



## Legislation Details (With Text)

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<b>Type:</b>	Ordinance	<b>Status:</b>	Passed Finally
<b>File created:</b>	6/9/2017	<b>In control:</b>	Committee on Intergovernmental Affairs
<b>On agenda:</b>	7/19/2017	<b>Final action:</b>	7/25/2017
<b>Enactment date:</b>	7/25/2017	<b>Enactment #:</b>	37
<b>Effective date:</b>	1/1/2018		
<b>Title:</b>	Ordinance supplementing the Pittsburgh Code, Title Ten, by adding a new Chapter 1005, entitled "Mandatory Testing of Lead Service Lines Plumbing" to reveal lead hazards, including lead service lines, and to require disclosure to lessees under certain terms and conditions, and granting authority to the City Department of Permits, Licenses, and Inspections to enforce this Chapter:		
<b>Sponsors:</b>			
<b>Indexes:</b>	PGH. CODE ORDINANCES TITLE 10 - BUILDING CODE		
<b>Code sections:</b>			
<b>Attachments:</b>	1. Summary 2017-1614		

Date	Ver.	Action By	Action	Result
7/27/2017	3	Mayor	Signed by the Mayor	
7/25/2017	3	City Council	Waived under the Rules of Council	Pass
7/25/2017	3	City Council	AMENDED	Pass
7/25/2017	3	City Council	Passed Finally	Pass
7/25/2017	3	City Council	AMENDED BY SUBSTITUTE	Pass
7/19/2017	2	Standing Committee	AFFIRMATIVELY RECOMMENDED	Pass
7/19/2017	2	Standing Committee	AMENDED BY SUBSTITUTE	Pass
7/6/2017	1	Standing Committee	Held in Committee	Pass
6/28/2017	1	Standing Committee	Held in Committee	Pass
6/21/2017	1	Standing Committee	Held in Committee	Pass
6/13/2017	1	City Council	Read and referred	

Ordinance supplementing the Pittsburgh Code, Title Ten, by adding a new Chapter 1005, entitled "Mandatory Testing of Lead Service Lines Plumbing" to reveal lead hazards, including lead service lines, and to require disclosure to lessees under certain terms and conditions, and granting authority to the City Department of Permits, Licenses, and Inspections to enforce this Chapter:

WHEREAS, the Pennsylvania Legislature has explicitly vested in the City of Pittsburgh the power to make regulations to secure the general health of its inhabitants; and

WHEREAS, the City's Home Rule Charter § 222 proclaims that "[a] responsible city is one which expects aggressive action from its officials toward the achievement of . . . pure air and water . . . and the other conditions conducive to human growth," and the City of Pittsburgh Bill of Rights, City Home Rule Charter § 104, acknowledges that residents have a fundamental "Right to Water;" and

WHEREAS, the City may regulate activities relating to the International Plumbing Code, a section of the International Building Code, which is explicitly incorporated into Title Ten of the City of Pittsburgh Code, Chapter 1002 (“Uniform Construction Code Adoption”) at §1002.01(5) ;and

WHEREAS, Lead water service lines can cause drinking water to become contaminated; and

WHEREAS, the Pittsburgh Water and Sewer Authority, which operates the City’s water system and is a water service provider, found elevated levels of lead in drinking water in some City homes; and

WHEREAS, City inhabitants deserve to know about the presence of environmental hazards, including the presence of lead water service lines on properties they own so they may decide how to take appropriate health precautions and to value their residential property; and one reasonable way to do so is to collect data when a property owner is contemplating selling or leasing the property, a time when the expense of testing and/or remediation might more easily be borne by the owner; and

WHEREAS, the City itself wishes to learn about the extent of the lead hazard problem in order to safeguard the health of its inhabitants and attempt to eradicate lead based hazards in water, and one reasonable way to do so is to participate in collecting data on residential properties; and

WHEREAS, the City wishes to assist the water service providers to gather information about the extent of lead based hazards in water, to safely and effectively manage the City’s water system, and to eradicate those hazards; and

WHEREAS, by enacting this Chapter, the City, neither intends to nor mandates disclosure of hazards to a buyer if prohibited by state law or to supersede existing disclosures required of sellers or lessors regarding lead-based hazards pursuant to applicable state or federal law; and

WHEREAS, in order to safeguard the health of its inhabitants and attempt to eradicate lead based hazards in water, the City now wishes to amend its Code;

NOW THEREFORE

**Be it resolved by the Council of the City of Pittsburgh as follows:**

**Section 1.** The Pittsburgh Code is hereby supplemented by adding the following Chapter:

**CHAPTER 1005: MANDATORY TESTING OF LEAD PLUMBING**

**§ 1005.01 DEFINITIONS.**

When used in this Chapter, the following definitions apply:

- a. City: The City of Pittsburgh.

- c. Lead Service Line: A service line made of lead that connects the water main to the building inlet and any lead fitting connected to that lead service line.
- d. Lessor: A Person who leases Residential Property to an individual or individuals.
- e. Person: Any natural person, partnership, association, authority, syndicate, firm, corporation, developer, contractor, government, or other entity recognized by law as the subject of rights and duties.
- f. Public Water Supplier: A Person who owns or operates a Public Water System.
- g. Public Water System-A system which provides water to the public for human consumption which has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. The term includes collection, treatment, storage and distribution facilities under control of the operator of the system and used in connection with the system.
- h. Residential Property: A building or structure and related property located in the City of Pittsburgh that is owned or leased for use as a single or multi-family dwelling families or is in the process of being constructed or adapted for use as a dwelling.
- i. Residential Unit: Any portion of property set aside and intended for use as living quarters for one (1) or more individuals, that portion having a separate kitchen and a minimum of one (1) bathroom for the use of its occupant or occupants.

## **§ 1005.02 PROHIBITIONS.**

- a. On and after the effective date of this Chapter, it will be unlawful for any Person to sell or lease Residential Property constructed before 1970 without first conducting a “scratch test” and transmitting a photograph of the water service line inside the property to Pittsburgh Water and Sewer Authority (“PWSA”). The service line should be cleared of debris or covering. Most service lines are visible in the basement of a property at the connection to the water meter. Prior to taking the photograph, a scratch test must be performed

by scratching the surface of the pipe with a coin or key to clearly reveal the pipe material. Service line photographs shall be transmitted to PWSA via email or first class mail at an address or addresses determined by PWSA.

b. Scratch tests and transmittals of the photographs to PWSA shall be done prior to the signing of the sales or lease agreements.

c. In addition to transmitting the photographs mentioned in Section “a” above to PWSA, Lessors must provide photographs taken in Section ”a” above to Lessees with information provided by PWSA that describes how to interpret the results of the scratch test unless prohibited by law.

d. Sellers may provide photographs taken in Section ”a” above to ~~Lessees~~ **Buyers** with information provided by PWSA that describes how to interpret the results of the scratch test.

e. If a seller or Lessor cannot identify the location of a water meter or if there is no water meter (such as, but not exclusively, in the instance of a common water line and a common meter) the Lessor must contact PWSA for instructions. Sellers may do the same.

e. The Department of Permits Licenses and Inspections may promulgate additional regulations for the enforcement of this Ordinance.

f. Public Water Suppliers are strongly encouraged to send new customers information regarding the resources available to detect and test water for lead.

g. This Chapter will apply to any sale or lease of Residential Property except where prohibited by federal or state law.

h. This Chapter section is not intended to and does not mandate disclosure to a buyer if prohibited by state or federal law or to supersede existing disclosures required of sellers or lessors regarding lead-based hazards pursuant to applicable state or federal law;

**§ 1005.03 RENTAL AGREEMENTS FOR RESIDENTIAL PROPERTY LOCATED WITHIN THE AREA SERVICES BY PWSA LEAD WARNING STATEMENT.**

Rental Agreements for residential property will contain the following statement, as applicable, in large type: “Every lessee of any interest in residential property is notified that any residential dwelling, regardless of construction date, may have a lead water service line or lead plumbing components. The Lessor of any interest in residential property constructed before 1970 is required to provide to the Lessee the photographs of a scratch test of the water service line and information from PWSA that describes how to interpret the results of the scratch test. You are advised to read the pamphlet containing information on lead water service lines and lead plumbing components provided at the time of entering into the lease.”

**§ 1005.04 PENALTIES.**

This Chapter will be enforced by the City of Pittsburgh through the Department of Permits, Licenses, and Inspections or a successor Department, if any. Any Person violating any provision of this Chapter will, upon conviction thereof, be subject to a penalty up to the maximum amount provided by the Pittsburgh Code of Ordinances. Every calendar day after the Person has received written notice of any violation of this Chapter, and on which the violation continues, will constitute a separate violation of this Chapter. The Person will be subject to pay the fine specified in the Pittsburgh Code of Ordinances for each day the residential property remains in violation.

**§ 1005.05 INJUNCTIVE AND OTHER RELIEF.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of the provisions of this Chapter is a threat to public health, safety, welfare, and the environment and is declared and deemed to be a nuisance, and the City may seek abatement thereof by injunctive or other equitable relief as provided by law.

#### **§ 1005.06 CUMULATIVE REMEDIES.**

The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable federal, Commonwealth or local law. The City may recover attorney's fees, court costs, and other expenses associated with enforcement of this Chapter, including sampling and monitoring expenses. Nothing in the above provisions will relieve the seller or Lessor of the duties to abate any hazards in the housing required by law or regulation, or, if at any time required by law, a Lead Service Line or lead plumbing components, or any other duties otherwise established by law to protect against hazards, Lead Service Lines, or lead plumbing components. The seller or Lessor is also not relieved of any liability for damages or other relief under any applicable law or legal theory arising from the disclosure of Lead Service Lines or lead plumbing components at the Residential Property.

#### **§ 1005.07 NON-WAIVERABILITY.**

This Chapter may not be waived and any attempted waiver of this Chapter will be void and unenforceable.

#### **§1005.08 SEVERABILITY.**

If a provision or clause of this Chapter or the application thereof to a person or situation is held invalid, and that

invalidity may not affect another provision or application of this Chapter, which may be given effect without the invalid provision or application, then the provisions of this Chapter are severable.

#### **§ 1005.09 SUNSET PROVISION**

This Chapter will continue for one (1) year from the date of enactment, when it will terminate and go out of existence unless extended by City Council.

#### **§ 1005.10 EFFECTIVE DATE.**

This Chapter will take effect on January 1, 2018 and will apply to any sale, offering for sale or lease as applicable on or after that date.