

BOROUGH OF RED BANK
ORDINANCE NUMBER 2023-19

**ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH,
STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 695:**

**“WATER AND SEWER” OF THE BOROUGH OF RED BANK CODE BY
ADDING A NEW ARTICLE, ENTITLED “MANDATORY REPLACEMENT OF
LEAD SERVICE LINES” WITHIN THE BOROUGH OF RED BANK**

WHEREAS, the Borough of Red Bank Department of Public Utilities is the water purveyor for the Borough of Red Bank; and

WHEREAS, the Borough is undertaking a replacement of all lead service lines within the Borough; and

WHEREAS, the Borough has contracted ENGenuity a consulting firm to perform the lead service line replacements within the Borough; and

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

WHEREAS, the Borough 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, 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, N.J.S.A. 58:12A-39 allows a municipality to adopt an ordinance that allows the municipality or any of its agents to enter a property within the municipality’s boundaries to perform a lead service line replacement.

NOW THEREFORE, IT IS ORDAINED by the Borough’s Council of the Borough of Red Bank that the Borough Code of the Borough of Red Bank, Chapter 695: “Water and Sewer”, is amended and supplemented, by adding a new Article X, entitled “Mandatory Replacement of Lead Service Lines” as follows:

ADDITIONS ARE IN BOLD AND UNDERLINED

SECTION I

§695-57. Replacement of Lead Service Lines Within the Borough of Red Bank

- A. A property owner shall replace their lead service line through the Lead Service Line Replacement Program offered by the Borough of Red Bank and allowing its contractor, ENGenuity and ENGenuity’s agents to access their property to conduct the replacement or execute a waiver to opt out of the program. ENGenuity 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 the lead service line.
- B. ENGenuity, its agents and successors are hereby authorized to enter any property within the Borough of Red Bank 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.

- C. At least 72 hours before entering a property to perform a lead service line replacement, ENGenuity shall notify the owner of record of the property and any residents of the property of the lead service line replacement.
- D. ENGenuity shall make every effort to notify the owner of record of any residents of the property in person, but if the owner or residents are unable to be reached in person, ENGenuity shall send, by certified mail, a notification to the owner and any residents or post a written notification in a prominent location of the property.
- E. The notification shall be written in both English and Spanish and shall include:
 - a. The scheduled date and time of the lead service line replacement;
 - b. Whether ENGenuity employees will be performing the service line replacement, and if not the entity performing the service line replacement;
 - c. The extent of any water service disruptions resulting from the service line replacement;
 - d. Any locations where residents can access supplemental drinking water due to any service disruptions; and
 - e. That if ENGenuity is unable to gain access to the property in order to replace the lead
- service line the Code Enforcement Officer will not issue a Certificate of Occupancy prior to any change in ownership until a lead service line replacement is performed.
- F. Upon completion of the lead service line replacement, ENGenuity shall send a letter to the owner of the property confirming the replacement and date on which the work was performed.
- G. On the ongoing basis, but not later than every 60 days, ENGenuity shall inform the Borough of Red Bank 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.
- H. A property owner may be excluded from the Mandatory Replacement of its lead service line by providing the Borough within ninety (90) days of the Effective Date of this Ordinance, with written proof from a licensed and certified plumber that it does not have a lead service line on its property and/or that the lead service line was previously removed and replaced.
- I. If a property owner does not opt out of the Lead Service Line Replacement Program or is inaccessible or otherwise denies access to the property to enable the replacement of the line, then the following procedure shall be followed:
 - a. The Borough shall secure entrance to the property from the property owner or current occupant of the property and the Borough shall incur no liability from the property owner and/or occupant. ENGenuity will provide the owner with a Right of Entry form for completion. The Right of Entry form will provide ENGenuity with access to the property to verify the existence of a lead service line. ENGenuity shall restore the property to its original condition, or as close as possible to its original condition; and
 - b. If access is granted by the occupant of the property, then the occupant shall be held harmless, and no liability shall incur to ENGenuity, the Borough or occupant due to the replacement of the lead service line by ENGenuity; and
 - c. 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 service line.

- J. Upon the sale or transfer of ownership of any dwelling, building or structure, the owner must provide proof that the lead service line has been replaced in order to secure a Certificate of Occupancy, Certificate of Code Compliance, and Smoke & Carbon Monoxide Detector Certificates.
- K. Upon the sale of any Borough owned property, within ninety (90) days of the closing, the buyer is responsible for replacing the lead service line by enrolling in the Lead Service Line Replacement Program.
- L. Any violation of this Ordinance by any person or corporation shall be punished by a penalty as is provided in Ch. 1, General Provisions, Article II, General Penalty.

SECTION II

If any section or provision of this ordinance shall be invalid in any court the same shall not affect the other sections or provisions of this ordinance except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

SECTION III

All ordinance or parts of ordinances to inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION IV

This ordinance shall be subject to review by the Borough Council after passage of six months from its effective date.

SECTION V

This ordinance shall take effect upon publication as provided by law.

INTRODUCTION						COUNCILMEMBER	FINAL ADOPTION				
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.
		x				JOHN JACKSON			x		
		x				ANGELA MIRANDI			x		
				x		JACQUELINE STURDIVANT			x		
x	x					KATE TRIGGIANO		x	x		
		x				MICHAEL BALLARD			x		
x	x					EDWARD ZIPPRICH	x		x		
MAYOR WILLIAM PORTMAN											
Introduced: May 10, 2023			I hereby certify the above ordinance was adopted by the Borough Council of the Borough of Red Bank, County of Union, State of New Jersey on the aforementioned date.								
Final Adoption: May 31, 2023											
_____ Laura Reinertsen, Borough Clerk											