

4 – LEGAL AND POLICY FRAMEWORK

Wastewater Utility services are planned and implemented within a complex framework of statutes and regulations, plans and policies adopted by federal, State, County and City governments and intergovernmental agreements with neighboring jurisdictions.

FEDERAL AND STATE STATUTES AND REGULATIONS

Federal and State requirements for local wastewater programs are summarized in this section.

Federal Government

Local wastewater plans must comply with the federal Water Pollution Control Act. As amended, this statute, known as the Clean Water Act (33 USC 1251 *et seq.*) requires communities to provide for the disposal of sanitary wastes by a safe and non-polluting process. The Act regulates treatment of sewage and the management of unintentional spills in order to maintain beneficial uses of our waters.

In Washington, authority for implementing the Clean Water Act has been delegated to the State Department of Ecology (DOE) and it is enforced through issuance of National Pollutant Discharge Elimination System (NPDES) permits. The LOTT treatment facility is in compliance with its 2005 NPDES discharge permit, which covers Olympia's wastewater system. Under the permit conditions, spills in Olympia are reported to LOTT. Olympia regulates and corrects illegal discharges in the City.

State of Washington

The City provides wastewater services as part of its authority, delegated by the State, to protect public health and safety. State regulations stipulate how sanitary sewage is to be controlled and treated and establish the requirement for plan review. State statutes and regulations applicable to Olympia wastewater management are summarized below.

Growth Management Act

The City of Olympia is required by the Growth Management Act (RCW 90.48) to plan for future growth for the next 20 years. State-mandated growth management planning is designed to produce denser urban areas while protecting the rural

character of unincorporated areas. Thus the Wastewater Utility must manage its infrastructure capacity to accommodate projected development. Sewer extensions have been one of the main catalysts for development beyond the City's core.

State Environmental Policy Act (SEPA)

As a lead agency under SEPA, the City identifies the potential impacts of sewer service associated with proposed new development and measures to mitigate these impacts. See Appendix B for SEPA review of this Wastewater Management Plan.

Department of Ecology Regulations

General sewer plans are submitted for approval of the State Department of Ecology and updated every six years. See Attachment 1, WAC 173-240-050 requirements for sewer plans and references to compliance in this Plan.

Under RCW 90.48.110, the Ecology has delegated to Olympia responsibility for review and approval of engineering reports, plans and specifications for new wastewater facilities. Engineering specifications for the use and construction of sewer infrastructure are provided in the Ecology's Criteria for Sewage Works Design, 1998 (#98-37WQ).

Ecology has also authorized Olympia to issue permits for discharge into the wastewater system (WAC 173-208). Other wastewater discharge regulations, including procedures for the State NDPDES program, are at WAC 173-216 through WAC 173-226.

Department of Health Regulations

The Washington State Department of Health has authority for approving private sewerage disposal systems (WAC 246-272) and has delegated that authority to the Thurston County Board of Health. Criteria for approval include minimum lot size and setbacks from sources of drinking water or other water resources. See Chapter 7.

THURSTON COUNTY

Thurston County has two roles in wastewater management: as coordinator of growth management planning by local cities and the County for development in the Urban Growth Area (UGA), and as the regulatory authority for onsite sewage systems.

Growth Management

Intergovernmental agreements about managing growth in North Thurston County, particularly policies related wastewater management, are described in this section.

Memorandum of Understanding: An Urban Growth Management Agreement

This 1988 agreement created a framework for managing future growth and joint planning in north Thurston County (Olympia, Lacey, Tumwater, Thurston County).

Thurston County General Sewerage Plan for Unincorporated Urban Growth Management Area (UGMA)

This 1990 Plan, which is intended to promote the orderly growth of the urban area, addresses the ownership of sewers, timing of construction, and hookup and payment policies for the unincorporated UGA.

The Plan requires that areas within the short-term UGA be developed on sewers or community onsite systems, and specifies that areas within the long-term UGA are not to be served by sewers and community systems. Since 1990, the short-and long-term UGAs have been combined into one UGA, which is regulated under the previous policies for the short-term growth area. Areas served by sewer and community systems are required to annex. The Plan also defines circumstances under which sewer service can be extended to areas outside the UGA.

While the delineation between long-term and short-term urban growth areas is no longer in effect, the Plan continues to guide sewer policies in the UGA.

The General Sewerage Agreement for the Unincorporated UGMA

This 1992 intergovernmental agreement serves as the means to implement the *Sewerage General Plan* (see Appendix D). It clarifies ownership and payment policies, procedures, and responsibilities for sewers and community onsite systems. The agreement anticipated “eventual interception of individual and community onsite systems” within the UGA. Key provisions are:

- Olympia, Lacey and Tumwater are the primary providers of sewers and other utilities in their urban growth area, with authority to establish policies and development standards applicable to the unincorporated County within their UGA.
- Procedures are established for the joint review and annexation of development projects within the UGA.
- The three cities agree to own and operate community systems, including community onsite sewage systems and STEPS, within their service areas. This provision is to ensure consistent wastewater services to all customers as mandated by the Growth Management Act. The agreement establishes

the requirements under which the cities will accept responsibility for community systems and will serve as the permit holder for these systems.

Onsite Sewage Systems

Local wastewater disposal rules and regulations are established in Thurston County Sanitary Code, Article IV, Rules and Regulations Governing Disposal of Sewage. Under these rules, the Thurston County Environmental Health Division is responsible for reviewing permit applications for new onsite systems and repair or expansion of existing systems, and inspecting systems prior to property transfer on a voluntary basis. The County assesses applications based on site-specific treatment standards and system design to meet the standards.

REGIONAL AGREEMENTS – WASTEWATER MANAGEMENT

The City of Olympia is party to a number of intergovernmental agreements to govern the development and operation of the LOTT Alliance regional wastewater management facilities on behalf of the Alliance members, the Cities of Olympia, Lacey, Tumwater and Thurston County.

The key agreements currently in effect that are relevant to Olympia's Wastewater Management Plan are briefly described below; they are available online at www.lottonline.org.

- *Interlocal Cooperation Act Agreement for Wastewater Management by the LOTT Wastewater Alliance, November 5, 1999 (adopted January 24, 2000)*. Provides for a new governance structure to carry out the regional Wastewater Resource Management Plan and sets the stage for consolidation of the ownership and management of all joint facilities under the management and control of the new LOTT organization. It supercedes the 1976 agreement establishing the LOTT Partnership, under which with ownership and operation of the joint facilities was handled by Olympia. The new facilities implemented pursuant to this agreement, together with those developed as joint facilities under the 1976 agreement are to be operated as a combined system for the benefit of all Partners. The 2000 agreement is online at http://www.lottonline.org/content_pop-ups/ILA_2000.pdf. For historical reference, the complete list of agreements comprising the 1976 LOTT agreement is itemized in Exhibit A of the 2000 agreement.
- *Intergovernmental Contract for Inflow and Infiltration Management and New Capacity Planning (1995, updated in 1999)*. Outlines a strategy for Olympia to reduce the amount of I&I entering the collection system, with

financial participation from LOTT. The 1995 agreement was updated in 1999 and included as Exhibit J of the 2000 agreement establishing the LOTT Alliance.

- *Interlocal Cooperation Agreement Between Thurston County and the Cities of Lacey, Olympia and Tumwater Regarding Joint Wastewater Flow Reduction and Water Conservation Projects (1997)*. Defines the arrangements for joint management of flow reduction. Included as Exhibit K of the 2000 agreement establishing LOTT Alliance. This agreement expires at the end of 2006 and will be replaced by a new one which is being prepared to help implement a new Water Conservation Coordination Plan.
- *General Interlocal Agreement for Distribution and Use of Reclaimed Water (2002)*. Establishes policies and provides a framework for distribution and use of reclaimed water and conserving the LOTT Partners' potable water supplies. Includes a reclaimed water distribution methodology for determining how LOTT's reclaimed water will be divided among the LOTT Partners.
- *Reclaimed Water Distribution Agreement No. 1 Between the LOTT Wastewater Alliance, Thurston County and the Cities of Lacey, Olympia and Tumwater (2005)*. Specifies how the first increments of reclaimed water from each of LOTT's four planned reclaimed water facilities and the second increment from the Hawks Prairie Satellite will be divided among LOTT and the Partner jurisdictions.

In addition to these regional agreements, there are several between the LOTT Alliance and the City of Olympia:

- *Reclaimed Water Supply Agreement Between the LOTT Alliance and the City of Olympia Regarding the Budd Inlet Reclaimed Water Facility (2005)*. This is an operating agreement between LOTT and Olympia specifying conditions of reclaimed water distribution and use from the Budd Inlet Reclaimed Water Facility.
- *Interlocal Cooperation Act Agreement for Emergency Repair Response Service and Service Connections to the LOTT Alliance Reclaimed Water Distribution Pipeline by the City of Olympia (2005)*. Specifies that Olympia will provide emergency repair services for the LOTT reclaimed water pipeline from the Budd Inlet Treatment Plant to the Capitol Lake Pump Station, and authorizes Olympia to add reclaimed water service connections to the LOTT line.
- *OWT Sewer Project Interlocal Agreement Between LOTT Alliance and City of Olympia (2006)*. Sets forth terms, conditions and requirements for

construction, inspections and repairs on the Olympia Woodland Trail/LOTT Indian Creek Interceptor Project.

- *LOTT Alliance and City of Olympia Interlocal Agreement R.W. Johnson/21st Avenue Improvements Project (2006)*. Authorizes the City to design and construct this project and be reimbursed for LOTT's agreed-upon share of the project cost.
- *Memorandum of Understanding between the LOTT Alliance and the City of Olympia for Emergency Response to Sanitary Sewer Overflows (2006)*. Includes provisions for mutual assistance, cooperation, coordination, and information sharing between the LOTT Alliance and the City of Olympia aimed at minimizing the frequency, duration and impacts of sewer overflows. The other LOTT partners have signed identical agreements, allowing for mutual assistance amongst all four partners and the LOTT Alliance.

CITY OF OLYMPIA POLICIES AND REGULATIONS

Olympia's strong tradition of valuing and protecting the public health and natural environment is reflected in its Comprehensive Plan and implementing regulations. Those related to wastewater management are summarized below.

Olympia Comprehensive Plan

In addition to its sustainable community vision, the Comprehensive Plan makes a commitment to the future through its goals and policies. The applicability of the sustainability principle to wastewater management is expressed by the Plan's commitment to orderly urban scale development with appropriate infrastructure (see Chapter 11 for excerpts). The Wastewater Utility mission supports this commitment.

Specific Wastewater Utility activities are guided by Comprehensive Plan goals and policies for Growth Management, Environment, Public Utilities and Services, and Public Education. These policies will be amended to conform to the new Wastewater Management Plan when adopted by City Council. See Chapter 17 for Comprehensive Plan policy revisions included in this Plan.

Olympia Ordinances and Development Standards

The City ordinances listed below govern wastewater system development in Olympia.

- *Olympia Municipal Code Chapter 13.08, Sewers (1995)*. Establishes the rules and regulations for sewer service provision and connection. These regulations cover requirements for connecting to the City sewer system,

sewer service outside City limits, sewer rates and general facility charges, prohibited discharges to sewers, and permits and public notice requirements. Regarding onsite systems, OMC 13.08.020 prescribes the conditions under which property is required to connect with the public sewer. Onsite sewage systems are allowed as long as they are functioning lawfully. In the event of failure, onsite systems are required to connect if public sewer is available. If sewer is not available, onsite systems are nevertheless required to connect if a new system cannot be lawfully approved. However, sewer availability is not clearly defined by the municipal code, thereby allowing continued use of onsite systems. Additionally, Thurston County regulations allow repair of any onsite system, regardless of whether design standards can be met.

- *Olympia Municipal Code Chapter 13.20, Wastewater.* Includes requirements for direct and indirect contributions to the wastewater collection system and LOTT treatment facility, in compliance with federal and state clean water statutes and federal General Pretreatment Regulations (40 CFR, Part 403).
- *Olympia Municipal Code Title 03, Revenue and Finance.* Includes provision for a cumulative reserve fund to finance wastewater system improvements and procedures for local improvement property assessments.
- *Olympia Municipal Code, Title 17, Subdivisions.* Requires submittal of construction plans and as-built drawings, and specifies that before final plat approval, required improvements must be completed or the developer must enter into a deferral agreement with financial guarantees (OMC 17.44.020).
- *Olympia Municipal Code, Title 18, Unified Development Code.* Includes guidelines for residential developments that rely on onsite sewage systems (OMC 18.04.080E).
- *Development Guidelines and Public Works Standards (2004).* Provides detailed engineering specifications for construction of sewer system components and outlines the application process.

Other City documents relevant to sewers are:

- *Water System Plan (2004).* Includes actions to protect groundwater quality and conserve water, including water conservation projects relating to the wastewater system, and increased emphasis on utilizing reclaimed water.

- *Storm and Surface Water Master Plan (2003)*. Includes a program to eliminate illicit discharges, which is carried out in cooperation with the Wastewater Utility.

City of Olympia Wastewater Management Plan

The City's Wastewater Management Plan provides the foundation for the next six years' activities. The Plan includes goals, policies, and implementation actions for meeting Wastewater Utility responsibilities. It was last revised in 1997.

Capital Facilities Plan

The City's Capital Facilities Plan is updated every year to reflect six-year priorities for public infrastructure construction. Sewer construction projects recommended by the Plan are defined, funded and implemented through the Capital Facilities Plan (see Chapter 11 and Chapter 17).

CHALLENGES AND ISSUES

Policies and implementation of regulations for sewer service in the UGA are increasingly challenging as that area enters a period of rapid development. The public and private financial implications of these policies are significant. The 1990 Thurston County Sewerage General Plan is becoming out dated and unable to adequately resolve contemporary issues. For example, the Plan establishes different policies for the long-term and short-term UGAs, which are no longer delineated separately. Specifically, the Plan requires that areas within the short-term UGA be developed on sewers or community onsite systems, and that areas within the long-term UGA are not to be served by sewers and community systems.

Within the City limits, the City's authority to require connection to the public sewer is not well defined. For example, when an onsite system fails, City regulations require connection to the sewer system, but County health rules allow repairs; the municipal code doesn't clearly define "sewer availability."