



City of Boston, Massachusetts
Office of the Mayor
MICHELLE WU

April 3, 2023

TO THE CITY COUNCIL

Dear Councilors:

I hereby transmit for your approval an Ordinance Governing Construction and Demolition Operations in the City of Boston. This ordinance is a significant step in the City's efforts to reduce worker injuries and fatalities on construction and demolition sites in Boston. It will require that all construction and demolition projects seeking a permit with the Inspectional Services Department submit a Site Safety Plan Affidavit, that workers are trained on the Site Safety Plan, and that a Site Safety Coordinator with at least 30-hour OSHA training certification be designated for larger construction and demolition projects. It will also give the Inspectional Services Department much-needed enforcement capacity they have previously lacked.

Since 2019, a number of people have lost their lives on construction sites in Boston. The rate of construction fatalities in Boston in 2021 was well above the national rate (4.9 per 15,000 workers in Boston as compared to 1.8 nationally in 2021). By requiring permit applicants for construction and demolition projects to identify potential hazards and put in place a plan to protect persons on site and the public, this ordinance will play a vital role in protecting public safety and ensuring that construction and demolition operations in the City are carried out in a safe manner. In addition, the Ordinance will be coupled with free multilingual training and technical assistance provided by the new Worker Empowerment Cabinet. This assistance will target small and medium-sized contractors and their workers to ensure that they have the capacity to comply with new requirements with minimal additional costs. In fact, research shows that employers that invest in workplace safety and health can expect to reduce fatalities, injuries, and illnesses resulting in cost savings in a variety of areas.

As we head into a busy construction season and plan for the construction of energy efficient affordable housing across the City, this ordinance will ensure that we are taking significant steps to prevent workplace tragedies. I urge your Honorable Body to pass this ordinance expeditiously.

Sincerely,

Michelle Wu
Mayor of Boston

CITY OF BOSTON

IN CITY COUNCIL

AN ORDINANCE GOVERNING CONSTRUCTION AND DEMOLITION OPERATIONS IN THE CITY OF BOSTON

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

SECTION 1. City of Boston Code, Ordinances *Chapter XVI* is hereby amended by adding the following after Section 16-63:

16-64 Safe Construction and Demolition Operations in the City of Boston

16-64.0 Definitions.

For the purpose of subsection 16-64.0 through 16-64.8, the following definitions shall apply:

Commissioner. Commissioner of the Inspectional Services Department or a designee.

Department. The Inspectional Services Department.

Demolition. Demolition is the dismantling, razing, destroying of any building or structure or any part thereof.

Inspector of Buildings. The individual charged with the administration and enforcement of the Massachusetts State Building Code in accordance with M.G.L. c. 143, §§ 3 and 3A.

OSHA. The federal Occupational Safety and Health Administration. The agency charged with ensuring safe and healthful working conditions for workers by enforcing workplace safety standards and by providing training, outreach, education and assistance to private employers.

OSHA 30-Hour Certification. A comprehensive safety program authorized by the Federal Occupational Safety and Health Administration (OSHA) that trains workers and employers on recognition, avoidance, abatement and prevention of safety and health hazards in the workplace.

Site Safety Plan Affidavit A sworn statement on a form determined by the Department certifying that the permit holder or their designee has prepared and will implement a project specific, site safety plan that defines planned protections from the potential hazards to people on the project site, the public, and property from construction and demolition operations and meets the applicable requirements defined by the Department. As part of the affidavit, the permit holder or their designee will attest that their project will comply with all applicable OSHA health and safety regulations.

Site Safety Coordinator. A site safety coordinator is a person with at least an OSHA 30-hour certification that is designated by the owner, agent, construction manager, or general contractor at all construction projects larger than 50,000 square feet and all demolition projects for buildings 4 stories or larger to perform the duties defined in this Ordinance.

Permit. A permit for the construction, alteration, or demolition of a structure issued by the Inspectional Services Department.

Permit Holder. An individual or entity that has secured a permit from the Inspectional Services Department for construction work and is responsible for the work conducted pursuant to that permit.

16-64.1 Purpose and Scope.

The purpose of this Ordinance is to ensure that all construction and demolition operations in the City of Boston are conducted in a manner that protects the health, welfare, and safety of the general public and to protect public and private property from any potential dangers that may result from construction or demolition operations in the City. No provision of this Ordinance requires the Inspectional Services Department, or any other City entity, to interpret or enforce any existing OSHA health and safety regulation that governs the safety of persons employed in construction or demolition operations.

This Ordinance applies to all demolition and construction operations in the City of Boston except for those permitted under a Homeowner Waiver as issued by the Inspectional Services Department, as it pertains to the safety of the public and property.

16-64.2 Responsibility for Safety.

Nothing in this chapter shall be construed to relieve persons engaged in construction or demolition operations from complying with existing OSHA safety regulations or other applicable provisions of law, nor is it intended to alter or diminish any obligation otherwise imposed by law on any party engaged in a construction or demolition operation, including but not limited to the owner, construction manager, general contractor, sub-contractors, material men, registered design professionals, or other party to engage in sound design and engineering, safe construction or demolition practices, including but not limited to debris removal, and to act in a reasonable and responsible manner to maintain a safe construction or demolition site.

16-64.3 Fire Prevention Code.

In addition to the requirements of this chapter, construction or demolition operations shall also be conducted in conformance with the City of Boston Fire Prevention Code.

16-64.4 Site Safety Plan Affidavit Required.

Except in instances where a permit is issued with a Homeowner Waiver, no permit for the construction, alteration or demolition of any structure subject to the requirements of this Ordinance shall be issued until a Site Safety Plan Affidavit, on a form as determined by the Department, has been submitted to the Commissioner or the Inspector of Buildings or their designee.

16-64.5 Site Safety Monitoring Plan Required.

Each permit holder shall enact and maintain a site safety monitoring program to implement the site safety plan attested to in their affidavit. The site safety monitoring program shall, at a minimum, include:

- (a) Site safety orientation and refresher. Each permit holder shall ensure that each construction or demolition worker employed or otherwise engaged at such site by the permit holder or performing subcontracted work for or on behalf of such permit holder receives a site safety orientation and refresher reviewing the contents of the site safety plan.

(i) *Site safety orientation.* Each worker employed or otherwise engaged at such site by the permit holder or performing subcontracted work for or on behalf of such permit holder shall receive a site safety orientation on the contents of the site safety plan before such worker commences any construction or demolition work at such site.

(ii) *Site safety refresher.* Each worker employed or otherwise engaged at such site by the permit holder or performing subcontracted work for or on behalf of such permit holder shall receive a site safety refresher if such worker (i) has performed construction or demolition work at such site for one year or more and (ii) one year or more has elapsed since such worker received a site safety orientation or refresher with respect to such site.

(iii) *Site safety orientation and refresher content.* Site safety orientations and refreshers required by this section shall include a review of safety procedures at such site and any hazardous activities to be performed at such site. In addition, information pertaining to the site safety training shall be made available to each worker in a language that they understand.

(iv) *Records.* A record of all orientations conducted for the site shall be maintained by the permit holder and kept at the site. Such record shall include for each such orientation or refresher: 1. The date and time of such orientation or refresher; 2. The name, title and company affiliations of each worker who participated; and 3. The name, title and company affiliation of the qualified person who conducted such orientation or refresher, along with such person's signature.

- (b) Pre-shift safety meetings. Each permit holder shall ensure that each construction or demolition worker employed or otherwise engaged at such site by the permit holder or performing subcontracted work for or on behalf of such permit holder takes part in a safety meeting at the beginning of such worker's shift, but before such worker commences any construction or demolition work in such shift.

(i) *Pre-shift safety meeting.* Pre-shift safety meetings shall be conducted at the beginning of each worker's shift, but before such worker commences any construction or demolition work in such shift, by a person designated by the permit holder, or where so authorized by the permit holder, by a person designated by the subcontractor. Such person shall have the ability to communicate with each worker who takes part in such meeting.

(ii) *Pre-shift safety meeting content.* The pre-shift safety meeting shall include a review of activities and tasks to be performed during the shift, including specific safety concerns or risks associated with fulfilling such work.

(iii) *Records.* The permit holder shall maintain, for each worker, a record of one pre-shift safety meeting per week. Such record shall include for each such meeting:

1. The date and time of each such meeting;
2. The name, title and company affiliation of each worker who participated; and

3. The name, title and company affiliation of the competent person who conducted such meeting, along with such person's signature.

- (c) Ongoing Updates to Plans and Briefings. As work progresses, the permit holder will modify their briefings to address current conditions and expectations. If changed conditions render any attestations on the Site Safety Plan Affidavit inaccurate, then the permit holder shall re-submit an updated version of their Site Safety Plan Affidavit.

16-64.6 Site Safety Coordinator Required.

- (a) Site safety coordinator to be designated. A site safety coordinator shall be designated by the owner, agent, construction manager, or general contractor at all construction projects larger than 50,000 square feet and all demolition projects for buildings 4 stories or larger. The designated site safety coordinator must have at least an OSHA 30-hour certification. Where more than one site safety coordinator is to serve at the site, all such entities shall agree to designate one such site safety coordinator as the primary site safety coordinator, or where there is only one site safety coordinator, such coordinator shall automatically be designated as the primary site safety coordinator. The primary site safety coordinator shall carry out all duties and responsibilities assigned to the site safety coordinator by this Ordinance.

(i) *Notification to the department of the primary site safety coordinator.* The Inspectional Services Department shall be notified of the primary site safety coordinator prior to the commencement of work. In the event that an alternate site safety coordinator will be acting in place of the primary site safety coordinator for a period longer than two consecutive weeks, the department must be so notified. Any permanent change of the primary site safety coordinator requires immediate notification to the Inspectional Services Department.

(ii) *Presence at the site.* For the construction or alteration of a building, the site safety coordinator shall be present at the site during all times while active work is occurring and through all phases of work, beginning with excavation and continuing until the building is enclosed and all temporary protective measures are removed. For the demolition of a building, the site safety coordinator shall be present at the site during all times while active work is occurring and through all phases of work, beginning with the removal of any glass, asbestos, or façade and, for a full demolition, continuing until the site has been backfilled to grade, or for a partial demolition until the building is enclosed and all temporary protective measures are removed.

(iii) *Alternate site safety coordinator.* Where the primary site safety coordinator is unable to be at the site, an alternate site safety coordinator shall act in place of the primary site safety coordinator and carry out all duties and responsibilities assigned to the site safety coordinator by this Ordinance and rules promulgated by the commissioner. Such shall be recorded in the site safety log, as defined in part (d) of the section, and notification shall be provided to the Inspectional Services Department.

(iv) *Limitation on primary site safety coordinator serving at another site.* No site safety coordinator designated as the primary site safety coordinator at a site shall serve as a site coordinator at any other site.

(b) Site safety coordinator's duties. The site safety coordinator shall monitor compliance with the site safety plan and perform all other safety duties assigned by the owner or general contractor to meet legal requirements.

(i) *Weekly safety meeting.* The site safety coordinator shall lead a safety meeting with the designated representative of the general contractor, construction manager, and each subcontractor to ascertain that all contractors and subcontractors are complying with the site safety plan. Such meetings shall occur at least once a week while active work is occurring.

(ii) *Notification of violations.* In the event the site safety coordinator discovers a violation of the site safety plan, he or she shall immediately notify supervisory personnel of the general contractor or subcontractor responsible for creating the violation and inform them of the corrective work necessary to abate any unsafe conditions. All such violations and corrective work shall be recorded in the site safety log, as defined in part (d) of the section. Where unsafe work or an unsafe condition relates to an item which a registered design professional or special inspection agency is responsible for implementing or verifying, the Site Safety Coordinator must also notify the responsible registered design professional or special inspection agency of the unsafe work or condition. All such unsafe conditions, work, notices, orders, and corrective action must be recorded in the site safety log, as defined in part (d) of this section.

(iii) *Notification of conditions to the department.* The site safety coordinator shall immediately notify the Inspectional Services Department directly, in a manner determined by the Commissioner, if he or she discovers any such hazardous or dangerous conditions or incidents as determined reportable by the Commissioner in any rules or regulations promulgated pursuant to this Ordinance, including any unpermitted work or use of unpermitted equipment. The site safety coordinator shall report violations of federal workplace safety regulations to OSHA or the applicable federal department or agency in the manner that those departments and agencies have deemed appropriate.

(iv) *Spot checks.* The site safety coordinator shall personally perform spot checks of the site on a regular basis throughout the day for compliance with the site safety plan.

(v) *Inspections.* The following inspections shall be performed and documented by the site safety coordinator:

1. Daily, weekly, and other checks as specified in rules promulgated by the commissioner.

(c) Record of inspections. A record of all such required inspections conducted pursuant to this Ordinance shall be maintained by such site safety coordinator in the site safety log.

(d) Site safety log. The site safety coordinator shall maintain and keep a site safety log at the site. The log, or where there is more than one log, the logs in total, shall, at a minimum, contain the following information:

1. Date and location of inspections performed in accordance with this Ordinance;
2. Date and names of individuals met with to satisfy the requirements of the Weekly Safety Meeting;
3. Any unsafe conditions, and dates and locations of said unsafe conditions;

4. Companies and representatives notified of unsafe conditions;
 5. Dates of notification of unsafe conditions;
 6. Dates of correction of unsafe conditions and nature of correction;
 7. Any violations, stop work orders, or summonses issued by the Inspectional Services Department, including date issued and date lifted or dismissed; and
 8. Other relevant information as may be required by the Department.
- (e) Recording inspections in the site safety log. Inspections shall be recorded by the end of the day by the site safety coordinator who performed the inspection. The site safety log, or where there is more than one log, each individual log, shall be completed and signed by the site safety coordinator.
- (f) Recording change in site safety coordinator. If at any point during the day an alternate site safety coordinator acts as the primary site safety coordinator, this shall be noted in the log, and the alternate site safety coordinator shall log in. If a site safety coordinator is relieved of his or her responsibilities at the site, or a site safety coordinator leaves the site for any reason, this shall be indicated in the site safety log, and another site safety coordinator shall assume the duties of such relieved or absent site safety coordinator by signing in.

16-64.7 Enforcement.

The Inspectional Services Department shall have the power to issue violations, stop work, revoke permits and impose fines upon permit holders, developers, general contractors/construction managers, and subcontractors found to be in non-compliance with this Ordinance.

Violations, stop work orders and the revocation of permits may be imposed by the assigned Building Inspector.

Fines may be imposed by the Commissioner of the Inspectional Services Department at the recommendation of the Inspector of Buildings as follows:

- (a) Fines to a maximum of three hundred dollars (\$300.00) for each violation. A violation occurs where a general contractor/ construction manager or subcontractor has not complied with this Ordinance. Each day of noncompliance shall be considered a separate violation. The provisions of this section may be enforced in accordance with the noncriminal disposition process of M.G.L. c. 40, s. 21D, and, if applicable, by seeking to restrain a violation by injunction or other court proceeding.
- (b) Creation of a record of non-compliance with City policy that may be considered when awarding future construction contracts on City-Funded Projects and future permits.

16-64.8 Regulations.

The Commissioner of Inspectional Services may promulgate rules and regulations to carry out the provisions of this section.

SECTION 2.

The provisions of this Ordinance shall take effect 180 days after passage.

SECTION 3.

If any provision of this Ordinance is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

**I HEREBY CERTIFY
THE FORGOING, IF PASSED IN
THE ABOVE FORM, WILL BE IN
ACCORDANCE WITH LAW.**

BY


ADAM CEDERBAUM
CORPORATION COUNSEL

TJB