

# 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 child care, 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 EPA 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.

“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 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 a water service line containing any portion made of lead, or made of galvanized pipe material which was ever downstream of a lead water service line.

“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**.

“ppb” shall mean parts per billion.

“Private-side water service line” 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” 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.

“WDNR” shall mean the Wisconsin Department of Natural Resources.

“USEPA” shall mean the United States Environmental Protection Agency.

## 2. Background and Purpose

The City has several thousand LSLs located on both public and private property as of 2017. The federal Lead and Copper Rule 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. For several years, the City has replaced the public portion of LSLs in conjunction with water main replacements; however, the corresponding private portions of the LSLs were not replaced because Wisconsin regulations prohibit use of water utility funding on private property.

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.

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. This policy describes how LSLR requirements in the Municipal Code will be implemented.

### 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. It gave the United States Environmental Protection Agency 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 **Chapter 20 – Plumbing** (Ordinance). The LCR gives public water systems authority and responsibility to implement necessary local regulations. Provisions in **Chapter 20** of the Municipal Code apply to LSLR, and form the basis for the LSLR Policy, including **Section 20-13 Lead Service Line Replacement** and **Section 20-14 Penalties**.

### 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 a 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 LSL, 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 leak, failure, or emergency replacement of the public-side LSL.

In the event of a planned replacement of the public-side LSL, 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 temporary repair or emergency replacement of the private-side LSL being completed.

## 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 or whether the lateral is in service. 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 day care facilities, schools, and 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)/Utility Contractor(s).
- E. For planned LSLRs as part of City water main replacement projects, the City shall provide information to private property owners regarding their responsibility and resources that may be useful in meeting their responsibility.
- F. When funds are available to subsidize private-side LSLR and the LSLR meets the eligibility requirements, City shall:
  - a. Provide to private property owners a private-side LSLR financial subsidy 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 Licensed Plumber(s)/Utility Contractor(s) to perform private-side LSLRs.
  - c. Provide list of pre-qualified Licensed Plumber(s)/Utility Contractor(s) to private property owners.
- G. Provide lead filter devices for temporary use during 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 Licensed Plumber/Utility Contractor. The work shall be performed in accordance with all applicable state and local regulations and utility standards. It is recommended owners obtain multiple quotes.
  - a. Owner must use a pre-qualified Licensed Plumber(s)/Utility Contractor(s) to be eligible for reimbursement from the City.
- C. Coordinate, as necessary, to complete timely replacement of LSL.
- D. Contact the City of Oshkosh Plumbing Inspector for a final inspection in a timely manner.
- E. Pay Licensed Plumber/Utility Contractor and provide copy of invoice and proof of payment.
  - a. Invoice must contain the property address where the LSLR work was performed.
  - b. Invoice must contain an itemized list of the work completed.
- F. Provide a completed copy of the Reimbursement Form along with the paid invoice.

## 9. Financing Private-Side LSLR by City

When a designated funding source is available and within LSLR program eligibility requirements, described below, the City will subsidize the cost of private-side LSLR as noted below:

- Fifty percent (50%) of the cost to replace the LSL up to a maximum of \$2,000 per parcel.
- Property owners who are at or below eighty percent (80%) of the median income based on family size, as established by the U.S. Department of Housing and Urban Development (HUD) for a given year, would be eligible for additional assistance in paying for the private-side LSLR. This additional assistance would cover up to seventy five percent (75%) of the cost of the private-side LSLR. If the property owner is below fifty percent (50%) of the median income, the additional assistance would cover one hundred percent (100%) of the cost of the private-side LSLR. Once the private-side LSLR work is completed, the City would issue a two-party check to the property owner and Licensed Plumber/Utility Contractor up to the total amount of the LSLR.

Eligibility Requirements:

- A. Property owners must meet all of the eligibility requirements.
- B. SDWL funding can only be used for LSLR costs associated with private homes, K-12 schools, and licensed day care centers. It does not cover costs for replacing private lead water service lines to commercial and business properties, except in instances where a building contains both a business and a residence.
- C. All work must be done in accordance with all sections of this document.
- D. The private-side LSLR is within the limits of a proposed or completed City water main replacement project; if LSL must be replaced as the result of a leak, failure, or emergency repair; or is a City-approved request from the property owner.