

Offered by Councilor Matt O'Malley



CITY OF BOSTON

—————
IN THE YEAR TWO THOUSAND SIXTEEN

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IN CITY COUNCIL

**AN ORDINANCE REGARDING MANAGEMENT AND
ELIMINATION OF NATURAL GAS LEAKS**

WHEREAS: It is in the interest of the City of Boston and its residents to improve the management of infrastructure and lower associated costs by coordinating maintenance, repair, upgrades, and replacement to minimize traffic disruption and blockage due to such activity, and to enhance the safety of City residents and visitors; and

WHEREAS: The elimination of natural gas leaks requires the opening up and repair of roads in the City of Boston, which needs to be coordinated with the installation, replacement, and repair of any other underground utility or road or transportation infrastructure within the City of Boston, as well as public services; and

WHEREAS: Good planning, coordination, and management of infrastructure repairs, including eliminating natural gas leaks, depends on the availability to the City of Boston of accurate and complete information regarding natural gas leaks from gas companies; and

WHEREAS: Gas companies have information regarding the location, size, and persistence of natural gas leaks and the condition of aging or leaking natural gas infrastructure that the gas companies collect and update in the usual course of business and report to

the Department of Public Utilities and other governmental bodies as required by law; and

WHEREAS: The City has authority under section 75 of chapter 164 of the General Laws of the Commonwealth to regulate, restrict, and control all acts of gas companies that may affect the health, safety, convenience, or property of the City's inhabitants; and

WHEREAS: It is in the interest of public health, safety and welfare for the City of Boston to protect all residents, visitors, and businesses from the risk to safety and health of natural gas leaks, as well as to protect municipal property from damage and to reduce the volume of leaked gas; and

WHEREAS: Leaked and unaccounted for gas poses an economic burden on the City's residents and businesses; and

WHEREAS: Leaking Gas in the ground is harmful to vegetation and can kill valuable shade trees by depriving roots of oxygen; and

WHEREAS: Natural gas is 95% methane, and methane is a precursor to ozone formation that can decrease lung function and aggravate asthma; and

WHEREAS: Methane is a powerful greenhouse gas, and natural gas leaks contribute to global climate change and adversely affect the City of Boston's ability to comply with its Climate Action Plan;

NOW THEREFORE

Be it ordained by the City Council of Boston as follows:

SECTION 1. The Boston City Code, Ordinances, Chapter XIII, now reserved, shall be amended by adding the following:

**CHAPTER XIII
MANAGEMENT AND ELIMINATION OF NATURAL GAS LEAKS**

13.1 PURPOSE

The intent of this ordinance is:

- a) to improve the management of City infrastructure by coordinating maintenance, repair, upgrades, and replacement with gas companies;
- b) to minimize costs, traffic disruption, and blockage due to street openings;
- c) to protect the City's and its residents' investments in urban trees and green space;
- d) to enhance the public health, safety, and welfare of City residents, businesses, and visitors;
- e) to support the City's Climate Action Plan; and
- f) to facilitate closure of natural gas leaks as efficiently as possible.

13.2 DEFINITIONS

13.2.1 Unless otherwise specified, words used in and construction of this ordinance shall observe City of Boston Code, Ordinances, Chapter I, General Provisions, 1-1, Definitions and Rules of Construction.

13.2.2 The following terms shall have the following meanings:

“City” means the City of Boston and its legal limits and all rights of access and easements in and licenses to use land areas outside of its legal limits to which it has the right or obligation to maintain.

“Public Works” means the Boston Public Works Department.

“Gas company” means a corporation organized for the purpose of making and selling, or distributing and selling, gas within the Commonwealth, even though subsequently authorized to make or sell electricity; provided, however, that gas

company shall not mean an alternative energy producer as defined in section 1 of chapter 164 of the General Laws of the Commonwealth.

“State of the art” means using the best available equipment, technology, and methodology.

13.3 COORDINATION OF STREET REPAIR AND REPAIR AND SURVEY OF NATURAL GAS LEAKS

13.3.1 The City, at its discretion, shall provide written notification to any relevant gas company of the City’s intent, or the City’s grant of consent to any other entity, to open the ground on any public way for any non-emergency purpose. The notification shall:

- a) invite the gas company to survey the area to be opened, for the presence of natural gas leaks, provided that any such survey shall utilize state of the art equipment and practices;
- b) invite the gas company to repair or replace any aging, leak-prone, or leaking natural gas infrastructure that is located on the public way; and
- c) notify the gas company that the City, in furtherance of the purposes of this Ordinance as described in 13.1, may deny any subsequent application from the gas company to open the ground until such repairs have been made.

The City may determine the perimeter of the project area. Unless otherwise defined in the notification, the perimeter shall be the area to be opened.

13.3.2 In permitting a gas company to open a public way within the City for the purposes of natural gas infrastructure repair or replacement, Public Works should further the purposes of this Ordinance as described in section 13.1.

13.3.3 In connection with the issuance of a permit to a gas company to open a public way within the City for the purposes of natural gas infrastructure repair or replacement, the gas company shall provide the following information to the City:

- a) the location, grade, estimated volume, and history of each and every natural gas leak known to be present in the area to be opened;
- b) the age, type, and condition of the natural gas infrastructure present in the area to be opened; and

- c) the operating pressure, size, and material of natural gas infrastructure present in the area to be opened.

13.3.4 The City may deny any subsequent application from a gas company to open a public way within the City if the gas company, in the course of any natural gas infrastructure repair or replacement, does not perform any of the following duties:

- a) promptly notify the City upon completion of the repair or replacement of natural gas infrastructure;
- b) survey the project area for the presence of natural gas leaks, provided that such survey shall utilize state of the art equipment and practices; and
- c) repair or replace any aging or leaking natural gas infrastructure that is located within the project area.

13.3.5 The gas company shall inform the City of the location, classification grade, and estimated volume, if known, of any natural gas leak and the material of any gas pipelines detected by any survey the gas company conducts under section 13.3.1 or 13.3.4 as soon as practicable.

13.3.6 Any survey or natural gas infrastructure repair or replacement activities under section 13.3.1 or 13.3.4 shall occur within a reasonable period of time to be determined by the City and shall be subject to such other reasonable terms and conditions as the City may require. The City may survey the project area for the presence of natural gas leaks at any time, provided that the City shall inform the gas company of the location of any natural gas leak detected by its survey. 13.3.7 In furtherance of the purposes of this Ordinance as described in 13.1, the City may deny any subsequent application from a gas company to open a public way within the City if the gas company, in the course of any natural gas infrastructure repair or replacement, does not perform any of the following:

- a) Upon the undertaking of any natural gas infrastructure repair or replacement within the City, the gas company shall ensure that any gas shutoff valve in the project area has a gate box installed upon it to ensure continued public safety and that any critical valve that has not been inspected and tested within the past twelve months is verified to be operational and accessible.
- b) Upon the undertaking of any project involving excavation for purposes of performing maintenance on or construction involving any gas mains or

services by gas company employees within the City, the gas company shall ensure that:

- i) its employees first locate, identify, and mark all gas shutoff valves and gate boxes, and verify that all are cleared, operational, and accessible in clear sight at ground level in advance of any excavation;
 - ii) any gas shut off valve in the project area has a gate box installed upon it by the gas company's employees to ensure continued public safety; and
 - iii) gas shutoff valves and gate boxes are left cleared and operational following any such project.
- c) The gas company shall provide the City with written confirmation that the gas shutoff valves and gate boxes have been cleared, inspected, and tested by its employees and have been found to be capable of accepting a gate key; and, in the event the location of gas shutoff valves or gate boxes is determined to have been previously improperly located, the gas company shall provide the City with updated, correct information regarding the location of gas shutoff valves or gate boxes.
- d) Upon completion of any repair or replacement of a natural gas infrastructure, the gas company shall provide to the City a report from a certified gas inspector certifying that the pipes are installed at the proper depth, all new joints are sealed, gas shutoff valves and gate boxes are properly installed, pipe installation is free of defects that could cause new leaks, and the infrastructure repair or replacement was otherwise properly completed.

13.3.8 In the interest of improving the management of City infrastructure, each gas company that owns or operates natural gas transportation or storage infrastructure within the City shall, within 120 days of passage of this Ordinance and at least annually thereafter, provide the following to Public Works:

- a) any plan to address aging or leaking natural gas infrastructure that the gas company provided to the Department of Public Utilities within the prior year under section 145(b) of chapter 164 of the General Laws of the Commonwealth;

- b) any report identifying Grade 1, Grade 2, and Grade 3 leaks located within the City that the gas company provided to the Department of Public Utilities within the prior year as required by section 11 of chapter 164 of the General Laws of the Commonwealth;
- c) notice of the scheduled start of any planned natural gas repair or replacement activities within the City;
- d) any information or documents that the gas company provided to the Department of Public Utilities within the prior year regarding Grade 3 natural gas leaks identified as having a significant environmental impact and located within the City; and
- e) any information or documents that the gas company provided to the Department of Public Utilities within the prior year related to the volume of, or the greenhouse gas emissions associated with, any individual gas leak or grouping of gas leaks located within the City.

13.3.9 Any information provided to Public Works under section 13.3.8 shall be provided in a form that is machine-readable and able to be copied and easily manipulated. Where necessary, information shall be accompanied by definitions of any terms, acronyms, and jargon used, and shall specify the criteria, methodologies, and instrumentation used to detect the presence of a natural gas leak and determine its grade, emissions, volume, or environmental impact. 13.3.10 Within six months of effective date of this ordinance, the Environment, Energy, and Open Space Cabinet of the City shall develop and publish criteria for requesting data related to natural gas infrastructure from the Department of Public Utilities and from the gas companies, and shall update such criteria as necessary to account for changes in state and federal reporting policies and the availability of data. Information to be requested may include:

- a) a map or list designating, by street segment, age, material, and pressure, each and every component of aging and leak-prone natural gas infrastructure located within the City; and
- b) information or documents related to the volume of, or the greenhouse gas emissions associated with, any individual gas leak or grouping of gas leaks located within the City.

13.4 ACCOUNTABILITY FOR NATURAL GAS LEAK DESTRUCTION OF TREES, TREE CARE, AND REPLACEMENT

The Environment, Energy, and Open Space Cabinet shall develop and publish protocols and procedures for:

- a) pursuing and obtaining compensation for or restoration or replacement of any trees or shrubs that have been injured or killed by natural gas leaks; and
- b) mitigating any further injury to trees and shrubs caused by natural gas leaks to the maximum extent feasible.

This provision shall apply to any trees or shrubs located on City-owned property or otherwise under the ownership or control of the City. Such protocols and procedures may include procedures by which the City will invite gas companies to repair or replace aging or leaking natural gas infrastructure located within a certain distance of a damaged tree or shrub.

13.5 SEVERANCE CLAUSE

The determination or declaration that any provision of this Ordinance is beyond the authority of the City or is preempted by some other law or regulation shall not affect the validity or enforceability of any other provision.

SECTION 2. This ordinance shall take effect on July 1, 2017.