

Lead Legal Strategies Partnership Technical Assistance Tool

Opportunities to Strengthen Local Lead-Related Policies: Model Ordinance Language to Address Lead Risks in Existing Demolition Requirements

In an ongoing effort to effect change at a systems level and improve outcomes today and for generations to come, the [National Center for Healthy Housing \(NCHH\)](#), [ChangeLab Solutions](#), and [Earthjustice](#) joined forces in 2019 to establish the Lead Legal Strategies Partnership. With funding from [The New York Community Trust](#), the Lead Legal Strategies Partnership mobilizes effective existing resources, data, model policies, and best practices to equip communities with the tools needed to actuate that change.

This series of informal technical assistance tools was developed in reaction to direct coaching requests and ongoing conversations between the [Lead Legal Strategies Partnership](#) and the [Equipping Communities for Action](#) cohort. You'll find the opportunities and real-world examples presented below useful as you work to improve local policies in your area. This concrete, direct glimpse at how other localities have structured policies and processes, combined with a discussion of points to consider as you plan, can guide your first steps as you determine the approach most suitable for your community.

Background and Rationale

Many older homes and buildings contain lead-based paint, both interior and exterior. Demolishing structures that contain lead-based paint generates dust that can expose demolition workers, their families, and the surrounding community to lead. This dust can get into soil, coat surfaces, and even get into the interiors of neighboring houses or buildings (through windows or by being tracked inside). No safe level of lead exposure has been identified, so even a small exposure can cause harm, particularly for children under the age of six.

However, there are simple and practical steps that demolition contractors can follow (and municipalities can require) to help minimize this exposure. According to the U.S. Environmental Protection Agency and others, these practices include:

- Containing dust inside the work area
- Using dust-minimizing work methods (including the wetting of surfaces to contain the spread of lead dust)
- Conducting careful cleanup during and after the demolition.

The following model language can be used by communities that want to develop an ordinance to protect workers and families from unnecessary lead exposure from demolitions by adding to existing demolition requirements. This model language is specific to lead risks only and should not supersede any protections already in place to ensure the safety of workers or the surrounding community during the demolition process.

EXPERT TIP

The terms "buildings," "facilities," and "structures" are typically defined both in state and local law. Consult with a local attorney to ensure that the terms appropriately encompass all structures of concern to you.

Model Ordinance

Purpose

The purpose of this ordinance is to supplement the requirements of the Environmental Protection Agency's Lead Abatement, Inspection, and Risk Assessment and Lead Renovation, Repair, and Painting programs and many local existing demolition requirements in order to reduce the potential risk of harm to the public's health, safety, and welfare or to the environment from releases of dust, debris, and other materials occasioned by the demolition of certain types of buildings, facilities, or other structures within *[insert name of jurisdiction]*. In the past, many buildings, facilities, or other structures within the city were constructed or decorated in part with materials, including but not limited to lead paint, that can pose hazards to the public health or the environment if those materials are not adequately and appropriately handled and controlled during demolition.

Specific Requirements

- 1. Permit Required:** No demolition of a building, facility, or other structure shall be initiated by a contractor within *[insert name of jurisdiction]* unless a written notice of intent to demolish, accompanied by proof of RRP or lead abatement certification, a plan documenting intended lead safety measures and identifying the individual who has the job of monitoring dust suppression during demolition activities, and the fee required has been filed with and approved by the *[insert name of relevant permit-approving department – this may include health, housing, building, planning, or permitting]* at least 14 working days prior to the commencement of demolition. The 14-working-day period shall not apply if the building, facility, or other structure to be demolished has been found to be structurally unsound and in danger of imminent collapse by the building commissioner, local health official, state authority, court of competent jurisdiction, or other authorized entity, provided that any person or contractor demolishing such building, facility, or other structure shall file a written notice with the department of health regarding such demolition as soon as practicable and must have a properly licensed lead abatement supervisor or other qualified lead risk assessor or inspector on site during the demolition.
- 2. Notice:** The demolition permit must be posted in a conspicuous place at the demolition site, and written notice must be provided to all single- and/or multifamily residences, schools, daycares, and other locations children are likely to frequent (or structure or facility that could potentially be occupied by children) within 400 feet¹ of the site to be demolished at least 14 days prior to the commencement of demolition. The notice shall advise residents to keep their windows closed during the demolition process, not to allow children to be outside within 400 feet of the demolition site during demolition, and provide a number to contact for more information about lead poisoning.
- 3. Unsafe Conditions:** No demolition of a site containing lead paint shall be allowed to proceed at any period where sustained wind speeds are above 20 miles per hour.
- 4. Certified Professionals:** No dust-generating demolition shall be performed in or on any building, facility, or structure within *[insert name of jurisdiction]* unless overseen by the individuals identified in Section 1 above as certified and approved in RRP or lead abatement in accordance with EPA's regulations on residential property renovation at 40 CFR 745.

EXPERT TIP

You may choose to include within the demolition permit application itself language requiring the permit holder to comply with all federal, state, and local regulations regarding environmental health and safety hazards and safe demolition-related activities, in addition to complying with the provisions of the local demolition ordinance.

Demolition and Renovation Safeguards

The owner(s) of any building, facility, or other structure to be demolished or renovated and any contractor or other person retained or otherwise authorized by the owner(s) to perform the demolition or renovation activity shall be responsible for assuring that the following safeguards are utilized to minimize the emission of and exposure to lead dust:

1. Conspicuous notice shall be posted at the demolition site warning of the potential health hazards associated with lead dust that may be emitted during the demolition process.
2. If not already required by existing demolition requirements, any contractor conducting demolition activities shall post signage and erect fencing or barriers reasonably necessary to keep children and residents out of the demolition site.
3. Adequate wetting to prevent the emission or dispersion of dust shall be employed before and during any demolition or renovation activity; however, if outside temperature causes water to freeze and wetting is not possible, the demolition or renovation activity shall be performed in such a way that does not cause the emission or dispersion of dust, including but not limited to manual deconstruction.
4. All debris from any demolition or renovation activity where the shell of a building, facility, or structure shall remain shall be removed from the building, facility, or other structure through dust-tight debris chutes or by lowering it in buckets or containers, and no debris shall be dropped or thrown from any floor. All debris shall be adequately wetted to prevent dust emission or dispersion at the point it exits a debris chute or reaches the ground.
5. All debris from any demolition or renovation activity shall be adequately wetted before loading into trucks, vehicles, or other containers. During transport, all such debris shall be enclosed or covered to prevent dust emissions.
6. All demolition activities shall comply with local stormwater permit requirements, and all reasonable mitigation measures, such as sandbags, shall be utilized to minimize water runoff into any storm drains, catch basins, or other stormwater collection or diversion infrastructure.
7. All dust and debris from any demolition or renovation activity shall be removed daily from adjacent streets, sidewalks, and alleys in a manner consistent with [insert name of jurisdiction]'s stormwater regulations, unless otherwise directed or authorized pursuant to a permit duly issued by the city.
8. Dust created from any use of power hand tools, including but not limited to the cutting or crushing of concrete or other building materials, shall be minimized through the use of vacuum attachments, water, or containment of the work area.
9. During demolition, the demolition contractor shall be responsible for conducting an initial lead dustfall sampling to demonstrate that they can achieve less than three micrograms of lead dust per square foot per hour. Samples shall be collected at the demolition perimeter and 400 feet distant from demolition. If a sample shows that more than three micrograms of lead dust per square foot per hour occurs prior to the

EXPERT TIP

Adequate wetting typically requires higher-volume fire hoses (rather than garden hoses) trained on the point of impact and the building, facility, or structure in general.

EXPERT TIP

*Air sampling within workers' breathing zones is required by the OSHA lead-in-construction standard (29 CFR Part 1926.62) as part of the initial exposure determination. This method measures suspended airborne lead particulate. Lead dustfall sampling is another tool that can be used to assess how much lead dust settles out of the air and the distance of its dispersal. Studies have shown that lead dustfall levels can be kept to less than three micrograms of lead dust per square foot per hour using appropriate dust-suppression methods, such as wetting. While there are no exposure limits for lead dustfall in existing federal regulations, the above Section 9 creates such regulations at the local level and imposes required remedies should testing during demolition fail to meet lead dustfall exposure limit. Local governments may also consider imposing fines or other penalties for violations of this provision as well. For more, see ChangeLab Solutions' **Effective Implementation and Enforcement Clauses in Ordinances**.*

completion of demolition, the contractor must immediately notify the health department of such failure, notify all neighboring properties within 400 feet of the demolition site, and implement additional dust suppression methods such as additional water application until demolition activities are able to achieve less than three micrograms of lead dust per square foot per hour.

10. After demolition, the top four inches of soil shall be excavated unless testing shows that the top four inches of soil measures less than 200 parts per million (ppm) lead.
11. Any soil brought into a demolition site must be tested and must have less than 200 ppm lead before use. If no soil is brought in, the topsoil left behind must have less than 200 ppm.
12. Any debris likely to be coated with lead-based paint shall be taken to a lined construction debris landfill site, consistent with state and local regulations.
13. No windows or doors or other building components likely to contain lead paint may be salvaged for use in other structures or sold to “restore” centers or other building material recycling centers unless they have been tested and found to be free of lead paint.

Additional Resources

Lauer, A. (2019). *Lead-Safe Demolition Working Group Report*. University of Pittsburgh Institute of Politics.

The Annie E. Casey Foundation. (2011). *The East Baltimore Revitalization Initiative. Responsible Demolition: A Baltimore Case Study with National Implications*.

City of Detroit Health Department. (2018). *Task Force Recommendations for Improving Demolition Safety and Health Standards*.

Oregon Health Authority. (2018). *Best Practices for the Demolition of Residences with Lead-Based Paint*.

Oregon Bureau of Development Services. (2018). *Asbestos, Lead-Based Paint, Dust and Site Control Measures for Demolition Projects with 1-4 Dwelling Units*.

National Center for Healthy Housing. (n.d.). *Dust and Housing Demolition*.

East Baltimore Development, Inc. (2010). *Operations Protocol: Operational Protocol for Demolition and Site Preparation Activities*.

We gratefully acknowledge the other members of the Lead Legal Strategies Partnership for participating in the development of this technical assistance tool:



For additional resources and technical assistance tools related to other valuable local policy change opportunities, visit...

<https://bit.ly/LLSPtoolbox>

Technical Assistance Tool

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¹ Jacobs, D. E., Cali, S., Welch, A., Catalin, B., Dixon, S. L., Evens, A., et al. (2013, November-December). Lead and other heavy metals in dust fall from single-family housing demolition. *Public Health Reports*, 128(6), 454-462. DOI: 10.1177/003335491312800605. PMID: 24179257; PMCID: PMC3804089.

This technical assistance tool is part of a Local Policy Tool Box, available at <https://nchh.org/tools-and-data/technical-assistance/lead-legal-strategies-partnership/local-policy-tool-box/>.

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