

**ORDINANCE # 22-2023**

**AN ORDINANCE OF THE BOROUGH OF CLAYTON AMENDING CHAPTER 93, WATER, OF THE CODE BOOK OF THE BOROUGH OF CLAYTON BY ADDING A NEW ARTICLE TO BE ENTITLED “MANDATORY REPLACEMENT OF LEAD/GALVANIZED SERVICE LINE”**

**WHEREAS**, the Borough of Clayton, through the Water and Sewer Department, operates the Borough’s water distribution system to service its residents; and

**WHEREAS**, the Borough of Clayton water system is and continues to be, a clean source of water; and

**WHEREAS**, or galvanized service lines are connected to the Borough’s water distribution system, but are owned by the property owner at each privately-owned property within the Borough of Clayton; and

**WHEREAS**, the United States Environmental Protection Agency (the “USEPA”) adopted regulations to control lead and copper in drinking water and the NJDEP directed the municipalities within the State to replace lead/galvanized service lines in accordance with the USEPA’s lead and copper rule; and

**WHEREAS**, the Borough believes that the provision of clean lead-free drinking water to its residents is a public purpose beneficial to the Borough as a whole and any benefit to any private land owner in accomplishing this purpose is incidental and subordinate to this primary public and governmental purpose; and

**WHEREAS**, N.J.S.A. 40:48-2 authorizes a municipality to 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 government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants; and

**WHEREAS**, N.J.S.A. 40:48-2.12(a) authorizes the Governing Body of any municipality to make, amend, repeal and enforce ordinances to regulate buildings and structures and their use and occupation to prevent and abate conditions therein harmful to the health and safety of the occupants of said buildings and structures and the general public in the municipality; and

**WHEREAS**, the State of New Jersey has enacted the Lead Service Line Replacement Law (P.L. 2021, Ch. 183) which requires drinking water systems to inventory service lines, notify residents of the potential presence of lead in their service lines, and plan for the replacement of all lead/galvanized lines within ten years; and

**WHEREAS**, for the health, safety and welfare of its residents, the Borough Council desires to require all property owners serviced by a lead/galvanized service line to replace that service line through the program herein established by the Borough at no cost to the property owner or for the property owner to replace the line at their own expense; and

**WHEREAS**, due to the hazard that lead in the drinking water poses to the health and safety of residents, permission from the owner of the property to replace the lead service line is not required under the Lead/Galvanized Service Line Replacement Law (P.L. 2021, Ch. 183).

**NOW, THEREFORE, BE IT ORDAINED** that the Borough Council of the Borough of Clayton, County of Gloucester, State of New Jersey does hereby establish a new Article in the WSM Water and Sewer Manual of the Code Book of the Borough of Clayton entitled “Mandatory Replacement of Lead/Galvanized Service Line” and to read as follows:

**SECTION 1. Definitions.**

**1. BOROUGH**

Shall mean the Borough of Clayton.

**2. CONTRACTOR**

Shall mean a licensed vendor that contracts with the Borough of Clayton to replace lead/galvanized service lines.

**3. DEPARTMENT**

Shall mean the Water and Sewer Department of the Borough of Clayton, New Jersey.

**4. DWELLING**

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

**5. DWELLING UNIT**

Shall mean 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 or bathing.

**6. LEAD SAFE**

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

**7. OCCUPANT**

Shall mean a person or persons in actual possession of and living in the building or dwelling unit.

**8. OWNER**

Shall mean 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 or control of any dwelling or rooming house.

## **9. SERVICE LINE**

Shall mean the pipe, tubing, and fittings connecting the Borough of Clayton water main to a building or structure, and also includes the water meter for the property.

### **SECTION 2. Lead/Galvanized Service Line Prohibited.**

It is hereby established that the existence of lead/galvanized service lines are prohibited in the Borough of Clayton.

### **SECTION 3. Exclusion from Requirement; Proof Required.**

A property owner may be excluded from the Mandatory Replacement of its lead/galvanized service line by providing the Water and Sewer Department with written proof from a licensed and certified plumber or the Clayton Water and Sewer Department that it does not have a lead/galvanized service line on its property and/or that the lead/galvanized service line was previously removed and replaced.

a. The owner of any dwelling, building or structure serviced by a lead/galvanized service line is required to replace the lead/galvanized service line on their property. An extension of time may be granted where the owner can demonstrate, to the Water and Sewer Department designee, that a good faith effort has been made to comply with the ordinance.

b. The owner of any dwelling, building or structure shall replace their lead/galvanized service line by any of the following methods:

1. Signing up for the Lead/Galvanized Service Line Replacement Program offered by the Borough of Clayton and allowing contractors to access their property to conduct the replacement. 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/galvanized service line for replacement; or
2. Agreeing to replace the lead/galvanized service line on their own and at their own expense. An extension of time may be granted where the owner can demonstrate, to the Water and Sewer Department designee, that a good faith effort has been made to comply with the ordinance. An owner is required to provide the Water and Sewer Department with proof that the lead/galvanized service line has been replaced. Proof must include at a minimum: a permit issued by the Construction Office to a licensed plumber authorized to do the work; an invoice from the contractor who completed the work; a copy of the estimate along with any report of the work completed, and an inspection report verifying the removal.

### **SECTION 4. Authorization to access property.**

- a. Notwithstanding Section 3, if an owner of the dwelling, building or structure does not sign up for the Lead/Galvanized Service Line Replacement Program or does not replace its lead/galvanized service line or is inaccessible or otherwise denies

access to the property to enable the replacement of the line, then the following procedure shall be followed:

1. The Borough shall secure entrance to the property from the owner or current occupant of the dwelling, building or structure, and the Borough shall 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/galvanized service line for replacement. The Borough shall restore the property to its original condition, or as close as possible to its original condition; and
2. If access is granted by the current occupant of the dwelling, building, or structure, then the occupant shall be held harmless and no liability shall incur to the Borough or occupant due to the replacement of the lead/galvanized service line by the Borough of Clayton; and
3. If access is denied by the current occupant or owner, then the Borough shall commence procedures, including filing a Court action, to conduct the replacement of the lead/galvanized service line.

#### **SECTION 5.**

- a. Upon the sale or transfer of ownership of any dwelling, building or structure, the owner must provide proof that the lead/galvanized service line has been replaced in order to secure a Continued Certificate of Occupancy ("CCO").
- b. Upon the sale of any Borough-owned property, and within 90 days of the closing, the Buyer is responsible for replacing the lead/galvanized service line, by either enrolling in the Lead/Galvanized Service Line Replacement Program or in accordance with Section 3(b)(2). above.

#### **SECTION 6. Violations and Penalties.**

Violations of this Article by any person or corporation shall be punishable by a fine of at least \$250 but not exceeding \$1,000 or by imprisonment for a term not exceeding 90 days or by a period of community service not to exceed 90 days.

**SECTION 7. Repealer:** All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistencies.

**SECTION 8. Severability:** Each section of this Ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective, shall not be deemed to affect the validity or constitutionality of any other sections or parts hereof.

**BE IT FURTHER ORDAINED** that this Ordinance shall take effect immediately upon final passage and publication as required by law

**BOROUGH OF CLAYTON**



**Thomas Bianco, Mayor**

**ATTEST:**



**Christine Newcomb, Borough Clerk**

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**BOROUGH OF CLAYTON**  
**COUNTY OF GLOUCESTER, NEW JERSEY**

**ORDINANCE NO. 22-2023**

**AN ORDINANCE OF THE BOROUGH OF CLAYTON AMENDING CHAPTER  
93, WATER, OF THE CODE BOOK OF THE BOROUGH OF CLAYTON BY ADDING  
A NEW ARTICLE TO BE ENTITLED “MANDATORY REPLACEMENT OF  
LEAD/GALVANIZED SERVICE LINE”**

This Ordinance was introduced at a meeting held on the 9th day of November, 2023. It is scheduled for a public hearing and final adoption at a meeting of the Mayor and Council of the Borough of Clayton beginning at 6:30 p.m. on the 14<sup>th</sup> day of December, 2023, at the Municipal Building, 125 N. Delsea Drive, Clayton, New Jersey.

The purpose of this Ordinance is to amend Chapter 93, Water, by adding a new article to be entitled “Mandatory Replacement of Lead/Galvanized Service Line”.

A copy of this Ordinance can be obtained without any cost, by any member of the general public in the Borough Clerk’s office within the Borough of Clayton in the Municipal Building, 125 North Delsea Drive, Clayton, New Jersey.

Christine Newcomb, Municipal Clerk  
Borough of Clayton

**NOTICE OF ADOPTION**

**BOROUGH OF CLAYTON**

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The foregoing Ordinance was finally adopted by the Mayor and Council of the Borough of Clayton on December 14, 2023, 2023.

Christine Newcomb  
Borough Clerk