

ORDINANCE NO. 5844

ORDINANCE AMENDING CHAPTER 13.04, "WATER SERVICE SYSTEM," OF THE CODE OF THE CITY OF ELIZABETH, SPECIFICALLY TO ESTABLISH SECTION 13.04.020, "LEAD SERVICE LINE REPLACEMENT", TO REQUIRE THE REPLACEMENT OF LEAD SERVICE LINES WITHIN THE CITY OF ELIZABETH

WHEREAS, the City of Elizabeth ("City") owns a water transmission and distribution system within the City limits of the City of Elizabeth, New Jersey, and

WHEREAS, Liberty Water Company ("Liberty"), a subsidiary of New Jersey American Water, is a company engaged in the business of operating, maintaining and managing water systems and utilities, and

WHEREAS, the City entered into a forty (40) year contract with Liberty on June 2, 1998 to operate, maintain and manage the City's water transmission and distribution system, and

WHEREAS, the City and Liberty are undertaking a replacement of all lead service lines within the City; and

WHEREAS, the New Jersey Department of Environmental Protection's definition of "lead service line" means a water supply connection that is made of, or lined with, a material consisting of lead, and which connects a water main to a building inlet. A lead pigtail, lead gooseneck, or other lead fitting shall be considered to be a lead service line, regardless of the composition of the service line or other portions of piping to which such piece is attached. A galvanized service line shall be considered to be a lead service line. A lead service line may be owned by the public community water system, a property owner, or both; and

WHEREAS, there are lead service lines located on privately owned property within the City of Elizabeth; and

WHEREAS, the City and Liberty will be unable to complete their lead service line replacement program without access to the privately owned property where lead service lines are located; and

WHEREAS, the replacement of all lead service lines is necessary to immediately and effectively reduce the exposure of the public to lead; and

WHEREAS, lead in drinking water poses a serious health and safety risk to the public particularly infants and children; and

WHEREAS, N.J.S.A. 40:48-2 authorizes a municipality to enact such ordinances as it deems necessary and proper for the preservation of the public health, safety, and welfare of its citizens; and

WHEREAS, the New Jersey Legislature and Governor enacted P.L. 2019, c. 291, which allows a municipality to enact an ordinance requiring the replacement of lead service lines within its boundaries as part of its powers to protect the health, safety, and welfare of its citizens pursuant to N.J.S.A. 40:48-2; and now, therefore:

PRESENTED TO THE MAYOR FOR  
APPROVAL OR DISAPPROVAL ON  
JUN 14 2023  
CITY CLERK

**BE IT IS ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELIZABETH,** that the City Code of the City of Elizabeth, Chapter 13.04, "Water Service System," is hereby amended as follows:

**SECTION 1.** Section 13.04.020, entitled "Lead Service Line Replacement", is hereby established and to read as follows:

- A. The City, Liberty, New Jersey American Water, their contractors, subcontractors, agents and successors are hereby authorized to enter any property within the City of Elizabeth to perform a lead service line replacement pursuant to P.L. 2019, c. 291, but shall not enter any part of the property that is not directly related to performing a lead service line replacement. The service line shall include all piping and fittings connecting the water main to the property and shall include the water meter.
- B. At least 72 hours before entering a property to perform a lead service line replacement, the City, Liberty, New Jersey American Water, their contractors, or subcontractors shall notify the owner of record of the property and any residents of the property of the lead service line replacement.
- C. The City, Liberty, New Jersey American Water, their contractors, or subcontractors shall make every effort to notify the owner of record or any residents of the property in person, but if the owner or residents are unable to be reached in person, City or Liberty shall send, by certified mail, a notification to the owner and any residents, or shall post a written notification in a prominent location of the property.
- D. The notification shall be written in both English and Spanish and shall include:
  - i. The scheduled date and time of the lead service line replacement;
  - ii. Whether contractors employed by the City or Liberty will be performing the service line replacement, and the name of the entity performing the service line replacement;
  - iii. The extent of any water service disruptions resulting from the service line replacement;
  - iv. That if the City or Liberty is unable to gain access to the property in order to replace the lead service line, the Bureau of Construction will not issue a Certificate of Occupancy prior to any change in ownership until a lead service line replacement is performed.
- E. Upon completion of the lead service line replacement, City or Liberty shall send, by certified mail, a letter to the owner of the property confirming the replacement and the date which the work was performed.
- F. On the ongoing basis, but not later than every 60 days, Liberty shall inform the City of Elizabeth as to which properties it has successfully performed a lead service line replacement, and which properties it was unable to perform a lead service line replacement due to an inability to gain access to the property.

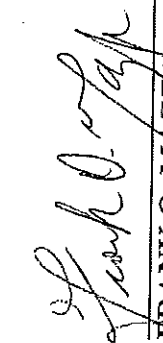
- G. Where the City or Liberty is unable to perform a lead service line replacement because of the inability to gain access to the property, the Bureau of Construction shall deny the issuance of a Certificate of Occupancy for that property until a lead service line replacement has been performed.
- H. Any violation of this chapter by either the owner of record or any residents of the property by the refusal to allow access to the property or preventing the performance of the lead service line replacement shall be punished by a penalty as is provided in Chapter 1.12 of the Code of the City of Elizabeth.

**SECTION 2.** All ordinances or parts of ordinances inconsistent with the provisions of this ordinance be and the same are hereby repealed.

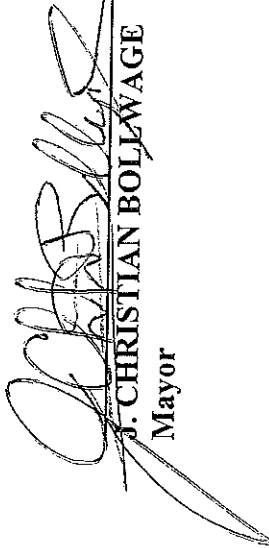
**SECTION 3.** If any portion or clause of this ordinance is declared invalid for any reason whatsoever, same shall not affect the validity or constitutionality of any or other part or portion of this ordinance.

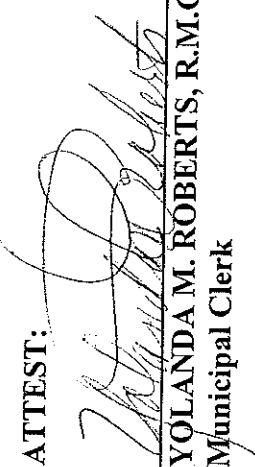
**SECTION 4.** The effective date of this ordinance shall be twenty (20) days after its final passage by City Council and approval by the Mayor at the time and in the manner provided by law.

PASSED: 6/13/23

  
**FRANK O. MAZZA**  
President of City Council

APPROVED: 6/15/23

  
**J. CHRISTIAN BOLLWAGE**  
Mayor

ATTEST:  
  
**YOLANDA M. ROBERTS, R.M.C.**  
Municipal Clerk