



# City of Portland

## Bureau of Development Services

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Portland, OR 97201  
Telephone: (503) 823-7300

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## PERMANENT RULE

### **RELATING TO**

**Chapter 24.55 – Demolitions**

**PPD No. 25.01**

### **FOR INFORMATION CONTACT**

**Mike Liefeld**  
(503-865-6554)

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**TITLE**            **Demolitions**

### **AUTHORITY**

Portland City Code (PCC) Chapter 24.55 (Building Demolition) sets out the requirements related to demolitions in the City of Portland. Section 3.30.040.A. provides authority for the Director of the Bureau of Development Services (BDS) to adopt administrative rules, policies, and procedures for the enforcement of applicable code provisions and laws.

### **CITATIONS**

#### **Senate Bill 871**

The 2017 Oregon legislature enacted Senate Bill (SB) 871, which allows any city in Oregon to establish a program by ordinance that requires anyone demolishing a pre-1978 residence to follow certain best practices to minimize exposure to lead dust. The bill also requires contractors to submit proof of holding one of four training certifications as defined in Oregon Administrative Rules (OAR) 333-068. SB 871 also authorized local jurisdictions to require that asbestos surveys be submitted to them prior to issuing a demolition permit.

#### **PCC 3.30.040**

PCC 3.30.040 sets out the requirements for BDS to adopt administrative rules as follows:

- Adopt administrative rules, policies, procedures and forms for enforcement
- Establish and impose enforcement fees and penalties for non-compliance
- Establish enforcement priorities
- Gain compliance as set forth in subsection 3.30.040.D.

## **PCC 24.55**

PCC 24.55 contains the following provisions governing demolitions in the City of Portland:

<b>24.55.100</b>	<b>Demolition – Debris – Barricades – Nuisances</b>
<b>24.55.150</b>	<b>Definitions</b>
<b>24.55.200</b>	<b>Residential Demolition Delay – Housing Preservation</b>
<b>24.55.205</b>	<b>Site Control Measures in Residential Demolitions</b>
<b>24.55.210</b>	<b>Major Residential Alterations and Additions</b>

## **FINDINGS FOR ADOPTION**

1. Portland City Code Section 3.30.045 delegates the authority to adopt and administer administrative rules appropriate to perform the duties of the Bureau of Development Services (BDS) set forth in Section 3.30.010 and prescribes procedures for administrative rulemaking.
2. BDS worked with the Development Review Advisory Committee (DRAC) Demolition Subcommittee and stakeholders from the State Department of Environmental Quality (DEQ), Oregon Health Authority (OHA), Construction Contractor's Board (CCB), Multnomah County Health Department, along with representatives from the construction industry to identify changes to the site control measures for residential demolitions that needed to be addressed in Portland City Code Chapter 24.55 and this corresponding administrative rule.
3. The demolition stakeholders and BDS staff identified improvements that could be made to the inspections process. To ensure maximum public health benefits of the inspections, these stakeholders requested that BDS implement the inspection revisions as soon as possible. Consequently, BDS adopted an Interim Rule effective February 10, 2020, that incorporated the inspection revisions.
4. On February 26, 2020, BDS presented a report to the City Council outlining the first 18 months of the residential demolition site control program, including the new Interim Rule. Based on input from the City Council, the demolition stakeholders and BDS staff met and modified the Interim Rule and amended PCC Chapter 24.55 and the Interim Administrative Rule. BDS staff presented the code changes, along with a copy of the proposed modified administrative rule, to DRAC at its June 18, 2020, meeting.
5. BDS staff presented the proposed revisions to the City Council, which the Council adopted on September 23, 2020. The ordinance moved implementation details of the residential demolition program to the administrative rule, updated asbestos requirements to conform to state regulations, updated demolition inspection language to be consistent with current practices, increased fines for non-compliance, and made other modifications for clarity and consistency. The ordinance also adopted a fee schedule outlining new fines for failure to comply with the site control measures. These rules incorporate these updates.
6. In accordance with Section 3.30.045, BDS published a notice of public hearing in *The Oregonian* on September 25, 26, and 27, 2020 and in *The Daily Journal of Commerce* on September 25, 28, and 30, 2020. BDS also posted notice of the hearing and made the draft amendments to the administrative rule available on the BDS website. BDS then held a public hearing to receive comments on the draft administrative rule on October 27, 2020, and held the record open until 5:00 p.m. on October 27, 2020. No written or oral public

comments were received on the proposed amendments. The effective date is more than 30 days after the last date of the required notices.

**CONCLUSION**

As provided in Portland City Code Section 3.30.040, the Director of BDS hereby adopts the Permanent Administrative Rule.

ADOPTED: *[Rebecca Esau]* October 30, 2020  
Rebecca Esau, Director

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# Administrative Rule

## Demolitions

### I. Purpose and Scope

The purpose of these Administrative Rules is to provide guidance on implementing Chapter 24.55 of the Portland City Code (PCC), which governs demolitions within the City of Portland. The Rules clarify terms used in the Demolition Code and include details on the dust and site control measures added to Chapter 24.55 and major residential alterations.

### II. Definitions

- 2.1 General: see definitions in 24.55.150. The definitions in these Administrative Rules expand on and provide clarity to terms used in PCC 24.55.
- 2.2 Wall: (PCC 24.55.150.A.; 24.55.150.C.) A wall is considered removed for purposes of PCC 24.55.150.A. (demolition) unless three studs, the sole plate with studs on each end, and the top plate remain. Siding and sheet rock may be removed from the entire wall. At least one 4' panel of one wall must remain for a wall to be "remaining" for purposes of a demolition. This restriction does not apply to removal of a wall for purposes of major alterations (PCC 24.55.150.C.); any portion of any wall can count toward the 50% requirement for a major alteration.
- 2.3 Dwelling Unit: To determine the number of dwelling units for purposes of PCC 24.55, BDS will apply the definition of "dwelling unit" in the 2017 Oregon Residential Specialty Code (ORSC), which is, "A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation." (2017 ORSC R202.) The number of dwelling units will be based on BDS' permit records. Therefore, unpermitted work that created a dwelling unit will not be considered a dwelling unit for purposes of PCC 24.55. Also, a single-room occupancy, such as a War Code unit, does not count as a separate dwelling unit, unless it meets the ORSC definition above. (See also Section 3.2 below – "Determining Unit Count".)
- 2.4 Limited Exterior Scope Lead-Based Paint Inspection: A surface-by-surface investigation of each painted component performed by an OHA certified Lead Inspector or Risk Assessor to determine the presence of lead-based paint prior to demolition, whereby the scope of the inspection will be limited only to painted surfaces on the exterior area(s) of the structure, house or building.
- 2.5 Mechanical demolition activities: definition: "pulling down any part of a structure using mechanical tools such as cranes, bulldozers, excavators, rams, or similar heavy machinery." (24.55.105.G.) Loading and transfer using heavy machinery to move materials other than debris associated with a demolition are not considered mechanical demolition activities.

### III. Applicability

- 3.1 General: the provisions of PCC 24.55.205 apply to structures that require a building permit pursuant to the current version of the Oregon Residential Specialty Code and Oregon Structural Specialty Code as adopted by the City of Portland. Generally, if a permit is required to construct a structure a demolition permit is required to demolish a structure.
- 3.1.1 Manufactured homes: because manufactured homes and personal property do not require a building permit to be constructed, BDS does not require a demolition permit to demolish them. Therefore, the provisions of PCC 24.55 do not apply.
- 3.1.2 Accessory structures: if the site where a detached accessory structure to be demolished has at least one structure that is comprised of 1 – 4 dwelling units, the requirements of 24.55.205 apply, even if the dwelling units aren't being demolished. Note that the provisions of PCC 24.55.205 only apply to the demolition of accessory structures over 200 square feet in area, although accessory structures on sites with 3 - 4 dwelling units are subject to the Oregon Structural Specialty Code and would require a demolition permit if they were larger than 120 square feet.
- 3.1.3 Bike and Trash enclosures: if the enclosure is detached, greater than 200 square feet, and built before January 1, 1978, and it requires a demolition permit to be demolished, the provisions of PCC 24.55.205 will apply.
- 3.1.4 Properties in Unincorporated Multnomah County and Unincorporated Multnomah County Pockets: the provisions of PCC 24.55 do not apply in areas outside of the City of Portland.
- 3.1.5 Hotels: hotel rooms do not count as dwelling units unless they meet the definition of a dwelling unit and have independent eating, sleeping and cooking facilities. If the building has an attached manager's unit, that building is not subject to the provisions of PCC 24.55.205, unless that building only has a total of 1-4 independent dwelling units. In other words, having a dwelling unit in the building does not convert the entire hotel building into a 1-4 dwelling unit structure. Therefore, hotels, including those with attached manager's units, are not subject to the provisions of PCC 24.55.205.
- 3.1.6 Religious institutions with living units: such living units are not dwelling units unless each living unit meets the definition of dwelling unit in ORSC above.
- 3.2 Determining Unit Count: Where there is more than one building with dwelling units on a single lot, the unit count is based on the number of units per building. Whether the structure with separate dwelling units that are attached is considered a series of single "dwelling units" that can be demolished independently of the other units, or as a single building with multiple dwelling units that is treated as a single building, depends on how the individual units were designed. If the building has more than four units, the unit to be demolished will only be subject to the requirements of PCC 24.55.205 if the unit to be demolished can be demolished and removed independently of the rest of the building. For purposes of the unit count, the following criteria apply:

- 3.2.1 Multiple single-family residences on one lot: each dwelling unit would require a separate demolition permit to demolish, so if one dwelling unit is demolished, it needs to comply with the requirements of PCC 24.55.205. It also needs to comply with 24.55.200 (Demolition Delay) if it is in an area with a residential Comprehensive Plan Map designation.
- 3.2.2 Townhouses: each townhouse would require a separate demolition permit to demolish, even if the individual units are attached. Therefore, if one townhouse is demolished, it needs to comply with the requirements of PCC 24.55.205, provided it can be demolished and removed while leaving the remaining unit(s) standing. It also needs to comply with 24.55.200 (Demolition Delay) if it is in an area with a residential Comprehensive Plan Map designation.
- 3.2.3 Apartments: each building will be evaluated based on whether the individual units were designed to be stand-alone structures. For example, if a building with 5 separate dwelling units does not have the fire wall separation between the units that a townhouse under the current code would require and that single unit could not be demolished while leaving the rest of the structure intact, then the building will be treated as a single apartment building with 5 units. Therefore, it would not be subject to the provisions of PCC 24.55.205.

#### **IV. Permit Documentation Required**

- 4.1 Pre-Demolition Asbestos Survey and Asbestos Abatement Documents: BDS will not issue a demolition permit until it has received a copy of required Asbestos documents listed in Appendix A. Please note that DEQ requires a copy of the asbestos survey to be on-site throughout the demolition phase of the project. BDS will not enforce this regulation, but the property owner or contractor may be subject to enforcement by DEQ for failure to comply with this requirement.
- 4.2 Demolition Plan: The Demolition Plan outlines the techniques and equipment that will be used on the demolition site to control dust and debris generated during the demolition activities. The Demolition Plan will be on a form developed by BDS and completed by the Demolition Manager. The Demolition Plan must include:
  - 4.2.1 Name and signature of Demolition Manager (See 4.4 - Demolition Manager)
  - 4.2.2 A description of the site control measures and monitoring process that will be followed on the site before, during, and after the demolition activities
  - 4.2.3 List of required certification(s) for the on-site person performing lead hazard reduction activities of PCC 24.55.205.C.1 (see Section 5.1.4-Lead-Based Paint (LBP) Certifications and Appendix C)
  - 4.2.4 If claiming a lead hazard reduction exemption, required documents pursuant to section 5.1.3 of this Rule.
- 4.3 Requirements for the Removal of Lead-based Paint (LBP) Prior to Issuance of Demolition Permit: Any removal of lead-based paint materials or suspected or

presumed lead containing materials prior to applying for a demolition permit must be performed by an Oregon Health Authority (OHA) certified abatement firm, and the applicant must also provide the following documentation with the permit application prior to permit issuance:

- 4.3.1 A copy of the detailed invoice from the OHA certified abatement firm that completed the removal of exterior components, describing the work performed and the date performed.
- 4.3.2 A Visual Clearance Report from an OHA certified Lead-based Paint Inspector or Risk Assessor not associated with the firm performing the lead hazard reduction work. The Visual Clearance Report must confirm and document that all lead containing or lead suspected exterior components have been removed.

A complete list of certified lead abatement firms, Lead-based Paint Inspectors, and Risk Assessor is maintained by the Oregon Health Authority (OHA) which is available at:

<https://www.oregon.gov/oha/PH/HEALTHYENVIRONMENTS/HEALTHYNEIGHBORHOODS/LEADPOISONING/INSPECTIONABATEMENTPROFESSIONALS/Documents/firmlist.pdf>

- 4.4 **Demolition Manager:** The Demolition Manager (DM) must be identified at the time a demolition permit application is submitted to BDS. The DM implements and oversees the Demolition Plan and is the contact person for BDS and other regulatory agencies, such as DEQ, Oregon Health Authority, OSHA, etc. regarding the demolition project. The DM must have a working knowledge of erosion and sediment control. The DM does not need to be on-site during all demolition activities, but the DM must be reachable at all times during the demolition activities. The DM is a “responsible party,” as that term is defined in PCC 24.55.150, and can be cited individually for the activities that occur during the demolition. The DM must either have the required certifications, per Appendix C, or provide BDS with the names of such certified persons and ensure they are on-site if and when required. There can only be one designated DM per project.

## **V. Site Control Requirements**

### **5.1 Lead Hazard Reductions**

- 5.1.1 **Applicability:** The lead hazard reductions of PCC 24.55.205.C.1 apply to structures built before January 1, 1978.
- 5.1.2 **Date Structure Built:** The date the structure was built will be based on BDS permit application records; if there is a conflict between BDS records and the Assessor records, the BDS permit application records prevail. If the customer claims that the structure was built after January 1, 1978, despite BDS or Assessor records showing an older date, then the customer has the burden of providing documentation showing the age of the structure, which BDS will evaluate on a case-by-case basis.
- 5.1.3 **Lead Hazard Reduction exemptions for pre-1978 structures:**
  - 5.1.3.1 Exemption for structures determined to have lead-free exteriors: In order to confirm that a pre-1978 structure does not contain lead-

based paint and is exempt from the lead hazard reduction requirements of PCC 24.55.205.C.1, a limited, exterior scope, lead-based paint inspection report complying with Appendix B must be submitted to and approved by BDS prior to the start of demolition or deconstruction.

5.1.3.2 Exemption for an unsafe or hazardous structure: If BDS staff determine that a structure meets the requirements for the exemption as an unsafe or hazardous structure as described in PCC 24.55.205.C.6., then the applicant will be exempt from following the lead hazard reduction requirements of PCC.24.55.205.C.1.

5.1.4 Lead-Based Paint (LBP) Certifications: The on-site person performing lead hazard reduction activities of PCC 24.55.205.C.1 on a pre-1978 structure must have one of the following certifications: Abatement Worker, Lead Abatement Supervisor, Project Designer or Lead-Based Paint Renovator. See Appendix C for more information on required certifications.

5.1.5 Horizontal/Vertical Containment: To minimize exposure to neighboring properties during the removal of exterior painted materials, either non-woven geotextile fabric or 6-mil plastic sheeting must be placed on the ground at the base of the exterior wall and extended at least 10 feet beyond the perimeter of the structure or work area. If the structure is less than 10 feet from the neighboring property line, an additional vertical containment will also need to be attached from the top of the structure to the ground. This can be done by attaching plastic to the gutters or similar method.

All painted exterior materials removed must be sealed inside 6-mil plastic and deposited in a covered container. (PCC 24.55.205.C.1.) If placed on the ground, these materials must be placed in 6 mil plastic liner or equivalent (not placed directly on the soil). Non-woven geotextile fabric (“road fabric”) of a density to be determined by BDS as equivalent to or greater than 6 mil plastic for purposes of placing removed material on the ground, is the preferred material because it is safer for workers and is more likely than plastic to adhere to paint chips and other small debris. It is also less likely that wet debris will wash off onto the soil. Any material that is stockpiled (not placed in the dumpster or other lined container by the end of the day) must be covered with plastic (not necessarily 6 mil; just sufficient to keep it from blowing away and protect it from the elements). The material can either be wrapped in 6 mil plastic, then picked up and placed in the dumpster/debris container, or the material can be placed directly into dumpster/debris container if the dumpster or debris container is fully lined with the 6 mil plastic or thicker before any materials are placed in it. Plastic or non-woven geotextile fabric must be placed under stockpiles of demolition debris or painted materials, unless the painted material is tested and determined not to be lead-containing.

5.2 Dust Suppression: Per PCC 24.55.205.C.2., during mechanical demolition activities including foundation removal, the structure, equipment, and debris must be wetted with “a water spray sufficient in volume and force to prohibit airborne” dust from



leaving the site. The goal of wetting is to eliminate airborne particulate matter generated from demolition activities and prevent it from leaving the site, without creating runoff. A hose with a diameter less than 1 inch cannot be used as a stand-alone system, because it does not provide the pressure and fine mist required to suppress dust during mechanical demolition. Water misting and/or surfactant delivery equipment specifically designed for dust suppression is the preferred method of dust suppression.

Ultimately, *airborne dust must not leave the site* and some flexibility and innovation in achieving that result is allowable. Regardless of the specific equipment used, all projects must comply with the “Wet Wet Wet” demolition dust control method described below.

**Pre-wetting (Wet #1)** – Before any mechanical demolition activity may commence, the structure must be sprayed thoroughly with water. All exterior surfaces of the structure must be thoroughly coated with water. In addition, water must be sprayed through all exterior openings (doors, windows, etc.) to coat interior areas with water.

**Active Wetting (Wet #2)** – Active wetting must be performed at all times during mechanical demolition activity. Water spray must be concentrated on the demolition equipment at all points of contact where the mechanical equipment makes contact with the structure.

**Materials Wetting (Wet #3)** – During and after demolition, all materials must be wetted to provide a final application of moisture to keep particles bound together prior to removal and transfer for placement into debris containers or stockpiles, or when materials are being transferred from one stockpile to another, and prior to covering any material stockpiles at the end of the day.

The Demolition Manager is responsible for determining the appropriate wetting system to be used for dust suppression on each project. The Demolition Manager is also responsible for ceasing operations and providing an alternative wetting system if the planned design becomes ineffective at any time during demolition.

When determining the appropriate wetting system, the Demolition Manager will consider the following variables:

- Atmospheric conditions
- Dust and particle size
- Water particle size (water droplets should be similar in size to dust particles)
- Angle, velocity, and flow rate of water

The Demolition Manager must document the proposed wetting system and procedures in the Demolition Plan, and the Site Development Inspector will document the system’s effectiveness during the required wetting inspection. Mechanical demolition activity is not allowed until required wetting is verified during mechanical demolition inspection – see Section 7.3 Mechanical Demolition Inspection.

- 5.3 Debris containment/management: All demolition debris must be contained on-site to prevent the debris and any water generated during the demolition from leaving the

site. See PCC 24.55.205.C.4. for details on debris containment requirements. All demolition debris must be properly disposed of at approved disposal sites and shall comply with all applicable federal, state, and local laws and regulations. Also, while not required for demolitions, recommended lead-safe practice per Oregon Health Authority (OHA) can be found in Chapter 10: Housing Waste in the Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (2012 Edition found at: [https://www.hud.gov/program\\_offices/healthy\\_homes/lbp/ Hudguidelines.](https://www.hud.gov/program_offices/healthy_homes/lbp/ Hudguidelines.))

## VI. Required Notifications prior to commencement of demolition activity

- 6.1 Door hangers: Door hangers must be posted on the properties within 300 feet of the demolition site not less than 72 hours before nor more than two weeks before demolition activity begins. BDS will generate a list of the properties that need door hangers and will provide the door hangers to the permit applicant, or they can be downloaded from our website. If the form is downloaded, the door hangers must be printed on card stock or other paper that is sufficiently sturdy to withstand current weather conditions. *Note -This notification is separate from the Demolition Delay Notification that is mailed when a complete demolition application is submitted to BDS and prior to permit issuance.*
- 6.2 On-site sign: the site must also be posted during demolition and ground-disturbing activities with a sign provided by BDS at permit issuance. This is the same sign that is currently required under PCC10.30.020.B.8.a., but with the name and telephone number of the Demolition Manager included. A separate sign to comply with PCC 10.30.020.B.8.a is not required for demolition projects subject to this section 6.2.

## VII. Required Inspections

### 7.1 #200 Inspection:

A #200 inspection must be requested and scheduled through the IVR system by the applicant (contractor, Demolition Manager, etc.) and approved prior to demolition or deconstruction activity beginning.

The following items are required and will be verified at the #200 inspection:

- Demolition Manager or LBP Certified Person will be on site and meet with the inspector. The Demolition Manager or LBP Certified Person must provide and review the following with the inspector: permit card, approved Demolition Plan, site plan, and erosion and sediment control plan.
- Post the completed “Erosion and Dust Concerns Hotline” sign in a location that is visible to the public from the right-of-way
- Install required erosion and sediment control measures. At a minimum this will include:
  - Install catch basin protection insert
  - Stabilize site access, when vehicles and/or heavy machinery will be leaving paved surfaces to accommodate entering and exiting the site
  - Install perimeter controls, when vegetation removal and soil disturbance is required in order to properly install lead hazard containment measures or soil will be exposed due to any site activity
- Install and stage all required Demolition Plan site controls, including:

- Horizontal and/or horizontal and vertical (where required) lead hazard reduction measures
- Covered container must be on site and plastic lining must be in place if the LBP containing materials will not be wrapped prior to placing in a container

## 7.2 First of Two #205 Inspections - LBP Removal Inspection

A first #205 inspection must be requested and scheduled through the IVR system by the applicant (contractor, Demolition Manager, etc.) and approved prior to mechanical demolition activity beginning.

The following items are required and will be verified at the first #205 inspection:

- Demolition Manager or LBP Certified Person must be on site and meet with the inspector. Demolition Manager or LBP Certified Person must provide and review the following with the inspector: permit card, approved Demolition Plan, site plan, and erosion and sediment control plan
- Inspection of structure for completion of LBP removal
- Debris containment
- Erosion and sediment control measures are in place (additional measures for mechanical equipment if not installed during the #200 inspection)

## 7.3 Second of Two #205 Inspections - Mechanical Demolition Inspection

A second #205 inspection must be requested and scheduled through the IVR system by the applicant (contractor, Demolition Manager, etc.) to verify and approve mechanical demolition activity requirements. Mechanical demolition activity cannot begin until approved by the inspector.

The following items are required and must be verified at the second #205 inspection:

- Verify wind speed monitor is on site and wind speed
- Verify wetting system is operational and in use. Inspector must verify wetting system in use during mechanical demolition activity:  
Verification will include:
  - Is the wetting system capable of providing dust suppression?
  - Has the exterior and interior of the structure been pre-wetted in compliance with Section 5.2?
  - Is the mechanical equipment being wetted when making contact with the structure?
  - Is the debris being wetted when transferred from the structure to the container/stockpile?

## 7.4 Alternative Second #205 Inspection Verification Option. If the applicant (contractor, Demolition Manager, etc.) chooses to have all inspection items from 7.2 and 7.3 inspected and approved during first #205 Inspection, then the second #205

Inspection is not required. However, mechanical demolition activity still cannot begin until approved by the inspector during the first #205 Inspection.

7.5 Live Video Stream Inspection Option - Second #205. In lieu of an in-person BDS inspection, a live-streaming video inspection (using live video streaming technology pre-approved by BDS) is available for the second #205 Inspection. The applicant (contractor, Demolition Manager, etc.) must comply with the BDS policy regarding a live-streaming video for the second #205 Inspection.

7.6 #210 (Site Stabilization) Inspection.

A #210 inspection must be requested and scheduled through the IVR system by the applicant (contractor, Demolition Manager, etc.) and approved prior to requesting a final inspection for the permit.

The following items are required and will be verified at the #210 inspection:

- Inspect site to confirm all demolition debris has been removed
- Inspect the site to ensure the soils are free of any accumulation of paint chips and other debris
- Inspect the site to ensure permanent soil stabilization measures are in place. Temporary soil stabilization measures may be allowed where applicable.
- Ensure temporary erosion and sediment control measures have been removed. Temporary erosion and sediment control measures may be allowed to remain in place where applicable.

7.7 If the building to be demolished has a basement or foundation that will result in a replacement fill of 24" or greater, the replacement soil is required to be compacted, and a soils special inspection by an independent agency is required. When a replacement house is being constructed at the same time and the basement excavation is being reused, in some conditions, it is possible to put off the compacted fill requirement by submitting an [Agreement for Basement Fill & Compaction](#). This agreement guarantees that the excavation will be filled if the new construction does not occur. A sewer cap is required if a house to be demolished is served by the City sewer. If the sanitary system was a septic tank or cesspool, then the abandonment of that system must be inspected under a [decommission permit](#).

## VIII. Enforcement and Citation Process

8.1 General: The process and fines established in this rule will be the process followed by BDS for citing and enforcing violations of 24.55.205, imposing and collecting fines, and considering appeals.

8.2 Stop Work Orders: BDS may issue a stop work order to obtain compliance with PCC 24.55.205, requiring that all work, except work directly related to elimination of the violation, be immediately and completely stopped. Any activity subject to the stop work order may not resume until BDS gives approval in writing. Details regarding stop work orders are contained in PCC 3.30.080. The issuance of a Stop Work Order does not prohibit the issuance of a separate citation - see Sections 8.3 and 8.4 of this Rule.

- 8.3 Violations that CANNOT be corrected: When a violation of PCC 24.55.205 is confirmed and cannot be corrected, BDS will issue a citation to the responsible party. Violations that cannot be corrected include, but are not limited to:
- Beginning demolition prior to the required #200 or #205 (first and second) inspection
  - Demolition without a permit
  - Mechanical demolition prior to removal of lead-based paint material
  - Mechanical demolition without wetting or dust suppression
  - Mechanical demolition that results in visible dust leaving the site

BDS will determine which party(ies) are the responsible parties and may cite any or all of them if they fail to comply with any provision of PCC 24.55.205. For the purposes of this Rule, the responsible party will be the Demolition Manager, and may also include other persons authorized to act on the owner's behalf, the property owner, or any person causing or contributing to a violation of PCC 24.55.205.

- 8.4 Violations that CAN be corrected: When a violation of PCC 24.55.205 is confirmed and can be corrected, BDS will issue a correction notice to the responsible party. Violations that can be corrected, include, but are not limited to, minor adjustments to site control measures, such as:
- Correction of existing containment measures
  - Correction of debris management

BDS will issue a correction notice for these types of violations, and repeated violations will be issued citations.

- 8.5 Citation service: A citation may be personally delivered to the responsible party, or it may be served by registered or certified mail to the responsible party. For purposes of this Rule, 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.
- 8.6 Fines and corrections. The citation will state the section of PCC 24.55.205 violated, the fine imposed, and the corrective action required.
- 8.7 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 3.30.040, including assessment of Administrative Enforcement Fees.
- 8.8 Citation appeals. Issuance of a citation may be appealed by requesting an Administrative Review.
- 8.9 Citation Fines:
- 8.9.1 The following fines are established for violations of PCC 24.55.205. These fines will be assessed as a result of an issued citation for violations of PCC 24.55.205.

Violations that CANNOT be corrected  
1<sup>st</sup> Violation = 1<sup>st</sup> Citation and \$10,000 fine

2<sup>nd</sup> Violation = 2<sup>nd</sup> Citation and \$15,000 fine  
3<sup>rd</sup> Violation = 3<sup>rd</sup> Citation and \$20,000 fine  
4<sup>th</sup> Violation = 4<sup>th</sup> Citation and \$25,000 fine  
All Subsequent Violations = \$25,000 fine

Violations that CAN be corrected

1<sup>st</sup> Violation = Correction Notice only  
2<sup>nd</sup> Violation = 1<sup>st</sup> Citation and \$5,000 fine  
3<sup>rd</sup> Violation = 2<sup>nd</sup> Citation and \$5,000 fine  
4<sup>th</sup> Violation = 3<sup>rd</sup> Citation and \$5,000 fine  
All Subsequent Violations = \$5,000 fine

8.9.2 A separate citation may be issued to each responsible party for each violation of PCC 24.55.205. The amount of the fine assessed for subsequent violations by the same responsible party will be based on the number of previous citations issued to that responsible party on the same or a different project within the City. Each day of non-compliance may be cited and fined as separate violations, even if the same responsible parties were previously cited and fined for the same sections of PCC 24.55.205.

8.9.3 Fines must be paid to and received by the Bureau of Development Services – Enforcement Program within 15 calendar days of the date on the citation, or within 15 calendar days of the final administrative review by the Director or the published decision of a citation appealed to the City Code Hearings Officer, unless the City Code Hearings Officer specifies a different date.

8.9.4 If the citation fine is not paid within 15 calendar days, as specified above, the fine(s) indicated on the citation will double and the unpaid citation amount may, at the discretion of the Director, be assessed as a City lien against the property.

8.10 Administrative Review and Appeals:

If the 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.

The 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.

**IX. Major Residential Alterations and Additions (MRAAs)**

9.1 Major Residential Addition: means adding more than 500 square feet of new interior space and expanding the structure's footprint or envelope. The new interior space

does not include areas of existing space within the building envelope. (PCC 24.55.150.B.) Major additions are subject to the notice requirements, including emailed notice to the recognized organizations and posted door hangers on the 10 surrounding properties, both of which must be done at least 35 days before the building permit is issued. (PCC 24.55.210.D.) Major additions are not subject to dust or site control measures.

- 9.2 Major Residential Alteration: means removing 50% or more of the exterior walls above the foundation. (PCC 24.55.150.C.) Major alterations are subject to the dust and site control measures of PCC 24.55.

For purposes of determining whether 50% or more of the exterior wall has been removed, BDS will include any portion of any exterior wall above the foundation that remains. For example, if the applicant is removing portions of all exterior walls, the project will be a major alteration only if the total exterior walls removed equals or exceeds 50% of the exterior wall area above the foundation, measured in lineal feet. Windows and doors that are moved, removed, or replaced are not considered removing the wall, so long as the rest of the wall remains. Removing siding or sheet rock does not constitute removing a wall.

**X. Responsibility**

The Bureau of Development Services is responsible for managing and implementing this Rule.

**XI. History**

Date Adopted: October 30, 2020  
Effective Date: December 1, 2020

## **Appendix A – Asbestos Requirements**

This appendix outlines requirements for asbestos inspections/surveys that must be followed and documented by an AHERA accredited professional and the associated abatement documentation submittal requirements for demolitions and deconstructions performed within the City of Portland that are subject to the requirements of [PCC 24.55.205](#).

These asbestos requirements are a blend of Oregon Administrative Rules, ASTM standards, and local requirements promulgated by the City of Portland Bureau of Development Services. These requirements do not and are not intended to reduce or negate any federal or state regulations pertaining to asbestos inspection, testing, documentation, or abatement; this appendix is provided to build upon existing regulations and standards and clarify the level of investigation and documentation that is required prior to demolition/deconstruction permit issuance to minimize and/or eliminate asbestos hazards during demolition/deconstruction activities.

### **Pre-Demolition Asbestos Survey**

A pre-demolition asbestos survey must be performed for all residential structures slated for demolition or deconstruction that were constructed prior to January 1, 2004. The AHERA accredited inspector is required to utilize destructive investigation methods to locate and quantify all suspect and presumed asbestos containing material (ACM) to the maximum extent practicable. Areas or systems that cannot be accessed must be listed in the survey, along with a statement providing the reason it could not be inspected. The survey must provide clear and detailed documentation that the AHERA accredited inspector thoroughly inspected the structure for all suspect and presumed ACM, in all accessible functional spaces, surfaces, and systems, including previously inaccessible areas, on and within the structure slated for demolition.

#### **Asbestos Survey Requirements. Each Survey must:**

- Be performed by an AHERA accredited inspector.
- Clearly state that the survey is for a structure slated for demolition/deconstruction.
- Meet all requirements of [OAR 340-248-0270](#), and provide the total quantity of all suspect and presumed ACM in the appropriate units of measure (square feet and linear feet).
- Clearly document inspection of and absence of all building systems, including but not limited to, heating and cooling systems, electrical systems, domestic water lines, miscellaneous piping lines, roofing systems, surfacing materials, and miscellaneous materials where suspect ACM may be present.
- Include a copy of the chain of custody sheet for sampled materials.
- Include a copy of test results provided by a laboratory participating in a nationally recognized laboratory accreditation program for asbestos testing or participating in and maintaining proficient status in a nationally recognized bulk asbestos proficiency testing program.
- Include a copy of the AHERA inspector's current accreditation certificate.
- Include a completed copy of the BDS Pre-Demolition Survey Checklist (to be completed and signed by the accredited AHERA inspector).

### **Asbestos Abatement Documentation**



Asbestos abatement is regulated and enforced by Oregon DEQ; therefore, all asbestos containing material identified in the Pre-Demolition Survey must be abated per the requirements of OAR 340-248 prior to issuance of a demolition permit. In order to confirm adherence to the OAR, BDS requires the following abatement documentation to be submitted prior to permit issuance:

- Appropriate ASN Oregon DEQ Notification forms
  - [ASN 1 – Friable Notification](#)
  - [ASN 3 – Small scale abatement](#) (highlight the materials associated with the demolition)
  - [ASN 4 – Asbestos Waste Shipment](#)
  - [ASN 6 – Non-Friable Notification](#)
- BDS Asbestos Abatement Closeout Form
  - List ACM identified in survey and the survey estimated quantities
  - List the actual quantities of abated ACM if different from the survey
  - List any additional ACM that was discovered during abatement but not identified in the survey

#### **Reporting asbestos containing materials discovered during demolition/deconstruction**

Even with the pre-demolition asbestos survey and abatement completion, additional suspect ACM and asbestos-containing materials may still be discovered during demolition/deconstruction activity. When this occurs, all contractors must follow the requirements set forth in [OAR 340-248-0270](#) section 5, and the Demolition Manager shall provide BDS with the DEQ abatement notification form that was filed as a result of the removal of additional ACM.

#### **Waivers and Exemptions**

The Bureau of Development Services does not issue waivers or exemptions for asbestos surveys or asbestos abatement. Qualifying exemptions can be found in [OAR 340-248-0250](#) and waivers are addressed in [OAR 340-248-0270](#) section (4); please contact the [Oregon Department of Environmental Quality Asbestos Program](#) for information and waiver/exemption requests. If you have been granted a waiver by Oregon DEQ you must submit the written approval with your permit application.

If an applicant believes the project is exempt from the requirements of OAR 340-248, the applicant shall list the applicable OAR section on the Demolition Plan, and the exemption will be evaluated during application review.

Applicant(s) seeking to legalize a demolition performed prior to permitting, and without an asbestos survey and proof of abatement, must provide BDS with written documentation from Oregon DEQ that clearly demonstrates Oregon DEQ was notified. Acceptable documentation from Oregon DEQ may include a warning letter, pre-enforcement notice, formal enforcement action, or other official DEQ correspondence, which clearly lists the property address where the demolition occurred.

## **Appendix B – Limited Exterior Scope Lead-based Paint Inspection**

### **Requirements for Pre-Demolition Lead-based Paint Inspection for the City of Portland**

For the purposes of complying with PCC 24.55.205 for residential demolitions, all pre-demolition, lead-based paint inspections will be limited only to the exterior area(s) and surfaces of each pre-1978 structure being demolished. All exterior components with the potential for a distinct painting history must be tested for lead-based paint and clearly identified by location, appearance, and component type.

Only an Oregon Health Authority (OHA) certified Lead Inspector or Risk Assessor may perform a lead-based paint inspection utilizing paint chip sampling or a portable XRF analyzer as the testing methodology.

Results of each limited exterior scope lead-based paint inspection must be documented in a written report that contains the following information in keeping with similar methods and standards as established by the EPA under 40 CFR 745.227(b)(4)(i-x), and as required by BDS for review of demolition application package submittals.

### **Each Limited Exterior Scope Lead-Based Paint Inspection REPORT must include:**

- Date(s): Both: 1. Date of inspection; and 2. Date of report
  - Full address of structure (include apt #s if applicable)
  - Date of construction (*if known or can be determined*)
  - Name, address, and telephone number of the legal property owner
  - Name, signature, and certification # for each Lead Inspector or Risk Assessor conducting testing
  - Name, address, and telephone number of the certified firm employing each Lead Inspector or Risk Assessor (if not self-employed firm)
  - A sketch of the structure with each side labeled, with windows and doors identified and numbered on each side to correspond with each testing combination and reading location(s).
  - The report must identify (either with each XRF reading or on the sketch) the specific locations of each painted component tested for the presence of lead-based paint.
  - The report must list the testing method and device and/or sampling procedure utilized for paint analysis.
1. If using an x-ray fluorescence (XRF) device: the report must also include:
    - a. Manufacturer's Performance Characteristic Sheet, including the serial number of the XRF device, and substrate correction information, if applicable to the device;
    - b. XRF readings and result reports should include calibration readings at the beginning and the end of the inspection readings and every 4 hours if applicable.

For the purposes of PCC 24.55, if all of the exterior components contain painted surfaces, the report should have no less than 24 readings. Reading must be conducted on the following components, where present: siding, fascia, soffit,

gutter, window sash, window sill, window trim, door, door trim, door jamb, door threshold, foundation (if painted) on each side/wall, and any other components present on any side/wall. There may be more tests conducted of the same component type if they are a different color or it is evident there is a different paint history on that surface.

2. If using Paint Chip Analysis: the report must include:
    - a. Copy of Chain of Custody Control Sheet submitted to the lab with samples; and
    - b. Copy of the lab's report that includes reference to National Lead Laboratory Accreditation Program (NLLAP) Certification; and
    - c. The lab results expressed in terms appropriate to the sampling method used clearly identifying the surface area(s) and locations testing positive for lead-based paint.
- A clear, color photo, sized no less than 5" x 7", for each of the four, exterior sides of the structure.

## **Appendix C – Lead-based Paint Certifications**

### **Lead-Based Paint (LBP) Certifications Required**

The on-site person performing the lead hazard reduction activities on a pre-1978 residential structure must have one of the following certifications:

Abatement Worker;  
Lead Supervisor;  
Project Designer; or  
Lead-Based Paint Renovator

The certified person must be on-site during the lead hazard reduction activities (removing exterior painted, non-structural components) required in PCC 24.55.205.C.1. The certified person shall ensure that other persons performing lead hazard reduction activities are engaged in lead-based paint work practices. The certified person must be reachable during demolition activities when not on-site.

The Demolition Manager (DM) is not required to have these certifications, but the DM must ensure that such certified person(s) are on-site when required, and the DM must be reachable during the demolition and deconstruction activities. The Demolition Manager is responsible for ensuring the proper handling, storage, and transportation of all such materials, as well as the dust and site control measures required by PCC 24.55.205, regardless of whether the certified person is on-site.

Exemption for structures determined to have lead-free exteriors: Projects with structures that have been approved as having lead-free exteriors in compliance with section 5.1.3 of this Rule are not required to include lead certified persons.

### **Certification Information:**

Please visit Oregon Health Authority webpage

<https://www.oregon.gov/oha/PH/HEALTHYENVIRONMENTS/HEALTHYNEIGHBORHOODS/LEADPOISONING/Documents/SB871-FAQ.pdf> - Page 4 for more information on certification option available.