



Guidebook for Wisconsin Municipalities and Citizens on Replacement of Lead Service Lines Using Wisconsin Act 137

A step-by-step guide with links to related tools and
information

Developed by:

Associate Professor David Soll – University of Wisconsin: Eau Claire
Ryan Leckel – University of Wisconsin: Stout

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Overview

Statement of Intent

This guidebook is intended to help municipal leaders, including community action leaders and concerned citizens, gain a more complete understanding of Wisconsin Act 137, a law passed by Wisconsin's legislature in early 2018.

The goal is to promote the removal of lead service lines and improve the health of Wisconsinites. This guidebook draws on information obtained from individuals, nonprofit organizations, and public officials who seek to improve public health and water utility infrastructure for current and future Wisconsin citizens.

Organization of this guidebook

- Acknowledgements
- Introduction to Lead and Lead Service Lines
 - What are lead service lines (LSLs)?
 - What are the effects of lead on public health?
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- Wisconsin Act 137 Implementation Overview
- Wisconsin Act 137 Implementation Process
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 - Sample application documents

Important information



Tips, links, and other important information in this guidebook are marked with:



Acknowledgements

This guidebook was written using the vast knowledge of multiple agencies and individuals working with and for the state of Wisconsin. Because of their knowledge, we are able to provide a comprehensive guide on understanding lead service line replacement and the accompanying legislation in Wisconsin.

This project is funded by the University of Wisconsin System Undergraduate Water Fellow Program, and by selecting and funding this project, they have acknowledged the importance of promoting a healthy living environment for Wisconsinites.

The following individuals gave generously of their time to ensure the accuracy of the information provided. These individuals include:

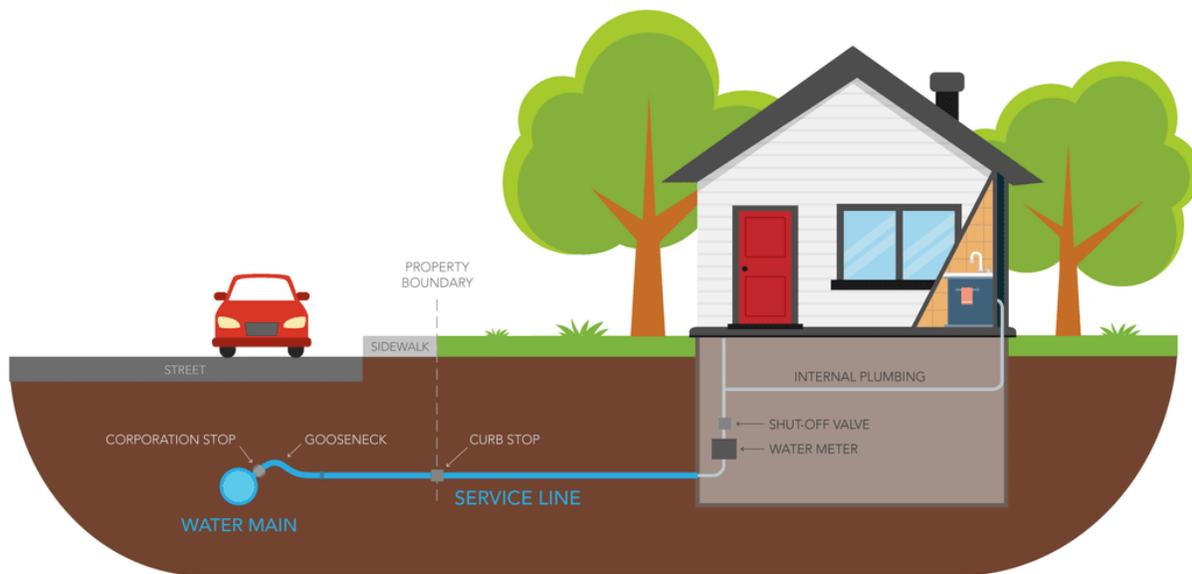
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|---|---|
| • Denise Schmidt, Public Service Commission | • Curt Witynski, League of Wisconsin Municipalities |
| • Zach Ramirez, Wisconsin Legislative Council | • Jason Mugnaini, Office of Senator Cowles |
| • Nicole Mathews, Wisconsin Department of Natural Resources | • Robert Cowles, Wisconsin State Senate |



Introduction to Lead and Lead Service Lines

What are water service lines?

Water service lines are water distribution systems that run below ground from a water main to a consumer's water meter. The line consists of two sections, the **public** service line leading from the utility water main to the curb stop, and the **private** service line leading from the curb stop to the water meter. In Wisconsin Act 137, public lines are called utility-side lines, and private ones are referred to as customer-side lines.



Source: Lead Service Line Collaborative (LSLR), 2018

Why are some water service lines made from lead?

Lead is a pliable material that was used to transport water in the United States for centuries, and was in continued use until 1986. Despite health concerns, the use of lead in water service lines was a standard practice in much of the United States as recently as the 1970s. However, in 1986 the U.S. Environmental Protection Agency banned its use in water service lines. In 1991, the Environmental Protection Agency put in place the Lead and Copper Rule, which called for monitoring of lead in water supplies. Leaching of lead from water service lines is likely the source of a significant percentage of the lead found in the blood of citizens in some Wisconsin cities and towns.

Introduction to Lead and Lead Service Lines

Why should we be concerned about lead?

Lead exposure, especially in children, the elderly, and those pregnant or nursing, can limit brain development, result in learning disabilities, and cause behavioral problems. Children and infants are particularly sensitive to lead exposure, which can contribute to lifelong developmental challenges.

How are individuals exposed to lead in water service lines?

According to the Wisconsin Childhood Lead Poisoning Prevention Program (WCLPPP), children in Wisconsin are exposed to lead based on the age of Wisconsin's housing stock. Older homes, especially those built prior to 1986, are more likely to contain lead water service lines, lead plumbing fixtures, and other sources of lead, such as lead paint. (EPA, 2018) The cost of replacement is often expensive, which explains why many older homes still contain these fixtures and lines.

What is lead poisoning?

According to the Centers for Disease Control and Prevention (CDC), an individual with a blood lead level (BLL) equal to or greater than 5 micrograms of lead in 1 deciliter of blood (5 mcg/dL) is considered to suffer from lead poisoning. The state of Wisconsin, through [Wis. Stat. § 254.11\(9\)](#) defines lead poisoning as a BLL equal to or greater than 10 mcg/dL.



Lead and Public Health

Additional information on the health effects of lead can be found through the Wisconsin Department of Health Services and the Lead Service Line Replacement Collaborative (links provided in the [“Index”](#)).

Introduction to Lead and Lead Service Lines

How is lead poisoning tracked in Wisconsin?

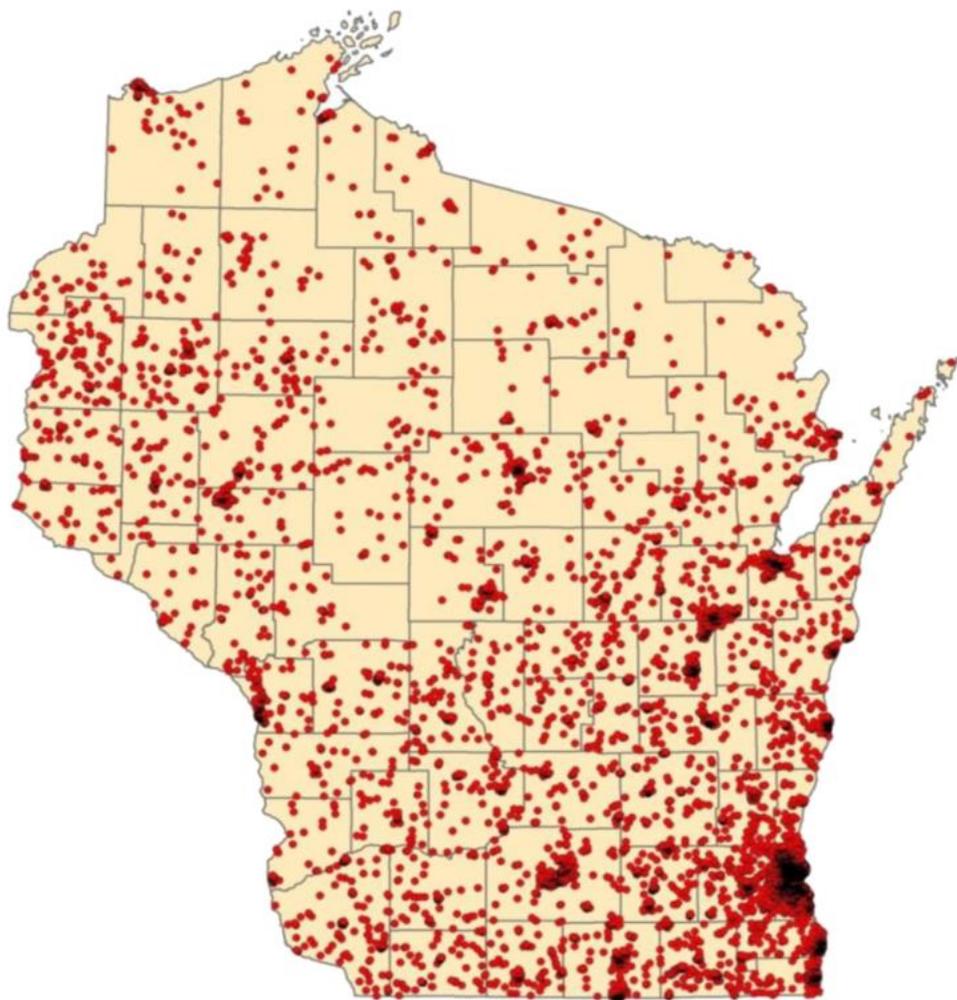
Lead poisoning in Wisconsin is tracked in children up to 6 years old who meet one or more of the following conditions: reside in or frequent a home/building built prior to 1950, live in the cities of Milwaukee or Racine, are enrolled in Medicaid and/or the Women, Infants, and Children Nutrition Program (WIC).



Lead and Children

In 2016, rates of lead poisoning in children in Wisconsin (5% of those tested) were higher than those in Flint, Michigan (2.4% of those tested). More than 200,000 children in Wisconsin were diagnosed with lead poisoning between 1996 and 2016.

(Department of Health Services, “Wisconsin Blood Lead Testing”, 2016)



Each dot represents the address of a child diagnosed with lead poisoning, 1996-2016 (Source: DHS, 2016)

Data on lead poisoning in children is gathered yearly by the Department of Health Services and the Wisconsin Department of Public Health and released as annual public reports.

Introduction to Wisconsin Act 137

What is Wisconsin Act 137

Wisconsin Act 137 (which created [Wis. Stat. § 196.372](#) and amended sections of Wis. Stat §§ 62 and 66) is recent legislation that has its roots in efforts by the city of Madison to replace privately owned lead water service lines. To help pay for the lead service line (LSL) replacements, Madison requested an increase in water rates to provide financial relief to homeowners. However, the lack of a clear legal precedent permitting public funds to be used to pay for private infrastructure prevented the city from using water rates to cover these costs. Recognizing the need to provide municipalities financial tools to accelerate the replacement of LSLs, the state legislature passed Wisconsin Act 137, which permits utilities and municipalities to provide financial assistance, through loans and grants, to private consumers for the express purpose of replacing private LSLs.

Why is Act 137 important?

The existing lead infrastructure in Wisconsin has marked effects on the health of Wisconsinites, particularly pregnant women, children under the age of 6, and the elderly. Prior to Wisconsin Act 137, there were no utility-subsidized programs in place to help consumers cover the cost of replacing lead service lines with lead-free alternatives. Prior to passage of the legislation in January of 2018, many municipalities had taken advantage of public funding, such as federal monies and state revolving funds, to replace public LSLs, initiating the first steps to reducing the exposure of the state's citizens to lead from service lines. The passage of Wisconsin Act 137 also contributes to economic growth within municipalities because communities who have removed lead service lines can promote their lead-free status to prospective residents and businesses while also retaining current residents and businesses.

Introduction to Wisconsin Act 137

Who can take advantage of Wisconsin Act 137?

Wisconsin Act 137 is a tool available to all Wisconsin municipalities that receive funding through consumer water rates approved by the Public Service Commission and that have customer-side water service lines that contain lead. Local utilities must collaborate with municipal leaders to take the steps needed to receive state approval under Wisconsin Act 137. Wisconsin Act 137 is intended to be utilized by municipal leaders under the guidance of public utilities' management for any municipality that has customer-side LSLs. These agencies can also partner with local school boards, county economic development committees, regional REALTORS associations, and community action committees.

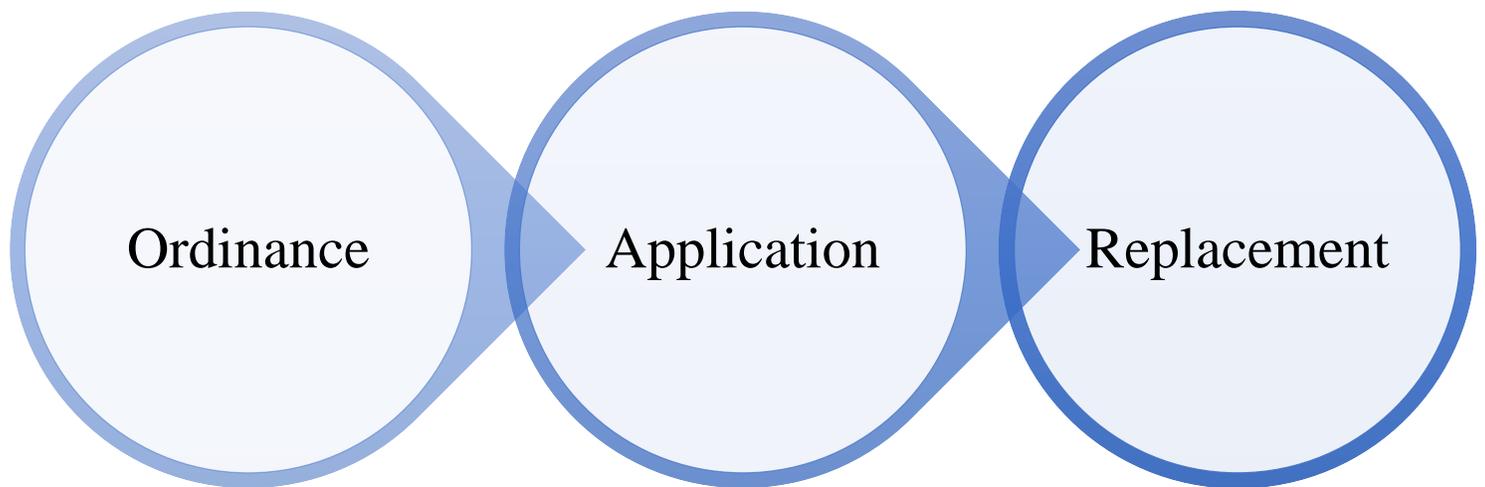


Wisconsin Legislative Council Act Memo

“2017 Wisconsin Act 137 (the Act) creates: (1) a process by which a water public utility may provide a grant, a loan, or both to a property owner for the purpose of assisting the property owner in replacing the portion of a lead-containing water service line that is owned by the property owner; and (2) a process by which a city, village, town, or county may provide a loan or facilitate owner-arranged financing from a third party for the purpose of replacing the portion of a lead-containing water service line that is owned by the property owner. The Act also authorizes a political subdivision to use its own workforce to perform, on private property, certain work that is ancillary to replacing the portion of a water service line that is owned by a public utility.” (Wisconsin Legislative Council, *Financial Assistance for Water Service Lines Containing Lead*, 2018)

Wisconsin Act 137 Implementation Process

Wisconsin Act 137 requires municipalities to follow a 3-step, detailed process in order to receive state approval to participate in the program. These steps are designed to ensure that municipalities are following the letter of the law and that the proposed replacement programs are sufficient in meeting their intended goal of full LSL replacement.



Municipalities must pass an ordinance that outlines their general approach to implementing Wisconsin Act 137, such as the type of financial assistance that will be provided to customers with LSLs. Many requirements from Wisconsin Act 137 can be included in the ordinance, such as requirements to replace all LSLs during the construction process.

Municipalities must submit a detailed application to the Wisconsin Public Service Commission, which oversees and facilitates the efficient and fair provision of quality utility services in the state. Prior to the submission of the application material, the PSC recommends the local utility schedule an in-person or web conference with PSC and DNR staff to ensure the utility understands the requirements of the application process and submits the information necessary for the PSC to make a decision.

Once the ordinance is in place and the PSC approves the application, municipalities can then begin the process of replacement. Depending on the community's needs, achieving complete removal of all LSLs may potentially take several years. Each utility will replace LSLs according to the schedule it outlines in its application to the PSC. The law places no time limits on the replacement schedule.

Wisconsin Act 137 Implementation Process

Grants, Loans, and Political Subdivisions

Wisconsin Act 137 gives municipalities some discretion regarding the nature and amount of financial assistance (grants, loans, or both) provided to customers. Before a utility can provide financial assistance to customers with lead service lines, it must meet three requirements:

1. Pass a municipal ordinance that permits the water utility to provide financial assistance to customers.
2. Replace all public service lines that contain lead at the same time as the customer-owned LSL.
3. Receive approval from the PSC of the utility's plan for providing financial assistance.

[Wis. Stat. § 66.0627](#), amended during the creation of Wisconsin Act 137, allows political subdivisions (city, village, town, or county) the authority to provide loans or connect consumers with 3rd party lenders.

Loan Repayments

As per Wisconsin Act 137, these loans cannot be forgiven and are transferred with the property at the point of sale. If an installment payment becomes delinquent, the loan becomes a lien on the property and is repaid as a special charge on the property owner's property tax bill.

Use of Collected Revenue

Municipalities that receive approval may use revenue collected from water rates to fund all or a portion of the cost of replacing customer-side LSLs. Utilities may also use cash on hand to cover replacement costs for a period of years.

Wisconsin Act 137 Implementation Process

Important Details

- The law requires that a municipality provide the same level of financial assistance to each customer in a customer class. This information is required to be provided in the [municipal ordinance](#). Further information will be provided during the [pre-application conference](#) with the PSC.
- Municipalities must replace all utility-side LSLs prior to or during the replacement of customer-side LSLs. To minimize the total cost of replacement, it is recommended by the PSC that utilities coordinate LSL replacement with road construction and main replacement projects where possible.
- Many municipalities will need to request a rate increase from the PSC to raise funds for the financial assistance provision.
- Participation in Wisconsin Act 137 requires all LSLs to be replaced, both utility-side and customer-side.
- Depending on the needs of the community, the complete process of removal and replacement of LSLs may take years.
- Wisconsin Act 137 gives the PSC 90 to 180 days to act on an application and provide a final determination. Therefore, municipalities should submit applications well in advance of the anticipated replacement schedule.
- There is no time limit set on completion of LSL replacements through Wisconsin Act 137. Therefore a municipality can take as long as necessary to identify the issue, apply for approval from the PSC, and begin replacement.

Navigating the Public Service Commission

In conjunction with Wisconsin Act 137, the Wisconsin Public Service Commission (PSC) released a detailed application guide to assist municipal leaders and utility managers. This checklist provides information necessary for municipal leaders and consumers to understand the requirements set forth by the PSC.



Checklist Information

See <https://psc.wi.gov/Pages/ForUtilities/Water/Lead-Service-Line.aspx/> for updated version of checklist.

Information on the PSC Application

- Kenosha is the only municipality so far that has been approved under Wisconsin Act 137 for LSL replacements, therefore the application provided by Kenosha should not be considered the PSC's final interpretation.
- The PSC's sample ordinance was based on the required ordinance passed by PACE WI member counties. (<http://www.pacewi.org/>)
- Much of the information requested by the Public Service Commission as part of the Wisconsin Act 137 application consists of material that the PSC requests for any proposed modification of municipal water systems. Any information that is unclear can be explained during the [pre-application conference](#) required by each municipality.

Index

Lead and Public Health Resources

- **American Water Works Association (AWWA)**
 - Resources to communicate the harmful effects of lead with consumers
 - <https://www.awwa.org/Resources-Tools/Water-Knowledge/Lead/>
- **Wisconsin Department of Health Services (DHS) – Lead-Safe Wisconsin**
 - Information on lead, renovator certifications, and health topics
 - <https://www.dhs.wisconsin.gov/Lead/>
- **Centers for Disease Control (CDC)**
 - Full topic on lead with links to articles on risk and public action
 - <https://www.cdc.gov/nceh/Lead/>

Lead Service Line Replacement Resources

- **Lead Service Line Replacement Collaborative (LSLRC)**
 - Guide to help communities facilitate lead service line replacement
 - <https://www.lslr-collaborative.org/>
- **Public Service Commission (PSC)**
 - Information on current legislature for municipal authorities
 - <https://psc.wi.gov/Pages/ForUtilities/Water/Lead-Service-Line.aspx/>
- **Wisconsin Department of Natural Resources (DNR)**
 - Guide to public funding sources for LSL replacement projects
 - <https://dnr.wi.gov/Aid/documents/EIF/leadServiceLineFunding.html/>
- **Environmental Defense Fund (EDF)**
 - Descriptions of community programs and initiatives
 - <https://www.edf.org/health/recognizing-community-efforts-replace-lsl/>

Application Sample and Template

The city of Kenosha, instrumental in the passage of Wisconsin Act 137, is the first Wisconsin municipality that has submitted an application under this new legislation. On August 30, 2018, the PSC approved Kenosha's application. Information about this application as well as the final decision are publicly available on the PSC website under the E-Services Portal through case number **2820-LS-100**.

- **PSC E-Services Portal**
 - <http://apps.psc.wi.gov/>



E-Services Portal



Welcome to the E-Services Portal of the Public Service Commission and Office of Commissioner of Railroads.
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PSC Events, Hearings, Meetings, and News Releases

- Event Calendar
- Live Broadcast
- News Releases
- Docket Calendar

Once the case number is entered, the entirety of Kenosha's application and discourse with the PSC is available for viewing.