

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To declare the existence of an emergency with respect to the need to amend the Lead Service Line Priority Replacement Assistance Act of 2004 to require the District to pay 100% of replacement costs for partial lead water service lines for both residential property owners with household incomes of 80% or less of the area median income and residential property owners whose tenants participate in District or federal housing programs.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Partial Lead Water Service Line Replacement Eligibility Emergency Declaration Resolution of 2019”.

Sec. 2. (a) On December 4, 2018, the Council passed the Lead Water Service Line Replacement and Disclosure Amendment Act of 2018. The legislation went into effect on March 13, 2019.

(b) Prior to the passage of the legislation, DC Water engaged in a practice called “partial lead line replacements.” Under this practice, when replacing lead service lines, DC Water would replace only the portion of the line on public property, leaving the private-side portion untouched. Although DC Water removed a portion of the lead service line, studies have actually shown that partial lead line replacements can actually increase the risk of lead in drinking water.

(c) Under the new law, DC Water is required to replace lead service lines on private property whenever DC Water is also replacing lead water service lines or water mains on public

34 property. The legislation also establishes a voucher program to assist low-income applicants with  
35 paying for the cost of a private-side replacement.

36 (d) Importantly, the legislation also provides relief for those property owners who  
37 received a partial lead line replacement prior to passage of the law. The Department of Energy  
38 (“DOEE”) and the Environment and DC Water are required to implement a lead water service  
39 line replacement payment assistance program (“the Program”), which provides financial  
40 assistance to residents with the cost of replacing the remaining portion of the lead water service  
41 line, where they had previously received a partial lead line replacment.

42 (e) In the FY 2020 budget, the Council fully funded this legislation, including the  
43 Program, based on projections by the District’s Office of Revenue Analysis (“ORA”).

44 (f) In early September 2019, the Council learned of an error in the Lead Water Service  
45 Line Replacement and Disclosure Amendment Act that would restrict eligibility for the Program  
46 in an unintended manner. Specifically, the legislation as drafted requires the District to pay 100%  
47 of replacement costs for residential property owners with household incomes of 80% or less of  
48 the area median income, and whose tenants participate in District or federal housing programs;  
49 the Council had intended for applicants matching either criteria to be eligible for relief under the  
50 program, but the language as drafted requires applicants to meet both criteria.

51 (g) On September 25, 2019, ORA informed Council that its estimate of the cost for the  
52 Program was not based on an assumption that applicants needed to meet both criteria to be  
53 eligible for relief. Rather, ORA determined its estimated cost by breaking down the number of  
54 residences that had received a partial lead line replacement into three income buckets. For this  
55 reason, the cost to implement the Program should not differ from ORA’s estimate if the Council  
56 were to amend the legislation to clarify the eligibility of the broader pool of applicants.

57 (h) District funds budgeted for the Program became available on October 1, 2019, the  
58 start of FY 2020; since that time, DOEE has accepted and begun processing applications for the  
59 Program. DOEE has informed the Council that it is unable to award relief to the intended,  
60 broader set of applicants until the legislation is amended. To date, however, DOEE has not  
61 denied any applicants that would be eligible for the Program but for this error; instead, DOEE is  
62 holding those applications until the Council can amend the legislation.

63 (i) For homes with partial lead line replacements, every day without a completed full lead  
64 line replacement means increased risk of exposure to lead through drinking water. For homes  
65 with young children or pregnant women, replacement of lead service lines is particularly  
66 important, as exposure to lead can lead to cognitive delays and other behavior problems in  
67 babies, infants, and children.

68 (i) Immediate legislative action is necessary to ensure that DOEE is able to distribute  
69 funds under the Program to eligible applicants as intended by the Council when passing and  
70 funding the Lead Water Service Line Replacement and Disclosure Amendment Act of 2018.

71 Sec. 3. The Council of the District of Columbia determines that the circumstances  
72 enumerated in section 2 constitute emergency circumstances making it necessary that the Partial  
73 Lead Water Service Line Replacement Eligibility Emergency Amendment Act of 2019 be  
74 adopted after a single reading.

75 Sec. 4. This resolution shall take effect immediately.