



City of Portland

Bureau of Development Services

1900 SW Fourth Avenue, Suite 5000
Portland, OR 97201
Telephone: (503) 823-7300

PERMANENT RULE

RELATING TO

Title 29 Property Maintenance Regulations

PPD No. _____

FOR INFORMATION CONTACT

Beth Benton
(503-823-3349)

TITLE

Property Maintenance Regulations

For Interior Dampness (Mold), Insect and Rodent Harborage, Hazardous Materials (Lead-Based Paint), Inspections Required (Enhanced Rental Inspections Program)

AUTHORITY

Portland City Code (PCC) Title 29 (Property Maintenance Regulations) sets out the requirements related to minimum property maintenance regulations in the City of Portland. PCC Section 3.30.040, sets out the requirements for the Bureau of Development Services (BDS) to adopt administrative rules, policies, procedures, and forms for enforcement, to establish and impose enforcement fees and penalties for non-compliance, to establish enforcement priorities, to gain compliance as set forth in subsection 3.30.040.D, and to provide 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 as set forth in subsection 3.30.040.A.

PCC 29.05

PCC Title 29 contains the following provisions governing interior dampness (mold), rodent harborage, hazardous materials (lead-based paint) and Enhanced Rental Inspections Program, in the City of Portland:


29.10.020	Definitions
29.30.120	Interior Dampness (Mold)
29.30.130	Insect and Rodent Harborage
29.30.005.D & 29.30.250.A	Fire Safety (Chap. 13 Systematic Inspections Program)
29.30.260	Hazardous Materials (Lead-Based Paint)
29.50.020	Inspections Required (Enhanced Rental Inspections Program)

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 stakeholders from the Portland Housing Bureau (PHB), Portland Risk Management, Multnomah County Health Department and Vector Control, along with certified professional representatives from the environmental health testing and mold remediation industries to identify issues and best practices that needed to be addressed in the administrative rule.
3. BDS notified the Rental Services Commission (RSC) with Portland Housing Bureau (PHB) of the proposed rule and presented a summary at the January 21, 2020, public RSC meeting, and subsequently provided a summary and draft versions of the rule via email to RSC representatives from Housing Oregon, NW Affordable Housing Workgroup, Community Alliance of Tenants, Portland Area Rental Owners Association, Multifamily NW, Portland Tenants United, and the NW Pilot Project, to name a few.
4. In accordance with Section 3.30.045, BDS published a notice of public hearing in *The Oregonian* on September 12, 13, and 16, 2020 and in *The Daily Journal of Commerce* on September 14, 16, and 18, 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 12, 2020, and held the record open until 5:00 p.m. on October 12, 2020. One written and one 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, and following the procedures in Section 3.30.045, the Director of BDS hereby adopts the Administrative Rule.

ADOPTED:  October 28, 2020
Rebecca Esau, Director Date

Administrative Rule for Title 29

I. Purpose and Scope

The purpose of this Administrative Rule is to provide guidance on implementing Title 29 of the Portland City Code (PCC), which governs Property Maintenance Regulations related to minimum property maintenance regulations within the City of Portland. This Administrative Rule provides: protocols for the effective treatment and remediation of hazards caused by moisture, mold and lead-based paint; recommendations for Integrated Pest Management (IPM); and protocols for the Enhanced Rental Inspection (ERIP) and Chapter 13 Systematic Inspection Programs as a matter of public health and safety. This Administrative Rule also clarifies terms and definitions and provides a process framework with requirements related to measures in Title 29. This Administrative Rule may be amended with the approval of the Director should new methods, standards or Federal or State guidelines or requirements be promulgated in the future.

II. Definitions

General: The definitions in this Administrative Rule expand on, and provide clarity for, terms that may be found in PCC Sections 29.10.020, 29.30.005(D), 29.30.120, 29.30.130, 29.30.230(D), 29.30.250(A), 29.30.260, 29.50.020, and this Administrative Rule.

- 2.1. Aggregate Area (for the purpose of PCC 29.30.120): The sum total of all mold or mildew coverage identified and measured in one or more locations, within the interior of a dwelling unit.
- 2.2. Building Envelope: The exterior or shell of a building that repels the elements, including the foundation, exterior wall(s), windows, doors, and roof. The building envelope can contain both conditioned (*heated and/or cooled*) and unconditioned spaces.
- 2.3. Certifying Entities (for the purpose of PCC 29.30.120 only): Any State of Oregon or nationally recognized third-party certification, as approved by the Director for mold sampling or testing, or for mold remediation and treatment, currently including:
- American Council for Accredited Certification (ACAC)
 1. Council-certified Microbial Remediator (CMR)
 2. Council-certified Microbial Remediation Supervisor (CMRS)
 3. Council-certified Residential Microbial Remediator (CRMR)
 - American Board of Industrial Hygiene (ABI)
 1. Certified Industrial Hygienist (CIH) by ABI
 - Institute of Inspection Cleaning and Restoration Certification (IICRC)
 - National Organization of Remediators and Mold Inspectors (NORMI)
 - National Association of Environmentally Responsible Mold Contractors (NAERMC)
 - National Association for Moisture Management (NAMM)
 1. Certified Environmental Home Inspector (CEHI)
 2. Certified Moisture Management Professionals (CMMP)
 - Mold Inspection Consulting and Remediation Organization (MICRO)
 1. Certified Mold Inspector (CMI)

2. Certified Mold Remediation Contractor (CMRC)

- 2.4. Certified Mold Inspector (for sampling/testing): Any person or company for hire who performs work necessary to collect data for the identification of the types and concentration of mold or mold spores present in a house or building through approved testing methods, such as air monitoring and field sampling. A Certified Mold Inspector must possess an active State of Oregon or nationally recognized third-party certification for mold sampling or testing, as approved by the Director. *(See definition for Certifying Entities.)*
- 2.5. Certified Mold Remediation Contractor: Any person or company who performs and directs work necessary to remediate mold hazards either through repair, cleaning, or treatment, including the protection of occupant health. A Certified Mold Remediation Contractor must possess an “active” State of Oregon or nationally recognized third-party certification for mold remediation and/or treatment as approved by the Director. *(See definition for Certifying Entities.)*
- 2.6. Critical Violation (for the purpose of the Enhanced Rental Inspection Program violation types): A level of hazard associated with a cited violation where the violation is currently exhibiting, or likely to exhibit, imminent risk of serious injury, illness or death. Critical Violations will be given 30 days for correction.
- 2.7. Dampness: The state or condition of being slightly wet. Refers to moist or humid air and/or slightly moist or wet materials.
- 2.8. De Minimis Level (for the purpose of PCC 29.30.120): Any visible mold or mildew whereby the total aggregate area identified is found only on: 1) caulk joints in and around the seams of a bathtub or shower; or 2) interior window sash and frame; and 3) the visible mold or mildew is determined to be a minimal amount easily corrected through routine cleaning and maintenance. *(Note: for the purpose of item 2, window “frame” includes the track and trough portions of a window unit but does not include the sill, stool, casings, apron, or any other interior trim component around the window.)*
- 2.9. Demonstrable (for the purpose of PCC 29.30.120): That which is visibly evident or capable of being scientifically explained and demonstrated through reliable approved testing methods, such as mold spore testing or sampling. Interior spore levels found to be higher in concentration than comparative exterior samples taken at the same time and processed through analysis by an accredited lab will be considered demonstrable evidence when those findings, along with the lab results, are presented in a report prepared by a Certified Mold Inspector.
- 2.10. Deteriorated or Damaged (for the purpose of PCC 29.30.120): The state at which an item has changed and been made inferior, having lost integrity or the ability to perform its intended function.
- 2.11. Fungus: Any of a group of spore-producing organisms in the Fungi Kingdom, which feed on organic matter, including molds, mildews, decay, yeasts, mushrooms, and toadstools.

- 2.12. Integrated Pest Management (IPM) (for the purpose of PCC 29.30.130): A coordinated decision-making and action process that uses the most appropriate pest control methods and strategies in an environmentally and economically responsible and effective manner to manage pests that are harmful to human health, while reducing occupant and public exposure to toxic chemicals.
- 2.13. Maintenance Violation (for the purpose of the Enhanced Rental Inspection Program violation types): A violation where the primary concern is the lack of maintenance, which is contributing to the deterioration, failure, or absence of required structural or non-structural building elements, facilities, equipment, or systems, including any installed non-required appliances or equipment.
- 2.14. Major Level (mold violation) (for the purpose of PCC 29.30.120): Any visible or otherwise demonstrable growth of mold or mildew identified inside the building envelope that is > 10 square feet in aggregate area, or any Minor Level condition whereby the substrate is also deteriorated.
- 2.15. Minor Level (mold violation) (for the purpose of PCC 29.30.120): Any visible or otherwise demonstrable growth of mold or mildew identified inside the building envelope that is ≤ 10 square feet in aggregate area, that can be cleaned, AND the substrate is intact, excluding de minimus levels.
- 2.16. Mildew: Living or dead fungi or their related products or parts, including spores and hyphae, which are typically smaller in area and easier to clean. (See also *Fungus and Mold*.)
- 2.17. Mold: Living or dead fungi or their related products or parts, including spores and hyphae. (See also *Fungus and Mildew*.)
- 2.18. Mold Testing (for the purpose of PCC 29.30.120): The sampling of spores present in the indoor air (controlled environment with the windows closed during testing), along with comparative sampling of the outdoor air and including photographic evidence of the presence of mold, if present, by a Certified Mold Inspector.
- 2.19. Mold Violation: A symptom of a moisture issue within or around a building envelope such that mold or mildew is visible or detectable as a result.
- 2.20. Occupant Protection Plan: A written plan, unique to the dwelling unit or structure, prepared by a Certified Mold Remediation Contractor or Certified Mold Inspector prior to the start of any remediation work, that describes the location and nature of the planned work and details the measures and procedures that will be taken to protect the occupant(s) from exposure to mold spores during remediation.
- 2.21. Owner-occupied Unit (for the purpose of the Enhanced Rental Inspection Program): Any residential dwelling unit occupied by the person whose name and address is listed as the owner of the property by the County Tax Assessor on the

County Assessment and Taxation records, and includes their extended family or guests.

- 2.22. Personal Property (for PCC 29.30.120): Items or property that can be moved from one location to another. Personal property typically includes, but is not limited to, personal items, clothing, furniture, tools, equipment, and free-standing appliances. Exception: a free-standing appliance, if provided by the property owner for the use of the tenant, will not be considered personal property for the application of PCC 29.30.120.
- 2.23. Permit Violation (for the purpose of the Enhanced Rental Inspection Program violation types): A violation where the primary concern is an administrative violation related to required permits, including work without permit, failure to obtain final approval on a permit, and additional work performed outside the scope of a permit.
- 2.24. Real Property (for the purpose of PCC 29.30.120): Property consisting of land, buildings, crops, or other resources still attached to or within the land or improvements or fixtures permanently attached to the land or attached to a structure on the land.
- 2.25. Remediation (for the purpose of PCC 29.30.120): The repair, cleaning, treatment, and management of mold and mildew hazards, including the correction of existing moisture or dampness issues, and contributing causes of mold or mildew, in order to prevent the reoccurrence of mold or mildew.
- 2.26. Residential Rental Property: Any property within the City with one or more rented dwelling units that are not occupied as the principal residence of the owner. (See also *Owner-occupied Property*.)
- 2.27. Safety Violation (for the purpose of the Enhanced Rental Inspection Program violation types): A violation where the primary concern is the risk of injury or a condition that poses a threat to human life or safety.
- 2.28. Sanitation Violation (for the purpose of the Enhanced Rental Inspection Program violation types): A violation where the primary concern is the risk of disease or illness associated with environmental conditions, or hazards, either organic or inorganic in nature, or known vectors such as insects, rodents, vermin, and pests.
- 2.29. Substrate: Any supportive material (such as drywall and subflooring) that underlies and supports cosmetic finishes or coverings.

III. Interior Dampness: Moisture and Mold Remediation Inspection Criteria

- 3.1. Violation Protocols: reference PCC 29.30.120:
 - 3.1.1 De Minimus Level. Any visible mold or mildew present that meets the definition of De Minimus, will result in the following:

- A. No violation will be cited; and
- B. Educational material regarding mold or mildew hazards and safe cleaning methods will be provided to the occupants and property owners; and
- C. A recommendation to clean and keep clean the affected area will be made to the property owner.

3.1.2. Minor Level: Any visible or demonstrable mold or mildew on the interior side of the building envelope, including both conditioned and unconditioned spaces (such as: attics, chases, wall and floor cavities and basements), whereby the total aggregate area identified is ≤ 10 sf AND the substrate is not damaged, and the affected painted, stained, or other interior surfaces are cleanable, will result in the following:

- A. The affected area will be identified as a Minor Level (mold or mildew violation); and
- B. Affected area will be cited as a violation; and
- C. Educational material regarding mold or mildew hazards and safe cleaning methods will be provided to the property owner and occupants; and
- D. The property owner will be required to:
 - a. Correct any identified sources of moisture or dampness contributing to the mold or mildew (see Section 3.2 below for who can perform the work); and
 - b. Clean and, if necessary, paint the affected areas in compliance with the Section VI. Hazardous Materials: Lead-Based Paint Criteria section of this Title 29 Administrative Rule; and
 - c. Ensure the affected area is clean and visibly free of mold or mildew upon completion of work and keep the affected area clean and free of mold or mildew.

3.1.3. Major Level: Any visible or demonstrable mold or mildew on the interior side of the building envelope, including both conditioned and unconditioned spaces (including, but not limited to, spaces such as attics, chases, wall and floor cavities, and basements), whereby the total aggregate area identified is > 10 sf, or any Minor Level (mold violation) whereby the substrate is deteriorated or damaged, and the affected painted, stained, or other interior surface is not cleanable and will require repair or replacement and repainting, will result in the following:

- A. The affected area will be identified as a Major Level (mold or mildew violation); and

- B. The affected area will be cited as a violation; and
- C. The property owner will be required to:
 - a. Contract with a Certified Mold Remediation Contractor (as defined herein) (see also Section 3.2.3) to determine the specific cause(s) of dampness and moisture in the unit that will require repair to prevent the return of mold AND remediate all affected and identified areas of mold or mildew; and
 - b. Correct any identified sources of moisture contributing to the growth of mold or mildew; and
 - c. Repaint all repaired and cleaned areas, as may be necessary after remediation work is complete, if not provided for by the Certified Mold Contractor. Painting work performed must be in compliance with Section VI. Hazardous Materials: Lead-Based Paint Criteria of this Rule; and
 - d. Ensure the affected area is clean and visibly free of mold or mildew upon completion of work and keep the affected area clean and free of mold or mildew.
- D. The Certified Mold Contractor must:
 - a. (If the dwelling unit is occupied) Prepare or have prepared by another Certified Mold Inspector or Certified Industrial Hygienist an Occupant Protection Plan. (See Section 3.2 for who can perform work.) *Note: a dwelling unit is not considered to be unoccupied if the tenant(s) temporarily relocate during the course of remediation or leave the premises temporarily for vacation or any other reason with an active lease in place.*
 - b. Provide a copy of the contractor's certification(s) and a copy of the Occupant Protection Plan (if occupied) to the Inspector prior to the start of work; and
 - c. Repair or remove all damaged and affected substrates (see Section 3.2 for who can perform the work); and
 - d. Remediate, treat, and clean (as necessary) all identifiable mold or mildew-laden surfaces and substrates in the affected area (see Section 3.2 for who can perform the work); and
 - e. The affected area must be clean and visibly free of mold or mildew upon completion of work; and

- f. A written summary of the work performed by the contractor must be provided to the Inspector upon final inspection as a requirement for the violation to be deemed in compliance.

3.1.4. Additional Complaints: If the Bureau of Development Services receives a verified, additional complaint for additional or a new presence of mold or mildew, at the same address and in the same unit, within six months of either a prior inspection or a closed case, whereby mold or mildew was previously identified as “Minor,” any identifiable and visible mold or mildew growth on the subsequent complaint that is confirmed will be designated as a Major Level mold or mildew violation (see Section 3.1.3).

3.2. Certifications Required based on Certain Mold Violation(s) (PCC 29.30.120)

3.2.1. A property owner may perform cleaning and painting related activities for mold or mildew affected areas identified as either De Minimus or Minor Level. No certifications are required.

3.2.2. A contractor, manager, employee, or maintenance staff may perform cleaning and painting related activities for mold or mildew affected areas identified as either De Minimus or Minor Level. No certifications are required.

3.2.3. Major Level mold or mildew affected areas: All remediation work, including substrate repair or removal, and clean-up must be done by a contractor that possesses an “active” State of Oregon or nationally recognized, third-party certification for mold or mildew remediation and/or treatment as approved by the Director. (See Section 2.3 for definition of Certifying Entities.)

3.3. Requirements for Bathroom Ventilation (per PCC 29.30.120, C&D)

Where there is a visible or otherwise demonstrable growth of mold or mildew exceeding a total of one square foot (>1sf) in a dwelling unit, all bathrooms with bathing facilities must have a functioning mechanical ventilation system that is vented through to the exterior of the building envelope and is capable of providing a minimum measured air flow rate of ≥30 cubic feet of air per minute (CFM).

Note: Having or installing operable windows in bathrooms with bathing facilities will not meet the requirements for ventilation where a visible or otherwise demonstrable mold or mildew growth has been identified in excess of one square foot (>1sf).

3.3.1. Bathrooms with Existing Mechanical Ventilation: Existing mechanical ventilation systems found not to be capable of providing a minimum, measured air flow rate of ≥30 CFM must either:

- A. Be repaired or retrofitted to meet the requirements of this Section 3.3, including venting requirements; or

- B. Have the mechanical ventilation control switch replaced with a humidity- or condensation-sensing control switch or a programmable, timer-style control switch that is capable of providing a minimum of 30 minutes of continuous operation to provide the same benefit as would be achieved through the operation of a 30 CFM or greater ventilation system during normal use; or
- C. Be replaced with a new mechanical ventilation system meeting the requirements of Section 3.3.2(A).

3.3.2. Bathrooms without Existing Mechanical Ventilation: When no existing mechanical ventilation system is in place, for each bathroom with bathing facilities, the owner must:

- A. Install a mechanical ventilation system per the requirements of the current Oregon Residential Specialty Code (ORSC) for one and two-family dwellings or the Oregon Mechanical Specialty Code (OMSC) for commercial structures.

IV. Insect and Rodent Harborage

4.1. Violation Protocols (reference PCC 29.30.130):
Any identified insect, rodent, vermin or other pest infestation and harborage cited as a violation will require the following protocols for correction:

4.4.1. For Owner-occupied dwelling units:

- A. The owner will be required to eliminate the insect, rodent, vermin, or other pest infestation and harborage; and
- B. A recommendation to implement Integrated Pest Management (IPM) will be made; and
- C. Educational material regarding Integrated Pest Management (IPM) and a supplemental list of safe, non-toxic products will be provided to property owner; and
- D. All affected areas must be visibly free of insect, rodent, vermin, or other pests final inspection.

4.1.2. For rental properties with any identified insect, or other pest infestation and harborage, excluding rodents such as mice and rats:

- A. The property owner will be required to eliminate the insect or pest infestation or harborage; and
- B. Educational material regarding Integrated Pest Management (IPM) practices and a supplemental list of safe, non-toxic products will be provided to the property owner and occupants; and

- C. The property owner must contract with a licensed pest control company for the treatment and elimination of the insects and/or pests utilizing Integrated Pest Management (IPM) practices inside occupied dwelling units; and
 - D. A copy of a current contract detailing the IPM Treatment Plan, unit(s) treated, and description of services must be provided to the inspector upon final inspection; and
 - E. All affected areas must be visibly free of insect and other pest infestation and harborage, upon final inspection.
- 4.1.3. For rental properties with an initial compliant, with an identified rodent or vermin infestation, such as mice and rats:
- A. The property owner will be required to eliminate the mouse, rat, rodent, or vermin infestation and harborage; and
 - B. Educational material regarding Integrated Pest Management (IPM) practices will be provided to the property owner and occupants; and
 - C. A recommendation to implement Integrated Pest Management (IPM) will be made; and
 - D. All affected areas must be visibly free of mouse, rat, rodent, or vermin infestations and conditions conducive for harborage final inspection.
- 4.1.4. For rental properties with additional complaints:
 If the Bureau of Development Services receives a verified complaint for an additional or a new infestation of the same identified mouse, rat, rodent, or vermin infestation that was previously cited at the same address and unit, within 6 months of a previously closed case, the following protocols will apply:
- A. The property owner must contract with a licensed pest control company for the treatment and elimination of the pest infestation and harborage, utilizing Integrated Pest Management (IPM); and
 - B. Educational material regarding Integrated Pest Management (IPM) practices will be provided to the property owner and occupants; and
 - C. A copy of a current contract detailing the IPM Treatment Plan, unit(s) treated, and description of services must be provided to the inspector upon final inspection; and
 - D. All affected areas must be visibly free of mouse, rat, rodent, or vermin infestations and conditions conducive for harborage upon final inspection.

V. Inspections Required: Chapter 13 Systematic Inspections Program

- 5.1. Applicability: The Chapter 13 Systematic Inspections Program only applies to non-conforming structures, containing apartment houses and hotel occupancies that are more than two stories in height and constructed, altered, or repaired before January 1, 1973.
- 5.2. Purpose and Scope: In order to ensure the intent and purpose of Portland City Code (PCC) 29.30.005.D, 29.30.230.D, and 29.30.250.A, as adopted by ordinance in 1972, the Chapter 13 Systematic Inspections Program ensures minimum fire and life safety standards are being maintained to ensure the health, safety, and welfare of Portland residents. These older buildings were constructed in ways that did not provide adequate enclosed stairways, availability of exits, fire separation, exit signs, etc. Required corrections and compliance agreements were made with property owners, and the buildings are systematically inspected to ensure they are being upheld and maintained.
- 5.3. Inspection Protocols (reference PCC 29.30.005.D and 29.30.250.A): Inspections are coordinated with routine Fire Bureau inspections and will occur at least every 24 months or sooner as necessary. Inspections include all common areas, basements and common escape routes, including those units that may have been designed to serve as a shared route for emergency egress. When a non-residential occupancy is included within the building, separation walls and ceilings are also inspected.

The following standards are used for these inspections:

- 5.3.1. Chapter 479 of the State of Oregon Revised Statute requirement for Smoke Alarms or Detectors as referenced in ORS 476.255 to 258 and 476.270 to 285 and locally in PCC 29.30.240; and
- 5.3.2. Chapter 90 of the State of Oregon Revised Statute requirement for Carbon Monoxide Alarms as referenced in ORS 90.316 and 317 and locally in PCC 29.30.245; and
- 5.3.3. Section 1313 of Chapter 13 of the Appendix of the 1973 Edition of the Uniform Building Code as adopted and provided here for reference:

APPENDIX Existing Buildings Chapter 13

EXISTING BUILDINGS A-1313 Sec. 1313.

(a) **Purpose.** *The purpose of this Section is to provide a reasonable degree of safety to persons living and sleeping in apartment houses and hotels through providing for alterations to such existing buildings as do not conform with the minimum safety requirements of this Code.*

(b) **Scope.** *The provisions of this Section shall apply exclusively to existing nonconforming Group H Occupancies more than two stories in height.*

(c) **Effective Date.** *Eighteen months after the effective date of this Section, every building falling within its scope shall be vacated until made to conform to the requirements of this Section.*

(d) **Number of Exits.** Every apartment and every other sleeping room shall have access to not less than two exits. A fire escape as specified herein may be used as one required exit.

(e) **Stair Construction.** All stairs shall have a minimum run of 9 inches and a maximum rise of 8 inches and a minimum width exclusive of handrails of 30 inches. Every stairway shall have at least one handrail. A landing having a minimum horizontal dimension of 30 inches shall be provided at each point of access to the stairway.

(f) **Interior Stairways.** Every interior stairway shall be enclosed with walls of not less than one-hour fire resistive construction. Where existing partitions form part of a stairwell enclosure, wood lath and plaster in good condition will be acceptable in lieu of one-hour fire-resistive construction. Doors to such enclosures shall be protected by a self-closing door equivalent to a solid wood door not less than 1½ inches thick.

Enclosures shall include landings between flights and any corridors, passageways, or public rooms necessary for continuous exit to the exterior of the building. The stairway need not be enclosed in a continuous shaft if cut off at each story by the fire-resistive construction required by this Subsection for stairwell enclosures. Enclosures shall not be required if an automatic fire-extinguishing system is provided for all portions of the building except bedrooms, apartments, and rooms accessory thereto.

(g) **Exterior Stairways.** Exterior stairs shall be noncombustible or of wood of not less than 2-inch nominal thickness with solid treads and risers.

(h) **Fire Escapes.** Fire escapes may be used as one means of egress, if the pitch does not exceed 60 degrees, the width is not less than 18 inches, the treads are not less than 4 inches wide, and they extend to the ground or are provided with counterbalanced stairs reaching to the ground. Access shall be by an opening having a minimum dimension of 29 inches when open. The sill shall be not more than 30 inches above the floor and landing.

(i) **Doors and Openings.** Exit doors shall swing in the direction of exit travel, shall be self-closing, and shall be openable from the inside without the use of key or any special knowledge or effort. Doors shall not reduce the required width of stairway more than 6 inches when open. Transoms, and openings other than doors, from corridors to rooms shall be fixed closed and shall be covered with a minimum of ½-inch plywood or ½-inch gypsum wallboard or equivalent material.

(j) **Exit Signs.** Every exit doorway or change of direction of a corridor shall be marked with a well-lighted exit sign having letters at least 5 inches high.

(k) **Enclosure of Vertical Openings.** Elevators, shafts, ducts, and other vertical openings shall be enclosed as required for stairways in Subsection (f) or by wired glass set in metal frames. Doors shall be noncombustible, or as regulated in Subsection (f).

(l) **Separation of Occupancies.** Occupancy separations shall be provided as specified in Section 503. Lobbies, and public dining rooms not including cocktail lounges, shall not require a separation if the kitchen is so separated from the dining room. Every room containing a boiler or central heating plant shall be separated from the rest of the building by not less than a One-Hour Fire-Resistive Occupancy Separation.

EXCEPTION: A separation shall not be required for such rooms with equipment serving only one dwelling unit.

(m) **Alternates.** No alternate method of obtaining the fire protection and safety required by this Section may be used unless the Board of Appeals, including as a voting member for this purpose the Chief of the Fire Department, finds that such alternate method provides protection and safety equivalent to that required herein.

5.4. Removal from Program Requirements.

- 5.4.1. Pre-1973 apartment buildings and hotels can be removed from the requirement of having systematic inspections under this Chapter 13 program upon compliance with the following:
 - A. Obtain approval through the BDS Administrative Board of Appeals to have the building removed from the program, along with:
 - a. Obtaining a change of occupancy to non-residential use; or
 - b. Obtaining a Commercial Building Permit and completing all required upgrades to the structure to bring the building up to current fire and life safety standards and codes; or
 - B. Obtaining a demolition permit and having the building demolished.

VI. Hazardous Materials: Lead-Based Paint Criteria

6.1. Violation Protocols (reference PCC 29.30.260 A, B, C):

6.1.1. Applicability: All rental property owners, property managers, maintenance workers, or contractors performing renovations, repairs, or painting on a pre-1978 house, or dwelling unit, other than their own residence, or on a pre-1978 child-care facility or school, and when the work performed will:

- A. Disturb more than 6 square feet of a painted interior surface; or
- B. Disturb more than 20 square feet of a painted exterior surface; or
- C. Involve window replacement (not repair, unless disturbing more than 6 square feet)

are required to comply with the Environmental Protection Agency's (EPA) Renovation, Repair and Painting Rule (RRP), to obtain and maintain an active Lead-Based Paint Renovator Certification, as adopted and enforced by the State of Oregon.

6.2. Requirements, Certification and References:

- 6.2.1. All rental property owners, managers, maintenance workers, and contractors are required to comply with the EPA Renovation, Repair and Painting rule, must have a Lead-Based Paint Renovator certification per the Environmental Protection Agency, the Oregon Health Authority (OHA), the Oregon Revised Statutes and Oregon Administrative Rules as issued by the Oregon Construction Contractors Board (CCB).
- 6.2.2. To become a certified Lead-Based Paint Renovator in Oregon, a person must:

- A. Satisfactorily complete a certification course(s) approved by either the Oregon Health Authority (OHA) or the Environmental Protection Agency; and
- B. Obtain a Renovator certification from the Oregon Construction Contractors Board (CCB).

6.2.3. References for Lead-based Paint regulations:

A. **EPA Renovation, Repair and Painting (RRP) Rule:**

- 40 Code of Federal Regulations 745 Subparts D, E, and L

B. **Oregon Revised Statutes:**

- ORS 431A.350 - Lead Poisoning
- ORS 431A.353 - Definitions for ORS 431A.355 and 431A.358
- ORS 431A.355 - Power of Oregon Health Authority to Regulate Lead-Based Paint Activities
- ORS 431A.358 - Performance of Lead-Based Paint Activities Without Certification Prohibited
- ORS 431A.363 - Civil Penalty for Violation of ORS 431A.355 or 431A.358

C. **Oregon Statutes and Administrative Rules.** These provisions pertain to the Oregon Construction Contractors Board (CCB):

- ORS (701.505) - Definitions for ORS 701.505 to 701.515
- ORS (701.515) - Licensing System
- OAR 812-007 - Licensing of Individuals and Firms Engaged in Lead-Based Paint Activity
- OAR 333-068 - Certification of Contractors Performing Demolitions
- OAR 333-069 - Certification of Individuals and Firms Engaged in Lead-Based Paint Activities and Accreditation of Training Programs for Professionals Engaged in Lead-Based Paint Activities
- OAR 333-070 - Pre-Renovation Education and Renovation, Repair, and Painting Activities Involving Lead-Based Paint.

6.3. Enforcement Authority:

6.3.1. Oregon Health Authority (OHA) Rules are enforceable by the State.

6.3.2. The OHA has adopted rules and regulates the enforcement of the Environmental Protection Agency (EPA) Renovation Repair Painting (RRP) Rule and the Federal Lead Safe Housing Rule regarding all work performed on pre-1978 housing, and child-occupied pre-1978 facilities in the State of Oregon.

VII. Inspections Required: Enhanced Rental Inspections Program

7.1. Inspection Authority (reference PCC 29.05.030 & PCC 29.50.020):

- 7.2. Purpose and Scope: This rule clarifies the type and nature of additional, required inspections under the Enhanced Rental Inspection Program (ERIP), as approved by the Director, in order to ensure the health, safety and welfare of Portland tenants. The program has four stages, with each stage requiring inspections of additional units, and in some cases additional properties, owned by the same entity or person. The additional inspections are triggered by an initial complaint-driven inspection, which reveal violations that exceed minimum violation thresholds, established in the Enhanced Rental Inspections Program rules.
- 7.3. Applicability: The Enhanced Rental Inspection Program applies to all residential rental units, including Chapter 13 designated buildings, within the incorporated Portland City limits.
- 7.4. Exclusions: The Enhanced Rental Inspection Program does not apply to dwelling units that are only owner-occupied, short-term rentals, hotels, or other transient lodging units.
- 7.5. **STAGE-1 Enhanced Rental Inspections Protocols:**
- 7.5.1. Each Title 29 violation identified will be assigned a rating of “critical” if it meets the definition of critical. (See *Section II, “Critical Violation.”*)
- Housing Inspection Notices for all Residential Rental units will be assessed to verify whether the number and ratings of violations meet the Enhanced Rental Inspection violation thresholds as set forth in subsection 7.5.2.
- 7.5.2. Based on the violations cited in the STAGE-1 initial complaint-based inspection, the rental dwelling unit will trigger a STAGE-2 Enhanced Rental Inspection if any of the following conditions are met in any single dwelling unit:
- A. There are 3 or more cited violations that have been rated Critical Violations; or
 - B. There are 6 or more total cited violations.
- 7.6. **STAGE-2 Enhanced Rental Inspections Protocols:**
- 7.6.1. STAGE-2 Inspections are only applicable to properties located within the incorporated City limits of Portland.
- 7.6.2. When Stage 2 Enhanced Rental Inspections are triggered, the location and number of additional rental units or properties to be inspected will be identified based on the structure and ownership criteria in **Table 7.6.2A:**

Table 7.6.2A: Enhanced Rental Inspections STAGE-2 Criteria

If the original inspected unit is or part of . . .	Minimum # and location of additional dwelling units or properties to be inspected
Single-Family Rental Dwelling or Duplex where <u>only 1</u> dwelling unit is a rental unit	Inspect 1 additional residential, rental unit owned by the same entity or owner.
Duplex where <u>both</u> units are residential rentals	Inspect the remaining rental unit in the duplex <u>AND</u> 1 additional residential, rental unit owned by the same entity or owner.
3 or 4-unit building or complex	Inspect all remaining residential rental units.
Buildings or Properties with greater than 4 units	Inspect 50% of the remaining, uninspected, residential, rental units up to a max of 20 units, as selected by the City Inspector.

7.6.3. Any additional violations cited during STAGE-2 inspections will be added to the initial housing case. If the location is at another property, with a different physical address, a new housing violation case will be opened. Normal processes for enforcement will follow procedures found in PCC 29.05.

7.7. **STAGE-3 Enhanced Rental Inspections Protocols:**

7.7.1. When the additional STAGE-2 inspections are completed, if 50% or more of the rental dwelling units inspected also meet the STAGE-1 threshold criteria in subsection 7.5.2, then the Inspector must inspect all remaining residential rental units at the property.

7.8. **STAGE-4 Enhanced Rental Inspections Protocols:**

7.8.1. When the additional STAGE-3 inspections are completed, if 50% or more of the rental units inspected also meet the STAGE-1 threshold criteria in subsection 7.5.2, then the Inspector must inspect an additional residential rental property owned by the same property owner and located within the incorporated city limits of Portland if such property exists.

VIII. Reference Policies and Procedures

The following is a list of policies and procedures that are referenced in this rule. These references are provided for convenience only:

- PCC 3.30.040.A

- PCC 29.05.020
- PCC 29.05.030
- PCC 29.10.010
- PCC 29.30.005.D
- PCC 29.30.120
- PCC 29.30.130
- PCC 29.30.260
- PCC 29.30.250.A
- PCC 29.50.020

IX. Responsibility

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

X. History

Date Adopted: **October 28, 2020**

Effective Date: **October 28, 2020**