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908-2021

Report

Accept report to present draft administrative rules to implement new Bull Run protections for Council review prior to adoption by Water Bureau Administrator

Accepted

Background

In December 2020, City Council adopted a revised Water Code that, in part, codifies protections added to the City Charter by voters in 2019 for the Bull Run Closure Area. (Ordinance No. 190228). The revised Water Code directs the Water Bureau to seek to avoid, then minimize and mitigate, the environmental impacts of bureau projects on City lands in the Bull Run Closure Area. In the ordinance, Council also directed the Water Bureau to draft administrative rules to implement the new Bull Run protections and bring the draft rules to Council for Council review prior to the Water Bureau Administrator's adoption of the rules. As directed, the Water Bureau has drafted administrative rules to implement the new Bull Run protections (Exhibit A: Draft Administrative Rules).

This Report brings the draft administrative rules to Council for Council review prior to the Water Bureau Administrator's adoption of the rules. The ordinance directs the Water Bureau Administrator to adopt the rules by December 31, 2021.

The Administrative Rules

The rules implement two Subsections of City Code 21.36.050: (1) Subsection G.1 (Project Impact Assessment); and (2) Subsection G.2 (Mitigation Summary)

The rules define which bureau projects must follow the new process and which types of routine projects are exempt. The rules identify questions staff must answer to identify potential environmental impacts caused by the projects. The rules also define how Bureau staff will document actions to avoid or reduce those impacts. Finally, the rules define key terms and provide templates for the Project Impact Assessment and Mitigation Summary.

Introduced by

[Commissioner Mingus Mapps](#)

Bureau

[Water](#)

Prepared by

Janet Senior

Date Prepared

November 12, 2021

Requested Agenda Type

Regular

The rules do not propose or analyze current bureau projects. Instead, the rules create a process for evaluating and decreasing the impacts of future bureau projects.

Watershed stewardship is not new for the Water Bureau's management of City lands in the Bull Run. A variety of internal bureau practices to avoid or reduce impacts already exist, including: (1) compliance with existing regulatory requirements and permits; (2) application of standard operating procedures; and (3) application of existing regulatory compliance plans. The draft rules do not replace any existing practices. The new process will add a layer of protection on top of existing practices and is intended, in part, to make it easier for the public to learn about bureau projects and the actions the bureau will take to mitigate project impacts.

Equity Impact

The rules provide a process for the Water Bureau to document work it is currently doing to meet environmental standards. The rules also prioritize the avoidance of adverse environmental impacts in the design of future bureau projects. Adverse environmental impacts can place disproportionate social, health and economic burdens on vulnerable populations, including but not limited to Black, Indigenous, people of color, low-income, elderly and disabled populations. Increasing environmental protections supports the Water Bureau's goal to produce better outcomes for all.

The rules also facilitate feedback from the public on future bureau projects on City lands in the Bull Run Closure Area. The rules make it easier for community members to access project information and submit comments.

Community Participation

Per City Code Section 21.24.080, the Water Bureau held a 30-day public comment period that opened August 4 and closed September 2, 2021. The bureau also held a public hearing on August 18, 2021 to give a brief presentation on the proposed rules and to accept public comment. The bureau reached out to known past stakeholders and noticed the hearing on social media and in a newspaper of record.

The Water Bureau, in coordination with the City's Tribal Relations program, held a meeting with members of tribal staffs to hear their questions, priorities and input on the rules. The bureau is committed to maintaining open communication with the tribes as the rules are adopted and implemented.

The Water Bureau received one joint comment letter from Oregon Physicians for Social Responsibility, Audubon Society of Portland, Oregon Wild, BARK, and the Oregon Chapter of the Sierra Club. The bureau considered this feedback in its revision of the draft rules.

Budget Impact

The administrative rules themselves do not impact the budget. Future budget impacts will be evaluated on a project-by-project basis.

TO THE COUNCIL:

The Commissioner of Public Works has reviewed and approved this Report and its Exhibit A, and;

RECOMMENDS

That the Council accepts the Report on Portland City Code Title 21 (Water), Administrative Rules: Bull Run Protections.

Respectfully submitted,

Commissioner Mingus Mapps

Documents and Exhibits

 [Exhibit A](#) (520.66 Kb)

Impact Statement

 [Impact Statement](#) (24.04 Kb)

Budget Office Financial Impact Analysis

No immediate fiscal impact to the CY budget or water rates. The impact of the adopted policy may impact future project costs but those impacts cannot be calculated and forecast until the policies are developed.

Agenda Items

850 Regular Agenda in [December 1, 2021 Council Agenda](#)

Referred to Commissioner of Public Safety

908 Regular Agenda in [December 15-16, 2021 Council Agenda](#)

Accepted

Motion to accept the report: Moved by Hardesty and seconded by Mapps.

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Yea

Commissioner Dan Ryan Yea

Commissioner Jo Ann Hardesty Yea

Mayor Ted Wheeler Yea