

**BOROUGH OF PROSPECT PARK
COUNTY OF PASSAIC**

ORDINANCE NO 2022-17

**ORDINANCE AMENDING THE CODE OF THE BOROUGH OF PROSPECT
PARK REQUIRING THE REPLACEMENT OF LEAD SERVICE LINES
WITH THE BOROUGH OF PROSPECT PARK**

WHEREAS, Passaic Valley Water Commission (“PVWC”) is a public drinking water purveyor; and

WHEREAS, PVWC is the water purveyor for the cities, towns and boroughs of Paterson, Clifton, Passaic, Prospect Park, Lodi, North Arlington, a section of Woodland Park, as well as wholesale customers in Passaic, Bergen, Essex, Hudson and Morris Counties; and

WHEREAS, the Mayor and Council of the Borough of Prospect Park finds and declares that lead in drinking water poses a serious health and safety risk to the public, particularly infants and children, and therefore, provides the means by which the Borough can monitor the replacement of lead service lines by the PVWC within its boundaries, all of which is consistent with P.L. 2019, c. 291; and

WHEREAS, PVWC is undertaking a project replacing all of the lead services lines within its service territory; and

WHEREAS, there are lead service lines located on privately owned property within the Borough of Prospect Park; and

WHEREAS, PVWC will be unable to complete its 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, 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, 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 and to prevent and abate conditions harmful to the health and safety of the occupants of said buildings and structures and the general public in the municipality; and

WHEREAS, the New Jersey Legislature and Governor enacted P.L. 2019, c. 291, which allows municipalities to enact ordinances 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.

NOW, THEREFOR BE IT ORDAINED by the Council of the Borough of Prospect Park, County of Passaic, that it hereby amends the Code of the Borough of Prospect Park and creates and adopts the following Chapter of the Code of the Borough of Prospect Park, to state as follows:

MANDATORY REPLACEMENT OF LEAD SERVICE LINES

Section One. Definitions.

For the purposes of this Article, the following terms are defined as set forth herein:

BOROUGH – Shall mean the Borough of Prospect Park

PASSAIC VALLEY WATER COMMISSION (“PVWC”) – Shall mean the water purveyor for the Borough of Prospect Park

CONTRACTOR – Shall mean a licensed vendor that contracts with the PVWC to replace lead service lines.

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.

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.

LEAD SERVICE LINE – Shall mean the water line on private property that leads to the structure or building that is connected to the main Borough of Prospect Park water line.

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

OWNER – Shall mean any person, entity, or organization 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, trustees, 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 legal title, or as collector of rents has charge, care, or control of any dwelling or rooming house.

Section Two: Prohibition on Lead Service Lines

It is hereby established that the existence of lead service lines is prohibited in the Borough of Prospect Park.

Section Three: Authorization to Access Property.

PVWC, its agents and successors are hereby authorized to enter any property within the Borough of Prospect Park to perform any necessary investigation and, if necessary, a lead service line replacement pursuant to P.L. 2019, c. 291. However, PVWC but shall not enter any part of the property that is not directly related to performing the necessary investigation and 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.

Section Four: Required Notice Prior to Access.

- A. At least two (2) weeks before entering a property to perform a lead service line investigation and/or replacement, PVWC shall notify the owner of record of the property and any occupants of the property of the investigation and lead service line replacement.
- B. PVWC shall make every effort to notify the owner of record and any occupants of the property, in person, but, if the owner or occupants are unable to be reached in person, PVWC shall send by certified mail a notification to the owner and any occupants or post a written notification in a prominent location on the property.
- C. Notification by certified mail shall be written in English, Spanish and Arabic and shall include:
 - 1. The scheduled date and time of the lead service line investigation and/or replacement.
 - 2. Whether PVWC employees will be performing the lead service line investigation and/or replacement, and if not, the entity performing the service line replacement.
 - 3. The extent of any water service disruptions resulting from the service line investigation and/or replacement.
 - 4. Any location where residence can access supplemental drinking water due to any service disruptions.
 - 5. Notice that the owner or occupant of any property that has been determined to require a lead service line replacement shall permit PVWC its agents successors or contractors access to the property to perform said lead service line replacement.
 - 6. Notice that if the owner or occupant refuses to grant access to the property to perform the required lead service line investigation and/or replacement, said owner or occupant, shall be subject to a fine not to exceed \$1,250.00 and that each day that a violation continues shall be deemed a separate and distinct offense.
 - 7. Notice that if PVWC is unable to gain access to the property in order to investigate and/or replace the lead service line because the owner or occupant refuses to grant access to the property, the Borough of Prospect Park will not issue a certificate of occupancy or certificate of continued occupancy to any commercial or industrial property prior to any change in tenancy or ownership until a lead service line replacement is performed at the property owner's expense.
 - 8. Notice that if PVWC is unable to gain access to the property in order to investigate and/or replace the lead service line because the owner or occupant refuses to grant

access to the property, the Borough of Prospect Park will not issue a certificate of occupancy and/or certificate of continued occupancy to any residential property prior to any change in tenancy or change of ownership until a lead service line investigation and/or replacement is performed at the property owner's expense.

Section Five: Permits

- A. PVWC, its agents, successors, or contractors shall obtain approval for all required permits relating to the lead service line replacement prior to the commencement of any lead service line replacement.
- B. Permits shall list every property in which the lead service line replacement is to be performed.

Section Six: Limitation on time of operation

PVWC its agents, successors, or contractors shall conduct all work relating to the lead service line replacement program no earlier than 8:30 AM or after 6:30 PM, Monday through Friday, and no earlier than 9:30 AM to 4:30 PM on Saturdays.

Section Seven: Pavement cuts and restoration

All pavement cuts, openings, excavations and restoration shall be subject to the approval of the Engineer of the Borough of Prospect Park.

Section Eight: Notice of completion

- A. Upon completion of the lead service line replacement on each of the properties, PVWC shall send a letter to the owner of the property confirming the investigation and/or replacement with the date which the work was performed.
- B. On an ongoing basis, but not later than every sixty (60) days PVWC shall inform the Borough of Prospect Park as to which properties it has successfully investigated and performed a lead service line replacement and which properties it was unable to perform a lead service line investigation and/or replacement due to an inability to gain access to the property.

Section Nine: Violations and penalties.

Upon the required notice set forth herein, the owner or occupant of any property that has been determined to require a lead service line replacement shall permit PVWC, its agents, successors, or contractors access to the property to perform said replacement. If the owner or occupant refuses to grant access to the property to perform the required lead service line replacement should owner or occupant shall be subject to a fine not to exceed \$1,250.00. Each day that a violation continues shall be a separate and distinct offense.

If PVWC, its agents, successors, or contractors are unable to gain access to the property in order to investigate and/or replace the lead service line because the owner or occupant refuses to grant

access to the property, the Borough of Prospect Park will not issue a certificate of occupancy, certificate of continued occupancy to any commercial or industrial property prior to any change in tenancy or ownership until a lead service line replacement is performed at the property owners expense. If PVWC, its agents, successors, or contractors are unable to gain access to the property in order to investigate and/or replace the lead service line because the owner and/or occupant refuses to grant access to the property, the Borough of Prospect Park will not issue a certificate of occupancy to any residential property prior to any change in ownership until a lead service line replacement is performed at the property owner’s expense.

If PVWC, its agents, successors, or contractors are unable to gain access to the property in order to investigate and/or replace the lead service line, the construction official or code official shall deny the issuance of a certificate of occupancy or certified certificate of occupancy for any property until an investigation is conducted and/or a lead service line replacement has been performed.

Section Ten.

All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, be and the same hereby are repealed.

Section Eleven.

Any part of this Ordinance that may be declared invalid, inoperable shall be deemed servable, and the invalidity shall not affect the remaining parts and/or requirements of the Ordinance.

Section Twelve.


This Ordinance shall take effective immediately upon final passage and publication as provided by law.

**Introduction and First Reading:
August 15, 2022**

COUNCIL MEMBER	Motion	Second	Ayes	Nays	Abstain	Absent
Shah		✓	✓			
Artis			✓			
Hussain			✓			
Matari						✓
Ortiz	✓		✓			
Perez			✓			


**Second Reading and Adoption:
September 19, 2022**

COUNCIL MEMBER	Motion	Second	Ayes	Nays	Abstain	Absent
Shah		✓	✓			
Artis						✓
Hussain						✓
Matari	✓		✓			
Ortiz			✓			
Perez			✓			



Mohamed Khairullah,
Mayor

**This Ordinance was duly approved and adopted
 by the Council of the Borough of Prospect Park
 at a meeting held on September 19, 2022**



Beauty Nadim, RMC, CMR
Municipal Clerk