

ASBESTOS AND LEAD-BASED PAINT AND SITE CONTROL REQUIREMENTS FOR RESIDENTIAL DEMOLITIONS

24.55.150 - Definitions

Add the following definitions to Chapter 24.55:

- **“Demolition Manager”** means the person designated by the property owner or demolition permit applicant who will be responsible for implementing and overseeing the Demolition Plan and who will be the contact person for BDS and other regulatory agencies regarding the Demolition Plan. The Demolition Manager must complete training and be an accredited inspector, as that term is defined in OAR 340-248-0010(1), unless the Demolition Manager designates another person who has the training and is an accredited inspector and who is on-site during all mechanical demolition and deconstruction activities. The Demolition Manager must have knowledge regarding erosion and sediment control, site control, and proper handling of materials generated from the demolition activities. The Demolition Manager is a “responsible party” as defined in this Section 24.55.150.
- **“Demolition Plan”** means the plan signed by the Demolition Manager that outlines the techniques and equipment that the Demolition Manager will use on the demolition site to control dust and debris generated during the demolition activities. The Demolition Plan must also include the anticipated timeframe for the demolition, a description of the site control measures set forth in Section 24.55.205(C) and monitoring processes that will be followed on the site before, during, and after the demolition activities, details of pedestrian protection where required, and a description of how the site will be secured against accessibility by any unauthorized persons. The Demolition Plan must include erosion and sediment control measures required by this Chapter 24.55, Title 10 and Chapter 17.39 of the Portland City Code, the City of Portland Erosion and Sediment Control Manual, the City of Portland Source Control

Manual, and any other City of Portland regulations governing erosion, sediment control, stormwater control, or wastewater generated from the demolition activities covered by this Section 24.55.205. The Plan must also include contact information for the Demolition Manager.

- **“Mechanical demolition activities”** means pulling down any part of a structure using mechanical tools such as cranes, bulldozers, excavators, rams, or similar heavy machinery.
- **“Deconstruction”** means demolition via the systematic dismantling of a structure or its parts, typically in the opposite order it was constructed, which can include the selective use of heavy machinery.
- **“Full deconstruction”** means systematically dismantling 100% of the building, including finishes, core, shell, frame, mechanical, electrical, and plumbing fixtures and only using machinery to move and process materials once they are removed.
- **“Lead-containing”** means paint or other surface coatings that contain lead equal to or exceeding 1.0 milligram per square centimeter or more than 0.5 percent by weight.
- **“Responsible party”** means the property owner or person authorized to act on the owner’s behalf and any person causing or contributing to a violation of this Title.

24.55.200(B)

B. Where the delay applies. The residential demolition delay regulations of this Section (24.55.200) apply to sites with residential structures [with 1-2 dwelling units](#) 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.

24.55.200(D)(2)

2. Posted notice. ~~Five full days~~ Not more than two weeks nor less than 72 hours before demolition activity commences, the applicant must post door hangers on all properties within 150 feet of the site to be demolished on signs 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. Name and phone number of the Demolition Manager,
- b. Notice that the site has been proposed for demolition,
- bc. The demolition permit number,
- cd. The approximate date demolition activity will commence,
- de. Contact information of the agencies that regulate asbestos and lead-based paint,
- ef. Contact information for the applicant,
- g. Recommended safety information for surrounding properties, such as closing windows and keeping children away from the site, and
- fh. The location where more information is available.

24.55.205 – Site Control Measures in Residential Demolitions

A. **Scope.** The provisions of this Section 24.55.205 apply to demolitions involving the following, regardless of zoning or Comprehensive Plan Map designation:

- 1. Structures used for residential purposes with four or fewer dwelling units, including mixed use structures. “Mixed use” for purposes of this Section 24.55.205 means the combination on a site of residential uses with commercial or industrial uses.

2. Any detached accessory structures with a floor area over 200 square feet on a site with a structure covered by Section (1) above. "Accessory structure" for purposes of this Section 24.55.205 means a structure not greater than 3,000 square feet in floor area, and not more than two stories in height, the use of which is accessory to and incidental to that of the main structure.

B. Documentation Required. A permit to demolish a structure within the scope of this Section as defined in Subsection (A) above will not be issued until the Bureau of Development Services has received all of the following:

1. A copy of the asbestos survey required under Oregon Revised Statutes 468A.757 and Oregon Administrative Rules Chapter 340, Division 248, as each of these is amended from time-to-time.
2. If asbestos is identified in the asbestos survey:
 - A. For friable asbestos removal, a copy of the ASN1 (friable notification form) and a close-out letter from the licensed asbestos abatement contractor verifying all of the asbestos identified in the asbestos survey has been abated; and
 - B. For non-friable asbestos removal, a copy of an ANS6 (nonfriable asbestos notification form), and a copy of the ASN4 (asbestos waste shipment form).
3. A Demolition Plan as described in Section 24.55.150.
4. If the structure to be demolished was built before January 1, 1978, it will be presumed to contain lead-based paint, unless a copy of lead-test results conducted by an "inspector" or "risk assessor," as those terms are defined on OAR 333-069 and as that section is amended from time-to-time, that shows the structure does not have lead-containing materials is submitted to the Bureau of Development Services (BDS) with the application for a demolition permit.

5. Unless the lead-test results outlined in Subsection (4) above show that the structure does not have lead-containing materials, if the structure to be demolished was built before January 1, 1978, and the person performing the demolition is a contractor, as defined in ORS 701.005 (5)(a), the person performing the demolition must submit proof to BDS verifying that the person has one of the certifications specified in OAR 333-068-0070, as that section is amended from time-to-time, or has hired a person with one of the specified certifications to perform the mechanical demolition activities or deconstruction on the site.

C. Requirements for Demolitions

1. Accredited inspector. The Demolition Manager or an accredited inspector, as that term is defined in OAR 340-248-0010(1), must be present during all mechanical demolition activities and deconstruction on the site.

2. Lead hazard reduction. Prior to commencing mechanical demolition activities, all painted exterior non-structural surfaces, including, but not limited to, doors, windows, railings, soffits, trim, exterior porches (except for concrete or masonry materials), and all layers of siding (unless such surfaces have been tested as set forth in Section (B)(4) above and found not to contain lead-containing paint) must be removed, and all such materials must be placed in 6 mil plastic and deposited in a covered container. During the removal of these exterior painted materials, 6-mil plastic sheeting or equivalent must be placed at the base of the exterior shear wall and extend at least 10 feet beyond the perimeter of the structure or work area, whichever is greater. If a property line prevents 10 feet of ground covering, vertical containment must be erected to protect neighboring properties.

3. Dust suppression. During mechanical demolition activities, including transfer and loading of materials, the structure, equipment parts that come in direct contact with building materials, and debris must be continuously wetted with a water spray sufficient in volume and force to prohibit

airborne emission of dust and particulates from leaving the site. In addition, the entire demolition site and all debris piles must be wetted down each day prior to commencing mechanical demolition activities and at the end of each day during which mechanical demolition activities have occurred.

4. Wind speed. Mechanical demolition activities must be suspended when winds exceed 25 MPH, verified regularly during mechanical demolition activities by using a hand-held anemometer prior to commencing mechanical demolition activities each day and any time wind speeds noticeably increase. Only deconstruction or other activities that do not generate dust may be conducted on the site when winds exceed 25 MPH.

5. Containment of demolition debris on-site. Containment measures to prevent suspect asbestos-containing material, lead-based paint, and any other pollutants, as defined in the City of Portland Erosion and Sediment Control Manual, from running off the site must be employed consistent with Portland City Code Title 10 and the Solid Waste and Materials Management provisions of the City of Portland Erosion and Sediment Control Manual. If stormwater or any other discharges of water generated on the site pools or is collected onsite, then written authorization is required to discharge into a City sewer system, unless the Demolition Manager arranges to have the water pumped and properly disposed of off-site. The site will be required to employ approved best management practices, such as settling and filtration, prior to discharge per Portland City Code Sections 17.34.030(B) and 17.39.040(C)(10), and City of Portland Sanitary Discharge and Pretreatment Program Administrative Rules, ENB-4.03(3)((B) and (C).

6. Demolition debris. Any non-salvageable materials and debris generated from demolition activities, including deconstruction, that is deposited into any receptacle, drop box, dumpsters shaft, or piping and any debris left on the site, must be covered at the end of each work day with non-permeable plastic.

7. Exceptions for Full Deconstruction. If the structure to be demolished will be fully deconstructed in accordance with the deconstruction requirements outlined in Portland City Code Section 17.106.040(B) and the Portland Deconstruction Administrative Rules adopted October 31, 2016, Parts 4.1 and 4.2, as amended from time-to-time, then the lead hazard reduction requirements in subsection (2), except the requirement for horizontal and vertical plastic protection; the wetting techniques outlined in subsection (3), except the requirement to wet mechanically transferred and loaded materials; and the wind restrictions in subsection (4) above do not apply during deconstruction activities.

8. Exemption for Unsafe or Hazardous Structures. An applicant may request an exemption from the lead hazard reduction requirements in Section (2) above if the structure is structurally unsafe or otherwise hazardous to human life to the extent that the activities described in Section (2) above could not be safely executed. The request must accompany the application for the demolition permit, unless the unsafe or hazardous condition is not discovered until after the permit application has been submitted. Reasons for exemption consideration could include, but are not limited to, extensive fire damage, drug manufacturing, or severe structural issues that cannot be mitigated without complete mechanical demolition. Request for an unsafe or hazardous structure exemption must be submitted to the Bureau of Development Services and include all of the following:

a. A letter on company or organization letterhead from one of the following professionals stating that performing the lead hazard reduction requirements would not be safe:

- (i) Structural Engineer licensed in the State of Oregon.
- (ii) Portland Police Bureau.
- (iii) Portland Fire & Rescue Bureau.

(iv) Bureau of Development Services.

(v) Hazardous material professional with credentials to perform work in the

State of Oregon.

b. A statement by the professional providing the letter indicating that they have no financial or other interest in the property or project.

c. Supporting evidence documenting the condition of the structure and reasons why the lead hazard reduction activities are not recommended due to safety concerns.

9. Notification and Posting. All demolitions that are subject to the provisions of this Section 24.55.205 must comply with the notification requirements in Section 24.55.200(D)(2). All such sites must also be posted with a sign during demolition activities that meets the requirements of Portland City Code Section 10.30.020(B)(8)(a) and includes the name and telephone number of the Demolition Manager, in addition to the information required in Section 10.30.020(B)(8)(a).

D. Demolition-Related Inspections

1. BDS will conduct an initial pre-demolition site assessment to determine whether the site control measures outlined in the Demolition Plan, erosion control measures, sediment control measures, and site security are adequate based on specific site conditions or other City regulations. The initial site assessment will be used to review the Demolition Plan, including final site grading and any necessary permanent site control measures. In addition, the initial site assessment will ensure that there is a Demolition Manager and that a copy of the Demolition Plan is on site.

2. During the demolition activities, BDS will conduct an inspection to confirm the Demolition Plan is being properly implemented and maintained during the demolition process, and any dust-suppression and other site control equipment described in the Demolition Plan are on-site.

3. BDS will conduct a post-demolition inspection to verify that site grading has been completed, permanent soil stabilization measures are in place, and the premises is secure as detailed in the Demolition Plan.

E. Enforcement

1. Stop Work Orders

When necessary to obtain compliance with this Section 24.55.205, the Director may issue a stop work order as described in Portland City Code Section 3.30.080 requiring that all work, except work directly related to elimination of the violation, be immediately and completely stopped. Any person subject to a stop work order may seek administrative review of the order and may appeal the Director's administrative determination as provided in Portland City Code Section 3.30.080.

2. Citation Process and Fines

a. Citation Process

Correction Notice. If BDS finds the demolition project does not comply with any provision of this Section 24.55.205, BDS will issue a correction notice stating the provision(s) violated and the required correction(s) to bring the project into compliance.

Citation for Violations. If a violation for which a correction notice has been issued is not corrected, or if the same responsible party is found to have violated any provision of this Section 24.55.205 on a different project, BDS may issue a citation to the responsible party for such violation. For the purposes of this Section 24.55.205, the responsible party is defined in Section 24.55.150.

Citation service. A citation may be personally delivered to the responsible party, or may be served by Registered or Certified Mail to the responsible party. For purposes of this Subsection, service by Registered or Certified mail is complete and effective when a correctly addressed notice is deposited with the postal service after being either certified or registered by the postal service.

Fines and corrections. The citation will state the section of this Section 24.55.205 violated, the fine imposed, and the corrective action required.

Corrections not made. If corrections are not made and the violation(s) continue, BDS may impose additional citations or pursue other enforcement remedies as authorized under Portland City Code Section 3.30.040, including assessment of Administrative Enforcement Fees and revocation of issued demolition or building permits.

Citation appeals. Issuance of a citation may be appealed by requesting an Administrative Review, see Subsection G below.

b. Fines

The following fines are established for violations of this Section 24.55.205. These fines will be assessed as a result of an issued citation for violations of this Section 24.55.205 and are in addition to any other fines authorized by law.

1st Offense - \$5,000 – a first offense is based on a single inspection, even if there are multiple violations. For any subsequent offenses, a separate fine may be assessed for each violation of this Section 24.55.205.

2nd Offense - \$10,000, or as allowed by the fee schedule adopted by the City Council.

3rd Offense - \$15,000, or as allowed by the fee schedule adopted by the City Council.

Additional violations after the first offense will be set at the maximum amount per individual violation allowed by the fee scheduled adopted by the City Council, unless the Director finds mitigating factors that justify a lesser fine. Multiple citations can be issued to the responsible party for continued violations of this Section 24.55.205, and each day of non-compliance may be considered a separate violation.

Fines must be received by the Bureau of Development Services within 15 calendar days of the date on the citation, or within 15 calendar days of the final administrative review of the Director or the published decision of a citation appealed to the Code Hearings Officer.

If the citation fine is not paid within 15 calendar days, the fine(s) indicated on the citation will double and the unpaid citation amount may be assessed as a City lien against the property. An additional charge of 10% will be added to the lien amount.

F. Demolition Permit Compliance Prerequisite for New Building Permit

No building permit for a new structure on the site that is subject to the demolition permit (including all lots in a land division or lot confirmation) will be issued until the final inspection for the demolition permit has been completed and approved.

G. Administrative Review and Appeals

If a responsible party has received a stop work order or written citation and the responsible party believes the order or citation has been issued in error, the responsible party may request that the order or citation be reviewed by the Director or designee. The responsible party must submit a written request for an Administrative Review within 15 calendar days of the date of the order or citation. An Administrative Review appeal fee, see current BDS Enforcement fee schedule, is due when the written request for an Administrative Review is requested. This fee will only be refunded if it is determined that all of the contested violations were cited in error. A written Administrative Review determination will be served on the responsible party by regular mail.

A responsible party may appeal the written Administrative Review determination to the City Code Hearings Office in accordance with Chapter 22.10 of the Portland City Code.