

Lead Service Line Replacement Policy

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1. Acronyms and Definitions

“Child-care facility” shall mean any state-licensed or county-certified child-care facility including, but not limited to, licensed family childcare, licensed group centers, licensed day camps, certified school-age programs, and Head Start programs.

“City” shall mean City of Oshkosh.

“Confirmed water sample test” shall mean a tap water analysis completed after a prior analysis that indicated lead levels at the United States Environment Protection Agency (USEPA) action level, and conducted in accordance with the Lead and Copper Rule, with **Chapter NR 809.547**, Wis. Adm. Code., and with instructions provided by the City.

“Contractor” shall mean a person, firm, corporation, or other entity pre-qualified by the City of Oshkosh to complete private side lead service line replacements.

“Federal Safe Drinking Water Act” shall mean **42 U.S.C.A. Sec. 300f-300j-26**.

“GIS” shall mean Geographic Information System.

“High-risk lead service” shall mean any lead water service line where a confirmed water sample test of a customer’s tap water reveals a lead concentration at or above the USEPA action level.

“Lead and Copper Rule” (LCR) shall mean the rule created by the USEPA and adopted by the Wisconsin Department of Natural Resources (WDNR) in response to the passage of the Safe Drinking Water Act, which provides maximum contaminant-level goals and national primary drinking water regulations for controlling lead and copper in drinking water including approved corrosion-control treatment techniques, lead service line replacement, and public education. The rule may be found in **56 FR 26460**, **40 CFR part 141.80-141.90**, and **Chapter NR 809.541-NR809.55**, Wis. Adm. Code.

“Lead Service Line” (LSL) shall mean (i) all or a portion of a water service line constructed of lead, and/or (ii) all or a portion of a water service line constructed of galvanized material that is or was downstream of lead. The term includes both private-side water service lines and public-side water service lines.

“Lead Service Line Replacement” (LSLR) shall mean full replacement of an LSL.

“Licensed Plumber” shall mean a person, firm, corporation, or other entity licensed to perform plumbing work in the City by the State of Wisconsin.

“Ordinance” shall mean City of Oshkosh Municipal Code, **Chapter 20 – Plumbing** and /or **Chapter 28 - Water**.

“ppb” shall mean parts per billion.

“Private-side water service line” (Private-side) shall mean the water pipe running from the customer’s meter to the curb stop, which is the Water Utility shut-off valve. This portion is owned by the property owner and is the responsibility of the property owner to maintain.

“Public-side water service line” (Public-side) shall mean the water pipe running from the City’s water main to and including the curb stop, which is the Water Utility shut-off valve.

“SDWLP” shall mean the Safe Drinking Water Loan Program.

“water service line” shall mean the pipe that connects the water main to the customer’s meter.

“Water Utility” shall mean the City of Oshkosh public water system, also known as Oshkosh Water Utility.

2. Background and Purpose

The City has several thousand Lead Service Lines (LSLs) located on both public and private property. The Federal Lead and Copper Rule (LCR) under the Safe Drinking Water Act requires that samples taken at customers’ taps have less than fifteen (15) parts per billion lead. To comply with the LCR, the City controls LSL corrosion with the addition of a phosphate-based corrosion inhibitor and a pH adjustment chemical at the water treatment plant.

Recent scientific studies, proposed changes in LCR sampling procedures, and incidents of elevated lead levels in public water systems have driven regulators and municipalities to reconsider LCR requirements, regulatory compliance, LSL replacement policies, and public communication about lead and drinking water.

Prior to 2017, the City had replaced the public portion of LSLs in conjunction with water main replacements; however, the corresponding private-side portions of the LSLs were not required to be replaced.

To reduce the potential exposure to lead in drinking water, the City adopted revisions to the City of Oshkosh Municipal Code **Chapter 20 – Plumbing** to make full lead water service line replacement mandatory.

Wisconsin regulations prohibit the use of water utility funding on private property.

This policy describes how Lead Service Line Replacement (LSLR) requirements in the Municipal Code will be implemented and how homeowners may receive financial assistance for LSL replacement.

3. Authorities

The authority for implementation of the policy are Federal, State, and local regulations described in the following subsections:

Federal Safe Drinking Water Act (SDWA). The SDWA was enacted into law in 1974 to protect the quality of drinking water in the United States. This law gave the USEPA authority to set drinking water quality standards and requires all owners and operators of public water systems to meet these standards. In 1991, USEPA published the Federal Lead and Copper Rule to control lead and copper in drinking water.

Wisconsin Administrative Code Chapter NR 809—Safe Drinking Water. The USEPA has designated the Wisconsin Department of Natural Resources as the “Approval Authority” responsible for oversight of implementation of the SDWA and its rules and amendments in the state of Wisconsin. This code generally repeats the Federal lead and copper regulations.

City of Oshkosh Municipal Code (Ordinance). The LCR gives public water systems authority and responsibility to implement necessary local regulations. Provisions in **Chapter 20 and Chapter 28** of the Municipal Code apply to LSLR and form the basis for the LSLR Policy, including **Section 20-13 Lead Service Line Replacement, Section 20-14 Penalties, and Section 28-10 Private Side Lead Service Line Replacement Financing**.

4. Replacement Requirements

The LSL shall be replaced whenever any of the following occurs:

- A. A leak or failure has been discovered on either the private- or public-side of the LSL.
- B. A portion of an LSL is replaced or repaired.

C. A request is made by a property owner to replace the private-side LSL.

The remaining lead portion of the water service line shall be completely replaced within one hundred eighty (180) days of any repairs.

No permanent repairs to the lead portion of a water service line shall be allowed.

5. Notice

In the event of a water service line leak, failure, or emergency replacement of the public-side service, the City shall provide written notice to the property owner that replacement of the private-side LSL is required within one hundred eighty (180) days of the notice.

In the event of a planned replacement of the public-side service, the City shall provide written notice of the private-side LSL replacement requirement to the property owner at least thirty (30) days prior to the commencement of the planned replacement of the public-side LSL.

In the event of a water service line leak, failure, or emergency replacement of the private-side LSL, the City is required to replace the public-side LSL within one hundred eighty (180) days of the private-side LSL being completed.

Please note other timelines may be required to qualify for financial assistance.

6. Exception

The City may, at its discretion, grant a temporary exception to **Section 4**, provided that doing so will not create a threat to the health, safety, or welfare of the public. When considering exceptions, the City may look at factors including, but not limited to: scheduled replacement and/or whether the lateral is in service, as well as any other factors that may be relevant. The maximum time extension shall be one (1) additional year beyond the one hundred eighty (180) days allowed.

7. Responsibilities of the City

The City shall:

- A. Create LSL and LSLR database.
- B. Create a voluntary LSL replacement list based upon requests from property owners.
- C. Prioritize replacement of LSLs to maximize efficient use of public funds and minimize potential risks to public health by replacing LSLs in conjunction with water main replacement projects; replacing LSLs at child-care facilities, schools, and locations with high-risk lead services; replacing LSLs from approved property owner requests; and replacing LSLs from completed water main projects where the private-side LSLs were not replaced.
- D. Complete the City's home inspection form or provide form to Licensed Plumber(s).
- E. For planned LSLRs as part of City water main replacement projects, the City shall provide information to private property owners regarding the property owners' responsibilities and resources that may be useful in meeting those responsibilities.

- F. When funds are available to subsidize private-side LSLR and the LSLR meets the eligibility criteria, the City shall:
 - a. Provide to private property owners private-side LSLR financial assistance in accordance with **Section 9** of this Policy. Property owners should contact the Department of Public Works at (920) 236-5258 to determine eligibility.
 - b. Pre-qualify Contractor(s) to perform private-side LSLRs.
 - c. Provide list of pre-qualified Contractor(s) to private property owners.
- G. Provide lead filter devices for temporary use during LSLR work and for a period of six (6) months after the completion of LSLR work.
- H. Provide public information on health risks associated with lead in drinking water and ways to reduce potential risks.
- I. React appropriately to noncompliance with communication, and, if necessary and appropriate, with enforcement as allowed under the Ordinance.

8. Responsibilities of Private-Side LSL Owners

Upon receipt of the notice in **Section 5**, or upon approval from the City of a submitted request from the property owner, the private-side LSL owner shall:

- A. Allow the City, or hire a Licensed Plumber, to complete City-approved water service line inspection.
- B. Replace the private-side LSL by contracting with a pre-qualified Contractor. The work shall be performed in accordance with all applicable State and local regulations and utility standards. It is recommended that property owners obtain multiple quotes.
 - a. Property owner must meet and follow all City Eligibility Requirements listed in **Section 9, Financing Private-Side LSLR**, to qualify for financial assistance.
- C. Coordinate, as necessary, to complete timely replacement of a LSL.
- D. Contact the City of Oshkosh Plumbing Inspector for a final inspection in a timely manner.
- E. The property owner is ultimately responsible for hiring the contractor, complying with the financial assistance requirements below, or directly paying the contractor for any work completed.
 - a. Participation in the financial assistance program, if available, is voluntary. Property owners must provide completed copies of all necessary paperwork.
 - b. Costs above \$5,400 are entirely the responsibility of the property owner.

9. Financing Private-Side LSLR by City

When designated funding sources are available and within LSLR program eligibility requirements, described below, the City will subsidize the cost of private-side LSLR as follows:

- A property owner may apply for financial assistance from the City for private-side LSLR up to the amounts identified below. Property owners seeking financial assistance must complete all applications and meet the eligibility requirements listed below. Financial assistance will be provided in the form of a private-side LSL loan which shall be a lien upon the property and shall be repaid in installments as a special charge upon each year's annual tax bill.
- City shall provide financial assistance of fifty percent (50%) of the cost to replace the LSL up to a maximum of \$2,700 per LSL replaced.

- Alternatively, property owners who are considered “Very Low Income”, as established by the U.S. Department of Housing and Urban Development for the year the project takes place, may be eligible for assistance in paying for the private-side LSLR. This assistance may cover one hundred percent (100%) of the cost of the private-side LSLR, but is subject to the City’s annual Federal allocations. To apply for private-side LSLR financial assistance, property owner must submit completed *Lead Service Line Replacement Community Development Block Grant (CDBG) Application* and submit it to the Planning Services Division, 2nd floor, City Hall. The property owner must use a current LSLR Pre-qualified Contractor and follow all CDBG requirements.

Eligibility Requirements (Non-CDBG funded LSLR):

- A. Property owners must meet all of the eligibility requirements.
- B. **Service line replacement must be coordinated so the public-side and private-side service line replacement are completed within ninety (90) days of each other. Failure to meet the 90-day requirement will result in the property not being eligible for financial assistance. The 90-day requirement does not apply to partial service line replacements completed prior to October 25, 2023.**
- C. Private LSL replacement must be approved by the City prior to starting replacement work. To receive approval, the property owner must:
 - a. Complete and submit the current *Financial Assistance Application for Private-Side Lead Service Line Replacement*.
 - b. Complete and submit current *Lead Service Line Replacement Financial Assistance Program Waiver/Release of Liability*.
 - c. Receive confirmation of approval for financial assistance from the City and the *Promissory Note and Covenant* containing terms of repayment. This document must be signed, notarized, and submitted to the City with payment request. Any conditions of approval must be shared with the Contractor and followed to ensure financial assistance eligibility.
- D. Work must be completed by Contractor on the City’s current year pre-qualified LSLR Contractor List. Provide a copy of any approval conditions to your Contractor. All work must follow any conditions of approval.
- E. After completion of work, including final inspections from the City of Oshkosh Inspection Services, the Contractor shall submit the following:
 - a. Completed current *Contractor Payment Application for Private-Side Lead Service Line Replacement*. Please note that the property owner must sign this form.
 - b. Signed and notarized property specific *Promissory Note and Covenant* for the parcel with dollar amounts filled in and initialed by property owner. Maximum loan amount is fifty percent (50%) of cost of LSLR work, up to \$2,700.
 - c. Invoice for work completed
 - i. Invoice must contain the property address where the LSLR work was performed.
 - ii. Invoice must contain an itemized list of the work completed and only pertain to the LSL replacement. Only LSLR costs will be considered/paid.
- F. All work must be done in accordance with all sections of this document.
 - a. Failure to provide necessary documentation or meet the required timelines will result in the City not paying the Contractor, resulting in no financial assistance from the City and the property owner owing the Contractor the full amount.