Chapter 4 – Legal and Policy Framework – Contents

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4. 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. State laws are codified in the Revised Code of Washington (RCW), and regulations in the Washington Administrative Code (WAC). Details are found in subsequent chapters of the Water System Plan.

4.1 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 4.1.

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.
### Table 4.1. Federal and State Laws Affecting Olympia’s Drinking Water Utility

<table>
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<th>Category</th>
<th>Law</th>
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<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>
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<tr>
<td>Water quality</td>
<td>Safe Drinking Water Act (Federal)</td>
<td>Chapter 246-290 WAC</td>
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<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 protection plans)</td>
<td>WA Dept of Ecology WA Dept of Health</td>
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<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>
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<td>Reclaimed water</td>
<td>Reclaimed Water Use Act (Chapter 90.46 RCW)</td>
<td>Under development</td>
<td>WA Dept of Ecology WA Dept of Health</td>
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<tr>
<td>Source development, system operations</td>
<td>Growth Management Act (Chapter 36.70A RCW) Public Water System Coordination Act (Chapter 70.116 RCW) Water System Planning Utility Financing (Chapter 35.92 RCW)</td>
<td>Chapter 173-160 WAC Chapter 246-290 WAC (Pt 3,5) Chapter 246-292 WAC Chapter 246-294 WAC</td>
<td>WA Dept of Health</td>
</tr>
<tr>
<td>Planning</td>
<td>Growth Management Act (Chapter 36.70A RCW) Public Water System Coordination Act (Chapter 70.116 RCW) Water System Planning Utility Financing (Chapter 35.92 RCW)</td>
<td>Chapter 246-293 WAC WAC 246-290-100.</td>
<td>WA Dept of Community, Trade and Economic Development WA Dept of Health WA Dept of Ecology</td>
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### 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:
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- 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). Surface water treatment requirements (including water quality standards for various contaminants) are found under Part 6 of Chapter 246-290 WAC. The Ground Water Rule, covering potential disinfection requirements for groundwater sources are to be codified in Chapter 246-290 WAC within the next two years.

- Program management – includes public notification, record keeping and reporting (Chapter 246-290 WAC, Part 7).

In addition, the State has other requirements for:

- Cross-connection control (WAC 246-290-490).

- Customer complaint response (RCW 43.20.240).

Chapter 12 of the Plan describes the Utility’s compliance with these rules. Table 12.1 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 8 of the Plan 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). A drinking water source protection area can be an important component of a Groundwater Management Area, and can serve as an initial starting point for 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 includes a requirement to include conservation programs in water system plans (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 6, Water Conservation Program, Table 6.1.

**Reclaimed Water**

State law (Chapter 90.46 RCW) encourages the use of reclaimed water to replace potable water in nonpotable applications such as industry and agriculture, to supplement existing surface and groundwater supplies, and to assist in meeting the 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. A Reclaimed Water Use Rule Advisory Committee was formed in 2007 to guide this effort. 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 7.

**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 include 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 of Olympia is required 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 Drinking Water Utility must manage its infrastructure capacity to accommodate projected development.

**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 details in Chapter 5, Source of Supply Program.)
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 (see below, Related Plans).

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; and 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 and 246-294 WAC 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, including:

- Compliance
- System management and financial assistance
- Groundwater protection
- Growth management
- Operations/maintenance
- Operator certification
- Water system planning
- Monitoring and water quality
- Water resources
- Water system design

4.2 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). Numerous local and regional plans also affect Drinking Water Utility planning and operation.
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Service Area Policies

Olympia’s Comprehensive Plan (1994 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 Drinking Water Utility’s service area is generally congruent with the Urban Growth Area boundary. There are several exceptions, The Evergreen State College, the area around 11th Ave NW in West Olympia, McLane Elementary School and the regional Fire Training Center off Delphi Road, a few parcels North of 26th Ave NE that lie outside the UGA and some locations in Lacey and Tumwater where Olympia is serving accounts that were connected prior to the Coordinated Water System Plan. Figure 2.1 identifies Olympia’s service area boundaries. This figure also shows the 20 direct service connections off our 36 inch main that lie outside Olympia’s service area. These are historic connections, which pre-date the Coordinated Water System Act of 1977. Olympia has an informal agreement with Lacey and Thurston PUD No.1 to move these connections off the 36 inch main and into their systems as it makes sense to do so.

The Comprehensive Plan’s environmental 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 use reclaimed water. They support integrated and regional approaches to water resources planning and management; and efficient operation and maintenance for adequate fire flow, pressure and preventive maintenance.

Goals and policies for the Environment and Public Utilities were revised in December 2007 for consistency with the 2004 Water System Plan. See the Comprehensive Plan Chapter 2, Environment, and Chapter 5, Utilities and Public Services; the plan is online at http://www.ci.olympia.wa.us/cityservices/zoning/LongRangePlanning/CompPlan.htm.

Other service area codes and policies include the following

- 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, and prohibitions on wasting water, cross-connections and sprinkling during fires).
- 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 use of reclaimed water by the City and its customers, as required by the State Reclaimed Water Permit issued to the LOTT Alliance).

Conditions of service are found in:

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

Online at: http://www.codepublishing.com/wa/olympia/
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**Related Plans**

The Drinking Water Utility is also influenced by a variety of related plans adopted by Thurston County, neighboring cities, the LOTT Alliance and the City of Olympia. 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:

- *Water System Plans*, Cities of Lacey (2003) and Tumwater (2003). Olympia has interties with each of these jurisdictions and an agreement to sell wholesale water to Lacey and mutual aid agreements with Tumwater and Lacey for the provision of water in emergencies. (See Appendix 2-3, 2-4, and 2-5), referenced in Chapter 2, System Overview, Service Area Agreements). The Lacey mutual aid agreement 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*, The LOTT Alliance, 2006. The current plan, developed in cooperation with the Olympia, Lacey and Tumwater municipal water utilities, will guide the regional program from 2007 through 2012, with a goal of reducing wastewater flow by an additional 530,000 gallons per day by 2012. Based on this plan, LOTT funds support local programs that reduce water going “down the drain” to LOTT wastewater treatment plants.

- *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.

- *Nisqually Sub-Area Land Use Plan and Zoning*, 1992. This guides land use and zoning for the area south of McAllister Springs in Thurston County. Zoning is important for future management of risks related to land use.

- *Watershed Management Plan - Nisqually (WRIA 11)*, April 2004. The plan, adopted by the State and Thurston, Lewis and Pierce Counties, recommends possibly developing a regional groundwater supply to meet future needs for drinking water and to protect freshwater habitat for salmon. It calls for water supply availability to be considered by cities and counties when making land use decisions. The plan’s water assessment is expected to speed water right decisions and protect against water pollution. Its mission is “to maximize the ability of the Nisqually Watershed to produce high quality ground and surface water, while protecting and managing the related resources to support environmental, social, economic, and cultural values.” The document is available on Ecology’s website: [http://www.ecy.wa.gov/pubs/0306030.pdf](http://www.ecy.wa.gov/pubs/0306030.pdf).

- *Final Implementation Plan for the Nisqually Watershed*, February 2007. The Phase IV implementation plan was approved by the Nisqually Planning Unit in February 2007. It recommends short and long-term actions at both the watershed-wide 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. The document is on Ecology’s website: [http://www.ecy.wa.gov/apps/watersheds/planning/docs/Nisqually%20Imp%20Plan%202%2D14%2D07%20Complete%20report.pdf](http://www.ecy.wa.gov/apps/watersheds/planning/docs/Nisqually%20Imp%20Plan%202%2D14%2D07%20Complete%20report.pdf).

**City of Olympia**

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

- *Wastewater Management Plan*, December 2006. This Wastewater Utility plan takes a proactive approach to planning and managing development of the wastewater system, to eventually extend the gravity sewer system to the entire service area, and replace existing onsite sewage systems and septic tank effluent pump (STEP) systems. Gravity sewer extensions in groundwater sensitive areas will help protect drinking water supplies.

- *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 future storm and surface water management planning.