

Deconstruction Requirements Code Language



Comments **due by May 18, 2016**. See inside cover for more information on how to submit your comments.

Public Review Draft

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Bureau of Planning and Sustainability
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Background

In Portland, there are over 300 single-family homes demolished each year. This produces many thousands of tons of waste – a majority of which could be salvaged for reuse. Deconstruction is a method for removing structures that keeps valuable materials out of the landfill, protects health, creates pathways to construction careers and generates affordable reusable building materials. Currently, less than ten percent of houses that are removed use deconstruction.

For the past several years, the City of Portland Bureau of Planning and Sustainability (BPS) has been working to increase deconstruction activity through outreach, education and grants. BPS convened a Deconstruction Advisory Group (DAG) in April 2015 that includes representatives from the community, development firms, builders, demolition contractors, historic preservation agencies and the salvage industry.

Based on the DAG input, BPS brought a resolution to City Council for consideration on February 17, 2016. The resolution was unanimously approved by City Council. The resolution directed BPS to develop code language that requires projects seeking a demolition permit for a one or two-family structure (house or duplex) to fully deconstruct that structure if it was built before 1917 or is a designated historic resource.

After BPS makes revisions from the public comment period, City Council will consider the code language on June 29, 2016. The code language provides a framework for deconstruction and salvage requirements as well as enforcement. Administrative rules for procedural components of the requirements will follow later this summer. The new deconstruction requirements go into effect on **October 31, 2016**.

For more information or to provide comments on the Deconstruction Requirements Code Language please contact:

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A copy of this document and additional information on deconstruction can be found at:
www.ExploreDecon.com

Chapter 17.105 Deconstruction of Buildings Law

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17.105.005 Short Title

Chapter 17.105 of the Portland City Code shall be known as the Deconstruction of Buildings Law.

17.105.010 Purpose

This Chapter provides deconstruction requirements for the removal of Portland’s older and more historic primary dwelling structures. The Deconstruction of Buildings Law seeks to:

- A. Maximize the salvage of valuable building materials for reuse;
- B. Reduce carbon emissions associated with demolition;
- C. Reduce the amount of demolition waste disposed of in landfills; and
- D. Minimize the adverse impacts associated with building removal.

17.105.020 Definitions

The terms used in Chapter 17.105 are defined as provided in this section or in Administrative Rules adopted under Section 17.105.030:

- A. “Certified Deconstruction Contractor” means a contractor licensed with the Oregon Construction Contractors Board (CCB) that has successfully completed a deconstruction training and certification program recognized by the Bureau of Planning and Sustainability. A firm will be considered certified if at least one person employed by the firm is trained and certified. *[Note: Administrative Rules will detail what a recognized certification program is]*

- B. “Deconstruction” means the systematic dismantling of a structure to maximize the salvage of reusable materials, in preference over salvaging materials for recycling, energy recovery, or sending the materials to the landfill.
- C. “Director” means, unless otherwise stated, the Director of the Bureau of Planning and Sustainability or his or her authorized representative, designee or agent.
- D. “Primary Dwelling Structure” means one and two-family structures (detached and attached) based on current permitted occupancy. Primary Dwelling Structures do not include accessory structures such as garages or accessory dwelling units.
- E. “Recycling” means the processing of waste materials into new products or material feed stock for products.
- F. “Responsible Party” means any owner, owners, person, partnership, or corporation who violated the provisions of this Chapter.
- G. “Reusable Materials” means building materials than can be reused such as cabinets, doors, hardware, fixtures, flooring, siding, and framing lumber. Reusable Materials does not include hazardous materials, concrete and masonry elements such as foundations, flatwork, or chimneys.

17.105.030 Authority of Director to Adopt Rules

- A. The Director is hereby authorized to administer and enforce provisions of this Chapter.
- B. The Director is authorized to adopt rules, procedures, and forms to implement the provisions of this Chapter.
 - 1. Any rule adopted pursuant to this Section shall require a public review process. Not less than 10 nor more than 30 days before such public review process, notice shall be given by publication in a newspaper of general circulation. Such notice shall include the place, time and purpose of the public review process and the location at which copies of the full set of the proposed rules may be obtained.

2. During the public review, the Director shall hear testimony or receive written comment concerning the proposed rules. The Director shall review the recommendations, taking into consideration the comments received during the public review process, and shall either adopt the proposed rules, modify or reject them. Unless otherwise stated, all rules shall be effective upon adoption by the Director and shall be filed in the Office of the Director and with the City Auditor's Portland Policy Documents repository.

17.105.040 Regulations

- A. Scope. The deconstruction requirements of this Chapter apply to demolition permit applications under Chapter 24.55 of the City Code for Primary Dwelling Structures that:
 1. Were built in 1916 or earlier according to building permit records on file with the Bureau of Development Services, or if no such permit records exist, then County tax assessor information; or
 2. Are designated as a historic resource subject to the demolition review or demolition delay review provisions of Title 33.
- B. Requirements. Primary dwelling structures must be fully deconstructed in accordance with the provisions of this Chapter and associated Administrative Rules. Salvaged material can be sold, donated, or reused on site. Deconstruction is most often accomplished by hand; however, heavy machinery can be used as allowed by this Chapter and administrative rules.
 1. Demolition Permit Application. An application for a demolition permit under Chapter 24.55 for any primary dwelling structure shall not be considered complete unless it is accompanied by a completed Pre-Deconstruction Form provided by the Director. *[Note: Administrative rules will detail what is required on this form]*
 2. Certified Deconstruction Contractor. Deconstruction work must be performed by a Certified Deconstruction Contractor. A Certified Deconstruction Contractor shall be assigned to the project throughout the course of deconstruction. Certified Deconstruction Contractors operate under the requirements of this Chapter and applicable Administrative Rules. The Bureau of Planning and Sustainability will maintain a list of current Certified Deconstruction Contractors in good standing and the list will be on file and available for public viewing.

3. Site Posting. On the first day of active deconstruction a yard sign provided by the Director when the permit is issued must be posted at the site. The sign explains that the structure is being deconstructed and provides City of Portland contact information for questions or concerns.
 - a. The sign must remain in place throughout the course of deconstruction.
 - b. The sign must be placed on each street frontage of the site.
 - c. Signs must be posted within 5 feet of a street lot line and must be visible to pedestrians and motorists. Signs may not be posted in a public right-of-way. Signs are not required along street frontages that are not improved and allow no motor vehicle access.
 4. Heavy Machinery. Heavy machinery may be used to assist in the salvage of materials for reuse or to remove material not required to be salvaged. Machinery may not be used to remove or dismantle components of buildings in such a way as to render them unsuitable for salvage.
 5. Documentation. Receipts for donation, sale, recycling, and disposal of all materials must be maintained until the demolition permit is finalized and may be requested by the City at any time. Materials intended for reuse on site must be documented with photographs.
 6. Demolition Permit Final. A completed Post-Deconstruction Form and all documentation required in Paragraph 5 above must be submitted to the Bureau of Planning and Sustainability before a demolition permit can be finalized by the Bureau of Development Services.
- C. Additional Regulations. The demolition of buildings may be subject to additional requirements and enforcement in Title 11 Trees, Title 24 Building Regulations, Title 33 Planning and Zoning, or associated Administrative Rules.
- D. Exemptions. The following are exempt from the requirements of this chapter:
1. A building permit to move a structure;
 2. A structure where the Bureau of Development Services requires demolition due to an immediate danger to the health, safety, or welfare of the occupants, the owner, or that of the general public, as stated in Section 29.40.030 of Title 29, Property Maintenance Regulations; or
 3. A structure determined by the Bureau of Planning and Sustainability to be unsuitable for deconstruction. Requirements for requesting an exemption are found in Subsection E below.
- E. Requests for an Exemption. An exemption from the requirements of this Chapter may be requested by the applicant as part of the demolition permit application. A request for an exemption must

include a salvage assessment by a Certified Deconstruction Contractor documenting the conditions of the structure and resulting limited salvage opportunity. Conditions such as substantial fire, rot, or mold may be causes for limited salvage opportunities. An inspection of the structure by the Bureau of Planning and Sustainability may be required to confirm conditions and unsuitability prior to a final determination and issuance of the demolition permit. Should the applicant disagree with the final determination by the Bureau of Planning and Sustainability the determination may be appealed by the applicant as allowed in Section 17.105.060. *[Note: Administrative Rules will detail information needed for the request]*

17.105.050 Enforcement and Penalties

- A. It will be a violation of this Chapter for any responsible party to fail to comply with the requirements or to misrepresent any material fact in a document or evidence required to be prepared or submitted by this Chapter. The Director may impose penalties on any responsible party that violates this Chapter as follows:
1. A first violation of this Chapter may be subject to a penalty of up to \$500.
 2. A second violation of this Chapter by the same person may be subject to a penalty of up to \$1,000.
 3. Third and subsequent violations of this Chapter by the same person may be subject to a penalty of up to \$1,500.
 4. Penalties may be imposed on a per month, per day, per incident, or such other basis as the Director may determine as appropriate based upon the nature of the infraction.
 5. Any person receiving a notice of violation shall, within ten (10) days of issuance of the notice, either pay to the City the stated amount of the penalty or request an appeal as provided in Section 17.105.060.
- B. Mechanical Equipment. Improper use of mechanical equipment in violation of this Chapter may be subject to a penalty of up to \$10,000. Any person receiving a notice of violation shall, within ten (10) days of issuance of the notice, either pay to the City the stated amount of the penalty or request an appeal as provided in Section 17.105.060.
- C. Additional Enforcement Actions for Certified Deconstruction Contractors. The Director may impose the following additional actions for Certified Deconstruction Contractors.

1. A first violation of this Chapter may result in suspension of certification for up to six (6) months.
 2. A second violation of this Chapter may result in suspension of certification for up to twelve (12) months.
 3. Third and subsequent violations may result in revocation of certification whereby a contractor may not apply for recertification for a period of eighteen (18) months.
- D. Stop Work Orders. When necessary to obtain compliance with this Chapter, the Director may issue a stop work order requiring that all work, except work directly related to elimination of the violation, be immediately and completely stopped. If a stop work order is issued, activity subject to the order may not be resumed until such time as the issuing Director gives specific approval in writing. The stop work order will be in writing and posted at a conspicuous location at the site. When an emergency condition exists, a stop work order may be issued orally, followed by a written stop work order within 24 hours. It is unlawful for any person to remove, obscure, mutilate or otherwise damage a stop work order.
- E. The Director will consider the following criteria in determining the amount of penalties or actions to be imposed under this Section:
1. The nature and extent of the person's involvement in the violation;
 2. Whether the person was seeking any benefits, economic or otherwise, through the violation;
 4. Whether other similar prior violations have occurred;
 5. Whether the violation was isolated and temporary, or repeated and continuous;
 6. The length of time from any prior violations;
 7. The magnitude and seriousness of the violation;
 8. The costs of investigation and remedying the violation;
 9. Other relevant, applicable evidence bearing on the nature and seriousness of the violation.
- F. When a responsible party meets the conditions for charging an enforcement penalty as described in this Section, the Director will file a statement with the City Auditor that identifies the property, the amount of the penalty, and the date from which the charges are to begin. The Auditor will then:
1. Notify the property owner of the assessment of enforcement penalties;
 2. Record a property lien in the Docket of City Liens;

3. Bill the property owner monthly for the full amount of enforcement penalties owing, plus additional charges to cover administrative costs of the City Auditor; and
 4. Maintain lien records until the lien and all associated interest, penalties, and costs are paid in full; and the Director certifies that all violations listed in the original or any subsequent notice of violation have been corrected.
- G. Inspections. The City may conduct inspections whenever necessary to enforce any provisions of this Chapter, to determine compliance with this Chapter or whenever the City has reasonable cause to believe there exists any violation of this Chapter. If the responsible party is at the site when the inspection is occurring, the City will first present proper credentials to the responsible party and request entry. If such entry is refused, the City shall have recourse to any remedy provided by law to obtain entry, including obtaining an administrative search warrant.

17.105.060 Right of Appeal

- A. Whenever the responsible party has been given a written notice or order pursuant to this Chapter or has been directed to make any correction, pay a penalty or to perform any act and the responsible party believes the finding of the notice or order was in error, the responsible party may have the notice or order reviewed by the Director. If a review is sought, the responsible party will submit a written request to the Director within 10 days of the date of the notice or order. Such review will be conducted by the Director. The responsible party requesting such review will be given the opportunity to present evidence to the Director. Following a review, the Director will issue a written determination. Nothing in this Section shall limit the authority of the Director to initiate a code enforcement proceeding under Title 22.
- B. A responsible party may appeal the Director's written determination to the Code Hearings Officer in accordance with Portland City Code Chapter 22.10. The filing of an appeal request will remain the effective date of a penalty until the appeal is determined by the Code Hearings Officer. If, pursuant to said appeal hearing, payment of a penalty is ordered, such payment must be received by the Director or postmarked within 15 calendar days after the order becomes final.