



Bureau of
Development
Services FROM CONCEPT
TO CONSTRUCTION

RESIDENTIAL DEMOLITION ORDINANCE

IMPLEMENTATION REPORT

Presented to City Council 1-18-17

General Overview of Demolition Ordinance

Effective Date: April 20, 2015

Residential Demolition Delay Requirements

- Notification – mailed notice to properties within 150 feet within 5 business days of application; mailed notice to recognized organizations whose boundaries include the site, Architectural Heritage Center and Restore Oregon; and door hangers on surrounding properties at least 5 days before demolition required
- All residential structures in residential zones subject to 35-day delay in issuing permits
- Extension for demolition delay period: 60-day extension possible with successful appeal of demolition permit issuance
- Definition of demolition added to code
- Certification Regarding Asbestos and Lead-Based Paint required prior to permit issuance

Major Residential Alterations and Additions

- New category for “Major Alterations and Additions” with definitions added to Code
- Includes requirement to post notice on abutting properties 35 days prior to permit issuance and emailed notice to recognized organizations whose boundaries include the site [but no delay]
- Certification Regarding Asbestos and Lead-Based Paint

General Overview of Demolition Ordinance

Demolition Delay and Delay Extensions

Demolition Delay

- All demolitions of residential structures in areas with a Residential Comprehensive Plan Map designation have an initial 35-day delay (excluding accessory structures, such as ADUs and garages)

Extension of Initial 35-Day Delay

Who May Request:

- Recognized organization or any interested party

Time of extension:

- 60 days, for a total maximum delay of 95 days

Extension Criteria:

- Submitted request by last day of the initial 35 day delay
- Accompanied by appeal to Code Hearings Officer, appeal fee or fee waiver and supporting documentation showing requesting party is actively pursuing alternative to demolition

General Overview of Demolition Ordinance

Appeal for Extension

Who May Appeal:

- Recognized organization whose boundaries include the site or any interested party may appeal to extend the initial demolition delay from initial 35 days to up to 60 additional days, for a total possible delay of 95 days

Appeal to:

- Code Hearings Officer by submitting appeal packet to BDS

Burden:

- On party requesting appeal
- Must show actively pursuing an alternative to demolition by demonstrating:
 - ✓ The requesting party has contacted the property owner/representative to request a meeting via certified mail
 - ✓ The property has significance to the neighborhood, as demonstrated by architectural significance, the age and condition of the structure or other factors
 - ✓ Plan to save the structure
 - ✓ Reasonable potential to consummate the plan by providing pro-forma budget and evidence of funds on hand or fund raising plan sufficient to meet the financial requirements of the budget

Demolition Ordinance – Implementation Data

From April 20, 2015 – October 31, 2016:

- Number of demolition applications BDS has accepted:

- Number subject to the Ordinance:
- Number not subject to Ordinance:
[includes dangerous buildings, house moves,
houses without Residential Comprehensive Plan
map designation, demolitions subject to Title 33
120-day delay]

<u>2015</u>	<u>2016</u>	<u>TOTAL</u>
257	305	562
17	48	65

Demolition Ordinance – Implementation Data

From April 20, 2015 – October 31, 2016:

- Implementation costs:

➤ Staff:	\$194,113 [1 FTE Permit Tech III & 45 min./application Permit Tech II]
➤ Printing and mailing:	\$ 15,573
➤ Appeal fees:	<u>\$ 15,048</u>
➤ TOTAL	<u><u>\$224,734</u></u>

Demolition Ordinance Implementation

What Worked:

- All demolitions subject to notice and delay, except nuisance properties and those subject to 120day Zoning Code delay
- Added major alterations and additions provisions
- Outreach
- Notice provisions
- Appeals process
- Implementation guides



Demolition Ordinance Implementation

What Didn't Work/ Needs Improvement:

- Aspects of demolition delay appeal process
 - Lack of incentive to negotiate
 - What is a “pro-forma budget”?
 - Who has authority to negotiate?
 - How to demonstrate significance of the property to the neighborhood
 - When does the plan to save the structure have to be consummated?
 - Can additional evidence be submitted at the hearing?

Demolition Ordinance Implementation

What Didn't Work/ Needs Improvement Continued:

- Equity issues
- Scope of demolition notice
- Application of Ordinance to all residential demolitions, not just 1-2 family
- Some definitions



Demolition Ordinance Implementation

Applicability of Ordinance to Multi-Family Dwellings

- BDS had been applying residential demolition delay only to 1-2 family dwellings
- State Building Code changed to allow local jurisdictions to regulate commercial demolitions
- Title 24 definition of “residential structure” includes multi-family dwellings
- DRAC Demolition Subcommittee stakeholders do not include representatives from the commercial building industry
- DRAC Demolition Subcommittee recommendations to City Council regarding notice and delay provisions were based on assumption that they would only apply to 1-2 family dwellings
- Notice and delay provisions are not effective for commercial structures



Demolition Ordinance Implementation

Hazardous Materials in Residential Demolitions

- BDS developed a Certificate Regarding Asbestos and Lead-Based Paint
- State Legislature enacted SB 705 to require asbestos surveys for residential demolitions
- No state or federal regulations of lead-based paint for residential demolitions
- BDS does not have authority or expertise to regulate air and water quality
- 2017 Oregon state legislative session– new legislation to be introduced allowing local jurisdictions to require copies of the asbestos survey with demolition permits and addressing lead-based paint in residential demolitions



Demolition Ordinance Implementation

Applicability of Ordinance Outside Residential Comprehensive Plan Map Areas

- Ordinance only applies in areas with Residential Comprehensive Plan Map designations
- Impacts in non-residential areas are different from impacts in residential areas
- DRAC Demolition Subcommittee recommendation to City Council regarding notice and delay provisions were based on assumption that they would only apply in residential areas
- Notice and delay provisions are not effective for commercial zones



Demolition Ordinance Implementation

Major Residential Alterations and Additions (MRAAs)

- The notice provisions have been effective
- Portion of definition of “major alteration or addition” that includes increasing or replacing 50 % or more of an exterior wall is too difficult to apply; recommend removing this provision and decreasing the square footage trigger from 800 square feet to 500 square feet



Demolition Ordinance Implementation

Creating Administrative Rules

- BDS staff developed implementation guides to address various specific scenarios that arise in applying the Ordinance
- The Ordinance was drafted using general terms, knowing not all scenarios could be anticipated
- BDS recommends using those guides as a basis for developing administrative rules that contain specific examples and detailed language for how to apply the Ordinance, with input from the Subcommittee



Demolition Ordinance Implementation

Historic Resources Inventory

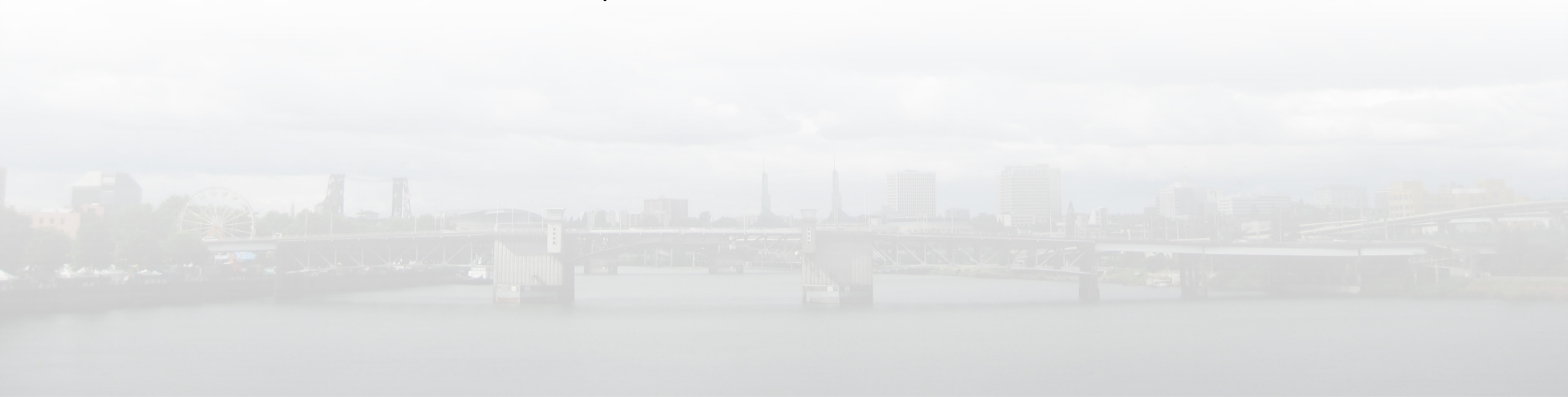
- *City of Lake Oswego* case prompted BDS and BPS staff and City Attorneys and determined that ranked HRI properties that are removed from the HRI list should be subject to the 120-day demolition delay
- BPS is including language in RICAP 8 to codify this requirement
- BDS is working with BPS on some accompanying language changes to Title 24, so there are no inconsistencies or gaps



Demolition Ordinance Implementation

Notice Issues

- Narrowing time for posting of demolition notices via door hangers to no more than 5 days before demolition, so neighbors have a better idea of when to close windows, etc.
- Issue of whether 150 feet is enough for mailed notice – needs further discussion with Subcommittee
- BDS will make recommendations to City Council based on further discussions



Demolition Ordinance Implementation

Additional Issues to Address

- Seek solutions to address equity issues in the process
- Consider convening a different subcommittee with commercial construction stakeholders to discuss commercial structure demolition issues and housing affordability issues
- Examine funding requirements for any expansion in the scope of the Ordinance
- Continue requiring properties removed from the HRI to comply with 120-day demolition delay
- Continue working with State Legislature on hazardous materials legislation to address hazardous materials issues associated with both residential and commercial demolitions
- Require ONI to provide consistent contact information for each neighborhood association and coalition

Demolition Ordinance Implementation

Next Steps

- Seek direction from the City Council on:
 - Amending the Code to limit applicability of Ordinance to 1-2 family dwellings
 - Retaining current language that limits Ordinance to areas with Residential Comprehensive Plan Map designation
- Based on input from the Council, re-convene the DRAC Demolition Subcommittee to draft revisions to City Code Chapter 24.55 to present to the City Council for consideration in the next few months
- BDS staff will work with stakeholders to develop administrative rules to assist in administering the Ordinance
- Other direction from the City Council

QUESTIONS?