

Comparison of Lead Service Line Replacement Legislation

	Newark Ordinance	Councilmember Lewis George’s Proposed DC Ordinance	L.E.A.D.’s Proposed Legislation
Definition of Lead Service Line	“Lead Service Line shall mean the water line on private property that leads to the structure or building that is connected to the main City of Newark water line.”	“‘Lead water service line’ means a water service line containing any lead and shall include a: (A) Brass water service line; or (B) Galvanized water service line.”	“‘Lead water service line’ or ‘lead service line’ means a water service line, including goosenecks and pigtails, containing any lead and shall include a: (1) Brass water service line; or (2) Galvanized water service line.”
Mandatory Language	<p>“It is hereby established that the existence of lead service lines is prohibited in the City of Newark.”</p> <p>Property Owners:</p> <ul style="list-style-type: none"> Owners of any structure serviced by an LSL must replace the line on their property within 90 days of the effective date of the ordinance. <ul style="list-style-type: none"> Extensions available if can demonstrate a good faith effort to comply. Owners can either replace it on their own (at own expense) or sign up for Newark’s Lead Service Line Replacement program. 	<p>“Lead water service lines shall be eliminated from public property and from all District government and privately-owned buildings by January 1, 2030.”</p> <p>Property Owners:</p> <ul style="list-style-type: none"> Property owners who might have LSLs (as established by DC Water) must either (1) submit proof that there are no LSLs; or (2) register for the LSL removal program and pay the calculated copayment by June 30, 2025. <p>DC Water/Government:</p> <ul style="list-style-type: none"> "By January 1, 2024, DOEE, in coordination with DC Water, shall establish a lead water service line removal program for the purpose of replacing lead water service lines on private property by 2030 (“Program”).” “DOEE shall remove the lead water service line of a property owner no more than 2 years after the property owner registers for the Program and remits the copayment.” “DGS, DOEE, and DC Water shall coordinate and accomplish the removal of lead water service lines from all public property spaces and District-owned and leased property, including property leased from or by the District by January 1, 2028.” DC Water must publish an up-to-date map of properties with LSLs or where there is a lack of information on a property’s service line. 	<p>“It is hereby established that the existence of lead service lines is prohibited in the District of Columbia.”</p> <p>“All lead service lines on public property shall be replaced no later than December 31, 2030.”</p> <p>“All lead service lines on private property shall be replaced no later than December 31, 2030.”</p> <p>Property Owners:</p> <ul style="list-style-type: none"> By 1 year from effective date, property owners of structures potentially serviced by an LSL must either replace it on their own (at own expense) or sign up for DC’s Lead Service Line Replacement Program. <ul style="list-style-type: none"> Owners must sign a Right to Entry form that grants Contractor with access to the property to replace the line. Department of Buildings is responsible for developing and administering this form. If replacing the LSL on their own, extensions available if owner took steps to secure a contractor and schedule replacement. Property owners are exempt if DC Water or owner has information verifying that an LSL is not being used on the property. <ul style="list-style-type: none"> DOEE will establish criteria of acceptable proof. Service lines with copper components that may have lead are not exempt. <p>DC Water/Government:</p>

Commented [MS1]: Not necessary to add goosenecks and pigails as the current District definition includes these with the phrase, “containing any lead”. Delete proposed legislation.

Commented [MS2]: Including brass replacements needs evaluation of practical timeline. Given the lower risk of lead exposure from brass service lines, the lead and galvanized iron replacements should drive prioritization for planning and funding for 2030. Currently brass is replaced during capital projects to prevent new partial replacements.

Commented [AN3]: How soon is this form signed and what is the timing of the replacement from the date of the signature. Also, what is the incentive to sign the form? Does/will this also consider DC Water’s removal plan (by block?)

			<ul style="list-style-type: none"> DC Water must publish an up-to-date map of properties with LSLs or where there is a lack of information on a property's service line by 1 year from effective date. This map must be updated on a monthly basis and clearly indicate which lines have not been assessed, lines that require further assessments, and copper or brass lines that may contain lead. All lead service lines on public property shall be replaced no later than December 31, 2030. Other: reporting, notice obligations, priority schedule.
Demonstration of Compliance with Ordinance	<ul style="list-style-type: none"> Property owners have 90 days from the effective date to submit proof that their property doesn't have an LSL. If owners decide to replace an LSL on their own, they must do so within 90 days (unless owner receives a good faith effort extension) and provide certain proof, including invoice and inspection report. 	<ul style="list-style-type: none"> By June 30, 2025, property owners who might have LSLs must either (1) submit proof that there are no LSLs; or (2) register for the LSL removal program and pay the calculated copayment. 	<p>By 1 year from effective date, owners must: (1) sign up for the LSL Replacement Program and sign Right to Entry Form; or (2) show proof of full replacement.</p> <p>Owners are exempt if:</p> <ul style="list-style-type: none"> Owner submits proof that their property doesn't have an LSL. DC Water has proof that the property does not have a lead service line. Criteria of what proof is sufficient will be established by DOEE.
Prioritization of LSL Replacements	No provision.	<ul style="list-style-type: none"> 6015f(d): "DOEE shall prioritize removal, within 6 months of discovery, of lead water service lines that service structures wherein children under the age of 7 are likely to use water." 	<ul style="list-style-type: none"> DC water must establish priority block-by-block replacement schedule, incorporating the methodology recommended by the task force.
Notice to Property Owners / Occupants	<ul style="list-style-type: none"> Closest provision to a notice: "The City shall secure entrance to the property from the owner or current occupant." <ul style="list-style-type: none"> But, if this fails, City can commence procedures to replace the line. Note: this legislation was introduced after extensive outreach about Newark's LSL replacement program. It was specifically designed to enable LSL replacement when owners are 	<ul style="list-style-type: none"> DC Water must: <ul style="list-style-type: none"> Send written notice of the replacement requirement to private property owners by January 1, 2024. Post notice of requirement on non-private District property that might have LSLs by January 1, 2025. By Dec. 31, 2025, the Department of Buildings must post a notice describing tenants' rights on every building whose private property owner failed to comply. No required notice regarding when the replacement will occur. 	<ul style="list-style-type: none"> DC Water must: <ul style="list-style-type: none"> Send written notice of the replacement requirement to private property owners who might have LSLs by 6 months from effective date. Post notice of requirement in public libraries by 6 months from effective date. Launch an outreach campaign to inform the public.

Commented [AN4]: Should this be public and private?

Commented [sl5R4]: There are separate provisions for public & private

Commented [AN6]: Not too keen on the "recommended by the TF" language. However, I do believe that prioritization should be outlined and clearly defined.

Commented [sl7R6]: This is more of a place-holder until TF prioritization is defined & agreed to.

Commented [AN8]: Presumably this is something that is happening prior to folks receiving any type of notification. If and when language becomes effective, would need an inter-agency approach/District approach to campaigning and messaging.

	hard to track down or deny permission.		<ul style="list-style-type: none"> ○ Notify tenants of their rights if the property owner does not comply with the mandate. • Notices of potential LSLs shall be published on public databases of building citations or inspections maintained by the Department of Buildings. • DC Water will notify owners and tenants of their placement in the schedule at least 1 year before their LSL replacement date (120 days notice if will occur within 2 years of effective date). Follow-up notices must be provided 1 month, 1 week, and 3 days before their scheduled LSL removal.
Financing	<p>No cost to property owners.</p> <ul style="list-style-type: none"> • In 2018, Newark launched a \$75 million bond program to fund a lead replacement program. This version of the program was voluntary and required a \$1,000 co-pay from owners. It was not popular due to the cost to owners. • In 2019, Essex County created a \$120 million bond to completely fund all LSL replacements in Newark. With this funding, Newark also reduced their program's timeline from 10 years to 3 years. 	Property Owner Financing	<p>No cost to property owner.</p> <ul style="list-style-type: none"> • Until June 30, 2025, for eligible owners District pays: <ul style="list-style-type: none"> ○ 100% of replacement cost for property owners with household incomes \leq 100% AMI or whose tenants participate in District or federal housing programs. Can be subject to cap. ○ 50% of replacement costs for owners with household incomes \geq 100% AMI, up to \$5,000. ○ Expires on June 30, 2025. ○ <i>Note: most of this is already codified at § 34-2159. The new legislation modifies it to increase the limit to \$5,000 and create an expiration date.</i> • After Jan. 1, 2024: <ul style="list-style-type: none"> ○ Property owners who register for the LSL program must remit a copayment. ○ DOEE "a schedule of copayments, not to exceed an amount of \$250 per dwelling on any private property, property owners must pay to participate in the program." ○ The schedule will take into account the type of property, square footage, whether the owner is an individual or

Commented [AN9]: What would be the rights of non compliance?

Commented [AN10]: How feasible is this notification timeline?

Commented [AN11]: Funding should still be named or outlined. What will be the source of funding?

		<p>institution, estimated cost, and ability to pay.</p> <p>District Financing</p> <ul style="list-style-type: none"> • District financing from the Fund, with revenue from sources including: <ul style="list-style-type: none"> ○ Copayments from LSL removal program. ○ Fines against property owners. ○ Federal funds. 	
<p>Authorization to Access Private Property to Replace LSL</p>	<p>If an owner signs up for the LSL Replacement Program, the owner completes Right of Entry form to provide contractors with access.</p> <p>If an owner fails to sign up for the Program, doesn't replace their lines within 90 days (or within the granted extension), or is inaccessible or denies access to property, then:</p> <ul style="list-style-type: none"> • (a) City shall secure entrance to property, contractor will provide owner with a Right of Entry form. • (b) if occupant grants access, no liability to City or occupant. • (c) <u>"If access is denied by the current occupant or owner, then the City shall commence procedures, including filing a Court action, to conduct the replacement of the lead service line."</u> 	No provision.	<p>To sign up for the LSL Replacement Program and comply with the mandate, owners must complete a Right to Entry form to provide contractors with access.</p> <ul style="list-style-type: none"> • The Right to Entry form will be developed by the Department of Buildings with input from community groups. <p>If an owner fails to sign up for the Program, doesn't replace their lines by 1 year from effective date (or within the granted extension), or is inaccessible or denies access to property, then:</p> <ul style="list-style-type: none"> • 6 months before scheduled block-by-block replacement, City shall try to contact owner and provide them with a Right to Entry Form. • If owner doesn't respond, DC Water shall attempt to contact the occupant and provide the occupant with the Right to Entry form. <ul style="list-style-type: none"> ○ If occupant grants access, no liability to District, DC Water, or occupant. • If access is still denied by owner/occupant, then DC Water shall perform additional outreach to owner/occupant to address their concerns. • If access is still denied, District shall commence legal procedures to conduct the replacement.
<p>Lead Filters</p>	<p>In a separate program, Newark distributed ~ 40,000 free lead water filters to residents with LSLs.</p>	No provision.	<ul style="list-style-type: none"> • For properties with lead or unknown LSL, The District must provide no-cost pitcher-style or <u>point-of-use</u> POU filters that comply with lead standards to occupants. The District must maintain and replace filters, at no cost to occupants.

Commented [W(12)]: Changed from 'of' to 'to' for consistency

Commented [W(13)]: Below it says DOEE, and the legislative language document has Department of Buildings.

Commented [AN14]: This should also be in coordination with the City. In fact, it is "the city's" mandate-not DC Water's.

Commented [AN15]: DC Water would like to continue to focus all resources and funding on the full remediation of lead as opposed to intermediate action or stop gaps. If the city would like a "Lead Filter Program" the suggestion is to have the city do the mandatory study, justification, and funding (outside of any funding dedicated to lead removal) for such program.

Commented [s116R15]: Switched to make this the District's responsibility, not DC Water's.

<p>Post-replacement procedures</p>	<p>LSL Replacement Program components (not mandated by the ordinance):</p> <ul style="list-style-type: none"> • During replacement, filters are provided. • Within 3-6 months of replacement, residents automatically receive a lead testing kit to return to the city to ensure that lead loosened during replacement has been fully removed. <p>In a separate program, Newark provided free water testing and free blood testing to children. The replacement ordinance did not require testing.</p>	<p>No provision.</p>	<ul style="list-style-type: none"> • DC wWater must: <ul style="list-style-type: none"> ○ Flush water systems or provide occupant with flushing instructions ○ Continue to maintain and replace the filters for 6 months.
<p>Equity Provisions</p>	<ul style="list-style-type: none"> • No-cost program. 	<ul style="list-style-type: none"> • Until June, 2025: Free for eligible owners with household incomes ≤ 100% AMI <i>or</i> whose tenants participate in District or federal housing programs (see Financing above). • After Program is set up, copayment is calculated based on a number of factors including ability to pay (see Financing above). • At least two companies DOEE contracts with to perform LSL removal must have unionized workers. <ul style="list-style-type: none"> ○ Property owners will have a choice to use union labor for LSL removal on their property. • Sec. 6019d: Reporting <ul style="list-style-type: none"> ○ Mandated annual reporting from DOEE and DC Water to Mayor, including implementation status, workforce information, and data on properties broken down by ward, advisory neighborhood commission, commercial v. residential, demographics, summary of barriers. • Title II: Lead-Free DC Green Job Creation <ul style="list-style-type: none"> ○ Adds some pro-Union provisions to DC job training programs. ○ Requires DCIA to establish LSL remediation and removal job training curriculum and partnership by Oct 1, 2024. 	<ul style="list-style-type: none"> • No-cost program. • The Right to Entry form giving contractors access to the property must be developed by the Department of Buildings [DOEE] in collaboration with community groups and tested with focus groups. • Reporting <ul style="list-style-type: none"> ○ DC Water must give monthly reports to the [Auditor]. ○ Mandated publicly-available annual reporting from DOEE, Auditor, and DC Water to Mayor and Council. Report includes implementation status, workforce information, and data on properties broken down by ward, advisory neighborhood commission, commercial v. residential, demographics, summary of barriers. • All communications to property owners and occupants must be written at no more than a 5th grade reading level and shall comply with the DC Language Access Act of 2004.

Commented [AN17]: I believe this is standard in our current process.

Commented [W(18): Above it says DC Water, and the legislative language document has Department of Buildings, not DOEE

Commented [AN19]: Who is "the auditor"? And are these monthly reports for the duration of the program?

Commented [sl20R19]: Auditor is defined in the legislative language.

Commented [AN21]: Sounds good, but how is this juxtaposed with the legal content that is necessary?

		<ul style="list-style-type: none"> ○ Slightly expands minimum wage protections (employees who work 2+ hrs/week in DC must be paid DC minimum wage for hours worked in DC). ○ Modifies Accrued Sick and Safe Leave Act to define students participating in on-the-job training/apprenticeship as “Employees.” 	
Incentives		<ul style="list-style-type: none"> • Income tax credit equal to cost of remediation and removal (up to \$5,000) if owner removes LSL before June 30, 2026. 	
Financial Penalties for Noncompliance	<ul style="list-style-type: none"> • Fine between \$250 and \$1,000, or imprisonment or community service period not exceeding 90 days. 	<ul style="list-style-type: none"> • Up to \$150/month fine for failing to comply with the June 30, 2025 deadline to either submit proof of no LSL or sign up for the removal program. <ul style="list-style-type: none"> ○ Fine to be set according to a schedule published by the Mayor that considers property type. ○ Fines can be reduced by half if property owner removes a LSL. • Owner to attorneys’ fees and fines if court finds against property owner after tenant or AG sues. <ul style="list-style-type: none"> ○ Up to \$25,000 fine if tenant wins suit. ○ Up to \$15,000 fine if AG wins suit. 	<ul style="list-style-type: none"> • Up to \$150/month fine (after 2 years from effective date) for failing to comply to either submit proof of no LSL or sign up for the removal program. <ul style="list-style-type: none"> ○ Fine to be set according to a schedule [to be linked with a different successful fine structure]. ○ Fines can be reduced by half if property owner removes a LSL. • Owner to attorneys’ fees and fines if court finds against property owner after tenant or AG sues. <ul style="list-style-type: none"> ○ Up to \$25,000 fine if tenant wins suit. 50% goes to tenant, 50% goes to replacement fund. ○ Up to \$15,000 fine if AG wins suit, fine goes to the replacement fund.
Non-financial Penalties for Noncompliance	<ul style="list-style-type: none"> • After sale or ownership transfer, owner must prove LSL has been replaced to receive Certificate of Occupancy, Certificate of Code Compliance, and Smoke & Carbon Monoxide Detector Certificates. 	<ul style="list-style-type: none"> • If noncompliant after Dec. 31, 2025, owner cannot: <ul style="list-style-type: none"> ○ Renew or receive a business license; ○ Receive a certificate of occupancy; ○ Receive a construction or improvement permit (unless permit includes removal of LSLs). 	<ul style="list-style-type: none"> • If noncompliant after 2.5 years from effective date, owner cannot: <ul style="list-style-type: none"> ○ Renew or receive a business license; ○ Receive a certificate of occupancy; ○ Claim the Homestead tax deduction; or ○ Receive a construction or improvement permit (unless permit includes removal of LSLs).
Tenants’ Rights Provisions	<ul style="list-style-type: none"> • Tenants who grant access to the City and contractors shall incur no liability (“If access is granted by the occupant of the dwelling, 	<ul style="list-style-type: none"> • Cost of copayment “may not be passed on to any tenants residing on the property.” 	<ul style="list-style-type: none"> • Landlord will pay costs to relocate temporarily displaced tenants. • Landlords cannot raise rents as a result of the LSL replacement.

Commented [AN22]: What happens to the other half?

	<p>building, or structure, then the occupant shall be held harmless and no liability shall incur to the City or occupant due to the replacement of the lead service line by the City of Newark”).</p>	<ul style="list-style-type: none"> • Gives tenants a private cause of action for abatement of LSLs if the owner landlord is noncompliant after Dec. 31, 2025. <ul style="list-style-type: none"> ◦ If tenant prevails, property owner must pay tenants’ attorney fees and a fine of up to \$25,000 split 50/50 between Fund and property tenants. • Tenant notice (see above). • The Office of the Tenant Advocate must provide guidance to tenants who seek to initiate a cause of action. • Sec. 6015c(e): "A landlord shall pay any cost to relocate residential tenants temporarily displaced in order to comply with lead water service line removal requirements" 	<ul style="list-style-type: none"> • Gives tenants a private cause of action for abatement of LSLs if the owner landlord is noncompliant after 2.5 years from effective date. <ul style="list-style-type: none"> ◦ If tenant prevails, property owner must pay tenants’ attorney fees and a fine of up to \$25,000 split 50/50 between Fund and property tenants. • Department of Buildings will give tenants of buildings serviced by LSL notice that owner has failed to comply by 2.5 years from effective date. • The Office of the Tenant Advocate must provide guidance to tenants who seek to initiate a cause of action.
<p>Other Notable Features</p>	<p>When this ordinance passed, Newark had already secured \$120 million in financing and was performing outreach to sign up residents for free replacements. However, Newark was having difficulty reaching all property owners and obtaining their permission (80% of Newark residences are rentals). This ordinance was specifically designed to get around the issue of tracking down hard-to-find owners and obtaining their permission.</p> <p>New Jersey subsequently adopted legislation that allows municipalities to adopt ordinances to enter properties and replace LSLs without property owner permission.</p>	<ul style="list-style-type: none"> • Attorney General can initiate civil actions against private property owners that don’t comply by June 30, 2026. <ul style="list-style-type: none"> ◦ AG must first attempt an out-of-court resolution for owners who reside in the property. ◦ Property owners pay relocation costs for displaced tenants during abatement. ◦ Property owners are subject to AG’s attorneys’ fees and fines up to \$15,000. • Requires DOEE to replace displaced soil, replace/restore walls and floors damaged during work. 	<ul style="list-style-type: none"> • This program will replace existing, voluntary replacement programs run by DC Water/the City. • Requires replacement of LSL, displaced soil, walls and floors damaged during work. • Transfer of ownership: buyers must demonstrate compliance within 6 months; must comply before receiving/renewing permits. • Attorney General can initiate civil actions against private property owners that don’t comply by 2 years from effective date. <ul style="list-style-type: none"> ◦ AG must first attempt an out-of-court resolution for owners who reside in the property. ◦ Property owners pay relocation costs for displaced tenants during abatement.

Commented [AN23]: Does this mean no VRP?

Commented [sl24R23]: The goal is to have a single, fully funded mandatory program where replacement largely occurs block-by-block to avoid partials.

DC Proposed Compliance Timeline

Effective Date of Act.

6 months - Deadline for DC Water to give notice to private property owners w/ LSLs. Notices of potential LSLs will be published on public databases of building citations/inspections. **DC Water must provide filters after notice given.** Deadline for DC Water to launch public outreach campaign and post notice in public libraries. **Deadline for DOEE and DC Water to submit a schedule and implementation plan to Mayor & Council, monthly reports to Auditor being.**

1 year - Property owners must demonstrate compliance with the Act by signing up for replacement, replacing on their own, or showing they don't have an LSL. After this date, DC Water shall commence procedures to secure authorization to enter the property of property owners who have not complied with the mandate (6 months prior to scheduled replacement). DC Water publishes up-to-date map of properties with potential LSLs (updated monthly).

1.5 years: Deadline for DC Water to establish block-by-block priority schedule. DC Water, DOEE, and Auditor produce first annual progress report.

2 years - Financial penalties kick in. Property owners scheduled for LSL replacement on or before this date get 120 days' notice. After this date, property owners get 1 year notice. AG Action kicks in.

2.5 years - Non-financial penalties kick in. Tenants' rights provisions kick in.