from a licensed plumber that the owner's property does not have a lead service line on its property and/or that the lead service line was previously removed and replaced.

§ 228-32.5 Authorization to Access Property.

- A. Unless an owner has provided proof that it does not have a lead service line pursuant to Section § 228-32.4 above, the Town or the contractor shall seek to gain access to the building to identify and/or replace a lead service line.

Whenever the contractor is unable to access premises to either identify and/or replace a lead service line, then:

1. The Town or contractor shall send, by regular and certified mail, to the owner of the premises as reflected on the tax rolls at the address stated therein a notice that the contractor has been unable to gain access to the premises and requests that the owner communicate with the contractor within ten (10) calendar days of the date of the letter to set a reasonable date and time when such access can be achieved;
2. At the same time, the Town shall post a copy of the letter on the premises;
3. If access is not achieved or arranged within thirty (30) calendar days of the transmittal of the letter by steps in paragraph 1 and 2 above, the Town or contractor shall send a second notice by regular and certified mail; and

4. If access is not achieved within fifteen (15) calendar days of the transmittal of the second notice letter, the Town shall impose the denial of access account administration fee, pursuant to Subsection § 228-32.5(B)(1) below on that account on that date and for each and every quarterly billing cycle thereafter until access is achieved.
- B. If an owner of the dwelling, building, or structure does not participate in the Lead Service Line Replacement Program or is inaccessible or otherwise denies access to the property to enable the replacement of the lead service line after notices in accordance with Subsection § 228-32.5(A) above, then the Town may proceed as follows:
1. The Town shall impose a Denial of Access Account Administrative Fee in the amount of Five Hundred (\$500.00) Dollars, which shall become a part of the Town Water Service Fee and shall be collected in the next quarterly Water Service Fee bill.
 2. The Town may secure entrance to the property from the owner or current occupant of the dwelling, building, or structure and the Town shall be held harmless, indemnified by the owner, and incur no liability from the owner. The contractor will provide the owner with a Right of Entry form for completion. The Right of Entry form will provide the contractor with access to the property to verify the existence of a lead service line.
 3. If access is granted by an occupant of the dwelling, building, or structure, then the occupant shall be held harmless and no liability shall incur to the Town, contractor, or occupant due to the replacement of the lead service line by the Town.
 4. If access continues to be denied by the current occupant or owner, then the Town may commence procedures, including filing a Court action, to conduct the replacement of the lead service line at the owner's expense or may seek a court order requiring the owner to replace the Lead Service Line within ninety (90) calendar days, at owner's sole cost and expense.

§ 228-32.6 Proof of Lead Service Line Replacement Required for Certificate of Occupancy, Certificate of Code Compliance, and Smoke & Carbon Monoxide Detector Certificates.

- A. Upon the sale or transfer of ownership of any dwelling, building, or structure, that occurs after two (2) years from the effective date of this Section, the owner must provide proof that the lead service line has been replaced (or that the property is excluded from the requirement pursuant to Section § 228-32.4, above) in order to secure a Certificate of Occupancy, Certificate of Code Compliance, and Smoke and Carbon Monoxide Detector Certificates.

- B. Upon the sale of any Town-owned property, within ninety (90) calendar days of the closing, the buyer is responsible for replacing the lead service line, by either participating in the Town's Lead Service Line Replacement Program or replacing the lead service line at its sole cost in accordance with Subsection § 228-32.3(B), above.

§ 228-32.7 Penalty.

In addition to the imposition of the Denial of Access Account Administrative Fees, pursuant to Subsection § 228-32.5(B)(1) above, if the lead service line replacement is not performed by the owner within ninety (90) calendar days after final notice by the Town, the owner shall be subject to a fine of at least Two Hundred Fifty (\$250) Dollars per calendar day but not exceeding Five Thousand (\$5,000) Dollars or by imprisonment for a term not exceeding ninety (90) calendar days or by a period of community service not to exceed ninety (90) calendar days.

NOTICE

TAKE NOTICE the above Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton conducted on June 10, 2024. It was adopted, after final reading and public hearing thereon, at a meeting of the Newton Town Council conducted at 7:00 pm on June 24, 2024 in the Council Chambers at the Newton Municipal Building, 39 Trinity Street, Newton, New Jersey, and shall take effect in accordance with law.



Teresa A. Oswin, RMC
Municipal Clerk