

ASBESTOS ABATEMENT

Homeowner Exemption

WHAT ARE THE ASBESTOS ABATEMENT REQUIREMENTS FOR A HOMEOWNER?

New York State Industrial Code Rule 56, Section 1.3 (a) states that asbestos abatement requirements do not apply to “owner-occupied single-family dwellings, where the owner performs the work.”

WHEN MAY A HOMEOWNER PERFORM ASBESTOS ABATEMENT?

A homeowner may perform asbestos abatement when the following three conditions are met:

1. The structure is a single-family dwelling, and
2. The dwelling is occupied or going to be occupied by the homeowner, and
3. The work is performed solely by the homeowner.

WHAT IS MEANT BY “OCCUPIED”?

“Occupied” means that the single-family dwelling is currently being “lived in” or is intended to be “lived in” by the homeowner. A structure slated for demolition is not “occupied” and is not eligible for the homeowner exemption.

WHAT IS MEANT BY “OWNER”?

“Owner” is the person living in or intending to live in the dwelling. Corporations, contractors, or “flippers” who are going to sell or rent the dwelling are not considered owners and are not eligible for the homeowner exemption.

WHAT IS MEANT BY “DWELLING”?

“Dwelling” is the structure being lived in, plus any commonly owned outbuildings on the property. Owners can have other dwellings, such as vacation homes or second homes, that are occupied solely by the owner. These other dwellings would be eligible for the homeowner exemption only if they are not used as full-time or part-time rental properties.

WHAT TYPE OF ABATEMENT CAN A HOMEOWNER PERFORM?

There is no restriction on the type or amount of asbestos-containing material that can be removed by a homeowner. However, homeowners should be aware of the different types of asbestos-containing materials that can be in a home. They should also be aware of the likelihood of asbestos fiber dispersal during removal and be willing to assume the responsibility and risks of removing asbestos-containing materials.



HOW CAN A HOMEOWNER KNOW IF MATERIAL CONTAINS ASBESTOS?

Some materials are assumed to contain asbestos based upon their manufacturing history and sampling results history, such as:

- White heating system pipe wrap insulation
- 9-inch x 9-inch floor tiles
- Transite (cement) siding
- Vermiculite attic insulation

However, the only certain way to determine the asbestos content of materials is by sampling and analysis. NYSDOL recommends contacting a licensed “Asbestos Inspector” to perform sampling of suspect materials and to provide guidance. NYSDOL has an online licensed contractor search tool to help find a contractor near you. It is available at: on.ny.gov/asbestos-contractors

HOW IS ASBESTOS-CONTAINING MATERIAL DISPOSED OF?

The NYSDOL has no jurisdiction over asbestos-containing material once it enters the waste stream. Transportation and disposal of asbestos-containing waste is under the jurisdiction of the NYS Department of Environmental Conservation (DEC) and the landfill being used. Contact the NYDEC or your local landfill for further guidance and to protect your carriers and landfill operators. Visit: dec.ny.gov/chemical/8791.html

WHAT IF I DECIDE TO HIRE A LICENSED CONTRACTOR?

In the interest of minimizing risks of exposure or contamination of a home, the NYSDOL Asbestos Control Bureau recommends that asbestos-containing materials be removed by licensed asbestos contractors that employ certified workers. The online NYSDOL contractor search tool can be used to find licensed “Abatement” contractors in your area. It is available at: on.ny.gov/asbestos-contractors

WHERE CAN I FIND MORE INFORMATION ABOUT ASBESTOS?

More information about asbestos facts, and responsibilities in New York State, is available on Publication P224. This publication is available on the NYSDOL website at: dol.ny.gov/asbestos-new-york-state-facts-and-responsibilities-p224

NYS ASBESTOS SURVEY REQUIREMENTS

Building Permit Applicants



Asbestos is a naturally occurring mineral formed of strong fibers that are resistant to heat and corrosion. Individual asbestos fibers are so small and light that they cannot be seen with the naked eye and can easily become airborne. Breathing asbestos fibers can lead to an increased risk of lung cancer, mesothelioma (a cancer of the chest and abdominal linings) and asbestosis (irreversible lung scarring that can be fatal). The risk of lung cancer and mesothelioma increases with the number of fibers inhaled. Examples of building materials that might contain asbestos are:

- Fireproofing
- Insulation on pipes and boilers
- Plaster, wallboard and joint compound
- Putties, caulks, paints and cements
- Floor and ceiling tiles
- Siding shingles, roofing shingles and tars

The New York State Department of Labor's Asbestos regulations, Industrial Code Rule 56 (12 NYCRR Part 56 or ICR 56), protect the public from exposure to asbestos fibers. This law requires an asbestos survey be performed prior to all interior and exterior renovation, remodeling, repair and demolition work. The asbestos survey must be conducted by a certified New York State Asbestos Inspector who identifies all asbestos containing material (ACM) in a building/structure that may be disturbed or impacted by demolition/ renovation activities. An asbestos survey cannot be conducted in condemned structurally unsound and unsafe buildings. These buildings/ structures shall be assumed to contain asbestos and demolished by licensed asbestos contractors.

Anyone, including general contractors, plumbers, electricians, roofing contractors and all other construction trades, who do not possess an asbestos handling license, are not permitted to disturb or remove asbestos materials or otherwise engage in an asbestos project. As per 12 NYCRR Part 56, asbestos materials must be abated by licensed asbestos contractors utilizing certified asbestos workers, with the exception of owner-occupied single-family dwellings where the dwelling

is occupied by the homeowner and the work is performed solely by the homeowner. A structure slated for demolition or certified to be unsound is not "occupied" and is not eligible for this homeowner exemption.

Due to the potential of exposure to hazardous fibers, the Department recommends that homeowners hire licensed asbestos contractors and certified asbestos workers who have the required training in asbestos handling and will utilize personal protective equipment and work practices to prevent or control asbestos exposure. Additional information and a list of New York State licensed asbestos contractors can be found on: dol.ny.gov/asbestos-control-bureau.

NEW YORK STATE ASBESTOS CONTROL BUREAU

Albany District

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Buffalo District

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NYS ASBESTOS SURVEY REQUIREMENTS

Municipalities



The New York State Department of Labor's Asbestos regulations, Industrial Code Rule 56 (12 NYCRR Part 56 or ICR 56), protect the public from exposure to asbestos fibers. According to ICR 56, a property owner must first obtain an asbestos survey if demolition, renovation, remodeling, or repair is to be performed in a building, structure, or part thereof. This survey must be conducted by a certified New York State Asbestos Inspector.

Municipalities are not required to enforce the State's asbestos regulations. There is no obligation for a municipality to require and review asbestos surveys prior to issuing permits. However, if asbestos is disturbed during permitted work, property owners and contractors may incur costly abatement and clean up expenses. To avoid this scenario, municipalities can facilitate the Department's enforcement efforts by helping prevent the disturbance of Asbestos Containing Material and cooperating with Department investigations by the following:

- Share this information with all staff responsible for issuing demolition/renovation permits and request a completed asbestos survey before issuing demolition/renovation permits.
- Contact the local District Office of the Asbestos Control Bureau when a demolition/renovation permit is issued to a contractor who has failed to provide an asbestos survey or has not removed the identified ACM.
- Contact the local District Office of the Asbestos Control Bureau to review any asbestos surveys submitted to the municipality.
- Provide the enclosed information document outlining New York State asbestos survey regulatory requirements to all building permit applicants.

The Department looks forward to your cooperation in our enforcement efforts in protecting the health and safety of your community, specifically in the area of asbestos exposure during building or structure demolitions, renovations, remodels, or repair work.

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