

CITY COUNCIL STUDY SESSION ITEM

SUBJECT

Draft code amendments to the Storm and Surface Water Utility Code (Bellevue City Code Chapter 24.06) implementing non-discretionary National Pollutant Discharge Elimination System (NPDES) Western Washington Phase II Municipal Stormwater Permit requirements, and “housekeeping” and other amendments, including consistency with the NPDES permit, the Surface Water Management Manual for Western Washington (SWMMWW), and the Revised Code of Washington (RCW).

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POLICY ISSUES

Should the City adopt the draft code amendments implementing non-discretionary NPDES permit requirements, “housekeeping,” and other revisions? The following Comprehensive Plan Policies support this policy issue:

Utilities Element

- UT-13. Consider Low Impact Development principles to minimize impervious surfaces and native vegetation loss on all infrastructure improvement projects.
- UT-38. Encourage the use of low impact development and stormwater best management practices to manage stormwater runoff, which may result in smaller facilities constructed on and off-site for flow control, conveyance, and water quality.

Environmental Element

- EN-20. Maintain surface water quality, defined as meeting federal and state standards and restore surface water that has become degraded, to the maximum extent practicable.
- EN-24. Reduce runoff from streets, parking lots and other impervious surfaces and improve surface water quality by utilizing low impact development techniques in new development and redevelopment.
- EN-26. Manage water runoff for new development and redevelopment to meet water quality objectives, consistent with state law
- EN-45. Implement the city-wide use of low impact development techniques and green building practices.
- EN-46. Make low impact development the preferred and commonly-used approach to site development to minimize impervious surfaces, native vegetation loss, and stormwater runoff.

DIRECTION NEEDED FROM COUNCIL

ACTION



DIRECTION



INFORMATION ONLY



This study session is to discuss the draft code amendments required to be compliant and consistent with the NPDES Permit requirements. Staff will be present to answer any questions the Council may have regarding the draft code amendments or requirements under the NPDES Permit. At the conclusion of the October 24 Study Session, staff requests Council direction to prepare a final ordinance for action on November 21 or other future date before the December 31, 2016 project deadline.

BACKGROUND/ANALYSIS

The NPDES Phase II Municipal Stormwater Permit is a requirement of the Federal Clean Water Act and is intended to protect and restore water for “fishable, swimmable” uses. Bellevue is one of approximately 100 municipalities in Western Washington required to obtain a municipal stormwater discharge permit.

The Permit authorizes discharge of stormwater runoff from municipal storm drainage systems into the State’s surface waters (i.e.: streams, rivers, lakes, wetlands, etc.) as long as municipalities implement the Stormwater Management Program required by the Permit. The Program consists, in part, of best management practices intended to protect water quality and reduce the discharge of pollutants from the municipal storm systems to the “maximum extent practicable.”

The federal Environmental Protection Agency (EPA) delegated their permit authority to the state environmental agencies. In Washington, the NPDES-delegated permit authority is the Washington State Department of Ecology. Ecology issued the Phase II municipal stormwater permit in January 2007, and revised the permit in August 2013. Under authority of the City Council, the City Manager accepted the revised and reissued Permit from Ecology in 2013.

The NPDES Permit requires Phase II municipalities to adopt or amend codes to comply with Permit requirements for (1) new development, redevelopment and construction stormwater management; and (2) control of illicit (non-stormwater) discharges. Bellevue complied with the first Permit requirements by adopting changes to the Storm and Surface Water Utility Code on October 5, 2009 (Ordinance 5905). With the 2013 revision to the Permit, certain definitions and clarifications were changed, which necessitates Bellevue to revise the Storm and Surface Water Utility Code by December 31, 2016.

Draft amendments to the Storm and Surface Water Utility Code (Chapter 24.06 BCC) are included with this memorandum as Attachment A for Council’s consideration in anticipation of Council action on November 21. The draft code amendments are presented in a strike-draft format to illustrate modifications to existing code language and insertion of new definitions and provisions. The rationale for each code amendment is annotated in the margins. A clean version of the changes is also included as Attachment B. The proposed amendments fall into three main categories:

- Non-discretionary NPDES Permit requirements, including consistency with the SWMMWW;
- Consistency with changes to the Revised Code of Washington (RCW); and
- Non-NPDES “housekeeping” and other amendments.

The majority of the amendments are non-discretionary, which means that municipalities are required to adopt the specific Permit language and requirements in the code amendments in order to comply with the Permit. The change due to the RCW is also non-discretionary to be in compliance with State law. The amendments are also intended to provide alignment between BCC provisions and the SWMMWW, and other provisions. Achieving consistency with the SWMMWW and other provisions is required to ensure efficient and straightforward review for the public. The proposed amendments include updating terms and definitions for consistency with the Permit and the SWMMWW.

Also relating to stormwater infrastructure, the state Legislature passed ESHB 1717, which, among other things, modified chapter 35.91 RCW in several key areas for utility latecomer agreements entered into by cities. These changes to chapter 35.91 RCW became effective on July 1, 2014. One specific change set the minimum length of latecomer agreements to 20 years, which was the maximum length in previous statutes. The proposed code amendment to chapter 24.06.080 BCC makes city code comply with the changes to the state code.

A description of each annotation type, along with the anticipated impacts, is as follows:

<i>Non-discretionary NPDES Permit requirements</i>			
BCC Section	Utility Impact	City Impact	Public Impact
24.06.040 Definitions	No impact.	No impact.	No impact.
24.06.065 Minimum requirements for new development and redevelopment	No impact.	City projects will be required to determine the feasibility of LID BMPs and utilize them if applicable.	Private development will be required to determine the feasibility of LID BMPs and utilize them if applicable.

<i>Consistency with changes to the Revised Code of Washington (RCW)</i>			
BCC Section	Utility Impact	City Impact	Public Impact
24.06.080	No impact. Existing latecomer agreements will continue pursuant to each individual agreement requirements. New agreements will be set to 20 years.	No impact.	Developers now have the benefit of recovering their investment for a longer period of time than before.

ALTERNATIVES

1. Direct staff to prepare a final ordinance consistent with the proposed code amendments, implementing non-discretionary NPDES permit requirements, “housekeeping,” and other amendments, including consistency with the NPDES permit and the SWMMWW, and the Revised Code of

Washington (RCW), for action on November 21, 2016, or a future meeting to be scheduled before the December 31, 2016 deadline.

2. Provide alternative direction to staff.

RECOMMENDATION

1. Alternative No. 1.

ATTACHMENT(S)

- A. Draft amendments to the Storm and Surface Water Utility Code (Chapter 24.06 BCC) (strike-through draft format)
- B. Draft amendments to the Storm and Surface Water Utility Code (Chapter 24.06 BCC) (clean version format)

AVAILABLE IN COUNCIL DOCUMENT LIBRARY

None