

Portland, Oregon
FINANCIAL IMPACT and PUBLIC INVOLVEMENT STATEMENT
For Council Action Items

(Deliver original to Financial Planning Division. Retain copy.)

1. Name of Initiator Valentine Hellman		2. Telephone No. 503.823.2055	3. Bureau/Office/Dept. Emergency Management
4a. To be filed (hearing date): 12/19/12	4b. Calendar (Check One) Regular <input checked="" type="checkbox"/> Consent <input type="checkbox"/> 4/5ths <input type="checkbox"/>		5. Date Submitted to Commissioner's office and FPD Budget Analyst: 12/12/12
6a. Financial Impact Section: <input checked="" type="checkbox"/> Financial impact section completed		6b. Public Involvement Section: <input checked="" type="checkbox"/> Public involvement section completed	

1) Legislation Title:

*Amend Portland Bureau of Emergency Management code to include utility outage reporting requirements for utilities (Ordinance; add Code Section 3.124.100)

2) Purpose of the Proposed Legislation:

The purpose of this legislation is to better prepare for a citywide emergency. By centralizing outage information in one location, the public will no longer have to separately gather information from their gas company, telephone company, electric company, etc. to learn outage information. Additionally, because outages have the potential to seriously impact critical systems that are vital to the public's health, safety and security, it is in the public's best interest to have real-time information on restoration efforts.

Pursuant to City Code Chapter 3.124, Council has charged the Portland Bureau of Emergency Management (PBEM) with responsibility to develop and implement processes, procedures, and systems for communicating emergency notices to the public and responders about incidents. Code Chapter 3.124 is being amended to add section 3.124.100 – Notice of Utility Service Interruptions.

3) Which area(s) of the city are affected by this Council item? (Check all that apply—areas are based on formal neighborhood coalition boundaries)?

- | | | | |
|--|------------------------------------|------------------------------------|--------------------------------|
| <input checked="" type="checkbox"/> City-wide/Regional | <input type="checkbox"/> Northeast | <input type="checkbox"/> Northwest | <input type="checkbox"/> North |
| <input type="checkbox"/> Central Northeast | <input type="checkbox"/> Southeast | <input type="checkbox"/> Southwest | <input type="checkbox"/> East |
| <input type="checkbox"/> Central City | | | |

FINANCIAL IMPACT

4) Revenue: Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If so, please identify the source.

This legislation will increase revenue to the City only if penalties are assessed per PCC 3.124.100.D.1.

5) Expense: What are the costs to the City as a result of this legislation? What is the source

of funding for the expense? *(Please include costs in the current fiscal year as well as costs in future year, including Operations & Maintenance (O&M) costs, if known, and estimates, if not known. If the action is related to a grant or contract please include the local contribution or match required. If there is a project estimate, please identify the **level of confidence**.)*

There are no costs to the City for this legislation.

6) Staffing Requirements:

- **Will any positions be created, eliminated or re-classified in the current year as a result of this legislation?** *(If new positions are created please include whether they will be part-time, full-time, limited term, or permanent positions. If the position is limited term please indicate the end of the term.)*
- **Will positions be created or eliminated in future years as a result of this legislation?**

This legislation will not change City staffing.

(Complete the following section only if an amendment to the budget is proposed.)

7) Change in Appropriations *(If the accompanying ordinance amends the budget please reflect the dollar amount to be appropriated by this legislation. Include the appropriate cost elements that are to be loaded by accounting. Indicate "new" in Fund Center column if new center needs to be created. Use additional space if needed.)*

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

[Proceed to Public Involvement Section — REQUIRED as of July 1, 2011]

PUBLIC INVOLVEMENT

8) Was public involvement included in the development of this Council item (e.g. ordinance, resolution, or report)? Please check the appropriate box below:

☒ **YES:** Please proceed to Question #9.

☐ **NO:** Please, explain why below; and proceed to Question #10.

9) If "YES," please answer the following questions:

a) What impacts are anticipated in the community from this proposed Council item?

The general public will have better information readily available in the event of a utility outage.

b) Which community and business groups, under-represented groups, organizations, external government entities, and other interested parties were involved in this effort, and when and how were they involved?

The Mayor, PBEM's Director and other met with the utilities that would be governed by this legislation. Public and individual meetings were held with those concerned.

c) How did public involvement shape the outcome of this Council item?

Utilities provided written feedback which was used to inform and update this legislation.

d) Who designed and implemented the public involvement related to this Council item?

Dan Douthit


e) Primary contact for more information on this public involvement process (name, title, phone, email):

Dan Douthit, 503.823.3928

10) Is any future public involvement anticipated or necessary for this Council item? Please describe why or why not.

The new code includes a section (3.124.100.F.5.) that would require public review of any new rules adopted pursuant to Section 3.124.100.

Carmen Merlo



APPROPRIATION UNIT HEAD (Typed name and signature)



An Equal Opportunity Employer

Sam Adams, Mayor
Carmen Merlo, Director

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INTEROFFICE MEMORANDUM

DATE: 12/12/12

TO: Mayor Sam Adams

FROM: Carmen Merlo, Director *CM*
Bureau of Emergency Management

RE: *Amend Portland Bureau of Emergency Management code to include utility outage reporting requirements for utilities (Ordinance; add Code Section 3.124.100)

1. INTENDED THURSDAY FILING DATE: 12/12/12
2. REQUESTED COUNCIL AGENDA DATE: 12/19/12
3. CONTACT NAME & NUMBER: Valentine Hellman, 503.823.2055
4. PLACE ON: ☐ CONSENT ☒ REGULAR
5. BUDGET IMPACT STATEMENT ATTACHED: ☒ Y ☐ N ☐ N/A
6. ORIGINAL COPY OF CONTRACT APPROVED AS TO FORM BY CITY ATTORNEY ATTACHED: ☐ Yes ☐ No ☒ N/A

7. BACKGROUND/ANALYSIS

The purpose of this legislation is to better prepare for a citywide emergency. By centralizing outage information in one location, the public will no longer have to separately gather information from their gas company, telephone company, electric company, etc. to learn outage information. Additionally, because outages have the potential to seriously impact critical systems that are vital to the public's health, safety and security, it is in the public's best interest to have real-time information on restoration efforts.

Pursuant to City Code Chapter 3.124, Council has charged the Portland Bureau of Emergency Management (PBEM) with responsibility to develop and implement processes, procedures, and systems for communicating emergency notices to the public and responders about incidents.

8. FINANCIAL IMPACT

See Financial Impact Statement.

9. RECOMMENDATION/ACTION REQUESTED

Amend Code Chapter 3.124 to add section 3.124.100 – Notice of Utility Service Interruptions.

Exhibit A

- a. Amend Chapter 3.124 to add section 3.124.100 as follows:

3.124.100 Notice of Utility Service Interruptions.

- A. Purpose.** The interruption of utility services may negatively affect Portland residents and businesses. The dissemination of timely information regarding interruption of utility services may serve to minimize the potential impact upon residents, businesses, healthcare facilities and government services in the City. Pursuant to Chapter 3.124, Council has charged the Portland Bureau of Emergency Management (PBEM) with responsibility to develop and implement processes, procedures, and systems for communicating emergency notices to the public and responders about incidents.
- B. Definitions.** For the purposes of this Chapter, the terms used in this Chapter shall be defined as provided in this Section:
1. **Bureau** means the Portland Bureau of Emergency Management as provided under Chapter 3.124.
 2. **Emergency Notices** means information that is disseminated primarily in anticipation of or during an emergency. In addition to providing situational information to the public, it frequently provides directive actions required to be taken by the general public.
 3. **PublicAlerts** means the website designated by the Director.
 4. **Director** means the Director of the Portland Bureau of Emergency Management as provided under Chapter 3.124.
 5. **Facility** means any of the following lines or pipelines, including associated plant, systems, supporting and containing structures, equipment, apparatus, or appurtenances:
 - a. A gas, water or sewer pipeline;
 - b. A power line or electric supply line; or
 - c. A telephone, signal, or communication line.
 6. **Outage** means interruption of utility services for two hours or greater for five percent or more of the utility's accounts within Portland.

7. **Planned outage** means an outage arising from the utility's regular or planned maintenance, repair, or replacement of facilities, when the utility knows in advance of the circumstances, as planned by utility staff and employees and coordinated to minimize or negate the potential impact of the interruption of utility services.
8. **Unanticipated outage** means an outage resulting from an accident or act of nature, or cessation of service caused by other than the utility's regular or planned maintenance, repair, or replacement of utility facilities.
9. **Utility** means the business of supplying electrical energy, gas, district heating or cooling, water, cable, communications, or other services, whether by telephone, coaxial cable, or by wireless transmission, sewage disposal and treatment, and other operations for public service to residential customers located within the City.

C. Notice of Service Interruptions

1. Notice of Planned Outages.

- a. At least one working day prior to any planned outage, a utility shall provide notice to the Bureau by telephone or by electronic mail. The notice from the utility must describe the reason for the planned outage, the anticipated duration of the service interruption, and the number of customers affected by the outage.
- b. Within thirty minutes of restoring service to customers within the City after a planned outage, the utility shall provide notice to the Bureau by telephone or by electronic mail.
- c. Failure to provide notice to the Bureau as required under this Subsection is a violation of this Chapter.

2. Notice of Unanticipated Outages.

- a. Within 30 minutes after receiving notice of any unanticipated outage the utility shall provide notice to the Bureau by telephone and electronic submission to the PublicAlerts website. The notice from the utility must describe, to the best of the utility's ability and knowledge, the nature and cause of the unanticipated outage, the

anticipated duration of the service interruption, and the number of customers affected by the outage.

- b. Depending on the nature, extent and duration of the outage regular updates to the Bureau by telephone and electronic submission may be required to describe, to the best of the utility's ability and knowledge, restoration priorities and activities.
- c. Within thirty minutes of restoring service to customers within the City after an unanticipated outage, the utility shall provide notice to the Bureau by telephone and electronic submission to the PublicAlerts website.
- d. Failure to provide notice to the Bureau as required under this Subsection is a violation of this Chapter.

D. Civil Penalties and Appeals.

1. Civil Penalties.

- a. The Director may impose a civil penalty of up to \$10,000 for each separate violation of this Chapter. Limits on civil penalties imposed under this Section do not include interest. Civil penalties are subject to interest at a rate of 12 percent simple interest per annum.
- b. In assessing civil penalties under this Section, the Director shall make a written determination, describing the violation, the amount of the penalty, and the basis for the decision. In determining the amount of any civil penalty to be assessed, the Director, in consultation with the City Attorney, will consider the following:
 - (1) The nature and extent of the utility's involvement in the violation;
 - (2) The benefits, economic, financial or otherwise, accruing or likely to accrue as a result of the violation;
 - (3) Whether the violation was isolated and temporary, or repeated and continuing;
 - (4) The magnitude and seriousness of the violation;

- (5) The City's cost of investigation and remedying the violation;
 - (6) Any other applicable facts bearing on the nature and seriousness of the violation. The Director may direct the City Attorney to issue written requests for information. Additionally, the Council may compel the attendance and testimony of witnesses, and the production of books and other evidence to accurately define the circumstances and impacts of the outage.
- c. The Director shall send the written determination of civil penalty to the utility against which the Director is imposing a civil penalty, together with a notice outlining the procedures for requesting an appeal. The notice shall be sent by both certified and regular mail. Mailing of the notice will be prima facie evidence of receipt of the notice.
 - d. The civil penalty is due ten days from the date of the notice unless such civil penalty is appealed in accordance with Subsection 3.124.100 D.2. Civil penalties may be paid at any time after receiving a notice of civil penalty, but are due immediately after the penalty has become final.
 - e. Once final, penalties are subject to interest at a rate of 12 percent simple interest per annum of the total amount of the imposed civil penalty.
 - f. The Director may waive or reduce any assessed civil penalty for good cause demonstrated by the utility, according to and consistent with written policies.
 - g. At the request of the Director, the City Attorney may seek recovery of civil penalties and interest, and enforcement of any provision of this Chapter, in addition to any other remedies provided by this Code or other law, in Circuit Court or other appropriate venue.
2. **Appeals.** Any person or utility who has received a notice of civil penalty from the Director may appeal to the Code Hearings Officer of the City of Portland, as set forth in Chapter 22.10 of the Portland City Code. Requests for appeal hearings must be filed with the Portland Bureau of Emergency Management. The filing of a notice of appeal of a civil penalty imposed by the Director under

this Chapter will stay the effective date of the civil penalty until the Code Hearings Officer issues a final ruling.

E. Administration.

1. The Director is hereby authorized to administer and enforce the provisions of this Chapter. The Director may implement procedures, forms, and written policies for administering this Chapter.
2. Authority granted to the Director may be delegated, in writing, to employees or agents of the Bureau.
3. The Director may, upon request, issue written interpretations of how this Chapter applies in general or to specific circumstances.
4. Nothing in this Chapter precludes the informal disposition of controversy by the Director in writing, whether by stipulation or agreed settlement.
5. The Director may adopt rules relating to matters within the scope of this Chapter to administer compliance with Utility License Law.
 - a. Any rule adopted pursuant to this Section shall require a public review process. Not less than ten nor more than thirty days before such public review process, notice shall be given by publication in a newspaper of general circulation. Such notice shall include the place, time, and purpose of the public review process and how copies of the full set of the proposed rules may be obtained.
 - b. During the public review, the Director shall hear testimony or receive written comment concerning the proposed rules. The Director shall review the recommendations, taking into consideration the comments received during the public review process, and shall either adopt the proposed rules, modify or reject them. If a substantial modification is made, additional public review shall be conducted. However, no additional notice shall be required if such additional review is announced at the meeting at which the modification is made. Unless otherwise stated, all rules shall be effective upon adoption by the Director and shall be filed in the Office of the Director.
 - c. Notwithstanding paragraphs 2 and 3 of this Subsection, an interim rule may be adopted by the Director without prior

notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of not longer than one year (365 days). Within five business days of the adoption of an interim rule, the Director shall send notice of the rule to all the following, giving the language of the rule change, describing the purpose of the rule, and inviting the submission of comments.

- (1) Neighborhood associations recognized by the City Office of Neighborhood Involvement,
- (2) District Coalitions recognized by the City Office of Neighborhood Involvement,
- (3) Business District Associations identified by the City Office of Neighborhood Involvement,
- (4) Persons who have previously notified the Portland Bureau of Emergency Management of their interest in administrative rules, and
- (5) Utilities who have previously notified the Portland Bureau of Emergency Management of their interest in administrative rules.

F. Exemption for Utility Voluntary Participation.

1. The Director may enter into voluntary compliance agreements for utility participation in PublicAlerts, meeting at least the following minimum standards:
 - a. The Director may accept a variety of methods for posting alert content to PublicAlerts, for example by Twitter or RSS feed. The Director may accommodate a utility's existing method of notifying customers of an outage, if reasonably compatible with the purposes of PublicAlerts. For example, if a utility is active on Twitter, the Director will work with the utility to establish an automated process for posting alert content from Twitter to PublicAlerts.

- b.** The threshold for a utility posting to PublicAlerts should be no less than the customer accounts tracked by the utility within the City. For example, if the utility notifies its customers within the City for outages affecting more than 500 customers, then the utility would post to PublicAlerts for outages affecting more than 500 accounts within the City.
 - c.** The utility should report outages as soon as is reasonably practicable. However, the outages should be reported no more than 60 minutes of the utility having actual notice of an outage.
- 2.** The Director shall maintain and publish a list of all utilities participating in voluntary compliance agreements.
- 3.** Any utility that has entered into a voluntary compliance agreement shall not be subject to the provisions of Section 3.124.100, for so long as the utility continues to reasonably perform the terms and conditions of the voluntary compliance agreement.

ORDINANCE No.

*Amend Portland Bureau of Emergency Management code to include utility outage reporting requirements for utilities (Ordinance; add Code Section 3.124.100)

The City of Portland ordains:

Section 1. The Council finds:

1. The purpose of this legislation is to better prepare for a citywide emergency. By centralizing outage information in one location, the public will no longer have to separately gather information from their gas company, telephone company, electric company, etc. to learn outage information. Additionally, because outages have the potential to seriously impact critical systems that are vital to the public's health, safety and security, it is in the public's best interest to have real-time information on restoration efforts.
2. Pursuant to City Code Chapter 3.124, Council has charged the Portland Bureau of Emergency Management (PBEM) with responsibility to develop and implement processes, procedures, and systems for communicating emergency notices to the public and responders about incidents.
3. Code Chapter 3.124 is being amended to add section 3.124.100 – Notice of Utility Service Interruptions.

NOW, THEREFORE, the Council directs:

- a. Add Portland City Code Section 3.124.100 – Notice of Utility Service Interruptions as set forth in Exhibit A attached to this Ordinance.

Section 2. The Council declares that an emergency exists in that with the coming storm season the chance for outages is higher than usual; therefore this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council:

Mayor Sam Adams

Prepared by: Valentine Hellman


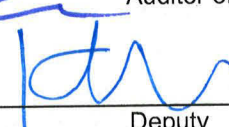

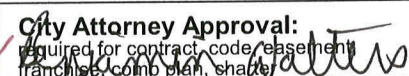
Date Prepared: 12/12/12

LaVonne Griffin-Valade
Auditor of the City of Portland
By

Deputy

Agenda No.
ORDINANCE NO.
 Title

*Amend Portland Bureau of Emergency Management code to include utility outage reporting requirements for utilities (Ordinance; add Code Section 3.124.100)

INTRODUCED BY Commissioner/Auditor: Mayor Sam Adams	CLERK USE: DATE FILED <u>DEC 14 2012</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Adams 	LaVonne Griffin-Valade Auditor of the City of Portland
Position 1/Utilities - Fritz	By:  Deputy
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Leonard	
BUREAU APPROVAL Bureau: Emergency Management Bureau Head: Carmen Merlo 	ACTION TAKEN: DEC 19 2012 REFERRED TO COMMISSIONER OF FINANCE AND ADMINISTRATION
Prepared by: Valentine Hellman Date Prepared: 12/12/12	
Financial Impact & Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Council Meeting Date 12/19/12	
City Attorney Approval: Required for contract, code, easement, franchise, comp plan, charter 	

AGENDA
TIME CERTAIN <input type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input checked="" type="checkbox"/> Total amount of time needed: 30-45 minutes (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz		
2. Fish	2. Fish		
3. Saltzman	3. Saltzman		
4. Leonard	4. Leonard		
Adams	Adams		