



COMMUNITY DEVELOPMENT DEPARTMENT POLICY & PROCEDURE

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50 Percent Rule – Buildings Altered, Remodeled and Additions

PURPOSE:

The purpose of the 50 Percent Policy and Procedure is to identify pertinent projects and provide interpretation of the City's Municipal Code Sections that apply to alterations, remodeling and additions to existing buildings. In addition, this policy and procedure is intended to allow for the consistent application of State and Local laws and related ordinances.

POLICY:

It shall be standard policy to evaluate all additions, alterations and remodels which meet the minimum construction threshold as identified in the following Municipal Code Sections as specified below:

1. [Parks And Recreation Facilities Tax - 50 Percent Rule](#) (BHMC 3-1-703)
2. [Fire Sprinkler Systems - 50 Percent Rule](#) (BHMC 9-2-2)
3. [Nonconforming Buildings - 50 Percent Rule](#) (BHMC 10-3-4100)
 - a. Single-Family residential Developments.
 - b. All Development Other Than Single-Family Residential Development.

PROCEDURE:

This policy and procedure requires three 50% rules to be considered and evaluated as follows:

PARKS AND RECREATION FACILITIES TAX (BHMC 3-1-703)

[CHECK SURFACE AREA OF EXTERIOR WALL TO BE DEMOLISHED in each story]

Where a building is partially or completely demolished or removed, all floor area which is newly constructed and/or is constructed to replace that which is demolished or removed from the building or structure shall be subject to Parks

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and Recreation Facilities Tax. The Tax is charged at the City's current square footage rate as published in the City's current fiscal year Schedule of Taxes, Fees and Charges. Floor area is considered as being demolished when the structural floor materials (i.e. diaphragm sheathing, framing members) are removed, or when 50% or more of the exterior walls surrounding a floor in any story is demolished. This tax is calculated separately for each story.

In order to determine the extent of alterations to an existing SFR, the architect shall prepare complete demolition plans (floor plans and elevations) for each story and provide calculations for all exterior wall surfaces and/or floor areas (square footage) to be demolished. The walls and floors proposed to be demolished should be shown in dashed lines, color coded and fully dimensioned. In calculating the surface area (square footage) of the exterior walls, each interior or exterior skin of the wall (i.e. drywall, plaster, stucco, masonry, etc...) counts as 25% of the entire wall area only.

Calculate the percentage of the exterior wall area to be removed in each story to the total exterior wall area in that story or level. If the percentage is 50% or more the entire story or level is subject to Park and Recreation Taxes. If the percentage is below 40%, the entire story or level is exempt from Parks and Recreation Taxes. However, should the percentage fall between 40% and 50%, a demolition permit will be first issued and the work inspected prior to issuance of the main building permit. The purpose of the demolition permit is to ascertain the extent of the actual demolition in the field would not go beyond the pre-determined limits, or if it should exceed the limits calculated and documented on plans, it would still fall below the 50% mark.

Permit conditions, verifications and inspections shall be noted and performed as follows:

- The City approved plan set shall clearly identify all exterior walls to be demolished, which shall be color coded.
- The demolition contractor shall clearly identify the exterior walls to be demolished using paint or other clearly identifiable marker.
- Once all exterior walls proposed for demolition are clearly identified and marked by the contractor, the contractor shall request a "demolition verification inspection" to be performed by the City's Building Inspector to ensure that walls to be demolished are in accordance with the City approved plan.

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- The City's Building Inspector verifies that all marked exterior walls proposed to be demolished are in accordance with the City approved plan and represent less than 50% demolition.
- The demolition contractor demolishes the exterior walls as marked per the approved demolition plan, and as verified by the City's Building Inspector.
- Upon completion of the demolition, the contractor shall request a "demolition completion inspection" in order to verify that the demolition was performed and completed per the approved plan. Again, the City's Building Inspector verifies that all marked exterior walls which were demolished are in accordance with the City approved plan and that the total demolition represents less than 50% demolition, which would otherwise trigger the ordinances as identified herein.

Each wall skin (drywall, plaster, stucco, brick, etc...) has a value that counts as 25% of the entire wall assembly only. For example if you removed 12'-0" of the interior skin (plaster) of an exterior wall, the equivalent length of the demolished wall is 3'-0 only. (i.e., 12'-0' x 25% = 3'-0").

Parks and Recreation Facilities Tax shall apply to all new residential and commercial buildings, second units, new residential and commercial floor area additions, and floor areas being rebuilt. It does **not** apply to accessory structures in residential zones, to garages, or to non-habitable portions of the basement such as a mechanical room or storage room in the basement, and it does not apply to some non-residential occupancies such as churches, and government buildings.

FIRE SPRINKLERS (Title 9, FIRE CODE 9-2-2) shall be installed in an existing building IF:

[CHECK COST OF ADDITION AND REMODEL WITHIN THE PAST 12-MONTH PERIOD]

- a. If the cost of additions, alterations or repairs within any 12 month period exceeds 50% of the cost of replacing that building **or**,
- b. If an addition is constructed that exceeds 50% of the square footage of the building, **or**
- c. If an addition is constructed that is more than 5,000 square feet in total area.

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Cost of replacing an existing single family residence is determined by multiplying the floor area of the existing residence using a variable number such as \$200/sq. ft. For an accessory building such as a pool house or garage, \$100/sq. ft. may be used.

Example: A roof covering for a garage was replaced 12 months ago due to leaking. The applicant now wants to add a 200 sq. ft. storage and mechanical room to the garage. Does the garage need to be provided with fire sprinklers?

Answer: Estimated cost of re-building an existing 400 sq. ft. garage is calculated:

400 sq. ft. x \$100/sq. ft. = \$40,000. Cost of roof covering replacement that was completed 12 months previously with a permit from Building and Safety = \$5,000. Cost of addition to the garage is calculated 200 sq. ft. x \$100/sq. ft. = \$20,000.

Summary:

Replacement cost of garage = \$40,000

Cost of alterations and/or additions within 12 months = \$5,000 + \$20,000 = \$25,000

Ratio of cost to replacement value (%) = $(\$25,000 / \$40,000) \times 100 = 62.5\% > 50\%$

Therefore the garage is required to have fire sprinklers installed, since the alterations exceed 50% of the replacement cost.

NONCONFORMING buildings (BHMC 10-3-4100):

[CHECK BUILDING ALTERATIONS WITHIN ANY 5 YEAR PERIOD]

- a. REMODEL OF SINGLE FAMILY RESIDENCE (SFR): if more than 50% of combined area of all exterior wall and roof framing (i.e. 50% of building envelope) of a SFR is replaced or reconstructed within a 5-year period (cumulative), then the building loses its nonconforming rights, and therefore, the entire building shall be brought into conformance with the current zoning code. (Roof area shall be calculated as the horizontal area covering the floor area). Additions do not count in this calculation.

Example: A permit application is made for addition and alteration to a flat roofed, 1-story single family residence, with non-conforming side setbacks. Scope of work includes adding a second story on the rear half and changing the roof profile from flat to a sloped roof at the front half of the building. The roof plan shows existing roof area = 750 sq. ft. (i.e., 25'-0" x 30'-0" = 750 SF) roof dimensions), and existing exterior wall area = $(25'+30'+25'+30') \times 8' \text{ high} = 880 \text{ sq. ft.}$ Existing building

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envelope, i.e. area of existing exterior walls plus existing roof = 880 sq. ft. + 750 sq. ft. = 1,630 sq. ft. = total existing building envelope. Does this building risk losing its nonconforming side setbacks with this new proposed work?

Answer: No, because the 750 sq. ft. building roof area which is to be fully removed or modified in shape is less than half the total building envelope which is 1,630 SF.

Summary:

Existing roof area = 750 SF

Existing exterior wall area = 880 SF

Total existing surface area (roof + walls) = 750 + 880 = 1630 SF

Ratio demolished/existing = $(750 / 1630) \times 100 = 46\% < 50\%$

In order to determine the extent of alterations to an existing SFR, the architect should prepare complete demolition plans (floor plans and elevations) for each story and calculate the areas of exterior walls and roofs (square footage) to be demolished. The walls and roofs intended to be demolished should be shown in dashed lines, color coded and fully dimensioned.

If the calculations indicate the estimated demolition is 40 percent or greater but less than 50%, a demolition permit shall be issued prior to issuance of the main building permit. Permit conditions, verifications and inspections shall be noted and performed as follows:

- The City approved plan set shall clearly identify all exterior walls to be demolished, which shall be color coded.
- The demolition contractor shall clearly identify the exterior walls to be demolished using paint or other clearly identifiable marker.
- Once all exterior walls proposed for demolition are clearly identified and marked by the contractor, the contractor shall request a “demolition verification inspection” to be performed by the City’s Building Inspector to ensure that walls to be demolished are in accordance with the City approved plan.
- The City’s Building Inspector verifies that all marked exterior walls proposed to be demolished are in accordance with the City approved plan and represent less than 50% demolition.
- The demolition contractor demolishes the exterior walls as marked per the approved demolition plan, and as verified by the City’s Building Inspector.

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- Upon completion of the demolition, the contractor shall request a “demolition completion inspection” in order to verify that the demolition was performed and completed per the approved plan. Again, the City’s Building Inspector verifies that all marked exterior walls which were demolished are in accordance with the City approved plan and that the total demolition represents less than 50% demolition, which would otherwise trigger the ordinances as identified herein.

- b. ALL OTHER BUILDINGS: IF THE CUMULATIVE COST of additions, alterations, remodels or repairs to a nonconforming building within a 5-year period exceeds 50% of the replacement cost of the building, then the building shall be brought into conformance with the present zoning code. The building official shall determine the cost of proposed work, and the cost of replacement. In case of disagreement between the city and the applicant, the building official may employ an independent 3rd party consultant to calculate these costs. Consultant fees are paid by project owner/applicant. Additions do not count in this calculation.

Name

Title