

ORDINANCE No.

Amend the Building Demolition Code to move implementation details to the administrative rule, update asbestos requirements to conform to state regulations, update demolition inspections language to be consistent with current practices, increase fines for non-compliance, and make other modifications for clarity and consistency; amend fee schedule (Ordinance; amend Code Chapter 24.55 and Portland Policy Document ENB 14.10)

The City of Portland ordains:

Section 1. The Council finds:

1. The Bureau of Development Services (BDS) promotes safety, livability, and economic vitality through efficient and collaborative application of building and development codes.
2. BDS administers Portland City Code (PCC) Title 24, Building Regulations. PCC Chapter 24.55, Building Demolitions, regulates building demolitions within the City.
3. In 2018, the City Council added provisions to Chapter 24.55 that created a regulatory program for addressing dust and debris that may be generated when structures with one to four dwelling units, plus their accessory structures, are demolished.
4. Because these provisions were new, BDS anticipated the need to make adjustments based on lessons learned during the initial period of implementing the new regulations.
5. In February 2020, BDS presented a report to the City Council outlining the program and providing recommendations for improvements based on lessons learned and recent discussions with stakeholders.
6. This ordinance conforms the demolition inspections and specifies what will be inspected at each to current practices, deletes references to deconstruction, removes the option for having an accredited asbestos inspector on-site as an alternative to full asbestos abatement prior to a demolition, and requires anyone removing exterior painted components as part of a demolition to have lead-based paint certifications.
7. The ordinance also removes details regarding lead-based paint inspection reports, verification of required certifications, debris containment and sign posting requirements, and enforcement and fines. BDS will adopt these details in the Demolition Administrative Rule.
8. The ordinance makes other technical changes to ensure consistency between City Code and State regulations.

9. The ordinance further amends the Enforcement Fee and Penalty Schedule as shown in Exhibit B to increase the fines for violations of the residential demolition site control requirements in Chapter 24.55.

NOW, THEREFORE, the Council directs:

- a. Portland City Code Chapter 24.55 is amended as set forth in Exhibit A.
- b. The Enforcement Fee and Penalty Schedule is amended as shown in Exhibit B, effective on the effective date of this ordinance (Portland Policy Document ENB 14.10)
- c. This ordinance is binding City policy.

Passed by the Council:

Mayor Ted Wheeler
Prepared by: Nancy Thorington, BDS
Date Prepared: September 9, 2020

Mary Hull Caballero
Auditor of the City of Portland
By

Deputy

CHAPTER 24.55 - BUILDING DEMOLITION

a. Section 24.55.150, Definitions, is amended as follows:

24.55.150 Definitions.

- A.** Demolition. Demolition means removal of all exterior walls above the foundation.
- B.** Major Residential Addition. 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.
- C.** Major Residential Alteration. Major residential alteration means removing 50 percent or more of the exterior walls above the foundation.
- D.** Recognized organization. Recognized organization includes neighborhood coalitions and neighborhood associations recognized by the Portland Office of Community & Civic Life.
- E.** Demolition Manager. Demolition manager means the person designated by the property owner or demolition permit applicant who will be responsible for implementing and overseeing the Demolition Plan and who will be the contact person for BDS and other regulatory agencies regarding the Demolition Plan. ~~The Demolition Manager must have knowledge regarding erosion and sediment control, site control, and proper handling of materials generated from the demolition activities.~~—The Demolition Manager is a “responsible party” as defined in this Section 24.55.150.
- F.** Demolition Plan. Demolition plan means the plan signed by the Demolition Manager that outlines the techniques and equipment that will be used during all demolition activities to ensure compliance with dust suppression as required, reviewed and approved by the Bureau of Development Services. (See also Administrative Rule Related to Chapter 24.55 – Demolitions.) ~~the Demolition Manager will use on the demolition site to control dust and debris generated during the demolition activities. The Demolition Plan must also include the anticipated timeframe for the demolition, a description of the site control measures set forth in Section 24.55.205 C. and monitoring processes that will be followed on the site before, during, and after the demolition activities, details of pedestrian protection where required, and a description of how the site will be secured against accessibility by any unauthorized persons. The Demolition Plan must include erosion and sediment control measures required by this Chapter 24.55, Title 10 and Chapter 17.39 of the Portland City Code, the City of Portland Erosion and Sediment Control Manual, the City of Portland Source Control Manual, and any other City of Portland regulations governing erosion, sediment control, stormwater control, or wastewater generated from the demolition activities covered by this Section~~

~~24.55.205. The Plan must also include contact information for the Demolition Manager.~~

- G.** Mechanical demolition activities. Mechanical demolition activities means pulling down any part of a structure using mechanical tools such as cranes, bulldozers, excavators, rams, or similar heavy machinery. Mechanical demolition activities also includes mechanical loading and transfer of demolition materials.
- H.** ~~Deconstruction. Deconstruction means demolition via the systematic dismantling of a structure or its parts, typically in the opposite order it was constructed, which can include the selective use of heavy machinery.~~
- I.** ~~Full deconstruction. Full deconstruction means systematically dismantling 100% of the building, including finishes, core, shell, frame, mechanical, electrical, and plumbing fixtures and only using machinery to move and process materials once they are removed.~~
- JH.** ~~Lead-containing based paint. Lead-containing based paint means any paint or other surface coatings that contains lead equal to or exceeding 1.0 milligram per square centimeter, 0.5 percent by weight, or 5,000 parts per million (ppm).~~
- K.I** Responsible party. Responsible party means the property owner or any other person authorized to act on the owner's behalf and any person causing or contributing to a violation of this Title.

b. Section 24.55.205, Site Control Measures in Residential Demolitions, is amended as follows:

24.55.205 Site Control Measures in Residential Demolitions.

- A.** Scope. The provisions of this Section 24.55.205 apply to demolitions involving the following, regardless of zoning or Comprehensive Plan Map designation:
 - 1.** Structures used for residential purposes with four or fewer dwelling units, including mixed use structures. "Mixed use" for purposes of this Section 24.55.205 means the combination on a site of residential uses with commercial or industrial uses.
 - 2.** Any detached accessory structures with a floor area over 200 square feet on a site with a structure covered by Subsection 1. above. ~~—"Accessory structure" for purposes of this Section 24.55.205 means a structure not greater than 3,000 square feet in floor area, and not more than two stories in height, the use of which is accessory to and incidental to that of the main structure.~~
- B.** Documentation Required. A permit to demolish a structure within the scope of this Section as defined in Subsection A. above will not be issued until the Bureau of Development Services (BDS) has received all of the following:

1. A copy of the asbestos survey required under Oregon Revised Statutes 468A.757 and Oregon Administrative Rules Chapter 340, Division 248, Section 0270, as each of these is amended from time-to-time.
2. If asbestos is identified in the asbestos survey:
 - ~~a. For friable asbestos removal, a copy of the ASN1 (friable notification form) and a~~ a close-out letter from the licensed asbestos abatement contractor verifying all of the asbestos identified in the asbestos survey has been abated and all required DEQ notification forms and the asbestos waste shipment form.; ~~and~~
 - ~~b. For non friable asbestos removal, a copy of an ASN6 (nonfriable asbestos notification form), and a copy of the ASN4 (asbestos waste shipment form).~~
3. A Demolition Plan as described in Section 24.55.150.
4. ~~If the structure to be demolished was built before January 1, 1978, it will be presumed to contain lead-based paint, unless a copy of lead test results conducted by an “inspector” or “risk assessor,” as those terms are defined on OAR 333-069 and as that section is amended from time to time, that shows the structure does not have lead-containing materials is submitted to the Bureau of Development Services with the application for a demolition permit. The applicant must provide a lead-based paint inspection report in order to seek an exemption from the lead-hazard reduction requirements in subsection C.1. of this section. The requirements for the inspection report will be contained in the BDS Administrative Rule Related to Chapter 24.55 – Demolitions.~~
5. ~~Unless the lead test results outlined in Subsection 4. above show that the structure does not have lead-containing materials, if the structure to be demolished was built before January 1, 1978, and the person performing the demolition is a contractor, as defined in ORS 701.005 (5)(a), the person performing the demolition must submit proof to BDS verifying that the person has one of the certifications specified in OAR 333-068-0070, as that section is amended from time to time, or has hired a person with one of the specified certifications to perform the mechanical demolition activities or deconstruction on the site. Verification of all required certifications as described in the BDS Administrative Rule Related to Chapter 24.55 – Demolitions.~~

C. Requirements for Demolitions

1. ~~Accredited inspector, certified worker, or certified supervisor. An accredited inspector, certified worker, or certified supervisor as those terms are defined in OAR 340-248-0010, must be present during all mechanical demolition activities and deconstruction on the site, unless Comprehensive~~

~~Asbestos Inspection and Testing, as that term is defined in the BDS administrative rules, has been completed on the structures to be demolished or deconstructed and asbestos test results certified by a licensed asbestos abatement contractor is included with the asbestos survey provided to BDS, along with evidence that all identified asbestos-containing material has been abated as required by the Oregon Department of Environmental Quality.~~

- ~~2.~~—Lead hazard reduction. Prior to commencing mechanical demolition activities, all painted exterior non-structural surfaces, including, but not limited to, doors, windows, railings, soffits, trim, exterior porches (except for concrete or masonry materials), and all layers of siding (unless such surfaces have been tested as set forth in Section B.4. above and found not to contain lead-containing paint) must be removed, and all such materials must be placed in 6 mil plastic and deposited in a covered container. During the removal of these exterior painted materials, 6-mil plastic sheeting or equivalent must be placed at the base of the exterior shear wall and extend at least 10 feet beyond the perimeter of the structure or work area, whichever is greater. If a property line prevents 10 feet of ground covering, vertical containment must be erected to protect neighboring properties.

All lead hazard reduction work must be completed and inspected by BDS as outlined in the BDS Administrative Rule Related to Chapter 24.55 – Demolitions.

- ~~32.~~ Dust suppression. During mechanical demolition activities, including transfer and loading of materials, the structure, mechanical equipment parts that come in direct contact with building materials, and debris must be continuously wetted with a water spray sufficient in volume and force to prohibit airborne emission of dust and particulates from leaving the site. In addition, ~~the entire demolition site and~~ all debris piles must be wetted down each day prior to commencing mechanical demolition activities and at the end of each day during which mechanical demolition activities have occurred.
- ~~43.~~ Wind speed. Mechanical demolition activities must be suspended when winds exceed 25 MPH, verified regularly during mechanical demolition activities by using a hand-held anemometer prior to commencing mechanical demolition activities each day and any time wind speeds noticeably increase. Only deconstruction or other activities that do not generate dust may be conducted on the site when winds exceed 25 MPH.
- ~~54.~~ ~~Containment of demolition debris on site.~~ Containment measures to prevent suspect asbestos containing material, lead based paint, and any other pollutants, as defined in the City of Portland Erosion and Sediment Control Manual, from running off the site must be employed consistent with Portland City Code Title 10 and the Solid Waste and Materials Management provisions of the City of Portland Erosion and Sediment Control Manual.

~~If stormwater or any other water generated on the site pools or is collected onsite, including but not limited to water generated from dust suppression activities, then written authorization from the City is required to discharge into a City storm, sanitary, or combined sewer system, unless the Demolition Manager arranges to have the water pumped and hauled off-site for proper disposal. The site will be required to employ approved best management practices, such as settling and filtration, prior to discharge per Portland City Code Subsections 17.34.030 B. and 17.39.040 C.10., and City of Portland Sanitary Discharge and Pretreatment Program Administrative Rules, ENB 4.03(3)(B) and (C). Debris containment/management: All demolition debris must be contained on site per the requirements set forth in the BDS Administrative Rule Related to Chapter 24.55 – Demolitions.~~

- ~~65. Demolition debris. Any non-salvageable materials and debris generated from demolition activities, including deconstruction, that is deposited into any receptacle, drop box, dumpsters shaft, or piping and any debris left on the site, must be covered at the end of each work day with non permeable plastic. Runoff. All stormwater or any other water generated on the site that pools or is collected on the site must comply with all City requirements for water discharge.~~
- ~~7. Exceptions for Full Deconstruction. If the structure to be demolished will be fully deconstructed in accordance with the deconstruction requirements outlined in Portland City Code Subsection 17.106.040 B. and the Portland Deconstruction Administrative Rules adopted October 31, 2016, Parts 4.1 and 4.2, as amended from time to time, then the lead hazard reduction requirements in Subsection 2., except the requirement for horizontal and vertical plastic protection; the wetting techniques outlined in Subsection 3., except the requirement to wet mechanically transferred and loaded materials; and the wind restrictions in Subsection 4. above do not apply during deconstruction activities.~~
- 86.** Exemption for Unsafe or Hazardous Structures. An applicant may request an exemption from the lead hazard reduction requirements in Subsection 2. above if the structure is structurally unsafe or otherwise hazardous to human life to the extent that the activities described in Subsection 2. above could not be safely executed. The request must accompany the application for the demolition permit, unless the unsafe or hazardous condition is not discovered until after the permit application has been submitted. Reasons for exemption consideration could include, but are not limited to, extensive fire damage, drug manufacturing, or severe structural issues that cannot be mitigated without complete mechanical demolition. Request for an unsafe or hazardous structure exemption must be submitted to the Bureau of Development Services and include all of the following:
- a.** A letter on company or organization letterhead from one of the following professionals stating that performing the lead hazard

reduction requirements would not be safe:

- (1) Structural Engineer licensed in the State of Oregon.
 - (2) ~~Bureau of Development Services.~~
 - (3) ~~Hazardous material professional with credentials to perform work in the State of Oregon.~~
- b. A statement by a professional listed in Subsection a.(1) ~~or (3)~~ above who provides a letter indicating that neither the professional, a relative of the professional, nor a business entity with which the professional is associated has a financial or other interest in the property or project. “Relative” means the spouse, parent, stepparent, child, sibling, step-sibling, son-in-law, or daughter-in-law of the professional.
- c. Supporting evidence documenting the condition of the structure and reasons why the lead hazard reduction activities are not recommended due to safety concerns.

97. Notification and Posting.

- a. ~~All demolitions that are subject to the provisions of this Section 24.55.205 must comply with the notification requirements in Subsection 24.55.200 D.2.~~
- b. ~~All such sites must also be posted with a sign during demolition activities that meets the requirements set forth in the BDS Administrative Rule Related to Chapter 24.55 – Demolition of Portland City Code Subsection 10.30.020 B.8.a. and includes the name and telephone number of the Demolition Manager, in addition to the information required in Subsection 10.30.020 B.8.a.~~

D. Demolition-Related Inspections

1. BDS will conduct ~~an initial~~ pre-demolition site assessment inspection to determine whether the site control measures outlined in the Demolition Plan, along with erosion control measures, and sediment control measures, and site security are adequate based on specific site conditions or other City regulations. ~~The~~This initial site assessment inspection will be used to review the Demolition Plan, including final site grading and any necessary permanent site control measures. In addition, the initial site assessment pre-demolition inspection will ensure that there is a Demolition Manager and that a copy of the Demolition Plan is on site.
2. BDS will conduct ~~an~~ inspections during demolition activities to confirm the Demolition Plan is being properly implemented and maintained during the

demolition process. BDS will verify that exterior painted surfaces are removed, as required, prior to beginning mechanical demolition and required wetting for dust suppression is operational during the start of mechanical demolition, and any dust suppression and other site control equipment described in the Demolition Plan are on-site.

3. BDS will conduct a post-demolition inspection to verify that site grading has been completed, permanent soil stabilization measures are in place, and the premises is secure the structure(s) and all demolition-related debris has been removed as detailed in the Demolition Plan and that the site is free of debris and Title 10 erosion and sediment control requirements are met.

E. Enforcement and Fines

1. Stop Work Orders. When necessary to obtain compliance with this Section 24.55.205, the Director may issue a stop work order as described in Portland City Code Section 3.30.080 requiring that all work, except work directly related to elimination of the violation, be immediately and completely stopped. Any person subject to a stop work order may seek administrative review of the order and may appeal the Director's administrative determination as provided in Portland City Code Section 3.30.080. Enforcement. Enforcement of this Section 24.55.205 is set forth in the BDS Administrative Rule Related to Chapter 24.55 – Demolitions.

2. Citation Process and Fines

- a. Citation Process

- (1) Correction Notice. If BDS finds the demolition project does not comply with any provision of this Section 24.55.205, BDS will issue a correction notice stating the provision(s) violated and the required correction(s) to bring the project into compliance.

- (2) Citation for Violations. If a violation for which a correction notice has been issued is not corrected, or if the same responsible party is found to have violated any provision of this Section 24.55.205 on a different project within the City, BDS may issue a citation to the responsible party for such violation. For the purposes of this Section 24.55.205, the responsible party is defined in Section 24.55.150.

- (3) Citation service. A citation may be personally delivered to the responsible party, or may be served by Registered or Certified Mail to the responsible party. For purposes of this Subsection, 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.~~

~~(4) Fines and corrections. The citation will state the section of this Section 24.55.205 violated, the fine imposed, and the corrective action required.~~

~~(5) 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 Portland City Code Section 3.30.040, including assessment of Administrative Enforcement Fees and revocation of issued demolition or building permits.~~

~~(6) Citation appeals. Issuance of a citation may be appealed by requesting an Administrative Review, see Subsection G below.~~

b. ~~Fines. Fines are established for violations of this Section 24.55.205 as set forth in the Enforcement Fee and Penalty Schedule as adopted by the City Council. These fines will be assessed as a result of an issued citation for violations of this Section 24.55.205 and are in addition to any other fines authorized by law. See Administrative Rule Related to Chapter 24.55 – Demolitions.~~

~~1st Offense — a first offense is based on a single inspection, even if there are multiple violations. For any subsequent offenses, a separate fine may be assessed for each violation of this Section 24.55.205.~~

~~Additional violations after the first offense will be set at the maximum amount per individual violation allowed by the fee scheduled adopted by the City Council, unless the Director finds mitigating factors that justify a lesser fine. Multiple citations can be issued to the responsible party for continued violations of this Section 24.55.205, and each day of non compliance may be considered a separate violation.~~

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

~~If the citation fine is not paid within 15 calendar days, 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.~~

3. Administrative Review and Appeals. If a responsible party has received a stop work order or written citation and the responsible party believes the order or citation was 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, along with the Administrative Review appeal fee. (See current BDS Enforcement Fee Schedule). The appeal fee is due when the written request for an Administrative Review is submitted to BDS. 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.

Additionally, the party that sought the Administrative Review may appeal the written Administrative Review determination to the City Code Hearings Office in accordance with Chapter 22.10 of the Portland City Code.

F. Demolition Permit Compliance Prerequisite for New Building Permit. No building permit for a new structure on the site that is subject to the demolition permit (including all lots in a land division or lot confirmation) will be issued until the final inspection for the demolition permit has been completed and approved.

~~G. Administrative Review and Appeals. If a 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.~~

~~A 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.~~

City of Portland
Bureau of Development Services
ENB 14.10

Enforcement Fee and Penalty Schedule

Asbestos and Lead-Based Paint and Site Control Demolitions Citation Fees

~~First Offense ————— \$5,000 (Even if there are multiple violations on single inspection)~~

~~Second Offense ————— \$10,000 (Applies to each violation)~~

~~Third Offense ————— \$15,000 (Applies to each violation)~~

~~Additional violations
(after the third offense) — \$15,000 (Applies to each violation)~~

Violations that CANNOT be corrected

<u>1st Non-Correctable Violation</u>	<u>1st Citation and \$10,000 fine</u>
<u>2nd Non-Correctable Violation</u>	<u>2nd Citation and \$15,000 fine</u>
<u>3rd Non-Correctable Violation</u>	<u>3rd Citation and \$20,000 fine</u>
<u>4th Non-Correctable Violation</u>	<u>4th Citation and \$25,000 fine</u>
<u>All Subsequent Non-Correctable Violations</u>	<u>\$25,000 fine</u>

Violations that CAN be corrected

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



City of Portland

Bureau of Development Services

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PERMANENT RULE

RELATING TO
Chapter 24.55 – Demolitions

FOR INFORMATION CONTACT
Mike Liefeld
 (503-823-7332)

PPD No. _____

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 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:

- 24.55.100 Demolition – Debris – Barricades – Nuisances**
- 24.55.150 Definitions**
- 24.55.200 Residential Demolition Delay – Housing Preservation**

24.55.205 Site Control Measures in Residential Demolitions
24.55.210 Major Residential Alterations and Additions

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 Subcommittee 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. The Demolition Subcommittee and BDS staff identified other improvements to PCC Chapter 24.55 and this Rule. [THE REST OF THE FINDINGS WILL BE DRAFTED AFTER THE CODE CHANGES AND PERMANENT RULES ARE READY FOR ADOPTION]
5. BDS notified the Development Review Advisory Committee (DRAC) of the rule and presented a summary at the June 18, 2020, DRAC meeting.

CONCLUSION

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

ADOPTED: _____
 Rebecca Esau, Director

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: The pulling down of any part of a structure using mechanical tools such as cranes, bulldozers, excavators, rams, or similar heavy machinery, as well as using heavy machinery to load, transfer, and move materials associated with demolition activities. (24.55.105.G.)

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 certifications 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 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 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 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 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

1. 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.
2. 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.
3. 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. 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.)

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

- 1st Non-Correctable Violation = 1st Citation and \$10,000 fine
- 2nd Non-Correctable Violation = 2nd Citation and \$15,000 fine
- 3rd Non-Correctable Violation = 3rd Citation and \$20,000 fine
- 4th Non-Correctable Violation = 4th Citation and \$25,000 fine
- All Subsequent Non-Correctable Violations = \$25,000 fine

Violations that CAN be corrected

- 1st Correctable Violation = Correction Notice only
- 2nd Correctable Violation = 1st Citation and \$5,000 fine
- 3rd Correctable Violation = 2nd Citation and \$5,000 fine
- 4th Correctable Violation = 3rd Citation and \$5,000 fine
- All Subsequent Correctable 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 first, whether the violation is correctable or non-correctable, and then considering 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 Code Hearings Officer, unless the 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: _____, **2020**

Effective Date: _____, **2020**

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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.

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Appendix C – Lead-based Paint Certifications

Lead-Based Paint 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.