



MEMORANDUM

To: The Honorable President and Members of the Baltimore City Council
c/o Natawna Austin, Executive Secretary

From: Alice Kennedy, Acting Housing Commissioner

Date: November 29, 2021

Re: City Council Bill 21-0102 Building Permits – Disposal Plan Requirement (The John F. Chalmers Sr. Act)

The Department of Housing and Community Development (DHCD) has reviewed City Council Bill 21-0102 for the purpose of requiring certain holders of permits issued by the Department of Housing and Community Development to submit a disposal plan with the permit application; requiring permit holders to submit proof of disposal to the Department within a certain period of time after the permit work has concluded; establishing a certain citation amount; and generally relating to requiring permit holders dispose of waste and refuse in a proper and legal manner.

Background

DHCD enforces the Building, Fire, and Related Codes, as well as laws pertaining to construction and occupancy. DHCD issues building permits and provides inspections for: construction, alteration, electrical, mechanical and plumbing work in both commercial and residential structures. DHCD's Permits Division presently reviews over 39k building permits per year.

A permit is required to:

- Construct, enlarge, alter, repair, rehabilitate, demolish (interior or exterior razing) or move any structure
- Erect, install, enlarge, alter, repair, remove, convert, or replace any electrical, gas, mechanical, HVAC or plumbing system
- Change the use of any structure or land
- Perform any grading or excavating

If enacted, City Council Bill 21-0102 would require all holders of certain permits issued by DHCD to submit a detailed disposal plan with the permit application. The plan is to include; the site and address where waste and refuse from the work site shall be disposed, how the waste and refuse shall be transported to the disposal site and any other relevant information. The Bill will also require permit applicants to provide "Post Work Proof of Disposal" to the building official no later than 30 days from the completion of the work for which the permit was granted. Failure to do so may result in a \$250 ECB citation.

Operational Impact

If approved this legislation would pose operational impacts on the agency around implementation. This legislation does not limit the types of permits which would require a disposal plan. A disposal plan may not be necessary for all types of work requiring a permit. For instance, an electrician may only generate a handful of wires while a demolition may generate truckloads of debris. DHCD would recommend an amendment to more narrowly limit which types of permits require a disposal plan by allowing for the discretion of the Building Official.

Page 2, line 31 & Page 3, lines 1 through 6, should be deleted and replaced with *“If the proposed work includes interior or exterior demolition, the Building Official may require the applicant to provide a detailed disposal plan on the form provided by the Building Official for that purpose.”* This would significantly lessen the review, monitoring and enforcement needed by DHCD staff.

Additionally, it may be difficult to monitor permit holders progress and if they submit proof of disposal within a certain period of time after the permit work has concluded as required by the Bill. Many permits are extended (some multiple times) and some people never undertake the work for which they pulled a permit for, or get their final inspection after pulling a permit.

Page 3, lines 22 through 24, should be deleted and replaced with *“Properties with permits for interior or exterior demolition requiring a detailed disposal plan may not be issued a certificate of occupancy without the applicant providing the Building Official satisfactory proof of waste and refuse disposal.”*

By removing the requirement for post work proof of disposal within 30 days after the completion of the work and requiring that the proof be submitted prior to the issuance of a use and occupancy certificate we would significantly lessen the review, monitoring and enforcement needed by DHCD staff.

Fiscal Impact

The Bill should be amended so that the ECB fine amount, on Page 4, line 7, be increased from \$250 to \$1000, to make the penalty more impactful and not perceived as a “cost of doing business.”

The Department of Finance (DOF) estimates that the legislation would cost a minimum of \$189,244 a year to implement which would include personnel and administrative costs. We estimate implementation will require three new permanent positions within the agency to assist in handling the additional workload including two Permit and Record Technicians to assist in processing the expanded permit applications and one additional Code Enforcement Investigator to assist with enforcement efforts regarding the disposal plans. Not included in Finances estimate are IT permit system upgrades that may be necessary to track and monitor compliance. If enacted this legislation would pose a new annual fiscal impact on the agency and is unlikely to generate substantial revenue.

DHCD Recommendations

- DHCD would recommend an amendment to delete the requirements of the drafted detailed disposal plan and replace them with language that would more narrowly limit the types of permits that require a disposal plan and allow for the discretion of the Building Official.
- DHCD recommends removing the requirement for post work proof of disposal within 30 days after the completion of the work and requiring that the proof be submitted prior to the issuance of a use and occupancy certificate.
- The Bill should be amended so that the ECB fine amount be increased from \$250 to \$1000.
- As written the legislation would take effect on the 30th day after enactment. DHCD would recommend an amendment to move the effective date to 90 days after enactment to allow the agency time for additional hiring and program implementation design.

Conclusion

DHCD appreciates the intent of City Council Bill 21-0102 to help curb illegal dumping in the City of Baltimore however the effects of this legislation may be limited and would pose unfunded fiscal and operational impacts on the agency around implementation and is unlikely to generate substantial revenue. We have found that the people illegally dumping construction debris are usually not getting permits in the first place. We believe the friendly amendments laid out in our Bill report would meet the intent of the legislation and would not discourage individuals from participating in the permitting process by adding an additional step and lengthening the permit process.

DHCD **objects** to the passage of City Council Bill 21-0102 as drafted.

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cc: Ms. Nina Themelis, Mayor's Office of Government Relations