

ORDINANCE No.

Amend Building Demolition Code to require notice and delay for all single family residential demolitions in areas with a residential Comprehensive Map Designation and make other changes (Ordinance; amend Code Chapter 24.55)

The City of Portland Ordains:

Section 1. The Council finds:

1. The Bureau of Development Services (BDS) promotes safety, livability, and economic vitality through efficient and collaborative application of building and development codes.
2. BDS administers Portland City Code (PCC) Title 24, Building Regulations. PCC Chapter 24.55, Building Demolition, regulates building demolitions within the City.
3. PCC 24.55.200, Demolition Delay – Housing Preservation (Demolition Delay Ordinance), requires notice and a delay in issuing demolition permits for single family residences in areas with a Comprehensive Map Designation of 35 days. Subsection 24.55.200(K)(1) exempts demolitions of single family residences from the notice and delay requirements when the applicant applies for a building permit to replace the home to be demolished with another single family residence.
4. As noted in the Portland Residential Demolition Study and Recommendations of the Portland Planning Commission dated August 27, 1987 (“1987 Study”), demolition delay was first included in the City Code as part of the City’s enforcement relating to dangerous and abandoned buildings. According to the 1987 Study, the demolition delay provisions were initially intended to bring older apartment buildings and residential hotels up to relevant structural, fire and life safety standards and thus save them from demolition to maintain the City’s affordable housing stock.
5. The 1987 Study recommended amending the then-existing demolition ordinance to focus on single family residential demolitions and institute a waiting period between the application for and the issuance of residential demolition permits to encourage saving the existing housing stock. Based on the recommendations from the 1987 study, the City Council enacted the Demolition Delay Ordinance on November 2, 1988 (Ordinance No. 161363) that included a notice and delay period of 35 days for all single family residential demolitions, with no exceptions.
6. In 1990, the Planning Commission proposed amending the Demolition Delay Ordinance as part of a comprehensive Zoning Code amendment to include a possibility for a 120-day extension to the demolition delay period upon the request of a recognized neighborhood organization. The City Council adopted Ordinance No.163608 on November 7, 1990, which incorporated the 120-day demolition delay extension if such a request was made by a recognized organization within the initial 35-day notice and delay

period. It also included the exception to demolition delay and notice now codified in PCC 24.55.200(K)(1) for demolition permits where the permit is accompanied by an application for a building permit for a replacement single family residence. The exception was included because the purpose of the Demolition Delay Ordinance was to preserve existing housing stock, and by replacing the existing structure that was being demolished with another structure of the same type, the housing preservation goal was being met.

7. In the 18 months from May 2013 through November 2014, the Bureau of Development Services received 457 residential demolition permit applications subject to the Demolition Delay Ordinance. Of those permit applications, 344 were not subject to the notice and delay requirements because they fell within the 24.55.200(K)(1) exception. Of the 115 projects that were subject to the 120-day demolition extension, only 8 extensions were requested. Of the 8 requests for extensions, none has resulted in an alternative to demolition being negotiated.
8. On July 31, 2014, the Historic Landmarks Commission recommended to the City Council that the Demolition Delay Ordinance be revised to eliminate the exception to demolition delay in PCC 24.55.200(K)(1) and to add a definition of demolition that included removal of 50% or more of the existing structure. (See Portland Historic Landmarks Commission Demolition White Paper, July 28, 2014, p. 2.)
9. In response to the recommendations of the Historic Landmarks Commission, the Bureau of Development Services' Development Review Advisory Committee (DRAC), Demolition Subcommittee met over several months to develop recommended changes to the Demolition Delay Ordinance.
10. Based on the recommendations of the DRAC Demolition Subcommittee and public testimony, PCC 24.55.200 is hereby revised to: a) eliminate the PCC 24.55.200(K)(1) exception to demolition delay, thereby making all residential demolitions in areas with a Comprehensive Map Designation subject to a 35-day notice and delay; b) add a definition of demolition that includes removal of the structure down to the subflooring; and c) add a new permit category for major alterations and additions that requires delay and notice of 35 days for all residential projects in areas with a Comprehensive Map Designation where 50% or more of the exterior walls are removed.
11. The following amendments to PCC 24.55.200 also remove the 120-day delay extension and replace it with a possible 60-day delay extension if the requesting party files an appeal to the Code Hearings Officer and demonstrates that it is actively pursuing an alternative to demolition.
12. This ordinance will take effect 60 days from the date of the second reading.
13. The City Council will review the ordinance by June 30, 2016, to determine whether any revisions are necessary.

- 14. Funding for implementation of the ordinance and for appeal fee waivers will be explored, and any need to seek General Fund monies will be requested in the next Budget Monitoring Process (BuMP) cycle.

NOW, THEREFORE, the Council Directs:

- a. Section 24.55.100, Demolition – Debris – Barricades – Nuisances, is amended as follows:

24.55.100 Demolition - Debris - Barricades - Nuisances.

It is unlawful for any owner or persons in control of any such structure which is being demolished, or which has been damaged by fire, to leave any portion of the structure unsupported for more than 1 hour, if such ~~S~~section is liable to collapse or is in any way a danger to the public. In no event shall a portion of the structure be left unsupported for more than 24 hours. Suitable barricades shall be provided to prevent access to the vicinity of any unsupported ~~S~~section of the structure. Any permanent structural supports provided as a result of application to this ~~S~~section shall be designed by a structural engineer registered to practice in the State of Oregon and hired by the applicant. All such designs, calculations, drawings, and inspection reports shall be approved by the Director.

All combustible debris or material shall be removed from the premises on which the demolition is carried out within 30 days from the completion of the demolition, or from the stoppage of the work thereon if the work remains uncompleted. All non-combustible debris or material resulting from demolition shall be removed within 30 days after the completion of the demolition or stoppage thereof, unless the Director extends the time therefore because of weather, terrain, or other special circumstances, but such extension shall not exceed 3 months. It is unlawful for any owner or person in possession of real property to permit the debris to remain on the property without disposal in excess of the periods mentioned above or of any specific extension thereof as set forth above.

Any of the above-mentioned things existing while there is a duty to remove or correct the same, shall constitute a public nuisance. Any unsupported portions of a building or structure existing beyond the periods set forth above shall be subject to summary abatement by the City. The abatement shall be in accordance with the procedure set forth in Title 18, Chapter 18.03, Nuisance Abatement.

All structures to be demolished shall be taken down in a safe manner. The streets or sidewalks shall not be littered with rubbish and shall be wet down, if necessary. During any demolition work, all receptacles, drop boxes, shafts, or piping used in such demolition work shall be covered in an appropriate manner. After removal of any structure all foundations that are not to be used for new construction shall be removed and all excavations filled in compliance with Chapter 24.70 of this Title, to a level of the adjoining grade. Plans shall be submitted for any new construction proposed, utilizing the remaining foundations. Any remaining foundations approved for further use shall be barricaded by a fence no less than ~~8~~6 feet high maintained until the new construction has progressed sufficiently to remove any hazards to the public. Such period of time is not to

exceed 30 days. For regulations on the use of public streets and protection of pedestrians during demolition see Chapter 24.40 of this Title.

b. Section 24.55.150, Definitions, is added as follows:

24.55.150 Definitions.

- A. Demolition.** Demolition means removal of the entire superstructure down to the subflooring, such that none of the existing superstructure is maintained. Demolition includes removal of all exterior walls. It also includes alteration, abandonment or removal of all of the existing perimeter foundation.
- B. Major Residential Alteration or Addition.** Major alteration or addition means doing any of the following:
 - 1. adding any new story, including a basement or other below-grade structure. Raising a structure to meet the required headroom in a basement is considered the same as creating a basement,
 - 2. increasing or replacing 50 percent or more of the exterior wall area on any floor. If the subflooring under an exterior wall is removed, it will be treated as if the wall was removed,
 - 3. adding total new floor area to the existing structure that exceeds 800 square feet, or
 - 4. adding an area exceeding 100 percent of the existing foundation footprint area of the structure.
- C. Recognized organization.** Recognized organization includes neighborhood coalitions and neighborhood associations recognized by the Portland Office of Neighborhood Involvement.
- D. Subflooring.** Subflooring means the bottom-most structural floor laid as a base for a finished floor.
- E. Superstructure.** Superstructure means the part of the building or construction entirely above its foundation or basement.

c. Section 24.55.200, Demolition Delay – Housing Preservation, is amended as follows:

24.55.200 Residential Demolition Delay - Housing Preservation.

- A. Purpose.** The residential demolition delay provisions are intended to allow an adequate amount of time to help save viable housing in the City while recognizing a property owner’s right to develop or redevelop property. The regulations provide an opportunity for public notice of impending residential demolitions and

coordination of the efforts of various City bureaus. The regulations also encourage ~~moving as an~~seeking alternatives to demolition. The provisions accomplished this through a two part process:

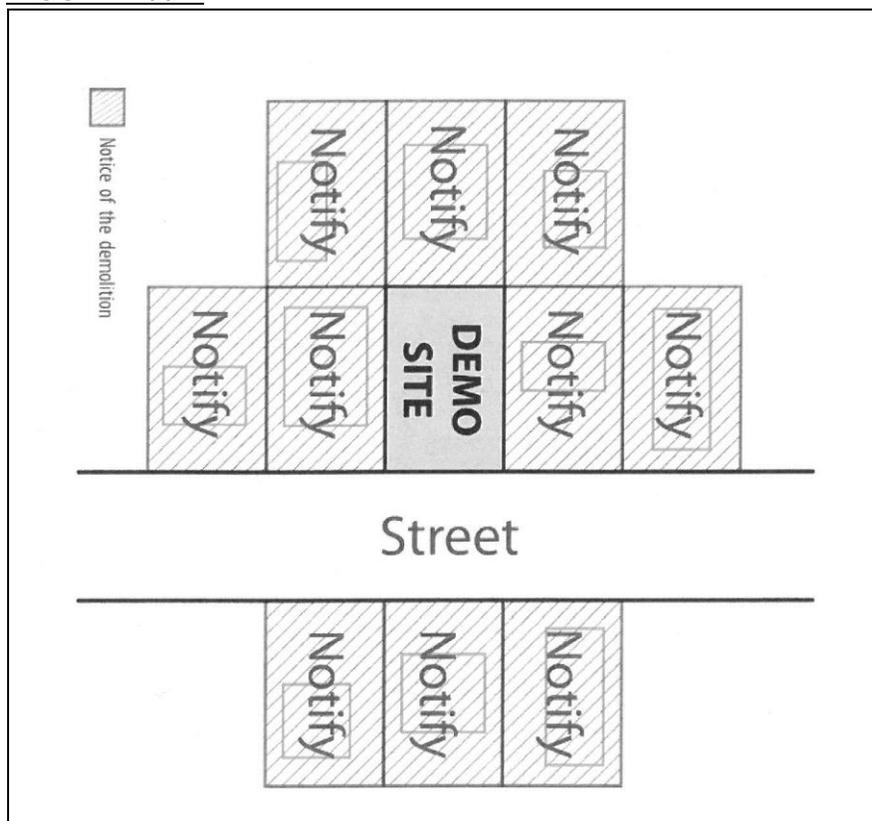
1. a 35-day notice period during which demolition is delayed, and
 2. a possible ~~120~~60-day extension of the demolition delay period.
- B.** Where the delay applies. The residential demolition delay regulations of this Section (24.55.200) apply to sites with residential structures in areas with a residential Comprehensive Plan Map designation. The regulations only apply to applications for demolition of residential structures. They do not apply to demolitions of accessory structures such as garages or other outbuildings.
- C.** Application for building permit for demolition.
1. Signed statement. The application for a building permit for demolition must include a statement signed by the owner(s) of the property. The statement must acknowledge that the owner(s) are aware of the primary uses permitted under the current zoning on the site without a conditional use, zone change, Comprehensive Plan Map amendment, or other land use approval and that such an approval will be required before other uses will be permitted on the site. The statement may be on forms that the Director may make available.
 2. Delay in issuing. The building permit for demolition will not be issued except as provided for in this Section (24.55.200).
- D.** ~~Notification~~Notice of application.
1. ~~Posted notice. Within five days of receipt of the application for demolition, the Director will post a notice of the requested demolition at the site. The notice must be posted at the site for no less than 30 day. The notice must be at least 1 1/2 by 2 feet in size and must be visible to passers by. The notice must contain at least the following information.~~Mailed notice. Within 5 days of receipt of a complete application for a residential demolition permit, the Bureau of Development Services will mail written notice of the demolition request to all properties within 150 feet of the site to be demolished, to the recognized organization(s) whose boundaries include the site, to the Architectural Heritage Center/Bosco-Milligan Foundation, Inc., and to the Historic Preservation League of Oregon, dba Restore Oregon. A complete application means when the Bureau of Development Services has received a complete permit application, project plans and the intake, review and notice fees have been paid. The notification letter will contain at least the following information.

- a. Notice that the site has been proposed for demolition,
- b. The date the application for demolition was received,
- c. Notice that there is a demolition delay period of 35 days which may be extended upon request from the ~~R~~recognized ~~O~~organization(s) whose boundaries include the site or an interested party,
- d. The contact information of the applicant.
- de. The last day that requests for extended delay may be submitted, and
- ef. The location where more information is available.

2. ~~Notice to the recognized organization(s). Within 7 days of the receipt of the application for demolition, the Director will send a written notice of the demolition request to the recognized organization(s), recognized by the Office of Neighborhood Associations, whose boundaries include the site.~~ Posted notice. Five full days before demolition activity commences, the applicant must post door hangers provided by the Bureau of Development Services on the properties abutting and across the street from the site of the demolition. See Figure 200-1. The notice must contain all of the following information.

- a. Notice that the site has been proposed for demolition,
- b. The demolition permit number,
- c. The approximate date demolition activity will commence,
- d. Contact information of the agencies that regulate asbestos and lead-based paint,
- e. Contact information for the applicant, and
- f. The location where more information is available.

FIGURE 200-1



~~3. Notice to Portland Development Commission. Within 7 days of the receipt of the application for demolition, the Director will send a written notice of the demolition request to the Portland Development Commission. Within 14 days of the receipt of the application for demolition, the Portland Development Commission will forward to the owner of the property such materials explaining City housing programs that the Commission deems appropriate.~~

- E. 35-day notice period. The building permit for residential demolition will not be issued during the 35-day notice period. The notice period begins on the day the complete permit application is received and all intake fees have been paid. If no written request to extend the demolition delay is received during the 35-day notice period as provided in subsection 24.55.200 F. below, then the Bureau of Development Services will issue the building permit for demolition.
- F. Requests for extension of demolition delay period. Requests to extend the demolition delay period may be made as follows:
 - 1. Who may request. Requests to extend the demolition delay period an additional ~~120~~60 days may be made by a recognized organization whose boundaries include the site or any other interested party.

2. How to request. The request to extend the demolition delay period must be made in writing, on forms provided by the ~~Director~~Bureau of Development Services. ~~They~~The request must be submitted to the Bureau of Development Services by 4:30 p.m.~~PM~~ on the last day of the initial 35-day notice period. The request must be accompanied by an appeal of the demolition permit application submitted to the Bureau for a hearing before the Code Hearings Officer, as provided in Subsection 24.55.200 H. below, along with the appeal fee or a waiver of the fee and all documents the appealing party wants in the record to support the appeal. A fee waiver will only be granted to recognized organizations whose boundaries include the site.
- G. ~~120~~60-day extension of residential demolition delay period. If a signed request for extension of the demolition delay is received as provided in Subsection 24.55.200 F. above, issuance of the building permit for demolition will be stayed until the Code Hearings Officer has rendered a decision of the not issued appeal filed as provided in Subsection 24.55.200 H. below~~during the 120-day extension period except as provided in Subsection 24.55.200 H. below.~~ ~~During the 120-day extension period, private citizens or the City may pursue alternatives to demolition such as rehabilitating the structure or moving the structure in accordance with agreements reached with the applicant. These efforts may use private resources or public programs that may be available. Mitigation efforts such as a salvage agreement may also be pursued during this period.~~
- H. Appeal of the residential demolition permit application. An interested party may appeal issuance of the demolition permit by completing an appeal application on forms provided by the Bureau. The appeal application must be accompanied by the appeal fee or a fee waiver, along with all documents the appealing party wants in the record to support the appeal. Appeals will be forwarded to the Code Hearings Officer and will be governed by the provisions in Chapter 22.10, unless there is a conflict between Chapter 22.10 and this Section, in which case this Section shall apply. The provisions of Chapter 22.03 shall not apply to appeals under this Section, except for Sections 22.03.050 (Hearing Procedure), 22.03.080 (Evidence), and 22.03.110 (Orders). The appeal may be filed any time within the initial 35-day delay period. The demolition permit may not be issued from the time the Bureau receives an appeal application and the fee or fee waiver, until the Code Hearings Officer has rendered a decision or the 60-day extension period has expired. If the fee waiver is denied, the appealing party must submit the appeal fee to the Bureau within three business days of the denial or the appeal will be rejected. The appealing party has the burden of proving that it is actively pursuing an alternative to demolition and must demonstrate all of the following:
1. The requesting party has contacted the property owner or property owner's representative to request a meeting to discuss alternatives to demolition by sending a letter to the property owner by registered or certified mail, return receipt requested;

2. The particular property subject to the demolition permit application has significance to the neighborhood. Evidence of the significance may include, but is not limited to, architectural significance, the age and condition of the structure or other factors;
 3. The requesting party has a plan to save the structure; and
 4. The requesting party has a reasonable potential to consummate the plan within 95 days of the date the Bureau accepted the complete demolition permit application by providing a pro-forma budget and either evidence of funds on hand or a fund raising plan sufficient to meet the financial requirements of that budget.
- ~~Appeal of the 120 day extension. The applicant for demolition may appeal the 120 day extension to the Code Enforcement Hearings Officer as provided in Chapter 22.10, Appeals to the Code Hearings Officer. The appeal may be filed anytime within the 120 day extension period. The approval criteria for termination of the extension period are as follows: The demolition delay extension will be terminated if the Hearings Officer finds that the recognized organization that requested the extension has not made a good faith effort to work with the applicant for demolition to do any of the following:~~

- ~~1. Move the structure;~~
- ~~2. Find a purchaser for the site; or~~
- ~~3. Agree on an alternative proposal that would not involve the demolition of the structure.~~

I. Moving as an alternative. If the applicant decides to move the structure instead of demolishing it, then the demolition notice period and/or extended delay period becomes moot. The demolition delay period is automatically terminated when a building permit to move the structure from the site and a building permit to relocate the structure to another site are issued.

J. Findings of the Code Hearings Officer. If the Code Hearings Officer finds that the requesting party has demonstrated that it is actively pursuing an alternative to demolition and has met all of the criteria in Subsection 24.55.200 H (1 – 4) above, the Code Hearings Officer may grant an extension of the demolition delay for up to 60 additional days from the date the initial 35 day delay period has expired. If the Code Hearings Officer finds that the requesting party has not met its burden, then the Bureau may issue the demolition permit immediately upon receipt of the decision, provided that all other requirements for issuing the demolition permit have been satisfied.

JK. End of the extension period. If the Code Hearings Officer has not rendered a decision within the 12060-day extension period as provided in Subsections 24.55.200 H, and J, above, the building permit has not been terminated for demolition may be issued any time after 12060 days have elapsed since the

and expiration of the initial 35-day notice period. In no event will the permit issuance be delayed more than 95 days from the date the Bureau received the complete demolition permit application if all other requirements for issuing the demolition permit have been satisfied.

KL. Exceptions to demolition delay.

~~1.~~ — The provisions of this Section (24.55.200) do not apply to applications for demolition of single family residences if the application is accompanied by an application for a building permit for a replacement single family residence.

21. The provisions of this Section (24.55.200) do not apply to applications for building permits for demolition that are required by the City to remove structures because of a public hazard, nuisance, or liability. The structure must be subject to a demolition order from the City, or be the subject of enforcement proceedings for demolition and be stipulated by the owner as a dangerous building, in order to be exempt from the demolition delay provisions.

32. The provisions of this Section (24.55.200) do not apply to applications for building permits for demolition, ~~for~~of structures that are designated historical landmarks, on the Portland Historic Resources Inventory, or in historic districts. In these situations, the provisions of ~~Chapter 33.222~~ Title 33, Planning and Zoning apply.

d. Section 24.55.210, Major Alterations and Additions, is added as follows:

24.55.210 Major Residential Alterations and Additions.

A. Purpose. The delay provisions are intended to provide notice of a major residential alteration or addition to recognized organizations and to surrounding neighbors.

B. Where the delay applies. The major residential alteration and addition delay applies to sites with residential structures in areas with a residential Comprehensive Plan Map designation. The regulations only apply to applications for major alteration and additions of residential structures. They do not apply to accessory structures such as garages or other outbuildings.

C. Delay in issuing. The building permit for a major residential alteration or addition will not be issued except as provided for in this Section (24.55.210).

D. Notification.

1. Emailed notice. At least 35 days before a building permit is issued for a major residential alteration or addition, the applicant for the permit must email a letter to the recognized organization(s) whose boundaries include the site that contains at least the following information.
 - a. Notice that an application for a major alteration or addition has been or will be submitted to the Bureau of Development Services,
 - b. The date the application was filed, if applicable,
 - c. A general description of the proposed alteration or addition,
 - d. Notice that there is a delay period of 35 days from the date the notice is sent, and
 - e. The contact information of the applicant.

2. Posted notice. At least 35 days before the building permit is issued for the major residential alteration or addition, the applicant must post door hangers provided by the Bureau of Development Services on the properties abutting or across the street from the site of the project. See Figure 200-1 in section 24.55.200. The notice must contain all of the following information.
 - a. Notice that an application for a major alteration or addition has been or will be submitted to the Bureau of Development Services,
 - b. The permit application number, if an application has already been filed,
 - c. The approximate date the construction activity will commence,
 - d. Contact information of the agencies that regulate asbestos and lead-based paint, and
 - e. Contact information for the applicant.

- E. Required information prior to permit issuance. Prior to issuing a major alteration or addition permit, the delay period must expire and the applicant must submit to the Bureau of Development Services:
 1. A copy of the sent email and a list of the names and email addresses of all recognized organizations that received the notification and the date the notifications were emailed, certified by the applicant or the owner or owner's agent, and

- 2. A copy of the door hanger and a list of addresses of all properties that received the notification and the date the notifications were posted, certified by the applicant or the owner or owner's agent.
- F.** End of the delay period. The building permit for the major alteration or addition may be issued any time after the end of the 35-day notice period.
- G.** Expiration of permit application. If for any reason, the permit application for a major residential alteration or addition expires prior to issuance of the permit or if an issued permit expires prior to the project being commenced, a new permit application, notification and delay period will be required.

Passed by the Council:

Commissioner Amanda Fritz
Prepared by: Nancy Thorington, BDS
Date Prepared: February 12, 2015

Mary Hull Caballero
Auditor of the City of Portland
By
Deputy