

CHAPTER 3 COMMUNITY VISION AND REGULATORY FRAMEWORK

The Utilities Department's management of stormwater is guided by the vision of the Bellevue community and the regulatory framework imposed by federal, state, and municipal regulations and requirements. This chapter builds upon the earlier discussion of the nature of stormwater and its unique challenges in Chapter 2 by introducing the legal context and regulatory drivers under which stormwater is managed. These chapters will provide the background to foster a greater understanding of the Utilities Department's approach to stormwater management.

Goals for Stormwater Management (Vision/Mission)

The City of Bellevue Comprehensive Plan contains a community vision projected to 2025 (http://www.bellevuewa.gov/pdf/PCD/CompPlan_Vol_1_01.Introduction.pdf [pp. 14-20]) reflecting the desire for a healthy environment for people and wildlife, a dedicated steward of environmental quality, where key natural features are preserved and restored, a strong economy of diverse people and businesses, a safe and secure community with outstanding facilities and services, a center for culture and arts, an active and engaged community, a city that meets housing and transportation needs, and a city role in regional leadership. Within that overall vision of dedicated environmental stewardship, comprehensive stormwater management is required, among other land use and management activities, to achieve the Comprehensive Plan's vision.

Growth is occurring without harm to environmentally sensitive land and water resources. Many wetlands, riparian corridors and shorelines are protected in their natural state; others are being restored so they provide higher quality fish and wildlife habitat. As a result, more salmon are found in local creeks and streams, fish are spawning in several locations.

The Bellevue Utilities Department Mission Statement is

Bellevue Utilities delivers exceptional services for our community.

Working together to actively support neighborhood livability, a healthy, sustainable economy, and the environment by effectively managing:

- *Drinking water*
- *Wastewater*
- *Surface water*
- *Solid waste*
- *Street, walkway and bikeway maintenance*

In addition, the specific mission for stormwater management is

A surface water system that controls damage from storms, protects surface water quality, supports fish & wildlife habitat, and protects the environment.

Stormwater management supports many elements of a highly desirable and productive community. Economic development and a stable economy depend on good infrastructure, including stormwater conveyance systems to allow open access, without flooding, to businesses and homes. Maintaining high quality streams and lakes supports safe human recreation opportunities, allowing swimming and fishing without health concerns. Given these economic, transportation, human health, and recreational benefits, everyone benefits from a strong stormwater management program whether they live near a stream or in an upland area.

Regulatory Drivers

Bellevue's management of stormwater is guided and constrained by a number of regulatory drivers that have their basis in federal, state, county, and municipal regulations and laws. These regulations establish both lower and upper bounds on the quantities and pollutants that can be discharged from the collection and conveyance system, as well as determining the development capacities and where development may occur. These regulatory drivers often identify and stipulate specific roles and requirements for the involved jurisdictions (state, county, and city) as well as for private landowners (see below for specific details and an overall summary in Table 3-1).

Clean Water Act

The basis for many of the environmental programs and regulations within which Bellevue's stormwater management program operates is the Clean Water Act (Table 3-1). This federal regulation allows the U.S. Environmental Protection Agency (USEPA) to authorize state agencies to administer the regulations and conditions of this act. As such, the local role of the Clean Water Act is largely programmatic and not site-specific. As part of the authorization process, USEPA sets minimum requirements and guidelines for water quality but allow states to enact stricter standards that exceed the USEPA minimum requirements.

In addition to the Clean Water Act, the Washington State Legislature has enacted its own water quality legislation in the Washington Water Pollution Control Act (Revised Code of Washington [RCW] Chapter 90.48). The National Pollutant Discharge Elimination System (NPDES) permit program includes the State Waste Discharge Permits based on this regulation that limit pollution from industry, municipal governments, construction, and other activities. These federal and state legislations have led to the development of numerous regulations, standards, and designations that directly influence, guide, and constrain the management of stormwater in Bellevue, and in some cases require permits. Specifically, these are as follows:

- Water quality standards;
- Discharge of pollutants from point sources (NPDES permits);
- Freshwater-designated uses;
- Assessments of impaired waterways (the 303[d] list);
- Total Maximum Daily Load (TMDL) assessment;
- Wetlands filling and stream lake dredging (Section 404 permits); and
- Landfill closures.

The applicable water quality standards for Bellevue stormwater, and surface water features are administered by the Washington State Department of Ecology (Ecology), which publishes numerical standards for freshwater in streams and lakes. Ecology also has nutrient standards for lakes (applicable to Phantom Lake, Lake Washington, and Lake Sammamish). In addition to these specific numeric criteria for discharges to surface waters, Ecology recently developed and published designated uses for specific water bodies in Washington State. These designations are intended for the specific protection of human and aquatic life uses (in many cases, the protection of habitat characteristics required by salmon species). These are monitored and managed locally by the Seattle-King County Public Health Department.

The primary mechanism employed by the state for administering these water quality standards is the issuance of general and individual permits, as part of the NPDES permit program. These permits put specific conditions on public and private parties that discharge any water, whether domestic sewage, industrial process water, or stormwater, to the public waterways. This program allows for many enforcement measures, including fines and prison sentences for willful violation of permit conditions and state water quality regulations.

Table 3-1. Regulatory framework of surface water management in the city of Bellevue

| Law | Implementing Entity | Regulatory Programs | Intent and Specifics | Relevance to Bellevue |
|------------------------|--|---|---|--|
| | U.S. Army Corps of Engineers (USACE) | Section 404 | Regulates the discharge of dredged, excavated, or fill material in wetlands, streams, rivers, and other U.S. waters. | All work requiring the removal or addition of material to a stream, lake, or wetland must comply with these regulations. |
| Clean Water Act | Washington State Department of Ecology (Ecology) | National Pollutant Discharge Elimination System (NPDES) Phase II Municipal Separate Storm Sewer System Permit | Eliminate discharge of pollutants to the maximum extent practicable into the nation’s water, and achieve water quality levels that are protective of beneficial uses. | Bellevue is a NPDES Phase II permittee and must comply with conditions of the permit. |
| | | Surface Water Quality Standards | Protect and regulate the quality of surface water in Washington State through 1) sustaining "designated uses," 2) meeting numeric water quality criteria, and 3) implementing "antidegradation" policies. | The 303(d) Listed Waterways ¹ : Coal Creek—dissolved oxygen, fecal coliform; Idylwood Creek—dissolved oxygen, fecal coliform; Kelsey Creek—temperature, dissolved oxygen, fecal coliform; Mercer Slough—temperature, fecal coliform; Unnamed Creek (Overlake Sears Trunkline)—dissolved oxygen, fecal coliform. |
| | | Total Maximum Daily Loads (TMDLs) | Identify sources of contaminants that result in impaired water bodies listed under section 303(d), establish limits on pollutant discharges to clean up impaired water bodies to achieve beneficial uses. | The impaired waterways listed above await future TMDL processes. |
| Endangered Species Act | U.S. Fish and Wildlife Service (USFWS) and National Oceanic and Atmospheric Administration (NOAA) Fisheries Service in consultation with lead federal agencies | Puget Sound Chinook Salmon Recovery Plan, 2007 | Prevent further decline of listed terrestrial and aquatic species, including Puget Sound Chinook salmon, steelhead trout, and other species. | Chinook salmon, bull trout, Lake Washington steelhead, and Lake Sammamish kokanee are listed under the Endangered Species Act, and are present in various water bodies within Bellevue city limits. |

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| Law | Implementing Entity | Regulatory Programs | Intent and Specifics | Relevance to Bellevue |
|--------------------------------------|--|---|--|--|
| National Flood Insurance Act of 1968 | Federal Emergency Management Agency (FEMA) | National Flood Insurance Program | Floodplain ordinance/development review Community Rating System (CRS) | Floodplain Management Program |
| Washington State Hydraulic Code | Washington Department of Fish and Wildlife (WDFW) | Hydraulic Project Approval (HPA) | Construction activities and other work that affect the bed or flow of state waters are done in a manner to prevent damage to the state's fish, shellfish, and their habitat. | All work within streams, lakes, or wetlands must comply with these requirements and reviews. |
| Growth Management Act | King County implements Growth Management Act (GMA) | King County Comprehensive Plan, Bellevue Community Plan | Regulate land use to meet growth targets while providing necessary services and protecting sensitive environmental resources. | Bellevue watershed is located in a designated urban growth area within King County. |

^{1.} Department of Ecology 303d listed waterways constituents identified in City of Bellevue waters

As required by the Clean Water Act, Ecology also maintains a registry of the quality of surface water bodies in the state. This registry, termed the “303(d) list” after the specific section of the Clean Water Act that requires the compilation of these data, identifies whether or not specific reaches of rivers, streams, lakes, and ponds comply with the numeric criteria described above. Most importantly for the City, the list identifies waters considered as “impaired” that require a cleanup plan through the development and implementation of TMDLs. The TMDL is a calculation of the maximum amount of the pollutant of concern that can be discharged to the impaired water by all entities, both public and private.

Endangered Species Act

All management activities of Bellevue’s surface water resources—whether streams, lakes, or stormwater—must take into account the federal Endangered Species Act (ESA). In addition, Native American tribes and the Washington Department of Fish and Wildlife (WDFW) co-manage state fish, shellfish, and wildlife resources. The tribes have federal recognition for fish and wildlife habitat management, including habitat, through treaty obligations. The ESA provides for the conservation of species that are determined to be either endangered or threatened as well as the conservation of the ecosystems on which they depend. Both Puget Sound Chinook salmon (listed as threatened on March 24, 1999) and steelhead (listed as threatened on May 11, 2007) are present in the Bellevue area. Bull trout (listed as threatened on November 1, 1999) are not known to use Bellevue streams, but are assumed to forage in Lakes Washington and Sammamish. Additionally, Lake Sammamish kokanee (a type of sockeye salmon that do not migrate to the ocean) is a candidate species for federal protection under the ESA.

As part of a broadly coordinated effort to recover salmon, Bellevue participates in the Lake Washington/Cedar/Sammamish Watershed (Water Resource Inventory Area [WRIA] 8) salmon recovery effort. This involves working with a coalition called Shared Strategy to identify and develop a coordinated salmon recovery plan endorsed by the people living and working in the watersheds of Puget Sound. The Bellevue City Council adopted the Lake Washington/Cedar/Sammamish Watershed (WRIA 8) Chinook Salmon Conservation Plan on June 21, 2005. Bellevue also participates in the Regional Road Maintenance ESA Program Guidelines (Bellevue City Council action, November 6, 2001). This regional program has 10 elements related to training, best management practices (BMPs), monitoring, emergency response, and other coordination and operational elements. The program is designed so that when they are used, as a single element or in combination, they reduce the impacts on road maintenance activities, water, and habitat used by threatened salmon species.

National Flood Insurance Program

Bellevue is a participant in the National Flood Insurance Program (NFIP) administered by the Federal Emergency Management Agency (FEMA). This program makes flood insurance available to citizens when cities adopt and enforce floodplain management ordinances to reduce future flood damage. Flood insurance provides an alternative to disaster assistance by reducing the escalating costs of repairing damage to buildings and their contents caused by floods. The City further participates in the Community Rating System (CRS), which can reduce flood insurance premium rates for Bellevue policyholders as much as 25 percent. Additionally, implementing some CRS activities can help projects qualify for other federal assistance programs.

Growth Management Act

The Washington State Legislature adopted the Growth Management Act (GMA) in 1990 to promote comprehensive land use planning to prevent uncoordinated and unplanned growth. Uncontrolled growth is believed to threaten the environment, sustainable economic development, and the health,

safety, and high quality of life enjoyed by residents of Washington State. The GMA requires counties to designate urban growth areas (UGAs) where urban development will occur, delineated by urban growth boundaries. These boundaries are used to direct urban infilling and set regional housing targets for development. Locally, King County implements the state's GMA by developing the King County Comprehensive Plan under which all city comprehensive plans are developed. The City of Bellevue, through its Planning and Community Development and Development Services Departments, implements its own community land use plan and regulations to achieve population targets while protecting the environment.

To further protect the environment with the UGAs, the GMA requires the development and adoption of critical area ordinances (CAOs). Critical areas, such as streams, riparian areas, and habitats for locally important species, are given extra protection due to the unique environmental functions they provide. These special protections include buffers and structure setbacks applied to the edges of these critical areas to protect their functions and values. The City protects critical areas through its 2006 Critical Areas Ordinance by prohibiting disturbance or modifications to critical areas, unless specifically allowed in the code, and by requiring buffers and building setbacks.

Bellevue Storm and Surface Water Utility Code

The Bellevue Storm and Surface Water Utility Code is enacted under the City of Bellevue's municipal authority as outlined in the Washington State Constitution. The principles of the Storm and Surface Water Utility Code are to:

- A. Provide for the planning, security, design, construction, use, maintenance, repair and inspection of public and private storm and surface water systems;
- B. Establish programs and regulations to assure the quality of the water, to preserve the integrity of the storm and surface water system, and to minimize the chance of flooding;
- C. Protect the public interest in drainage and related functions;
- D. Protect the receiving waters or waters of the state from pollution, mechanical damage, excessive flows and other conditions, which may increase erosion, turbidity, or other forms of pollution, which reduce flow or which degrade the environment;
- E. Comply with requirements of local, state, and federal law, including the National Pollutant Discharge Elimination System (NPDES) permit for municipal stormwater discharges;
- F. Protect the functions and values of critical areas as required under the state's Growth Management Act, Shoreline Management Act, and City of Bellevue Land Use Code (LUC);
- G. Provide for the enforcement of the provisions of this code, the engineering standards and related city manuals and code provisions; and
- H. Provide for and promote the health, safety and welfare of the general public and not to create, establish, or designate any particular class or group of persons who may be especially protected or benefitted.

Regional and Local Plans

Lastly, management of the City's surface water resources are guided and constrained by a number of regional and local plans, in which many Utilities Department employees participate and contribute. The City is a signatory to many of these plans, which require the establishment and implementation of local regulations and ordinances. Examples of these types of programs are:

- Lake Sammamish Initiative [Resolution 5929, 9/25/95];
- 1976 City of Bellevue Drainage Master Plan (Ordinance 2798, 12/14/79); and
- Meydenbauer Local Improvement District #265, (Ordinance 3304, 10/17/83).

Summary

This intricate web of federal, state, and local regulations and complex legal framework requires the Utilities Department, at a minimum, to consider in policies and practices whether 1) public health and safety are protected, 2) the system responsibilities are public or private, 3) publicly funded practices provide a greater public benefit, and 4) programs and practices are in place to protect water quality and endangered species.