RESOLUTION No. 37495  As Amended

Refer amendments to the City Charter regarding Public Use of City Lands for Incidental Purposes (Resolution)

WHEREAS, the Portland City Charter authorizes the City to take certain actions and make necessary expenditures regarding the provision of water services to the City including, but not limited to, authority to acquire, own, and possess real property within and without the limits of the City; and

WHEREAS, City-owned lands outside the Bull Run Watershed Closure Area that are necessary for the provision of water services are often located in areas where the public could benefit from use of the land for purposes that are compatible and do not interfere with the City’s use of the land for the provision of water services; and

WHEREAS, the City Charter amendment clarifies the City Council’s authority to permit or prohibit incidental uses for such City-owned lands; and

WHEREAS, the public’s incidental use of certain City-owned lands may result in associated costs to the Water Fund related to the public’s use of the land; and

WHEREAS, Portland voters should be allowed to engage in decisions related to the public’s incidental use of City-owned lands; and

WHEREAS, the public should determine, in partnership with the Water Bureau and the City Council, whether incidental public uses of public property owned by the Water Bureau, is appropriate; and

WHEREAS, Water Bureau lands with incidental uses by the general public must be brought into compliance with accessibility requirements of the Americans with Disabilities Act to ensure equitable public access; and

WHEREAS, a referral to the ballot on this issue on November 3, 2020, would allow for all Portland voters to provide input in a timely manner;

NOW, THEREFORE, BE IT RESOLVED, that the Council submits a Measure for an Act, amending the City of Portland Charter, Chapter 11, attached hereto as Exhibit A, to the legal voters of the City of Portland, Oregon, for their adoption or rejection at the election in the City of Portland, Multnomah County, Clackamas County and Washington County to be held on November 3, 2020; and

BE IT FURTHER RESOLVED, that the City Council submits the ballot title for the November 3, 2020 ballot, attached hereto as Exhibit B; and
BE IT FURTHER RESOLVED, that should the proposed Charter amendment be approved by the voters, the Water Bureau shall conduct a public process in partnership with the Portland Utility Board to recommend Code language for adoption by the City Council prior to June 30, 2021 specifying approved incidental uses, and that this is Binding City Policy; and

BE IT FURTHER RESOLVED, that, should the proposed Charter amendment be approved by the voters and after adoption of implementing Code specifications, the Portland Water Bureau shall report annually to the Portland Utility Board and City Council all Water Fund expenditures associated with the public’s incidental use of City-owned lands, and that this is Binding City Policy; and

BE IT FURTHER RESOLVED, that the City Council directs the City Auditor to publish the ballot title as shown in Exhibit B in accordance with City Code; and

BE IT FURTHER RESOLVED, that the sponsoring elected official may submit an explanatory statement to the City Auditor for publication in the Voters’ Pamphlet; and

BE IT FURTHER RESOLVED, that the City Auditor is directed to forward to the Multnomah, Washington, and Clackamas County Elections Office all material necessary to place this measure on the November 3, 2020 election ballot.

Adopted by the Council: July 22, 2020

Commissioner Amanda Fritz
Prepared by: Astrid Dragoy
Date Prepared: July 21, 2020

Mary Hull Caballero
Auditor of the City of Portland
Keean McClymont
Deputy
As Amended

Title
Refer amendment to the City Charter regarding Public use of City Lands for Permissive Secondary Purposes (Resolution)

CLERK USE: DATE FILED July 14, 2020

Mary Hull Caballero
Auditor of the City of Portland
By: Keelan McClymont
Deputy

ACTION TAKEN:

AGENDA
TIME CERTAIN
Start time: 
Total amount of time needed: 15
(for presentation, testimony and discussion)

CONSENT

REGULAR
Total amount of time needed: 15
(for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA
COMMISSIONERS VOTED AS FOLLOWS:

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SPECIAL SERVICES

ARTICLE 1. WATER WORKS

Section 11-101. General Authority.

The City may construct, rehabilitate, reconstruct, purchase or otherwise acquire, keep, maintain, improve, alter and change water works and all infrastructure plants and facilities found appropriate by the Council for furnishing water to the City, its property, its inhabitants, and the places and people along or in the vicinity of the pipes, conduits or aqueducts constructed or used for that purpose. The City may acquire by purchase or otherwise, own and possess real and personal property or interests therein, within and without the limits of the City, which the Council finds necessary or convenient. The Council may establish and maintain headworks and supply sources; with all convenient reservoirs, tanks, pumps, supply systems, distribution and related facilities, including land and interests in land; may permit or prohibit incidental use by the general public of such lands outside of the Bull Run Watershed Closure Area; may maintain such lands when used for incidental purposes; may enter into mutual aid agreements with other government entities, tribes and utilities; and may acquire other water systems serving property within present or future boundaries of the City. The Council may make all necessary expenditures to carry out these purposes and may enter into contracts for supply of water by the City or supply of water to the City or its inhabitants. Any surplus water may be sold to persons, public or private, outside the City, on terms and conditions the Council finds appropriate. [New sec. Nov. 8, 1966; am. Dec. 4, 2019.]
**BALLOT TITLE**

**CAPTION:**


**QUESTION:**

Shall Charter be amended to authorize Council to allow incidental public use of City lands outside the Bull Run Watershed?

**SUMMARY:**

The measure amends the Charter by clarifying Council authority to permit or prohibit incidental uses by the general public of City lands controlled by the Water Bureau, provided the lands are outside of the Bull Run Watershed Closure Area. Incidental public uses may include green spaces, community gardens or other functions that do not conflict with the primary drinking water purpose of these lands, when approved by Council. The public’s incidental use may result in associated costs to the Water Fund, including funding for compliance with the Americans with Disabilities Act which imposes accessibility requirements for equitable access when lands are used by the general public.

The measure will not impact City lands in the Bull Run Watershed Closure Area.
BALLOT TITLE

CAPTION:

QUESTION:
Shall Charter be amended to authorize Council to allow incidental public use of City lands outside the Bull Run Watershed?

SUMMARY:
The measure amends the Charter by clarifying Council authority to permit or prohibit incidental uses by the general public of City lands controlled by the Water Bureau for use in the City’s water system, provided the lands are outside of the Bull Run Watershed Closure Area. Incidental public uses may include green spaces, community gardens or other functions that do not conflict with the primary drinking water purpose of these lands, when approved by Council. The public’s incidental use may result in associated costs to the Water Fund, including funding for compliance with the Americans with Disabilities Act which imposes accessibility requirements for equitable access when lands are used by the general public.

The measure will not impact City lands in the Bull Run Watershed Closure Area.
IMPACT STATEMENT

Legislation title: Refer amendments to the City Charter regarding Public Use of City Lands for Incidental Purposes (Resolution)

Contact name: Astrid Dragoy
Contact phone: 503-823-6426
Presenter name: Astrid Dragoy, Gabriel Solmer, Cecelia Huynh

Purpose of proposed legislation and background information:
The measure amends the Charter by clarifying Council authority to permit or prohibit incidental uses by the general public of City lands controlled by the Water Bureau for use in the City’s water system, provided the lands are outside of the Bull Run Watershed Closure Area. Incidental public uses may include green spaces, community gardens or other functions that do not conflict with the primary drinking water purpose of these lands. The public’s incidental use may result in associated costs to the Water Fund, including compliance with the Americans with Disabilities Act. The measure will not impact City lands in the Bull Run Watershed Closure Area.

Financial and budgetary impacts:
- As this is a general election year, there are minimal costs to the City to file this ballot measure with the county.
- This measure, if approved would permit rate-payer funds to be used in lieu of General Funds for ADA compliance. The estimate that was not approved in the FY 2020-21 budget request was $1.5 million for ADA compliance.
- The Water Bureau is currently spending approximately $11,500 in General Funds on hydroparks maintenance. This Charter change would permit rate-payer funds to be used in lieu.
- Whether there will be an impact from rates if the measure passes will be determined by which incidental uses are approved by Council in the subsequent Code process, and on timing of ADA compliance. The plan in the FY 2020-21 Budget was to do them over five years, which could be accommodated within existing rates.
- The passing of this measure will not require additional staff.

Community impacts and community involvement:
The 2014 Citywide Transition Plan identified 580 Americans with Disabilities Act barriers at Water Bureau Facilities accessed by the public. The schedule for barrier removal in the Transition Plan has not been met as rate payer funds cannot be used for much of this work. This Charter amendment would allow the Bureau to make improvements for compliance with the Americans with Disabilities Act using ratepayer funding for removal of barriers.
HydroParks are located at:

**Gilbert HydroPark** - 13803 SE Center Street

**Halsey HydroPark** - NE 148th and Halsey Street

**Hazelwood HydroPark** - 1017 NE 117th Ave

**Marigold HydroPark** - 8925 SW 15th Ave

**Pittman Addition HydroPark** - N Concord and N Going Court

**Sabin HydroPark** - 1907 NE Skidmore

**Texas HydroPark** - 3109 SW Texas Street

Except for the two small locations in SW, these facilities are all in areas with high equity scores and significant populations of people of color and families experiencing low incomes. Several are in parks-deficient areas. Nearby residents have expressed strong support for community use of the sites and for the basic amenities provided.

In addition, the Water Bureau maintains Dodge Park in Clackamas County and allows incidental use there by the general public including access to the Sandy River. The area is sparsely populated and there is no data on the demographics of visitors. Many of the needed ADA improvements are at Dodge Park.

The Charter amendment has been discussed and endorsed by the Portland Utility Board recently, and an earlier version was released for public review in 2019. The text of the proposed Charter Change and explanatory statement are posted on Commissioner Fritz’s office blog, with encouragement to email her staff with questions and comments.

**100% Renewable Goal:**

- Not applicable

**Budgetary Impact Worksheet**

Does this action change appropriations?

☐ YES: Please complete the information below.

☒ NO: Skip this section

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AUGUST 2017 version