Exhibit A

CITY OF PORTLAND, OREGON - BUREAU OF DEVELOPMENT SERVICES

1900 SW Fourth Avenue, Portland, Oregon 97201, www.portlandoregon.gov/bds

RESIDENTIAL DEMOLITION ORDINANCE

REPORT TO CITY COUNCIL

Portland Bureau Of Development Services

Development Review Advisory Committee

February 2020

ACKNOWLEDGEMENTS

City Council

Ted Wheeler, Mayor
Amanda Fritz
Chloe Eudaly
Jo Ann Hardesty
Nick Fish

Development Review Advisory Committee (DRAC) Demolition Subcommittee

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Alex Boetzel (DRAC)
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Matthew Roman (Historic Landmarks Commission)
Al Ellis (United Neighbors for Reform)
John Hasenberg (Architect)
Michael Molinaro (Architect)
Robert McCullough (Eastmoreland)

Agencies Partners

Ryan Barker (Oregon Health Authority)
Kim Farnham (US EPA)
Tim Lenihan (Construction Contractors Board)
Jordan Palmeri (Dept. of Environmental Quality)
Perry Cabot (Mult. Co. Health Dept.)
Brett Sherry (OHA)
Chris Zimmer (OSHA)
Bryce Jacobson (Metro)
Simon Love (DEQ)

Abatement & Decon. Contractors:

Juan Cortes (NW Abatement)
Noal Kraft (G2 Consultants)
Kandice Carlson (Envirotest)
Bob Strong (Envirotest)
Ron Landolt (TRC)
Jim Samter (Environmental Testing & Training NW)
Curtis Becker (Atlas Labs)
Sid Carter (Advantage Enviro.)

Community Participants:

John Sandie
Ezra Hammer (Oregon Homebuilders Association)
Janet Baker
John Heuer
Margaret Davis
Rod Merrick

Bureau of Development Services

Rebecca Esau, Director
Sam Diaz, Mayor Wheeler's Office
Nancy Thorington, Sr. Code and Policy Analyst
Beth Benton, Property Compliance Division Manager
Mike Liefeld, Zoning, Nuisance & Site Inspections Section Manager
Jeremy Russell, Sr. Site Development Inspector
Terry Whitehill, Building Official
Alex Cousins, Communications Section Manager
Dave Tebeau, Residential Inspections Division Manager
Darryl Godsby, Commercial Inspections Division Manager
Russ Tomka, Commercial Inspections Section Manager
Josh Weeks, Commercial Inspections Section Manager
Rochelle Hunter-James, Residential Permitting Services Section Manager
Douglas Morgan, Plan Review Division Manager
Catherine Heeb, Sr. Plans Examiner
Chris Pagnotta, Sr. Plans Examiner
David Kuhnhausen, Permitting Services Division Manager
Tracy Nistler, Commercial Permitting Services Section Manager
Dora Perry, Equity & Policy Development Section Manager
Leesha Posey, Coordinator III
Jessica Ruch, Admin. Specialist

Auditor's Office

Tony Green, Auditor's Office

Bureau of Planning and Sustainability

Shawn Wood, Conservation Program Coordinator
Brandon Spencer-Hartle, Sr. Planner

For more information, please contact:
Portland Bureau of Development Services
1900 SW 4th Avenue, Suite 5000
Portland, OR 97201

Nancy Thorington, Project Manager
nancy.thorington@portlandoregon.gov
(503) 823-7023

I. EXECUTIVE SUMMARY

A. Introduction

The City Council adopted an ordinance on February 1, 2018, amending the Building Demolition Code ("Ordinance") to add dust and site control requirements for demolitions on sites with one to four dwelling units. The Ordinance requires a person with specified asbestos accreditation to be on site during mechanical demolition activities, removal of painted exterior materials prior to mechanical demolition, dust suppression, wind speed monitoring, and demolition debris containment. It also added two required inspections to the existing one for a total of three inspections for every demolition covered by the Ordinance. The Ordinance authorized two new site development inspector positions to help implement the Ordinance.

B. What Worked

The Ordinance is the strongest of its kind nationwide for addressing asbestos and lead-based paint in residential demolitions. It has been effective in reducing the off-site impacts resulting from residential demolitions, reducing the number of complaints to BDS regarding dust from mechanical demolition activities.

C. Issues Identified

After the first year of implementing the new Ordinance, the Bureau of Development Services (BDS) staff and stakeholders identified areas for improvement that can be categorized as "administrative" and "substantive." The administrative issues include ordinance and administrative rule language that needs to be clarified, modified, and condensed based on our experience since BDS implemented the program on July 1, 2018. The substantive issues are based on how we are implementing the Ordinance. Three key substantive issues identified are:

1. How BDS conducts the second ("during demolition") inspection
2. Whether a person with the required asbestos credentials must remain on-site during all mechanical demolition and deconstruction activities
3. Whether non-contractors should be required to have lead-based paint certifications to conduct demolition activities

II. BACKGROUND

BDS processes approximately 350 demolition permits per year for structures with one to four dwelling-units and accessory structures on those sites. 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 one or two dwelling units from the asbestos survey requirements. The Oregon Legislature enacted Senate Bill (SB) 705 in 2015 to require asbestos surveys for demolitions of structures with one or two dwelling units. However, local jurisdictions had no way to easily and quickly obtain a copy of the asbestos survey to confirm that the survey had been done and that the asbestos was abated prior to the commencement of demolition activities. In addition, there were no state or federal regulations that cover lead-based paint in residential demolitions.

To address the regulatory gap for lead-based paint, the Oregon Legislature enacted SB 871 in 2017. SB 871 allows local jurisdictions to establish programs for residential demolitions. It also directed the Oregon Health Authority (OHA) and the Department of Environmental Quality (DEQ) to develop best practices for containing lead dust during demolition. Local jurisdictions may also 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 in 2017, BDS staff met with OHA, DEQ, the Oregon Construction Contractor's Board, Multnomah County Lead Poisoning Prevention Program Coordinator, the Development Review Advisory Committee (DRAC) Demolition Subcommittee, and other stakeholders to develop best practices for addressing asbestos and lead-based paint hazards related to residential demolitions.

Based on the recommendations of the DRAC Demolition Subcommittee and other stakeholders, BDS drafted an ordinance that the City Council adopted on February 1, 2018, effective July 1, 2018, amending Building Demolition Code ("Ordinance") that:

- Requires a demolition plan outlining site control measures to contain dust and debris generated during demolition
- Requires a copy of the asbestos survey to be provided to BDS as a condition of permit issuance
- Requires BDS to send mailed notice to surrounding properties within 150 feet of the demolition site
- Requires applicants to post door hangers on properties within 300 feet of the demolition site
- Requires all non-structural painted materials to be removed from the exterior prior to mechanical demolition activities and a person with asbestos and lead-based paint certifications to be on site during demolition activities
- Provides for additional site inspections to ensure compliance with the Ordinance
- Prohibits mechanical demolition activities when wind speeds exceed 25 miles per hour
- Requires containment of demolition debris
- Requires finalizing the demolition permit before obtaining a subsequent building permit on the site
- After an initial Correction Notice, provides a penalty for non-compliance of $5,000 for the first offense, $10,000 for the second offense, and $15,000 for each subsequent offense

III. IMPLEMENTATION

A. Preparation and Outreach

BDS hired additional site development inspectors, all of whom have the same minimum certifications relating to asbestos and lead-based paint that would be required of anyone performing the demolition. BDS also made programing changes to its permitting and inspection system, conducted staff training, and provided outreach and training to the development community, including a "Lunch and Learn" that BDS conducted before the program went live. To cover the costs to administer the program, BDS also increased its demolition permit fee by $180.

B. Administrative Rules

BDS adopted administrative rules effective July 1, 2018 to guide implementation of the Ordinance. The process of developing the rules involved the same stakeholders as the Ordinance, plus demolition contractors, all of whom provided valuable input into the rules.

C. Permit Statistics

The following is a summary of the demolition permit activity for projects subject to the Ordinance from its implementation date of July 1, 2018 through December 31, 2019:

Residential Demolition Permits - Active and Finalized from 7/1/2018 - 12/31/2019

RES	Permit Status	Single Family	Duplex	ADU	Garage	Accessory Structure	TOTAL	RS & CO	Status as of Date Data Compiled
	Application	8	0	0	4	1	13	**13**	Permit Not Issued
	Under Review	37	1	0	28	3	69	**69**	Permit Not Issued
	Approved to Issue	8	2	0	13	1	24	**24**	Permit Ready to Issue
	Issued	12	0	0	12	4	28	**28**	Permit Issued (No Inspection Yet)
	Under Inspection	32	0	1	24	1	58	**58**	Permit Issued (Under Inspection)
	Final	137	2	0	187	25	351	**351**	Permit Issued and Finalized
TOTAL		**234**	**5**	**1**	**268**	**35**	**543**	**543**	Total Applications and Issued Permits

The ordinance covers demolitions of residential structures with three to four dwelling units and their accessory structures. Because residential structures with three or more units are regulated by the commercial code (Oregon Structural Specialty Code), the following table summarizes the commercial permits for demolitions of structures covered by the ordinance.

Commercial Demolition Permits
Active and Finalized from 7/1/2018 - 12/31/2019

COM	Permit Status	3-4 Dwelling Units	Storage	Total
	Application	0	0	0
	Under Review	2	0	2
	Approved to Issue	0	0	0
	Issued	0	1	1
	Under Inspection	0	0	0
	Final	3	1	4
TOTAL		**5**	**2**	7

D. Enforcement Actions

July 1, 2018 to June 30, 2019

27 Correction Notices issued
1 Stop Work Order issued
1 First offense $5,000 citation
29 Enforcement Actions Total

July 1, 2019 to December 31, 2019

15 Correction Notices issued
1 Stop Work Order issued
2 First offense $5,000 citations
18 Enforcement Actions Total

Some examples of reasons for enforcement action include property owners not knowing they need a permit to demolish a garage or accessory structure, or contractors not calling in for an inspection because they were not clear about the new rules and timing requirements for these inspections.

E. Follow-Up

Because this is a new program, BDS anticipated that the program would be refined based on lessons learned during the initial implementation period. With that in mind, BDS staff documented issues in the field as they arose. BDS staff also met several times with various stakeholders from May 2019 through January 2020 to evaluate the program. In addition, staff worked closely with OHA and DEQ as they reviewed their list of best practices for handling lead-based paint, which OHA developed pursuant to SB 871.

IV. POST-IMPLEMENTATION ISSUES

A. Issues Identified by BDS Staff

Since BDS began implementing the program in July 2018, BDS staff has been gathering information on how the program is working and recommended improvements. To date, BDS staff has identified the following aspects of the program that should be improved:

- Ensuring someone with sufficient knowledge of the program requirements is on-site during inspections
- Improving asbestos surveys and documentation of abatement
- Determining how to treat accessory structures that clearly have no asbestos
- Improving the timing of inspections and site containment measures
- Incorporating new deconstruction rules
- Cleaning up language in the ordinance and administrative rules

B. Issues Identified by BDS Stakeholders

As BDS staff began working with its external stakeholders, one significant issue rose to the surface: what was being inspected during the second inspection and whether that inspection was meeting the expectations of the community. The Ordinance as adopted calls for a "during demolition" inspection. There are several activities that occur from the time the permit is issued until it is finalized and signed off by BDS, all of which are "during demolition" activities. For example, the site is prepared by laying out the required plastic to contain the demolition debris, the exterior painted components are removed by hand, mechanical demolition or deconstruction occurs, and debris is stacked and moved into a debris container. The stakeholders identified two key times during the demolition process when it would be most useful to have an inspection on the site: 1) after the exterior painted materials were removed by hand and before any mechanical demolition occurs; and 2) at the beginning of mechanical demolition activities to confirm the wetting system is effectively suppressing the dust.

BDS staff explored options for conducting two "during demolition" inspections at these two key times. The issues that BDS needed to resolve included:

- Staff time necessary to conduct an additional inspection (the Ordinance requires three total inspections; to implement the stakeholder recommendations requires four total inspections)
- Requests from contractors to have a "time certain" for the inspection at the beginning of the mechanical demolition activities
- Whether and how BDS would need to make changes to its software at the beginning to accommodate the additional inspection (BDS is preparing to launch a large technology project to upgrade our permitting software system, and there has been a moratorium on new programming)
- Whether the inspection for mechanical demolition activities could be done remotely via live video using a tool like Skype, for example, to provide a more nimble way to have inspectors available at the critical time they are needed

BDS resolved each of these issues and adopted an interim administrative rule, effective February 10, 2020, to implement the stakeholder recommendations.

C. Ordinance Language Issues

BDS has identified some language in the Ordinance that should be revised for clarity, including:

- Deleting details on required certifications for asbestos and lead-based paint, and instead putting this information in administrative rules. Doing so allows BDS to update these details quickly without having to go to the City Council for non-substantive revisions to the program.
- Clarifying deconstruction requirements, taking into consideration the new deconstruction rules.
- Removing the requirement for a person with specified asbestos credentials to be on site during mechanical demolition activities and replacing it with a requirement for a comprehensive asbestos survey with destructive testing and complete asbestos abatement. The concern is that only having an accredited person on site won't guarantee that the job will stop if suspected asbestos-containing material is discovered after the demolition begins. BDS's experience indicates that the better practice is to ensure that the asbestos is completely abated prior to mechanical demolition, which puts the burden on the asbestos abatement contractors to do the job correctly up front.
- Moving details regarding enforcement from the Ordinance to the administrative rules.
- Amending the language for inspections during the demolition process to reflect current practices per the interim administrative rule (see Section D below).
- Replacing references to "lead-containing" with "lead-based paint" because the latter term is consistent with state and federal regulations.

D. Administrative Rule Language Issues

Interim Rule

To maximize the public health benefits of the inspections, BDS adopted an interim (temporary) administrative rule on January 23, 2020, with an implementation date of February 10, 2020, that incorporates the new procedures for the demolition inspections. This rule provides BDS with the authority to require two inspections to: 1) confirm that the painted exterior wood materials have been removed by hand prior to mechanical demolition; and 2) ensure that the wind speed does not exceed 25 miles per hour at the time mechanical demolition begins and the wetting equipment is effectively controlling the dust. The interim rule also removes redundant site control provisions.

Permanent Rule

If the Ordinance is amended, BDS will draft a permanent rule that will:

- Incorporate any changes necessary to make the rule conform with the revised Ordinance
- Reorganize the existing rule by grouping asbestos requirements in one place and lead-based paint requirements in another and putting all inspection requirements in one place
- Simplify the rule by removing details on asbestos surveys and refer to federal requirements instead
- Refine certification requirements
- Make any other necessary revisions that are needed

V. SUMMARY OF RECOMMENDATIONS AND NEXT STEPS

A. Summary of Recommendations

Based on discussions among key stakeholders, including state, county, and federal agencies, DRAC members, contractors, neighborhood representatives, and BDS staff, the following are the key recommendations:

- Amend the Portland City Code ("PCC") language in Chapter 24.55 (Demolitions) to remove much of the detailed language and move that language to the accompanying administrative rule
- Require any person conducting a demolition covered by the Building Demolition Code to have the specified lead-based paint certifications, regardless of whether that person is a contractor
- Remove the requirement that a person with the specified asbestos accreditation be on-site during mechanical demolition and deconstruction activities and instead require all covered demolition projects to have a comprehensive asbestos survey, as defined in the administrative rules

B. Next Steps

BDS has identified the following next steps for the program:

- Continue our public outreach to contractors and stakeholders
- Finalize the Ordinance revisions and present them to the City Council in March 2020
- Draft a permanent administrative rule to incorporate the changes from the interim rule and any other necessary changes
- Adopt permanent administrative rules
- Continue monitoring the program and recommend changes as necessary