Chapter 2 - Legal and Policy Framework - Contents

2.1 Federal and State ................................................................. 1
   Water Rights ........................................................................ 2
   Water Quality ..................................................................... 2
   Groundwater Protection ...................................................... 3
   Water Use Efficiency .......................................................... 3
   Reclaimed Water .................................................................. 3
   Source Development and System Operation ......................... 4
   Planning and Financing Requirements ................................. 4
   Department of Health Guidance .......................................... 5

2.2 Regional and Local ............................................................ 5
   Service Area Policies .......................................................... 5
   Related Plans ...................................................................... 6

Tables
    Table 2.1 Federal and State Laws Affecting Olympia’s Drinking Water Utility .......... 1
    Table 2.2 Regional and Local Service Area Policies .............................................. 8
CHAPTER 2 - LEGAL AND POLICY FRAMEWORK

This chapter gives an overview of the many federal, state and local laws, regulations, policies and plans that form the legal context within which the Utility operates. Details are found in subsequent chapters of the Water System Plan.

2.1 Federal and State

In Washington, public water supply laws and regulations can be organized around these categories:

- Water rights
- Water quality
- Groundwater protection
- Water use efficiency
- Reclaimed water
- Source development and system operation
- Planning and financing

The major federal and state laws and accompanying regulations are described in this section and summarized in Table 2.1.

<table>
<thead>
<tr>
<th>Category</th>
<th>Law</th>
<th>Implementing Regulations</th>
<th>Implementing Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water Rights</td>
<td>Water Code (Chapter 90.03 RCW) and Regulation of Ground Water (Chapter 90.44 RCW).</td>
<td>Chapter 173-152 WAC</td>
<td>WA Dept of Ecology</td>
</tr>
<tr>
<td>Water Quality</td>
<td>Safe Drinking Water Act (Federal)</td>
<td>Chapter 246-290 WAC</td>
<td>WA Dept of Health</td>
</tr>
<tr>
<td>Groundwater Protection</td>
<td>Clean Water Act (Federal) Water Pollution Control Act (State) – (Chapter 90.48 RCW)</td>
<td>Chapter 173-200 WAC (groundwater quality standards); Chapter 173-201A WAC (surface water quality standards) WAC 246-290-135 (source water protection)</td>
<td>WA Dept of Ecology WA Dept of Health</td>
</tr>
<tr>
<td>Water Use Efficiency</td>
<td>Municipal Water Law – Efficiency Requirements Act (RCW 90.03.386(3) RCW and RCW 70.119A.180)</td>
<td>WAC 246-290-800.</td>
<td>WA Dept of Health</td>
</tr>
<tr>
<td>Reclaimed Water</td>
<td>Reclaimed Water Use Act (Chapter 90.46 RCW)</td>
<td>Water Reclamation and Reuse Standards (1997); Chapter 173-219 WAC (proposed)</td>
<td>WA Dept of Ecology WA Dept of Health</td>
</tr>
</tbody>
</table>
Source Development, System Operations

| Planning |
|-----------------|-----------------|-----------------|
| Growth Management Act (Chapter 36.70A RCW) | Chapter 246-293 WAC WAC 246-290-100. | WA Dept of Community, Trade and Economic Development |
| Watershed Planning Act (Chapter 90.82 RCW) | | WA Dept of Health |
| Public Water System Coordination Act (Chapter 70.116 RCW) | | WA Dept of Ecology |
| Water System Planning Utility Financing (Chapter 35.92 RCW) | | |

**Water Rights**

The basic laws governing water rights and withdrawals from groundwater and surface water in Washington are the Water Code (Chapter 90.03 RCW) and Regulation of Public Ground Water (Chapter 90.44 RCW). These laws are implemented by the Washington State Department of Ecology (Ecology). Water rights rules are in Chapter 173-152 WAC. (See Chapter 4.)

**Water Quality**

The federal Safe Drinking Water Act of 1974, as amended, and state laws and regulations implementing this act establish rules for public water suppliers. The US Environmental Protection Agency (EPA) is authorized to develop national drinking water regulations and oversee their implementation. The Washington State Department of Health (DOH) implements this law on the EPA’s behalf.

DOH regulates Olympia as a large “Group A” water system, primarily through State Board of Health Rules Regarding Public Water Supplies (Chapter 246-290 WAC), and deriving its legislative authority from Chapter 43.20 RCW. The rules are codified in Chapter 70.119A RCW.

Water quality rules under the Safe Drinking Water Act are contained in WAC 246-290 Parts 4-7, and cover the following categories:

- Monitoring – for compliance at the source, in the distribution system, and at the tap (WAC 246-290-300); and surveillance monitoring of background water quality (WAC 246-290-135).
- Treatment – includes requirements for surface water and groundwater treatment. The requirement for public water systems to provide adequate treatment to protect public health is in RCW 70.119A.060 (1)(b). The Ground Water Rule, covering potential disinfection requirements for groundwater sources, was codified in 2011 as Chapter 246-290 WAC.
- Program management – includes public notification, record keeping and reporting (Chapter 246-290 WAC, Part 7).
In addition, the State has requirements for:

- Cross-connection control (WAC 246-290-490).
- Customer complaint response (RCW 43.20.240).

Chapter 11 of the Plan describes the Utility’s compliance with these rules. Table 11.1 summarizes the applicable rules and the regulated contaminants affected.

**Groundwater Protection**

Pursuant to the federal Safe Drinking Water Act, water systems are required to develop and implement a source protection program. In Washington, DOH requires a wellhead protection program for utilities that rely on groundwater and a watershed control program for utilities using surface water.

Implementing state regulations are in WAC 246-290-135, WAC 246-290-668, and WAC 246-290-690. See Chapter 7 for details on Olympia’s Groundwater Protection Program.

The State’s Groundwater Management Area program was established under RCW 90.44.030 to protect groundwater quality and quantity, and manage the resource over a large area and for all beneficial uses (including drinking water). The City’s designation and regulation of drinking water (wellhead) protection areas is an important component of its Groundwater Protection Program and serves as the starting point for groundwater protection implementation efforts. Implementation requirements are in Chapter 173-100 WAC.

In order to protect water quality for drinking water supplies and other beneficial uses, the federal Clean Water Act, state Water Pollution Control Act and state Surface Water Quality Standards (Chapter 173-201A WAC) set limits on pollution in lakes, rivers and marine waters. Groundwater quality standards are in Chapter 173-200 WAC.

**Water Use Efficiency**

The Municipal Water Supply – Efficiency Requirements Act of 2003 requires water system plans to include conservation programs (RCW 90.03.386(3)). Implementing regulations are in WAC 246-290-800. The requirements address distribution system leakage, metering, water conservation planning, goals, performance evaluation and reporting. For details on applicability to Olympia’s Drinking Water Utility, see Chapter 5, Table 5.1.

**Reclaimed Water**

State law (Chapter 90.46 RCW) encourages the use of reclaimed water to replace potable water in non-potable applications such as industry and agriculture. Such use supplements existing surface and groundwater supplies, and can assist in meeting future water requirements. In 2006, the State Legislature directed Ecology to develop and adopt rules on all aspects of reclaimed water use by December 2010. The rule-making process initiated in 2006 was suspended by the Governor under two consecutive Executive Orders from 2010 through 2012. Ecology reactivated the rule-making process in June 2014, and estimated the rule would be adopted by late 2016. The
Municipal Water Law (70.119A.180 RCW) requires utilities to evaluate potential uses of reclaimed water in their water system plans. For details see Chapter 6.

**Source Development and System Operation**

DOH rules on source development are in Chapter 173-160 WAC and Chapter 246-290 WAC, Part 3 (design of public water systems). Detailed specifications are in the DOH Design Manual.

DOH regulations related to system operation, described in Chapter 12, cover the following:

- Operation and maintenance, system reliability, emergency response and metering (Chapter WAC 246-290 Part 5).
- Water Works Operator Certification (Chapter 70.119 RCW and Chapter 246-292 WAC).
- Drinking Water Operating Permits (Chapter 246-294 WAC).

**Planning and Financing Requirements**

The Utility is subject to several state laws that apply to land use and watershed planning, water system planning and financing.

**Growth management.** Under the Growth Management Act (Chapter 90.48 RCW), the City is required to plan for future growth for the next 20 years. State-mandated growth management planning is designed to create denser urban areas while protecting the rural character of unincorporated areas. Thus, the Drinking Water Utility must manage its infrastructure capacity to accommodate projected development within Olympia’s Urban Growth Area (UGA).

**Watershed planning.** The 1998 Watershed Planning Act (Chapter 90.82 RCW) sets a framework for developing local solutions to watershed issues on a watershed basis. It created water resource inventory areas (WRIAs) to inventory and manage water resources within these areas and to give local citizens an opportunity for input in planning. Olympia’s service area and drinking water protection areas include parts of WRIA 11 (Nisqually) and WRIA 13 (Deschutes). (See Chapter 4.)

**Water system coordination.** The Public Water System Coordination Act of 1977 (Chapter 70.116 RCW) requires coordinated planning among public water supply systems within critical water supply service areas. Rules are in Chapter 246-293 WAC. Olympia’s service area is part of the North Thurston County Coordinated Water System Area and subject to the *North Thurston County Coordinated Water System Plan, 1996 Area-wide Supplement*.

**Water system plans.** WAC 246-290-100 requires public water systems with more than 1,000 connections to submit a water system plan for review and approval by DOH every six years. Plans are intended to demonstrate the system's operational, technical, managerial and financial capability to achieve and maintain compliance with relevant local, state and federal plans and regulations. They also are to demonstrate how the system will address present and future needs in a manner consistent with other relevant plans and local, state and federal laws.

**Utility financing.** State law governing financing of municipal utilities is in Chapter 35.92 RCW. Regulatory authority is in WAC 246-290-100, Chapters 246-293, WAC 246-294 and elsewhere.
Department of Health Guidance

The Office of Drinking Water provides numerous guidance documents to help water systems comply with the laws and regulations described above.

2.2 Regional and Local

In addition to the federal and state laws and regulations described above, the City has its own service area policies and conditions of service, established in the Olympia Comprehensive Plan and Olympia Municipal Code (OMC). The Thurston County Coordinated Water System Plan (CWSP) and other regional and local plans also affect Drinking Water Utility planning and operation.

Service Area Policies

This section summarizes the regional and local policies applicable to the Drinking Water Utility’s service area. The service area is generally congruent with the Urban Growth Area boundary (Map 1.1), with exceptions noted in Chapter 1, Section 1.3. Table 2.2 summarizes key policies related to Olympia’s water service area.

Olympia Comprehensive Plan

Olympia’s Comprehensive Plan (2014 as amended) provides maps of future land use and policy guidance for the City of Olympia and its Urban Growth Area (UGA), including specific direction for the City’s utilities.

The Comprehensive Plan’s policies support coordinated regional planning, public involvement and education, special review of proposed land uses near water supply sources, protection of aquifers and other critical areas, and groundwater monitoring. Public utilities policies direct the Utility to secure water supply rights 50 years in advance of projected need, protect water quality, conserve water and encourage reclaimed water use. These policies support integrated and regional approaches to water resources planning and management; and efficient operation and maintenance for adequate fire flow, pressure and preventive maintenance.

Comprehensive Plan goals and policies in the Environment and Public Utilities chapters were updated in December 2014 for consistency with the 2015 Water System Plan.

Olympia Municipal Code

Olympia Municipal Code (OMC) Title 13 regulates City Public Service operations to provide reliable utility services to City of Olympia residents and non-residents the City agrees to serve. Water Utility provisions are located in OMC Chapter 13.04, including those concerning service availability, service beyond city limits, extension of mains, service connections, connection size, meters, cross-connection and backflow protection, interruption of service for emergencies, waste of water, rates, charges and billing. Citations are below and provisions are summarized in Table 2.2.
• Rates and fees for services, Chapter 4.24 OMC.

• Drinking Water Utility policies, Chapter 13.04 OMC (includes the adopted Water System Plan, administrative rules, service applications and uses of water, prohibitions on wasting water and cross-connections).

• Fire hydrant policies, Chapter 16.36 OMC.

• Reclaimed water policies, Chapter 13.24 OMC (sets forth uniform policies and procedures for the distribution of reclaimed water and the use of reclaimed water by the City and its customers, as required by the State Reclaimed Water Permit issued to the LOTT Clean Water Alliance).

Conditions of service are found in these documents:

• Olympia Development Standards (Chapter 12.02 OMC), Public Works Standard Specifications (Chapter 12.08 OMC), and Public Services – Water (Chapter 13.04 OMC).

• Olympia Engineering Design and Development Standards.

• Critical Areas Wellhead Protection (Chapter 18.32 OMC).


Related Plans

The Drinking Water Utility is also influenced by related plans adopted by Thurston County, the LOTT Clean Water Alliance, City of Olympia and neighboring cities. These plans have been reviewed to ensure that this Plan is compatible and consistent with them.

Thurston County Region

The following plans affect Olympia’s Drinking Water Utility as well as other planning entities in Thurston County:

• City of Lacey Water System Plan (2013) and City of Tumwater Water System Plan (2010). Olympia has interties with each of these jurisdictions; an agreement to sell wholesale water to Lacey through 2016; and a mutual aid agreement with Tumwater to provide water in emergencies. (See Appendix 1-3, Appendix 1-4 and Appendix 1-5.) A mutual aid agreement with Lacey is being negotiated.

• Coordinated Water System Plan, Thurston County, 1986 and Area-wide Supplement, 1996. This plan establishes policies and standards for water utility expansion, priority of water service, service areas, satellite service, shared facilities and interties within the Critical Water Supply Service Area.

• Water Conservation Coordination Plan, LOTT Clean Water Alliance (LOTT), 2013. The current plan, developed in cooperation with the Olympia, Lacey and Tumwater municipal
water utilities, will guide the regional program from 2013 through 2018, with a goal of reducing wastewater flow by at least 175,000 gallons per day (gpd), and ideally by 250,000 gpd, by 2012. Based on this plan, LOTT funds support local programs that reduce water going “down the drain” to LOTT wastewater treatment plants (Chapter 5).

- **Thurston County Comprehensive Plan, 1995 as amended.** Adopted pursuant to the Growth Management Act, this plan establishes land use designations and policies for the unincorporated areas of Thurston County. It was developed in coordination with comprehensive planning efforts by cities within the County, and may be amended annually with concurrence by the cities on policies in their growth management areas.

- **Northern Thurston County Ground Water Management Plan, 1992.** This plan includes groundwater protection goals and an implementation strategy. It was developed cooperatively by Ecology; Thurston County; the cities of Olympia, Lacey, and Tumwater; the Squaxin Island and Nisqually tribes; and members of the public.

- **Final Implementation Plan for the Nisqually Watershed, February 2007.** The Phase IV implementation plan was approved by the WRIA 11 Nisqually Planning Unit in February 2007. It recommends short and long-term actions at both the watershed and sub-basin scale. Critical actions include: identifying potential supply aquifers; processing water right applications in batches by sub-watershed; monitoring the quantity and quality of stream flows and groundwater supplies; understanding the interconnection between groundwater and surface water, including the impact of exempt wells on groundwater; and strengthening Coordinated Water System Plan policies to more directly link land use planning and water supply availability.

In addition to this Water System Plan, the following plans help frame the Utility’s policy environment:

- **Wastewater Management Plan, October 2013.** This plan takes a proactive approach to planning and managing development of the wastewater system by maintaining and replacing existing utility infrastructure and planning for expansion into areas within the City and its Urban Growth Area that are currently undeveloped or served by onsite septic systems.

- **Storm and Surface Water Management Plan, November 2003.** This plan includes goals and strategies the Storm and Surface Water Utility is using to reduce the frequency and severity of flooding, improve or maintain water quality in streams and wetlands, and maintain or slow the decline of aquatic habitat.

- **City of Olympia and Thurston County, Percival Creek, Indian/Moxlie Creeks, Woodard Creek, McAllister/Eaton Creek, and Chambers/Ward/Hewitt Comprehensive Drainage Basin Plans.** These plans were developed during the 1990s, in cooperation with neighboring jurisdictions, to provide a basis for storm and surface water management planning.
<table>
<thead>
<tr>
<th>Policy Name</th>
<th>Policy Statement</th>
<th>References</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail Water Service Area</td>
<td>This plan defines and identifies the City’s Water Service Area (WSA) as the Existing / Retail Water Service Area. The City will plan for and provide water service to all land uses identified in the City’s Comprehensive Plan and within the WSA. Provisions for water service should be consistent with the goals, objectives, and policies of the City’s Water System Plan and Comprehensive Plan.</td>
<td>2015 Water System Plan Map 1.1</td>
</tr>
<tr>
<td>Government Consistency</td>
<td>The City’s Water System Plan will be consistent with local, county, and state land use authorities and plans.</td>
<td>North Thurston County Coordinated Water Service Plan 1996 Area Wide Supplement</td>
</tr>
<tr>
<td>Condition of Service</td>
<td>The City will plan to provide water service to all customers within the City’s WSA. If the City is unable to provide water service to a property within the WSA, the owner or developer may facilitate an agreement between the City and another water purveyor to temporarily provide water service within the City’s WSA. The City will review its WSA as part of the Water System Plan update. Revisions to the City’s WSA shall be made only by written agreement in accordance with local, county and state regulations. Appropriate compensation to the City may be required as a result of cost associated the connection to the City’s water system.</td>
<td>North Thurston County Coordinated Water Service Plan 1996 Area Wide Supplement, OMC 13.04.040, WAC 246-290-106</td>
</tr>
<tr>
<td>Properties with an Existing Water Source</td>
<td>All properties requesting water service that have a water source and/or water right associated with them will be required to meet additional conditions of service, such as cross connection control, EDDS, DOH and DOE requirements. All “exempt” wells on the property must be decommissioned except where use of such wells is for the purpose of resource protection, environmental monitoring, remediation of contamination, or, on a case-by-case basis, irrigation. All water right wells that are no longer in service must either be decommissioned or deeded to the City, at the discretion of the City. Appropriate compensation will be made for water rights and/or infrastructure deeded to the City, provided it is of value to the City.</td>
<td>2015 WSP, to be codified in OMC</td>
</tr>
<tr>
<td>New or Replacement Exempt Wells</td>
<td>For any existing customer or those requesting/required to connect to the City's water supply, new or replacement &quot;exempt&quot; wells will not be permitted, except for wells that will be used solely for resource protection, environmental monitoring, or contamination remediation.</td>
<td>2015 WSP, to be codified in OMC</td>
</tr>
</tbody>
</table>
### Service Extension

Whenever an applicant requests water service to premises with no main in the adjacent street, a standard main must be installed as a prerequisite to connection to the City water supply system. The standard main must conform to the EDDS and must be installed along the complete street frontage of the premises to be served in accordance with the EDDS.

A standard main may be installed by any of the following methods:

1. The main may be installed at the expense of the owner or developer by a competent, licensed and bonded contractor under the supervision and approval of the Public Works Director or their designated representative.
2. If the premises lie within the corporate limits of the City, the owner may elect to have the main installed by the formation of a local improvement district as prescribed by state law and the ordinances of the City.

All new development within the corporate City limits or the City's Urban Growth area shall connect to a public water supply, provided that the property lies within 200 feet of a public water main, or when made a condition of project approval.

### Ownership of Mains and Service Connections

Private ownership of domestic service lines will start at the downstream side of the meter. Private ownership of fire service lines will start at the downstream side of the fire service valve.

The Drinking Water Utility will operate and maintain all approved and accepted water mains in public streets or utility rights-of-way. In no case shall an owner, agent, officer or employee of any premises have the right to remove or change any part thereof without the approval of the Public Works Director.

No person shall install a water main which is connected to the Olympia water system without procuring a permit for such installation or connection.

### Design and Performance

The City has published development standards for extension of water utilities within the service area. Design and performance of all new water infrastructure shall conform to the City of Olympia’s adopted Engineering Design and Development Standards (EDDS). Approval of the plans for the extension of water utilities by the Public Works Department shall be required. The latest EDDS can be obtained from the City of Olympia website.

### Oversizing Main Extensions

Whenever the City requires a main size larger than would be required to serve the adjacent property or, in the case of a subdivision or development, a main size larger than required to serve that development, the City shall participate in the cost of the main to the extent of the additional size required, provided the amount of such participation shall be established by the City Engineer prior to the commencement of construction.
<table>
<thead>
<tr>
<th>Service Connections</th>
<th>Refer to the OMC and EDDS for the City’s latest service connection requirements.</th>
<th>OMC 13.04.200, EDDS 6.040, EDDS 6.20</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water Meters</td>
<td>All service connections shall be metered. The City shall own, maintain, and repair all service meters. The City shall have and be given the right to replace or place a meter on a service and to remove the service at any time, and when so doing, the meter shall remain the property of the City. Water meters for new services will be issued after building permit approval. Meter specifications are provided in the EDDS. Fees for the installation of meters are established in the OMC.</td>
<td>OMC 13.04, OMC 4.24, EDDS 6.075</td>
</tr>
<tr>
<td>Water General Facility Charges</td>
<td>The City assesses and collects Water General Facility Charges (GFCs) in accordance with the OMC.</td>
<td>OMC 4.24.010, OMC 13.04.375</td>
</tr>
<tr>
<td>Latecomer Agreement</td>
<td>Any person who constructs a water main extension at the direction of the City, in excess of that which is required to meet minimum standards or which meets minimum standards and will benefit properties abutting the new main, may, with the approval of the Public Works Director, enter into a contract with the City that will allow the developer to be reimbursed for that portion of the construction cost that benefits the adjoining properties and/or is in excess of the minimum standard.</td>
<td>OMC 13.04, EDDS 2.080</td>
</tr>
<tr>
<td>Water Service Outside City Limits</td>
<td>As a condition of water service outside city limits, properties shall be annexed or agreements to annex shall be executed in accordance with the OMC</td>
<td>OMC 13.04.240, OMC 13.04.242, OMC 13.04.244</td>
</tr>
<tr>
<td>Surcharges for Service Outside City Limits</td>
<td>The City collects a surcharge for water and fire protection services outside of the corporate city limits in accordance with the OMC</td>
<td>OMC 13.04.390, OMC 13.04.400</td>
</tr>
<tr>
<td>Wholesaling Water</td>
<td>The City may enter into an agreement with any other municipal corporation or governmental unit for the purpose of obtaining or providing wholesale water.</td>
<td>OMC 13.04.230</td>
</tr>
<tr>
<td>Wheeling Water</td>
<td>The City may enter into an agreement with any other municipal corporation or governmental unit for the purpose of obtaining or providing water wheeling services. The City shall consider wheeling water on a case-by-case basis.</td>
<td>OMC 13.04.230</td>
</tr>
<tr>
<td>Cross-connection control devices and requirements for inspecting and testing</td>
<td>The installation or maintenance of a cross-connection is prohibited. Any such cross-connection now existing or hereafter installed is a nuisance and shall be abated immediately. The control or elimination of cross-connections shall be in accordance with WAC 246-290-490 or subsequent revisions, together with the City’s Cross-Connection and Backflow Prevention Manual approved by the City and the DOH. The water supply will be discontinued to any premises for failure to comply with the provisions of this section.</td>
<td>OMC 13.04.110</td>
</tr>
</tbody>
</table>