

IMPACT STATEMENT

Legislation title: Amend the Building Demolition Code to implement Senate Bill 871 and add dust and site control requirements for residential demolitions; amend fee schedules (Ordinance; amend Code Chapter 24.55 and Portland Policy documents ENB 14.01 and 14.10)

Contact name: Nancy Thorington, BDS Sr. Code and Policy Analyst

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Presenters names: Marshall Runkel and Nancy Thorington

Purpose of proposed legislation and background information:

The Bureau of Development Services (BDS) regulates and inspects residential demolitions. Over the past several years, BDS has been working with community stakeholders, including the BDS Development Review Advisory Committee (DRAC) and neighborhood residents, to address impacts of these demolitions on the neighbors. Neighbors consistently raise their concerns regarding the release of asbestos and lead-based paint during residential demolitions. The State, through the Department of Environmental Quality (DEQ), has regulatory authority over asbestos through the federal Clean Air Act. Until 2015, state and federal regulations exempted demolitions of 1-2 dwelling units from the requirement of doing an asbestos survey to determine the presence of asbestos.

In 2015, the Oregon legislature enacted Senate Bill 705 (SB 705) directing DEQ to promulgate regulations requiring asbestos surveys for demolition of structures with 1-2 dwelling units. But the DEQ regulations did not require copies of the asbestos surveys to be provided to local jurisdictions. With respect to lead-based paint, a regulatory gap existed for residential demolitions; no sampling, dust control, or other mitigation was required for these projects. Although lead-based paint was considered as part of the SB 705 discussions, the legislation as adopted only addressed asbestos.

During the time between the 2015 and 2017 legislative sessions, the City Council became aware of the regulatory gaps and directed the Office of Government Relations to work with State legislators and stakeholders on potential solutions.

To address the regulatory gaps in residential demolitions, the State legislature enacted Senate Bill 871 (SB 871) in 2017. This legislation allows local jurisdictions with a residential demolition program to require copies of the asbestos survey as a prerequisite for obtaining a demolition permit. It also directs the Oregon Health Authority (OHA) and DEQ to develop best practices for containing lead-based paint dust during residential demolitions of structures built before 1978.

This ordinance implements SB 871 in the City by providing BDS with tools to address asbestos and lead-based paint in residential demolitions of structures with 1-4 dwelling units. Specifically, the ordinance will: (1) allow BDS to require a copy of the asbestos survey; (2) require site-control measures to minimize dust during demolition activities and contain any potentially contaminated water on-site; (3) require additional inspections for

residential demolitions to ensure compliance; and (4) require the removal of exterior painted surfaces prior to a mechanical demolition.

Financial and budgetary impacts:

This legislation will amend the budget by authorizing an additional 2.0 FTE for two Site Inspector I positions. These inspectors are needed to complete the additional work required by the proposed legislation, which increases the number of required inspections on applicable demolition projects from one to three inspections. Additional inspections take approximately one hour each.

The revenue impacts are as follows:

- Amend the Demolition Permit fees per Exhibit B. The change adds \$180 to demolition fees to pay for additional inspections costs.
- Amend the Enforcement Fee and Penalty Schedule per Exhibit C. The change adds penalties of \$5,000 for the first violation, \$10,000 for the second, and \$15,000 for the third and any additional violations.
- The additional fee and penalty revenue is estimated to be \$180,000.

Community impacts and community involvement:

The proposed legislation impacts anyone who plans to demolish a structure with 1-4 dwelling units, as well as the neighbors surrounding such projects. For demolition permit applicants, the proposed legislation requires measures for ensuring dust, debris, and potentially contaminated water do not negatively impact surrounding properties. It also increases the demolition application fee by \$180 per application and adds two additional inspections, which could cause delays in permit issuance. For neighbors of the covered demolition projects, the proposed legislation will help protect them from potential exposure to asbestos and lead-based paint from demolition activities.

The main negative impacts are the increased permit fees and potential delays in the project due to the additional inspections. The financial impact of the increased fees is minimal, so no mitigation is necessary. BDS will address the potential project delays by conducting extensive outreach and training for BDS staff and the development community and hiring two additional Site Development Inspector I positions to handle the increased workload. The benefits are City-wide.

Public involvement and input significantly shaped the proposed ordinance. BDS staff met with the DRAC Demolition Subcommittee, along with subject-matter experts in asbestos and lead-based paint over the course of several months to develop the proposed ordinance. Stakeholders included residential developers, representatives from various neighborhood associations, United Neighbors for Reform, U.S. EPA, DEQ, Oregon Health Authority, Construction Contractors' Board, Multnomah County Health Department, OSHA, demolition and deconstruction contractors, Restore Oregon, Metro, and the Rebuilding Center, as well as City staff from BDS and our inter-agency partners (Bureau of Planning and Sustainability, Bureau of Environmental Services, Parks & Recreation, and Office of Government Relations). BDS staff also participated on the OHA/DEQ best practices

advisory group, which resulted in a robust and comprehensive product both for the City and the State’s best practices for lead-based paint dust containment. BDS held and participated in several meetings to discuss the proposed ordinance language and circulated the various drafts to all stakeholders, incorporating changes along the way. BDS staff presented the proposed ordinance to the full DRAC in December and obtain DRAC’s approval.

BDS anticipates testimony from the following groups

- State legislators who sponsored SB 871, including Senator Dembrow and Representative Keny-Guyer
- Multnomah County Health Department
- DRAC Chair

Budgetary Impact Worksheet

Does this action change appropriations?

- YES:** Please complete the information below.
- NO:** Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount
203	DSIS000010	Multiple (Personnel Addition)	CDCB0000000000GC				\$180,000 estimate (2.0 FTE Site Developm ent Inspector I plus estimated 50% health & benefits)
203	DSIS000010	426100	CDCB0000000000GC				\$180,000 estimate (fund increase in personnel expense with new revenue)



City of Portland, Oregon
Bureau of Development Services
Office of the Director
FROM CONCEPT TO CONSTRUCTION

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February 1, 2018

188802

To: Mayor Wheeler
Commissioner Eudaly
Commissioner Fish
Commissioner Fritz
Commissioner Saltzman

From: Rebecca Esau, Director *RE*
Bureau of Development Services

**Regarding: Proposed amendments to city code to implement Senate Bill 871
Regarding Asbestos and Lead-Based Paint in Residential Demolitions**

I. RECOMMENDATION

Amend the Building Demolition Code to implement Senate Bill 871 and add dust control and site control requirements for residential demolitions and amend Bureau of Development Services fee schedules (Ordinance; amend Code Chapter 24.55, Building & Other Permits Fee Schedule, and Enforcement Fee and Penalty Schedule)

II. BACKGROUND

BDS processes approximately 700 demolition permits for structures with 1-4 dwelling-units and their accessory structures per year. These demolition activities are known to generate dust and debris that contain asbestos and lead-based paint if the demolition site is not properly managed.

Prior to 2015, state and federal regulations exempted demolitions of structures with 1-2 dwelling units from the asbestos survey requirements. The Oregon State Legislature enacted Senate Bill (SB) 705 in 2015 to require asbestos surveys for demolitions of structures with 1-2 dwelling units. However, SB 705 and the DEQ regulations implementing it did not require a copy of the asbestos survey be provided to local jurisdictions. In addition, there are no state or federal regulations that cover lead-based paint in residential demolitions.

To address the regulatory gap for lead-based paint and allow local jurisdictions to easily obtain copies of asbestos surveys, the Oregon Legislature enacted SB 871 in 2017. SB 871 permits local jurisdictions to establish programs for residential demolitions that, among other things, direct the Oregon Health Authority and DEQ to develop best practices for containing lead dust during demolition and allow local jurisdictions to

require a copy of the asbestos survey be provided to them as a requirement for obtaining a demolition permit.

Over the course of several months, BDS staff met with the Oregon Health Authority, DEQ, the Oregon Construction Contractor's Board, Multnomah County Lead Program Coordinator, the Development Review Advisory Committee (DRAC) Demolition Subcommittee, and other stakeholders to develop best practices for addressing asbestos, lead-based paint, and other hazards related to residential demolitions.

Based on the recommendations of the DRAC Demolition Subcommittee, other stakeholders, BDS drafted an ordinance that will:

- require a demolition plan outlining the techniques and equipment that will be used on the demolition site to control dust and debris generated during demolition
- require removal of all non-load-bearing painted materials from the exterior prior to mechanical demolition activities, a copy of the asbestos survey be provided to BDS as a condition of permit issuance, and a person with the specified accreditation for asbestos and lead-based paint be on site during demolition activities
- provide for additional site inspections to ensure compliance with the ordinance
- prohibit mechanical demolition activities when wind speeds exceed 25 miles per hour
- require containment of demolition debris on-site and applicants to post door hangers on properties within 150 feet of the demolition site with information relating to the demolition, including contact information and approximate date of demolition
- require finalizing the demolition permit before obtaining a subsequent building permit on the site

BDS has determined that an additional two Site Development Inspector I positions (2.0 FTE) are required to administer the additional workload associated with this ordinance. BDS has further determined that an increase to the demolition fees of \$180 per demolition permit will cover the costs of administering the additional workload requirements outlined in this ordinance. Hiring and training the two additional site development inspectors, making programming changes to BDS computer programs, conducting staff training, and providing outreach and training to the development community will take approximately five months. To accommodate the above implementation requirements, BDS staff is requesting that this ordinance take effect on July 1, 2018.

**February 1, 2018
Motions.**

*110 **TIME CERTAIN: 3:00 PM** – Amend the Building Demolition Code to implement Senate Bill 871 and add dust and site control requirements for residential demolitions; amend fee schedules (Ordinance introduced by Commissioner Eudaly; amend Code Chapter 24.55 and Policy ENB 14.01 and 14.10) 1 hour requested

1. **Motion to amend directives d and e to delete “effective date” and replace with “implementation date”; delete directive g and replace with emergency clause to state “This ordinance shall be implemented upon its passage by Council, and this ordinance shall be implemented no later than July 1, 2018”:** Moved by Eudaly and seconded by Fritz. (Y-4)

2. **Motion to amend findings 8h and Exhibit A 24.55.200 D(2) to strike “150” feet and replace with “300” feet:** Moved by Eudaly and seconded by Fritz. (Y-4)

(Y-4)

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AS AMENDED