

FINANCIAL IMPACT STATEMENT
For Council Action Items
(Use this form for Ordinances and Resolutions)
(Deliver original to Financial Planning Division. Retain copy.)

1. Name of Initiator Dawn Hottenroth	2. Telephone Number 3-7767	3. Bureau/Office/Dept. BES / Watershed Services
4a. To be filed (date) November 23, 2009	4b. Calendar (Check One) Regular Consent 4/5ths [X] [] []	5. Date Submitted to FPD Budget Analyst: November 16, 2009

1) Legislation Title:

BES Engineering Code and Rules Package

2) Purpose of the Proposed Legislation:

- To establish new authorities for three separate programs:

Nonconforming Sewer Conversion Program - authority to refuse sewer connection permits in the ROW for nonconforming systems, authority to declare nonconforming systems in the public ROW and public easements a nuisance, and to restate the City's existing requirement for individual sewer connections

Public Works Enforcement Program - establish a specific enforcement section to allow City to take enforcement and abatement actions against those modifying City facilities without permits.

Green Street Maintenance Program - prohibit specific activities by private individuals within green street facilities (e.g. fill, plant removal, pesticide use); to allow certain volunteer activities with BES approval (e.g. watering, weeding, plant substitution); and to establish a new policy that BES will maintain trees within green street facilities (which deviates from the City standard of property owner maintenance).

- Reorganize Title 17.32 to facilitate implementation of remaining minor code clean up items deferred from the December 2008 Phase I Title 17 Code Clean up package.
- Reorganize Title 17.33 to distinguish between Mandatory Sewer Connection Program elements, Nonconforming Sewer Conversion program elements and identify which elements are common to both.

3) Revenue: NOT APPLICABLE

Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If new revenue is generated identify the source.

4) Expense: NOT APPLICABLE

What are the costs to the City as a result of this legislation? Include costs in the current fiscal year as well as costs in future years. If the action is related to a grant or contract include the local contribution or match required.

5) Staffing Requirements: NOT APPLICABLE

a) Will any positions be created, eliminated or re-classified in the current year as a result of this legislation? If new positions are created include whether they will be part-time, full-time, limited term or

permanent positions. If the position is limited term, indicate the end of the term.

b) Will positions be created or eliminated in future years as a result of this legislation?

6) Change in Appropriations: NOT APPLICABLE

Budget changes for the current year must go through the BMP Process. This section may only be use with prior permission of your OMF analyst for exceptions. Reflect the dollar amount to be appropriated by this legislation. Include the appropriate center codes and accounts to be used by Central Accounting. Indicate "new" in Center Code column if new center needs to be created. Use additional space if needed.

Fund	Center Code	Account	Amount	Project Fund	Project No.

EM Dean Marriott

Dean Marriott, Director, Bureau of Environmental Services
 APPROPRIATION UNIT HEAD (Typed name and signature)



CITY OF PORTLAND ENVIRONMENTAL SERVICES



1120 SW Fifth Avenue, Room 1000, Portland, Oregon 97204 ■ Dan Saltzman, Commissioner ■ Dean Marriott, Director

City Council
Agenda Item
Staff Supplemental Report

TO: Commissioner Dan Saltzman
THROUGH: Matt Grumm or Amy Trieu

FROM: Lana Danaher and Dawn Hottenroth, BES

DATE: November 16, 2009

RE: BES Engineering code and Rules Package

Requested Council Hearing Date: December 2nd and December 9th, 2009

I. RECOMMENDATION

Accept and forward the request for City Council to adopt changes to City Code and for the Auditor to place two new administrative rules documents on file in the PPD.

II. BACKGROUND

BES Engineering staff has been implementing a variety of programs over the last few years and have identified new regulatory needs for three program efforts:

Nonconforming Sewer Conversion Program - An estimated 8,000 to 10,000 properties within the City of Portland are served by private sanitary sewer connections that do not conform to currently applicable plumbing codes. These nonconforming sewers include: Private sewage conveyance systems located in the public right of way in a layout contrary to the approved City lateral connection standard; and private sewage conveyance systems that cross an adjacent private or public property without approved, recorded easements. New and clear code language is needed to require new individual sewer connections to the public sewer system for each lot; allow the City flexibility to work with multiple property owners related to sewer connections that crossing multiple properties; and allow BES Chief Engineer to refuse sewer connection permits based on specific circumstances.

Public Works Enforcement Program - The instances of property owners and developers modifying or removing City infrastructure improvements has been increasing. The bureau now sees anywhere from five to ten instances of illegal modification to public improvements per year. Currently there is no specific authority in BES administered parts of the code to take action against persons making modifications without a permit. These unpermitted modifications can result in flooding or other water related property and street system damage. New code language will clarify what enforcement actions can be taken to protect City public sewer and drainage improvements; and assign responsibility for correction of damage to facilities, including an offer to use City crews for repair of facilities with adequate payment by the requesting party; and allow BES authority to issue compliance orders and enforce on violators.

Green Street Maintenance Program – Approximately 800 green streets currently exist within the City. An additional 100 facilities associated with new development and retrofitting are expected to be constructed annually. In addition, the City plans to construct an estimated 900 green streets over the next five years as part of the Grey to Green/Tabor to the River initiatives. Because green street facilities are typically at the interface between private property and public rights of way, assignment of responsibility for their upkeep can be unclear. Proper maintenance, such as weeding, restricted use of herbicides, removal of sediment, and plant and tree preservation and care is critical in order to optimize facility function. Because BES has limited maintenance resources, allowing voluntary maintenance efforts by adjacent property owners will ensure facility function at reduced City cost. At the same time, requirements for property owners need to be minimized in order to ensure continued support of green street retrofit programs. Because of the increasing prevalence of green streets, clarification of the legal maintenance responsibilities of the City and adjacent property owners is needed. Code changes are needed to: identify specific ownership/responsibilities for maintenance of green street facilities, particularly the City's role in maintaining trees in green street facilities; and identify and allow via notice and permission of the City, specific green street maintenance actions by adjacent property owners.

III. FINANCIAL IMPACT

The proposed amendments do not require new appropriations to implement and will be implemented within existing staff programs and workloads. Minimal revenue may be generated from penalties, and any such funds shall either be returned to the general fund or used for specific educational needs related to these three program areas.

IV. LEGAL ISSUES

These amendments have been thoroughly reviewed by the City Attorney's Office over the last two years to assure they meet legal and program needs to add authorities where previous code was delinquent, protect against legal actions, and to limit any unanticipated legal liability for the City. These changes have also been vetted with the City Code Hearings Officer.

V. CONTROVERSIAL ISSUES

Very little in this package is thought to be controversial. Many program elements provide enhanced clarity for prohibited activities and provide enhanced flexibility for City staff to deal with site specific sewer connection and violation issues.

VI. LINK TO CURRENT CITY POLICIES

The Code changes link to previous Council ordinances and program direction, and are modeled on language and processes found in other code sections of Title 17, specifically mimicking 17.24 and 17.39. The Required Sewer Connection and Connection Financial Assistance Program administrative rules are a replacement for the existing Sanitary Sewer Connections, Connection Assistance and Enforcement rules which are filed as ENB 4.18 on the Portland Planning Documents web site. The BES Public Works Enforcement Program administrative rules are new.

VII. CITIZEN PARTICIPATION

The proposed code changes and administrative rules packages have been noticed and presented to both the Development Review Advisory Committee and the Watersheds Stormwater Advisory Committee. In addition newspaper ads and public notice was

initiated through the Office of Neighborhood Involvement interested parties email list for a public review period in the first two weeks of September of 2009. That process yielded only one clarification comment.

VIII. OTHER GOVERNMENT PARTICIPATION

The proposed code changes represent more than three years of cooperative effort by the Bureau of Environmental Services, Office of Transportation, Bureau of Development Services, Auditor's Office and City Attorney's Office. Outside agencies have only been involved through their participation in the citizen outreach efforts.

IX. FINANCIAL IMPACT ON LOCAL ECONOMY **NOT APPLICABLE**

IF APPLICABLE, PROVIDE INFORMATION ON ESTIMATED NUMBER OF JOBS CREATED BY THIS ACTION

IF THIS ACTION IS CONTRACT-RELATED, PROVIDE INFORMATION ON M/W/ESB PARTICIPATION (NUMBER AND PERCENTAGE)

X. IF THIS IS A CONTRACT, DOES CONTRACTOR HAVE A CURRENT BUSINESS LICENSE? **NOT APPLICABLE**

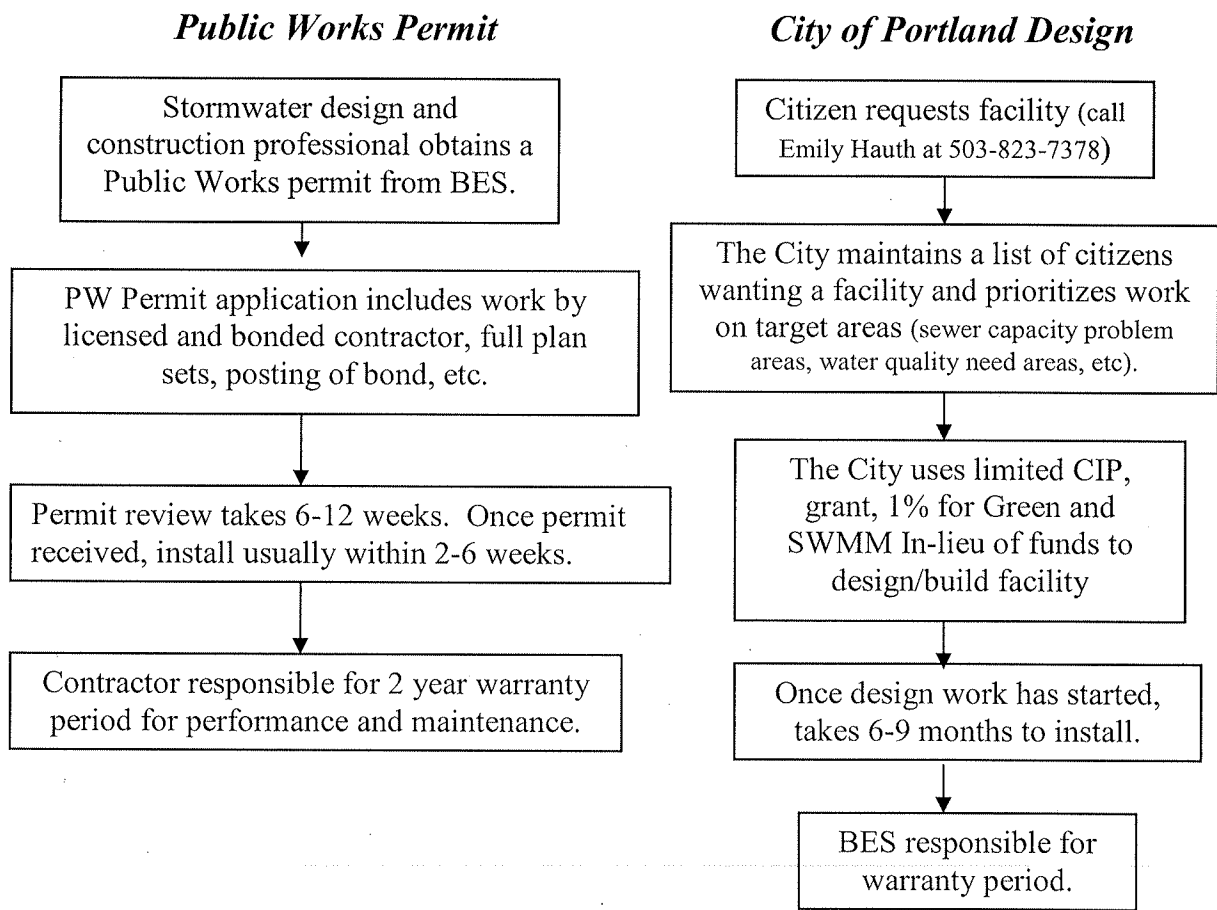
____ WHAT IS THEIR BUSINESS LICENSE NUMBER? ____ IS THEIR ACCOUNT WITH THE CITY CURRENT? ____ IF NOT, HOW MUCH IS OWING? _____

Voluntary Installation of Green Streets

Green streets are a vital component of the City's stormwater green infrastructure. They improve watershed health and conserve the existing and future conveyance capacity of the sewer system. These public improvements are engineered structures that contain soils and plantings with a primary function of managing stormwater runoff from the public right of way. Ability to effectively remove pollutants and ease of maintenance are critical factors for success. Proper facility design and installation is best left to professionals with experience working with stormwater facilities.

Green streets are required to manage stormwater runoff from public streets and rights of way with new development. Because of their aesthetic and environmental benefits, many Portland citizens want to retrofit the existing right of way in front of their houses as green street facilities. This demand is ever increasing, and both BES and PBOT are seeing an increase in permit applications to install green streets.

Currently, voluntary green streets may be initiated by stormwater professionals via City public works permit process or through design and installation by BES. The flow chart below summarizes the two options:



BES is working on a voluntary maintenance campaign to have local residents do voluntary maintenance work (trash and sediment removal, watering and weeding) for facilities regardless of their method of construction. A guidance handbook is under development.