



STAFF REPORT

Meeting Date: April 19, 2016
To: Honorable Mayor & City Council
From: Ryan Gohlich, AICP, Assistant Director of Community Development/City Planner
Subject: Request by Mayor Mirisch to Discuss Construction Fencing
Attachments: 1. BHMC Excerpts Regarding Construction Fencing
2. Demolition Permit Checklist

INTRODUCTION

At the request of Mayor Mirisch this report transmits information on the City's regulations for the installation and maintenance of construction fencing placed around properties.

DISCUSSION

There are generally two scenarios in which a property may be fenced, and those include when there is pending demolition or construction at a property, and when there are no structures on a property and it is maintained as a vacant lot. Information on these scenarios is as follows:

Demolition and Construction

In most instances, when a structure is to be demolished or under construction, the Municipal Code requires the installation of a construction fence (see Attachment 1). Fencing is typically required to prevent access to the property for public safety purposes, particularly when trenches, asbestos, machinery, temporary power connections, or other hazards may be present on a site. In addition, fencing contains work activities, equipment, and building materials within the site, and creates a visual barrier to the construction activities. Prior to demolition occurring at a property, a checklist of pre-demolition items (Attachment 2) must be satisfied before demolition/construction permits can be issued. One of these requirements is to install fencing around a property prior to any other work beginning to ensure public safety and control access to the site. Because fencing a property tends to be the very first step in securing demolition or construction permits, there are sometimes instances where a property is fenced for an extended period of time prior to actual demolition or construction work commencing.

Vacant Lots

There are very few instances of vacant lots in the City; however, there are occasions where a property owner desires to demolish a structure well in advance of any new construction occurring, and without a plan for a replacement project. In these instances, the property would be treated as a vacant lot, which requires the installation of fencing and landscaping at the property in order to minimize visual impacts and maintain some level of neighborhood compatibility. Municipal code excerpts pertaining to demolition of buildings and vacant lot standards are provided as Attachment 1 for reference.

Neighborhood Compatibility

Staff has been made aware of several properties in the City that have been fenced for an extended period of time without any active demolition or construction activities occurring. In most instances, the fencing permits were legally obtained in anticipation of demolition or construction; however, demolition or construction activities have been delayed by the property owners for various reasons. Notwithstanding these delays, the permits for construction fencing are generally valid for an extended period of time, provided the property owner continues to take steps to secure demolition and/or construction permits, even when said activities may be progressing more slowly than desired. In instances where fencing has not been legally installed, code enforcement has been initiated to ensure corrective action. Properties that are fenced for an extended period of time have the potential to adversely impact the quality of the surrounding neighborhood, and it may be beneficial to establish more stringent requirements within the building code to ensure that demolition or construction activity is undertaken in a more expeditious manner once fencing permits are issued. In order to make these changes, it is anticipated that they could be packaged together with the building code adoption process scheduled to occur later this year. Additionally, more proactive enforcement may help to reduce the instances of prolonged fencing within the City.

FISCAL IMPACT

City Council discussion of this matter does not have any fiscal impact; however, any proposed amendments to the building code would incur costs associated with staff time and potential public noticing costs associated with such amendments. Significant changes in the City's regulations may also require ongoing staffing for education, outreach, and enforcement.

RECOMMENDATION

Staff seeks direction from the City Council regarding any desired changes to the City's construction fencing regulations.



Susan Healy Keene, AICP

Approved By

ATTACHMENT 1

BHMC EXCERPTS REGARDING CONSTRUCTION FENCING

BHMC - CONSTRUCTION FENCING REQUIREMENTS

Beverly Hills Municipal Code Title 9 – Building and Property Health and Safety Regulations, Chapter 1: Technical Codes, Article 1. Administrative Provisions, Section 9-1-104: Amendments to Uniform Administrative Code, Subsection 102.9 Demolition of Buildings, Structures or Objects, requires the installation of a construction fence pursuant to the following:

9-1-104: AMENDMENTS TO UNIFORM ADMINISTRATIVE CODE:

The uniform administrative code adopted pursuant to section 9-1-103 of this chapter is hereby amended as follows:

Section 102.9 is hereby added to the uniform administrative code as follows:

102.9 Demolition Of Buildings, Structures Or Objects.

1. It shall be unlawful for any person to demolish any building or structure within the city without first obtaining a permit from the director of building and safety. The amount of the fee for the permit shall be established by city council resolution.
2. The permittee shall comply with the following requirements before a permit may be issued under this section:
 - (i) **The director of building and safety may require that a construction fence be installed. The fence construction material may be required to be adequate to screen the site from view from the public right-of-way.**
 - (ii) Water service shall be maintained on the site for the duration of the demolition and the following construction work.
 - (iii) When required by other provisions of this code, indemnification bonds and insurance shall be posted.
 - (iv) All utility companies shall be notified in writing by the owner of the property of the intention to demolish the building or structure.
 - (v) A permit shall be obtained to remove and fill any basement, pool, sump, or other depression in the surface of the lot or parcel of land.
 - (vi) A permit shall be obtained to cap the sewer and any drains connecting to the building or structure. The sewer and drains shall be capped at the property line unless otherwise approved by the director of building and safety. The sewer caps shall be inspected and approved by the department.
 - (vii) The building shall be inspected for the presence of asbestos. If the building is found to contain asbestos, the building owner or his representative shall submit a letter to the director of building and safety so stating. If the building is found to contain asbestos, then an asbestos abatement permit shall be obtained from the department upon submittal by the applicant of all necessary documentation as required by rule 1403 of the South Coast air quality management district. Demolition permits shall then be issued upon submittal of an asbestos abatement completion certificate by qualified contractors.
 - (viii) The building shall be inspected for rats and rodents infestation and a report from qualified individuals shall be submitted attesting that the building is free of any rats or

rodents prior to issuance of the demolition permit. If the building is found to be infested, then proper eradication measures by qualified individuals shall be implemented and a report attesting to the eradication of the pest problems shall be submitted prior to issuance of the demolition permit.

- (ix) If the building, structure or object proposed for demolition is 45 years or older and the designer is included on the city's list of master architects, the property owner or the owner's representative shall post at the construction site a notice of intent to demolish at least thirty (30) days prior to issuance of permit. This requirement can be waived by the director of community development if the property has been specifically surveyed for its potential and has been determined to not be eligible for listing on a register of historic resources, or has been subject to a thirty (30) day hold period pursuant to Beverly Hills municipal code section 10-3-3218 for the same project.
- (x) If a building, structure or object proposed for demolition is either less than 45 years old, or 45 years or older and the designer is not included on the city's list of master architects, the property owner or the owner's representative shall post at the construction site a notice of intent to demolish at least ten (10) days prior to issuance of a permit whenever the director of community development determines that the demolition work will have a significant impact on the surrounding properties.

The community development department shall furnish the sign for notice of intent to demolish. Failure to comply with the requirements of this article shall be cause for the city to engage the necessary services or facilities to accomplish the intent of this article, and the city shall charge the owner of the lot or parcel of land for all costs so incurred by the city.

3. Before a demolition permit shall receive final inspection approval and before the pertinent bonds are released, the following requirements shall be met:

- (i) All concrete, weeds, debris, stones, or other loose material shall be removed from the lot or parcel of land.
- (ii) All basements, pools, tanks, sumps, or other subterranean structures shall be removed and back-filled and the lot properly graded.

(iii) The fence, when required by paragraph 2(i) of section 102.9 is installed and inspected.

4. The demolition activities authorized by a demolition permit issued for a project subject to the thirty (30) day hold period required by subsection 2(ix) of this section 102.9 shall be commenced with 180 days of permit issuance, and thereafter shall be diligently pursued to completion, otherwise the demolition permit shall be null and void, and of no further effect whatsoever. Any subsequent application for a demolition permit for the same property shall be subject to a new thirty (30) day hold period pursuant to subsection 2(ix) of this section 102.9.

10-3-4201: RESTRICTIONS ON DEMOLITION AND REMOVAL OF BUILDINGS:

- A. Except as provided in section 10-3-4202 of this chapter, no permit shall be issued to allow the demolition of a building, or any portion of a building, or the removal of a building or any portion of a building from a site, unless:
1. A building permit is also issued at the same time to authorize construction of a replacement building or to restore a partially demolished building to a habitable condition;
 2. Architectural commission approval has been granted for an alternative use of the property that does not require a building permit; or
 3. A landscaping, fencing and maintenance plan, other than a plan requiring architectural commission approval, in a form acceptable to the director of building and safety has been submitted in accordance with the requirements of this section.
- B. In addition to requirements set forth in subsection A of this section, as a condition of issuance of a permit for the demolition of a building, the applicant shall be required to post a bond in a form and amount satisfactory to the director of building and safety, or other security satisfactory to the director of building and safety, to guarantee:
1. The safe completion of the demolition;
 2. The restoration of the site into a safe condition; and
 3. The provision of landscaping, fencing and maintenance of the property in accordance with the plan described in subsection A3 of this section or, where no plan is required, the provision of landscaping, fencing and maintenance sufficient, in the opinion of the director of building and safety, to maintain and protect the safety, street scape and overall appearance of the site and the areas adjacent to the site.
- C. Any landscaping, fencing and maintenance plan submitted to the city pursuant to subsection A3 of this section shall be approved by the director of building and safety if, in the opinion of the director, the plan is sufficient to maintain and protect the safety, street scape and overall appearance of the site and the areas adjacent to the site. The plan shall include fencing in accordance with and to the extent required under section 10-3-4203 of this article or any successor section. The plan shall further include a provision that requires the applicant to install the fencing and landscaping within thirty (30) days of completion of the demolition or removal of the building from the site. As a condition of any approval of the plan by the director, the plan must be accompanied by an agreement, approved by the city attorney, wherein the applicant covenants and agrees to landscape, fence and maintain the property in accordance with the plan and the provisions of this code and to provide the security required herein.
- D. As a further condition of issuance of a permit for the demolition of a building or a portion of any building, applicants shall submit to the department of building and safety a color eight inch by ten inch (8" x 10") photograph of the building taken from a perspective and sufficient distance that, in the opinion of the director of building and safety, is adequate to depict the entire building. A quality photograph on thirty five (35) millimeter or greater film stock, accompanied by the photo negative, is required. (Ord. 99-O-2326, eff. 4-30-1999)

10-3-4202: EXEMPTIONS:

- A. Notwithstanding any other provision of this article, the requirements set forth in section 10-3-4201 of this article shall not apply to the following:
1. The demolition or relocation of any accessory structure or accessory building in any one-family residential zone;
 2. The demolition or relocation of any publicly owned building;
 3. Improvements confined to the interior of a building;
 4. The storefront remodel of a commercial building, if plans for the storefront remodel have been approved by the director of building and safety for submittal to the architectural commission, and the applicant has posted a bond in a form and amount satisfactory to the director of building and safety, or other security satisfactory to the director of building and safety, to guarantee the safe completion of the demolition, the restoration of the site into a safe condition, and the completion of the storefront in a manner that, in the opinion of the director of building and safety, is sufficient to maintain and protect the safety, streetscape and overall appearance of the site and the areas adjacent to the site;
 5. The demolition of any building where one or more of the following exceptions applies:
 - a. Prior to the issuance of the demolition permit, the director of building and safety determines that an exception is necessary because it is compelled by public safety due to an imminent hazardous condition requiring immediate demolition of the building;
 - b. Prior to the issuance of the demolition permit, and pursuant to an application and noticed public hearing under this section, the planning commission grants an exception based upon a finding that a proposed interim use, other than a use requiring a building permit, satisfies a public need, and bonding satisfactory to the city, or other adequate security acceptable to the city, is provided to ensure the safe completion of the demolition and the construction of the proposed interim use of the site approved by the planning commission;
 - c. Prior to the issuance of the demolition permit, a determination is made by an appropriate government body or agency that there are hazardous materials on or beneath the surface of the subject property which require, as part of a remedial plan approved by an appropriate government body or agency, the demolition of the building before any permit and/or financing to improve the property can be obtained. Any applicant seeking to rely upon this exception shall, as a condition of the issuance of a demolition permit, be required to submit a landscaping, fencing and maintenance plan acceptable to the director of building and safety in accordance with the requirements of section 10-3-4201 of this article for such a plan, including, without limitation, the provision of bonding or other adequate security for the execution of the plan as specified in that section. (Ord. 99-O-2326, eff. 4-30-1999)

10-3-4203: FENCING OF VACANT LOTS:

All vacant properties that become vacant on or after the effective date of this article, shall, in addition to any landscaping requirements imposed under this article, be surrounded by a minimum six foot (6') high chainlink fence or adjacent to the property boundaries, or other alternative fencing acceptable to the director of building and safety that is adequate to protect the public safety and welfare, unless the director of building and safety determines that the installation of such fencing will be detrimental to the public safety and welfare. Any fencing required under this section may additionally require screening if the director of building and safety finds it necessary in order to protect the safety, streetscape and overall appearance of the site. (Ord. 99-O-2326, eff. 4-30-1999)

ATTACHMENT 2
DEMOLITION PERMIT CHECKLIST



DEMOLITION PERMIT CHECKLIST*

B.H.M.C. Section 10-3-4201

NOTE: This handout is provided as informational and as a convenience to summarize and interpret the intent and associated requirements of the municipal code. Please refer to the actual code section referenced for the exact wording of the municipal code.

A separate permit shall be obtained for each separate building or structure being demolished. The following conditions shall be satisfied prior to issuance of a structural Demolition permit.

A) Demolition permit issued at the same time as replacement Building permit:

1. Asbestos Abatement permit (required for building construction prior to 1978)
2. Clearance for Historical Building status
3. Sewer Cap and associated permit
4. Construction / Demolition sign (posted at least 10 days prior to issuance of permit)
5. Construction fence w/screen (including compliance with all landscaping requirements)
6. Temporary toilet
7. Water available at site
8. Disconnect utilities (Electrical, Gas, Telephone, and Cable Services)
9. Rodent Control report
10. Picture of existing building
11. Temporary power pole and associated permit
12. Pre-Construction Meeting
13. Construction parking plan and associated permit
14. Demolition bond
15. Site conditions verification (request for inspection)
16. Historical Preservation verification

B) Demolition prior to a Replacement Building Permit:

1. All items listed under Section A above
2. Landscape, irrigation, fencing and property maintenance plans.
3. Covenant and Agreement (obtain form from Building & Safety)
4. Demolition bond
5. Historical Preservation verification

* Please see the following pages for detailed requirements

DEMOLITION PERMIT REQUIREMENTS

No person shall demolish any building or structure unless a demolition permit has first been obtained from the Building and Safety. A building owner or a demolition contractor (C-21 licensee) may obtain a demolition permit.

A separate permit shall be obtained for each separate building or structure.

The demolition permit will not be issued until all following documents are provided and the work completed.

1) ASBESTOS REMOVAL (required if building was constructed prior to 1978)

- a) All buildings constructed prior to 1978 are required to obtain a pre-demolition or a pre-remodeling investigation by a person or a firm that specialize in asbestos abatement removal. The person or the firm shall submit a **survey** that asbestos is or is not present in the building prior to obtaining the **Demolition Permit**.
 - **If Asbestos exists** in the building, the report shall specify the location(s) of the asbestos. Prior to the issuance of the permit, a copy of the South Coast Air Quality Management Notification of demolition and asbestos removal form must be submitted to this department.
- b) The building owner then shall secure the services of a licensed asbestos abatement contractor. The contractor **must** obtain an **Asbestos Abatement Permit** from the Building and Safety Department to remove the asbestos. When obtaining a permit, the contractor shall provide the following items:
 - Schedule of work:
 - Date and time the work will begin.
 - Estimated completion date.
 - Evidence of state certification for asbestos removal.
 - Copy of the OSHA certification.
 - Copy of the AQMD notification letter.
- c) When all the asbestos is removed, the contractor shall submit a written **Certificate of Completion** that the asbestos has been removed in accordance with the state requirements.

2) SEWER CAP

- a) The building owner or a licensed plumbing contractor shall obtain a **plumbing permit** to cap the sanitary sewer within 5' of the property line **and** provide water service to the property, for dust control during demolition.

- b) The building owner or demolition contractor shall install a **temporary security fence with screen or construction barricade around the property**. Fences or barricades constructed in the public right-of-way require separate permits as well as permits from the Public Works Department.
- c) The building owner or contractor shall make arrangements for a portable toilet to be located at the rear property or as otherwise specified by the department. **This toilet shall not be located on the public right-of-way.**

Such temporary toilet shall be located within twenty-five (25') feet of the rear property line and shall be set back at least twenty (20) feet from any other adjacent side property line unless the Director of Building and Safety approves an alternate location because the requirements of this subsection prevent servicing the toilet or are otherwise infeasible.

- 3) **ELECTRICAL, GAS, TELEPHONE, AND CABLE SERVICE SHALL BE DISCONNECTED**
- 4) **TEMPORARY POWER PERMIT SHALL BE OBTAINED**
- 5) **RODENT CONTROL REPORT IS REQUIRED**

The building shall be inspected for rat and rodent infestation by qualified individuals and a report shall be submitted certifying that the building is free of any rats or rodents prior to issuance of the demolition permit. If the building is found to be infested, then proper eradication measures by qualified individuals shall be implemented and a report certifying to the eradication of the pest problems shall be submitted prior to issuance of the demolition permit.

- 6) **DEMOLITION SIGN**

The property owner or the owner's representative shall post at the construction site a notice of intent to do grading, construction, or demolition that is readily visible at least ten (10) days prior to issuance of permit (whenever the Director of Building and Safety determines that the grading, construction, or demolition work will have a significant impact on the surrounding properties). This sign shall be obtained from the Building and Safety Department and posted at the sewer cap time.

- 7) **PHOTO REQUIRED**

A color 8"×10" photograph on 35 millimeter or greater film stock or a digital photo of the building, taken from a sufficient distance and perspective depicting the entire building, shall be submitted to the Building and Safety Department. (Denote Address and Data)

8) **INSPECTION IS REQUIRED**

A request for inspection shall be made to the Building and Safety Department when the above work is completed. When these requirements have been completed, the **Sewer Cap Permit** and the **Asbestos Permit** (if required) will be approved and finalized.

9) **DEMOLITION PERMIT**

A Demolition permit shall be issued only in conjunction with a Replacement Building permit. (Article 42, Beverly Hills Municipal Code).

10) **DEMOLITION BOND** (required for any structural Demolition)

Landscape, Irrigation, Fencing, Bond, and recordation of the Covenant is required if Demolition is proposed prior to New Construction Permit.

When all the above conditions have been met, inspected and approved; the building owner or the demolition contractor may apply for a demolition permit. The demolition contractor shall provide a schedule of work that specifies the date and time when work will begin and estimated completion date.

Should a dangerous condition develop during the demolition of a structure, the demolition contractor shall immediately barricade the dangerous area, notify the Building and Safety Department and take immediate steps to minimize the hazard. No further demolition work shall be done until approval to proceed is given by the Building and Safety Department.

11) **Historical Preservation Verification**

Historical preservation verification shall be completed by the Community Development Department Planning Division prior to the issuance of any Building or Demolition Permits for Single Family properties.

Designation Criteria:

A nominated property may be designated as a landmark if it is more than forty five (45) years of age and satisfies the requirements set forth below.

Properties that are less than forty five (45) years of age can be designated, but in addition to meeting the criteria below, they must also exhibit "exceptional significance" as defined in this article.

For the purposes of this section, any interior space or spaces open to the general public, including, but

not limited to, a lobby area, may be included in the landmark designation of a property if the city council finds that the public space(s) satisfies the following criteria:

To be designated as a landmark, a property must satisfy the following criteria:

- A. The property meets at least two (2) of the following criteria:
1. Is identified with important events in the main currents of national, state, or local history, or directly exemplifies or manifests significant contributions to the broad social, political, cultural, economic, recreational, or architectural history of the nation, state, city, or community;
 2. Is directly associated with the lives of significant persons important to national, state, city or local history;
 3. Embodies the distinctive characteristics of a style, type, period, or method of construction;
 4. Represents a notable work of a person included on the city's list of master architects or possesses high artistic or aesthetic value;
 5. Has yielded or has the potential to yield, information important in the prehistory or history of the nation, state, city, or community;
 6. Is listed or has been formally determined eligible by the national park service for listing on the national register of historic places, or is listed or has been determined eligible by the state historical resources commission for listing on the California register of historical resources.
- B. The property retains integrity from its period of significance. The proposed landmark retains integrity of location, design, setting, materials, workmanship, and association. Integrity shall be judged with reference to the particular criteria specified in subsection A of this section. A proposed landmark's deferred maintenance, dilapidated condition, or illegal alterations shall not, on their own, be construed to equate to a loss of integrity.
- C. The property has historic value. The proposed landmark is of significant architectural value to the community, beyond its simple market value, and its designation as a landmark is reasonable, appropriate, and necessary to promote, protect, and further the goals and purposes of this article. (Ord. 12-O-2617, eff. 2-24-2012)

No permit for demolition work will be issued until satisfactory plans and procedures have been submitted to and approved by the Building and Safety Department.

Demolition Plan Requirement for Multi-Family/Condominium

- Plot plan
- Type of construction (wood, steel, concrete, or masonry)

- Specifications for the building (number of stories, square footage, and occupancy)
- Photos of Existing Building
- Basement specifications (if any)
- Any pre-stressed or post-tensioned concrete construction
- Method and sequence of demolition (hand wrecking, dozer or loader wrecking, clam shell wrecking, cable wrecking, or ball wrecking).
- Underpinning of adjacent buildings

Pool Demolition - Complete removal shall be required when demolishing pools.

The building owner or contractor shall obtain a **Heavy Hauling Permit** from the Public Works Department. The permit shall specify hauling routes and other traffic related conditions as deemed necessary.

- ❖ Grading permit is required when any excavation exceeds two (2) feet in depth or any fill exceeds one (1) foot in depth.

Demolition work can only begin when a demolition permit is issued. A building inspector shall be present at the site when the job begins, and will visit the site periodically as the work progresses. When the demolition is completed the grading work shall commence and the inspector should be called for **Bottom Excavation Inspection**. When the grading is complete then the contractor shall request for **Final Grading Inspection and provide Compaction Report**.

To ensure that the city meets the statutory obligations imposed by the California integrated waste management act (AB 939), the director of building and safety, in issuing permits for construction, renovation, and demolition projects of a specified magnitude, is authorized to impose and to enforce requirements related to the salvaging, recycling, and reuse of construction and demolition debris. Those requirements will be established by resolution of the city council. (Ord. 03-O-2436, eff. 1-15-2004)

NOTE:When the building to be demolished contains residential rental units as defined in the Municipal Code, building owners must also obtain all necessary approvals and permits for a new project and meet the necessary tenant-notice requirements prior to obtaining a demolition permit.