



City of Portland

Bureau of Development Services

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INTERIM RULE

RELATING TO

Chapter 24.55 – Demolitions

PPD No. ENB-25.01

FOR INFORMATION CONTACT

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TITLE **Demolitions**

AUTHORITY

Portland City Code (PCC) Chapter 24.55 (Building Demolition) sets out the requirements related to demolitions in the City of Portland. Section 3.30.040.A. provides authority for the Director of the Bureau of Development Services 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 the administrative rules.
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.
4. BDS notified the Development Review Advisory Committee (DRAC) of the rule and presented a summary at the January 16, 2020, DRAC meeting.
5. The Director of BDS may adopt an interim rule without prior notice upon a finding that a failure to act promptly will result in prejudice to the public interest. Interim rules will be effective for a period of not longer than 180 days. It is in the public interest to improve the inspection process for residential demolitions to maximize the public health benefits of those inspections.

CONCLUSION

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

ADOPTED: *[Rebecca Esau]* **January 23, 2020**
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 new 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 24.55.105.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 apply, 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 3.3 below – "Determining Unit Count.")
- 2.4. Comprehensive Asbestos Inspection and Testing: means an accredited asbestos inspector conducts a comprehensive pre-demolition inspection to identify asbestos-containing material **using destructive sampling protocols** to test interior and exterior building materials. Survey procedures should include, but are not limited to the following:
 - 2.4.1. Using equipment that will allow visual examination of all accessible spaces (e.g., ladders, flashlights)
 - 2.4.2. Determining and investigating each building's structural, mechanical, electrical, and roofing systems
 - 2.4.3. Performing a comprehensive investigation of areas to identify materials to be sampled and/or assumed to contain asbestos
 - 2.4.4. Conducting destructive investigation, as necessary, to gain access to hidden spaces, such as wall cavities, floors through the bottom-most subfloor, under cabinets, below ground levels and other hidden spaces, to inspect them for suspect asbestos-containing materials, using the following guidelines for locating concealed materials, and to conduct sampling as required under 40 CFR 763.86:

- 2.4.4.1. Identify the different building systems that may involve concealed asbestos materials, such as the heating/cooling systems, electrical systems, domestic water lines, roof drainage lines, miscellaneous piping lines, underlay roofing, etc.
- 2.4.4.2. Open hidden areas and inspect each system described in 2.4.2 above
- 2.4.4.3. Focus the inspection on likely areas where suspect asbestos-containing materials will be found (e.g., where pipes enter walls or ceilings, pipes in chases, pipes in walls, pipes in ceiling plenum, pipe fittings, soundproofing inside walls, plaster ceiling above lay-in ceiling, under carpeting, etc.
- 2.4.4.4. Examine additional areas if inspection results are inconsistent
- 2.4.4.5. Clearly list all hidden areas that have not been inspected, and explain why they were not inspected

The following are examples of suspect asbestos-containing materials that should be sampled and tested in the Comprehensive Asbestos Survey. This is not a complete list, but is provided as a guide only:

Acoustical and spray-applied ceiling texture (popcorn)	Electrical cloth Electrical panel partitions Electrical wiring insulation Fire blankets Fire doors and walls Fireproofing Flashing cement Furnace insulation and cement High temperature gaskets (furnace, boilers, woodstoves)	Paper on backside of fiberglass insulation Patch compounds Pipe insulation Plaster walls Poured flooring/leveling compound Rolled/hot mopped roofing Roofing paper (Nicolite, petroleum bound built up, felt layered, rolled and patch)
Air duct cement, tape, insulation (white paper on seams and/or complete wrap)	HVAC duct insulation Incandescent light fixture backing Insulation (vermiculite in walls, attics, not including fiberglass, cellulose, rockwool)	Sink insulation & spray-on undercoating Spray-applied insulation Stucco Subflooring slip sheet Textured paints/coatings Vapor barrier Vinyl floor tile
Block insulation Boiler/tank insulation Breaching insulation Brick mortar Built-up roofing Caulking/putties Ceiling tiles/panels/mastic Cement board/transite Cement pipes Cement roofing shingles Construction mastics/adhesives Ductwork flexible connections	Mudded pipe elbow insulation Paper fire box in walls	

Vinyl sheet
flooring/
mastic

Vinyl wall
coverings
Wallboards

Window glazing

- 2.5. Mechanical demolition activities: definition: “pulling down any part of a structure using mechanical tools such as cranes, bulldozers, excavators, rams, or similar heavy machinery.” (24.55.105.G.) Loading and transfer using heavy machinery to move materials other than debris associated with a demolition are not considered mechanical demolition activities.

III. **Dust and Site Control Measures for Demolition Projects with 1-4 Dwelling Units**

3.1. General: PCC 24.55.205 requirements:

- 3.1.1. Dust suppression, site control measures and debris containment to mitigate the impacts of residential demolitions on neighbors of demolitions involving structures with 1 – 4 dwelling units, regardless of zone, and the accessory structures on those sites
- 3.1.2. A Demolition Manager to be designated who is responsible for ensuring that the requirements of PCC 24.55.205 are met and is the single point of contact for the project
- 3.1.3. The contractor performing the demolition work must have one of the approved lead-based paint certifications (certified renovator, abatement worker, abatement supervisor, project designer; see OAR 333-068-0070)
- 3.1.4. A person with one of the approved asbestos certifications (accredited asbestos inspector, certified asbestos worker or certified asbestos supervisor) must be on-site at all times when mechanical demolition or deconstruction is occurring, unless Comprehensive Asbestos Inspection and Testing as defined in Section 2.4 above and abatement for asbestos has been done before the demolition begins and documentation has been provided to BDS
- 3.1.5. Demolition Plan for dust and site control
- 3.1.6. Building permit for replacement structure won't be issued until the demolition permit is completed and approved
- 3.1.7. Cannot conduct mechanical demolition activities if wind speed exceeds 25 MPH
- 3.1.8. Must remove all painted exterior non-structural surfaces (doors, windows, railings soffits, trim, exterior porches, siding) before beginning mechanical demolition activities
- 3.1.9. Must post door hangers on the properties within 300 feet and an on-site sign

3.2. Applicability

- 3.2.1. 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. The provisions of 24.55 for demolition delay and dust/site control only apply when a demolition permit is required. Therefore, the provisions of PCC 24.55 do not apply.
- 3.2.2. Accessory structures: if a detached accessory structure to be demolished is on a site with at least one structure on the site that has 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.

- 3.2.3. Trash enclosures: if the trash 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.
 - 3.2.4. Bike enclosures: if the bike 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 24.55.205 will apply.
 - 3.2.5. 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; although BDS enforces the State Building Code in Multnomah County, BDS does not enforce the demolition provisions of PCC 24.55 outside of the City per the intergovernmental agreement with Multnomah County.
 - 3.2.6. 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; thus, if they have common areas with a kitchen or bathroom, they would not meet the ORSC definition because such units would not be “complete” and “independent.” 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 hotel building into a 1-4 dwelling unit structure. Therefore, hotels, including those with attached managers units, are not subject to the provisions of PCC24.55.205.
 - 3.2.7. Churches with living units: such living units are not dwelling units unless each living unit meets the definition of dwelling unit in ORSC above. If there are 1-4 living units that each meet the ORSC definition of dwelling unit, then the provisions of PCC 24.55.205 apply.
 - 3.2.8. 1 -2 dwelling units: structures with 1 – 2 dwelling units are still required to comply with the demolition delay provisions in PCC 24.55.200 if they are located in areas with a residential Comprehensive Plan Map designation, in addition to dust suppression and site control measures in PCC 24.55.205.
 - 3.2.9. 3 – 4 dwelling units: structures with 3 – 4 dwelling units are not subject to the demolition delay provisions in PCC 24.55.200, but they are subject to the requirements in PCC 24.55.205.
- 3.3. 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:

- 3.3.1. 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.
 - 3.3.2. 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.
 - 3.3.3. Apartments: each building will be evaluated based on whether the individual units were designed to be stand-alone structures. For example, if 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.
- 3.4. Required Documents
- 3.4.1. Asbestos survey: BDS will not issue a demolition permit until it has received a copy of the asbestos survey required by OAR 340.248. The BDS Asbestos Survey Cover Sheet must be completed and signed by the Demolition Manager. 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.
 - 3.4.2. Forms: if asbestos is identified in the asbestos survey:
 - 3.4.2.1. If friable asbestos-containing material is identified in the asbestos survey, an ASN1 Form (friable notification form) must accompany the asbestos survey
 - 3.4.2.2. If friable asbestos-containing material is identified in the asbestos survey, a close-out letter from the DEQ-licensed asbestos abatement contractor must accompany the asbestos survey verifying all of the asbestos-containing material identified in the asbestos survey has been abated; the close-out letter must contain sufficient detail to allow the Site Development Inspector to review it simultaneously with the asbestos survey to verify that where the friable asbestos was located and where it was abated correspond
 - 3.4.2.3. If non-friable asbestos-containing material is identified, an ASN6 (nonfriable asbestos notification form) and a copy of the ASN4 (asbestos waste shipment form) must accompany the asbestos survey
 - 3.4.3. 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:

- 3.4.3.1. Contact information for (phone number where Demolition Manager can be reached 24-hours per day) and signature of the Demolition Manager
 - 3.4.3.2. The anticipated timeframe for the demolition
 - 3.4.3.3. A description of the site control measures and monitoring process that will be followed on the site before, during, and after the demolition activities
 - 3.4.3.4. Erosion and sediment control measures required by PCC 24.55, PCC Title 10 and PCC Chapter 17.39, Portland Erosion and Sediment Control Manual, Portland Source Control Manual, and any other Portland regulations governing erosion, sediment control, stormwater control, or wastewater generated from the demolition activities covered by PCC 24.55.205. These requirements are not new requirements, but they do have to be addressed in the Demolition Plan
 - 3.4.3.5. Details of pedestrian protection where required (see Section 3.9.8 below)
 - 3.4.3.6. A description of how the site will be secured against accessibility by any unauthorized persons (see Section 3.9.7 below)
 - 3.4.4. Lead-Based Paint Certifications: If the person performing demolition is a contractor, the contractor must be certified as a renovator, abatement worker; abatement supervisor; or project designer (see Section 3.6 below).
 - 3.4.5. Lead-Based Paint Report: If the applicant claims that no lead-based paint is present, then the applicant needs to provide BDS with a written report from a certified lead-based paint inspector that states no lead-based paint was identified in the structure. If all components that tested positive for lead-based paint are removed prior to demolition, then an additional lead inspection report must document that no lead-based paint was identified after the abatement. If these criteria are satisfied, then painted exterior surfaces don't need to be removed.
 - 3.4.6. 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 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.
- 3.5. 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 24.55.205, and can be cited individually for the activities that occur during the demolition. Moreover, if the same person is found to have violated provisions of PCC 24.55.205 on more than one project, or multiple times on the same project, that person is subject to the escalating fines outlined in Section 3.12.9 below. The DM must either have the

required certifications (see Section 3.6 below) 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.

3.6. Certifications Required: The following section describes the certifications that are required in PCC 24.55.205. The Demolition Manager is not required to have these certifications, but the DM must ensure that such certified persons are on-site when required, and the DM must be reachable during the demolition and deconstruction activities.

3.6.1 Asbestos: unless Comprehensive Asbestos Inspection and Testing, as defined in Section 2.4 above, 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, then a person with one of the following asbestos credentials must be on-site during all mechanical demolition activities and deconstruction:

3.6.1.1. Accredited inspector as defined in OAR 340-248-0010(1)

3.6.1.2. Certified worker as defined in OAR 340-248-0010 (15)

3.6.1.3. Certified supervisor as defined in OAR 340-248-0010(14)

The inspector accreditation is federal, so BDS will accept accreditation from another state, if it is from a federally-accredited training provider. The certifications for worker and supervisor are Oregon DEQ certifications, so a certified worker or supervisor must have DEQ certifications.

The asbestos-certified or accredited person must be on-site whenever heavy machinery is used to demolish any part of the structure and during deconstruction, until the building materials down to the last layer of subflooring have been removed. This does not include excavation or moving materials other than debris associated with the demolition. When there is an open foundation or basement cavity with demolition debris in it, the asbestos-certified or accredited person must remain on-site until all of the debris associated with the mechanical demolition has been removed from the open foundation or basement.

3.6.2. Lead-Based Paint: if the person performing the demolition on a pre-1978 structure is a contractor, as defined in ORS 701.005(5)(a), then such person must have one of the following certifications: a certified abatement worker, supervisor, project designer or Lead-Based Paint Renovator.* See the BDS website for links to information on courses for certification.

3.6.2.1. SB 871 and PCC 24.55.205.B.5. require that “the person performing the demolition” have the lead paint certifications, but that person is not required to be on-site at all times. However, the accredited person must be on-site during mechanical demolition activities and deconstruction. This includes the lead hazard reduction activities (removing exterior painted non-structural surfaces) required in PCC

24.55.205.C.2. and whenever heavy machinery is used to demolish any part of the structure. This does not include excavation or loading or transfer using heavy machinery to move materials other than debris associated with the demolition. The certified contractor must be reachable during demolition activities when not on-site. The Demolition Manager is still 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 accredited person is on-site.

*OAR 333-068-0070

<https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=239095>

- 3.6.2.2. Certifications for abatement worker, supervisor, and project designer are issued by the Oregon Health Authority (OHA) as part of its programs to prevent lead poisoning (see <http://www.oregon.gov/oha/PH/HEALTHYENVIRONMENTS/HEALTHYNEIGHBORHOODS/LEADPOISONING/Pages/index.aspx>). Any person performing this work in Oregon must be certified under OHA rules, and this certificate can be used as proof when applying for a demolition permit. For a certified renovator, only the training certificate from an accredited training provider is required; however, a contractor can also submit a Lead-Based Paint Renovator license from the Construction Contractor's Board (CCB).

For questions regarding the validity of the renovator training certificate, see page 4 of the OHA FAQ's:

<http://www.oregon.gov/oha/PH/HEALTHYENVIRONMENTS/HEALTHYNEIGHBORHOODS/LEADPOISONING/Documents/SB871-FAQ.pdf>

3.7. Required Notifications

- 3.7.1. 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.
- 3.7.2. On-site sign: the site must also be posted during demolition and ground-disturbing activities with a sign provided by BDS. 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. BDS Site Development Inspectors will provide the sign to the Demolition Manager.

3.8. Processing a Demolition Permit Application Subject to 24.55.205

Intake and Pre-Issuance: The following are the steps and requirements for a demolition permit application:

- 3.8.1. Review submittal for intake completeness to include the following items related to dust and site control (other demolition permit application requirements apply, but are not specified here):
 - Asbestos Survey and Close-Out Letter
 - Lead-Based Paint Report (if claiming no lead-based paint in structure(s) to be demolished)
 - Designation of Demolition Manager and Signed Demolition Plan
- 3.8.2. Processing after intake
 - Asbestos Survey and Close-Out Letter scanned
 - BDS to provide applicant with addresses within 300 feet for notification
 - BDS to identify and assign all applicable City reviews
 - Site Control Inspector will review all plans and documents for compliance with PCC 24.55.205
- 3.8.3. Pre-Issuance (please note: demolition projects with 1-2 dwelling units located in areas with a residential Comprehensive Plan Map designation are also subject to the demolition delay provisions of PCC 24.55.200).
 - Identify all necessary reviews are complete and approved
 - Verify fees
 - Notify applicant when permit is approved

3.9. On-Site Requirements

3.9.1. Pre-demolition inspection: See Section 3.11.1 below

3.9.2. Lead hazard reduction: One of the key components of PCC 24.55.205 is the requirement to remove all painted exterior non-structural surfaces, such as doors, windows, railings, soffits, trim, exterior porches (except for concrete or masonry materials) and all layers of siding (unless the layer has been tested and found not to contain lead-based paint).

- 3.9.2.1. The removed painted exterior material must be placed in “6 mil plastic and deposited in a covered container.” (PCC 24.55.205.C.2.) These materials must be treated as contaminated material and 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 is the equivalent of 6 mil plastic and, 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 on to 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.

- 3.9.2.2. If the structure to be demolished was constructed on or after January 1, 1978, then the lead hazard reduction requirements do not apply. The requirement to remove the exterior painted materials also does not apply to a full deconstruction since those materials will be removed without heavy machinery. However, the materials still need to be placed on the 6 mil plastic or non-woven geotextile fabric, unless they are placed directly into the lined container as described above.
- 3.9.2.3. To minimize exposure to neighboring properties while the exterior painted materials are being removed, either non-woven geotextile fabric or 6-mil plastic sheeting must be placed at the base of the exterior wall and extend at least 10 feet beyond the perimeter of the structure or work area on the ground. If the structure is too close to the neighboring property line to place horizontal containment, or if preferred over using horizontal containment, vertical containment needs 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.
- 3.9.2.4. Exemption for an unsafe or hazardous structure: If BDS staff determine that an applicant meets the requirements for the exemption for an unsafe or hazardous structure described in PCC 24.55.205.C.8., then the lead hazard reduction requirements don't need to be followed.
- 3.9.2.5. The following are some FAQs relating to lead hazard reduction:

What if the exterior painted materials are tested and found not to contain lead? If all of the exterior painted materials are tested and they don't contain lead-based paint, then the requirements in PCC 24.55.205C.2. do not need to be followed.

How do the materials need to be tested (what method)? The testing needs to be done by an "inspector" or "risk assessor" as those terms are defined in OAR 333-069-0100 (and by reference, 40 CFR 745.227; see OHA website for work practice standard regarding lead inspections. See also Chapter 7: Lead-Based Paint Inspections of the 2012 HUD Guidelines). Currently, an inspection tests paint using either X-ray florescent or paint chip sampling.

How are layers of paint addressed? The federal definition of an "inspection" in 40 CFR 745.223 is the "surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation."

Because these are adopted protocols at the federal and state level, a lead inspector is only expected to perform the work practice standards outlined in the regulations, which does not include destructive sampling other than paint chip sampling of a painted surface. However, if an older layer of siding is in plain view and accessible by the inspector, the inspector would be expected to test this surface, since this component would be seen as having a “distinctive painting history.” (See 40 CFR 745.227(b)(2)(i).)

What testing requirements exist for lead-based paint? Current testing requirements for lead-based paint are described above. OHA has regulatory authority over lead-based paint inspections performed in Oregon. Since SB 871 requires that the inspection is “in accordance with rules adopted by the [Oregon Health Authority] . . .,” OHA considers this regulated work as defined in OAR 333.069-0100. Other state requirements regarding lead-based paint inspections can be found on the OHA website.

- 3.9.3. Suspect Asbestos-Containing Material (ACM): If suspect ACM is found during demolition or deconstruction activities, the certified asbestos person is responsible for ensuring the DEQ and any other applicable rules are followed for testing and abating the ACM. BDS will not enforce these regulations.
- 3.9.4. Dust control – Wetting Procedures: Per PCC 24.55.205.C.3., 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 from leaving the site without creating runoff. A standard garden hose with a traditional nozzle will 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.

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 inspections.

- 3.9.5. Site control: PCC 24.55.205 does not add new site control measures, other than the requirement to ensure that demolition debris is contained on-site (PCC 24.55.205.C.5.) All demolitions are required to comply with site control measures in the Erosion and Sediment Control Manual, PCC Title 10, PCC 17.34.030, PCC 17.39.040.C.10 and the Sanitary Discharge and Pretreatment Program Administrative Rules (ENB-4.03(3)(B) and (C).)
 - 3.9.6. Temporary site control: Temporary site control measures can be used if a new structure is going to be erected shortly after the demolition or deconstruction. BDS will follow its current practice of allowing temporary site control measures if the building permit for the replacement structure is in "approved to issue" status when the demolition permit is finalized.
 - 3.9.7. Required site security measures: A six-foot chain-link fence is required for commercial demolitions (3-4 dwelling unit structures); for demolitions of 1-2 dwelling unit structures, a six-foot fence is required if any foundations, excavations or basement cavities will remain for new construction until the new construction has progressed sufficiently to remove any hazards to the public; the fence must be installed prior to final inspection approval of the demolition permit (see PCC 24.55.100 and "Residential Agreement for Basement Fill & Compaction" form).
 - 3.9.8. Pedestrian protection: OSSC 3306 sets out detailed requirements for pedestrian protection in commercial (3-4 dwelling unit projects); PCC 24.55.100 requires barricades to prevent access to the vicinity of any unsupported sections of a structure and wetting down streets and sidewalks if necessary; PCC 24.40.010.C. requires a four-foot wide passage way to be maintained for pedestrians, no closer than six feet from any scaffold, ladder, machinery, or equipment.
 - 3.9.9. Debris containment: All demolition debris must be treated as hazardous materials and contained on-site to prevent the debris and any water generated during the demolition from leaving the site. See PCC 24.55.205.C.5. for details on debris containment requirements. Also, while not required for demolitions, recommended lead-safe practice per 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)
- 3.10. Deconstruction: If the structure is taken down via full deconstruction as that term is defined in PCC 24.55.150.I., then some provisions of 24.55.205 do not apply. In order to qualify, the deconstruction must follow the requirements in PCC 17.106.040.B. and the Portland Deconstruction Administrative Rules adopted on October 31, 2016, Parts 4.1 and 4.2. Specifically, such projects are exempt from:
- 3.10.1. The requirement to remove exterior painted surfaces described in 24.55.205.C.2. However, the ground must still be protected using either 6 mil plastic or non-woven geotextile fabric when materials are placed on the ground, and vertical protection, if done in lieu of the horizontal protection

described in 24.55.205.C.2, must still be used for walls less than 10 feet from the adjacent property.

- 3.10.2. The wetting techniques described in 24.55.205.C.3, except the requirement to wet mechanically transferred and loaded debris associated with the demolition
- 3.10.3. The wind restrictions in 24.55.205.C.4.
- 3.10.4. The following are FAQs specific to deconstructions:

Do erosion control measures need to be implemented at the beginning of a deconstruction project even though heavy equipment won't be used until the end of the deconstruction phase? Although erosion control (and other site control measures outlined in 24.55.205) do not need to be in place prior to deconstruction commencing, they do need to be in place prior to any ground-disturbing activities per PCC Title 10. If a deconstruction contractor does not want to be responsible for the erosion control, then the first inspection (#200) will only receive partial approval, with a note that this inspection cannot be approved until erosion and other site control measures are in place. This could delay the ability to schedule the during-demolition inspection (#205).

Can deconstruction projects have two Demolition Managers, since they can have different contractors for the different phases of work? No, a single Demolition Manager must oversee the entire project and be the single point of contact for the City and other agencies. BDS will not issue a demolition permit until the DM is identified in the Demolition Plan.

Is there a way to streamline full deconstruction projects? Full deconstruction projects do not need to comply with the dust control measures, unless they are using mechanical equipment to demolish any portion of the structure. They are still required to have all of the same inspections, so there's not anything to streamline.

Will there need to be certified (asbestos and lead-based paint) persons on-site during deconstruction? If so, at what points? The certified persons must be on-site during all mechanical demolition and deconstruction activities per PCC 24.55.205.C.1., unless the Comprehensive Asbestos Inspection and Testing described in Section 2.4 above and corresponding abatement are done prior to deconstruction work commencing. The purpose is to ensure that, if any asbestos is found during demolition or deconstruction activities, there is someone on-site who knows how to identify suspect asbestos-containing material and the legal requirements for handling it. If suspect material is found that needs to be tested, only the affected area needs to be avoided. Work can still continue on other parts of the structure while awaiting the test results. The certified or accredited asbestos person must be on-site until the structure has been taken down to the last layer of subflooring (down to the foundation). When there is an open foundation or basement cavity with building materials in it, the certified or accredited person(s) must remain on the site until all of the debris associated with the demolition has been removed from the open foundation or basement.

What about when mechanical equipment is used after the building is taken down? Mechanical equipment can be used for the foundation and excavation activities, but the dust control measures outlined in PCC 24.55,205.C.3. still need to be followed during use of heavy equipment.

3.11. Demolition Inspections

3.11.1. #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 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

3.11.2 First #205 Inspection - 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)

3.11.3 Second #205 Inspection - 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?
 - 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?

3.11.4 Combining First and Second #205 Inspections. If the applicant (contractor, Demolition Manager, etc.) chooses to have all inspection items from 3.11.2 and 3.11.3 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.

3.11.5 Second #205 Inspection verification options. 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.

3.11.6 #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.

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](#).

3.12. Enforcement and Citation Process

- 3.12.1. 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.
- 3.12.2. Correction Notice: BDS will issue a Correction Notice stating the provisions violated and how to bring the project into compliance.
- 3.12.3. 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. 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 PCC 3.30.080.H.
- 3.12.4. Citations: When a violation of PCC 24.55.205 is confirmed, BDS may issue a citation to the responsible party. For the purposes of this rule, the responsible party is the property owner or person authorized to act on the owner's behalf and any person causing or contributing to a violation of PCC 24.55.205. The Demolition Manager is a responsible party and may be cited for any violations of 24.55.205 as the person designated to be responsible

for implementing and overseeing the Demolition Plan. A correction notice will be issued to all first-time offenders. The Site Development Inspector 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 on that job or subsequent jobs after that party has previously been issued a correction notice. The purpose of the citation provisions is to discourage responsible parties from knowingly violating the rules, while allowing those who simply are not aware of the rules to avoid fines.

- 3.12.5. 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.
- 3.12.6. Fines and corrections. The citation will state the section of PCC 24.55.205 violated, the fine imposed, and the corrective action required.
- 3.12.7. 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.
- 3.12.8. Citation appeals. Issuance of a citation may be appealed by requesting an Administrative Review.
- 3.12.9 Citation Fines:
 - 3.12.9.1. 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, including but not limited to, failing to follow the lead hazard reduction, dust suppression, or site control requirements; conducting mechanical demolition activities when wind speeds exceed 25 miles per hour; or failing to have persons with required certifications or accreditations on-site when required.

1 st Offense	\$5,000
2 nd Offense	\$10,000, or as allowed by the fee schedule adopted by the City Council
3 rd Offense	\$15,000, or as allowed by the fee schedule adopted by the City Council
 - 3.12.9.2. Additional violations after the third offense shall be set at the maximum amount per individual violation allowed by the fee scheduled adopted by the City Council. Multiple citations can be issued to the responsible party for continued violations of PCC 24.55.205 and each day of non-compliance may be considered a separate violation.
 - 3.12.9.3. 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.

3.12.9.4. 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.

3.12.10. 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.

3.13. Forms: The following forms will assist in preparing to submit a demolition permit application for demolition projects involving structures with 1-4 dwelling units:

- BDS Demolition Cover Sheet
- Demolition Plan
- Asbestos Survey Cover Sheet
- Door Hangers for Posting
- Batch Discharge Application

IV. Major Residential Alterations and Additions (MRAAs)

4.1 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.

4.2 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 notice requirements described in paragraph 4.1 above. In addition, if heavy machinery is used in a major alteration project, then dust suppression measures described in PCC 24.55.205.C.3. must be implemented during the mechanical demolition activities.

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.

V. 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.

- Senate Bill 871
- PCC 3.30
- PCC 3.30.010.C.
- PCC 3.30.040
- PCC 3.30.045
- PCC 24.55.100
- PCC 24.55.150
- PCC 24.55.200
- PCC 24.55.205
- PCC 24.55.210

VI. Responsibility

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

VII. History

Date Adopted: **June 26, 2018**
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