

**CITY COUNCIL STUDY SESSION ITEM**

**SUBJECT**

Draft code amendments to the Clearing and Grading Code, Bellevue City Code (BCC) Chapter 23.76, implementing non-discretionary National Pollutant Discharge Elimination System (NPDES) Western Washington Phase II Municipal Stormwater Permit (NPDES Permit) requirements, “housekeeping” and other conformance amendments, including with the NPDES Permit and the Storm Water Management Manual for Western Washington (SWMMWW).

**STAFF CONTACTS**

Tom McFarlane, Clearing & Grading Supervisor 452-5207

Trisna Tanus, Legal Planner 452-2970

*Development Services Department*

Catherine Drews, Assistant City Attorney 452-6134

*City Attorney’s Office*

**POLICY ISSUES**

Should the City adopt the draft code amendments implementing non-discretionary NPDES Permit requirements, “housekeeping” and other conformance 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 will introduce draft code amendments required to comply with the NPDES Permit requirements, and to adopt “housekeeping” and other conformance revisions. Final action on these draft code amendments is proposed for November 21, 2016, to ensure meeting the state-mandated December 31, 2016 project deadline. Staff will be present to answer questions Council may have regarding the draft code amendments or requirements under the NPDES Permit. At the conclusion of the October 24<sup>th</sup> Study Session, staff requests Council direction to prepare a final ordinance for action on November 21, 2016 or at a future date before the December 31, 2016 deadline.

## **BACKGROUND/ANALYSIS**

The NPDES 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 (BMPs) 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). 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 like Bellevue 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 Clearing and Grading Code on October 5, 2009 (Ordinance No. 5906). With the 2013 revision to the Permit, certain definitions were changed and clarifications were made, which requires Bellevue to revise the Clearing and Grading Code.

Draft amendments to the Clearing and Grading Code (Chapter 23.76 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 identify modifications to existing code language and insertions of new definitions and provisions. A clean version of the draft ordinance is also included as Attachment B. As noted earlier, the proposed amendments fall into two main categories:

- Non-discretionary NPDES Permit requirements, including consistency with the SWMMWW; and
- “Housekeeping” and other conformance amendments.

The mandatory NPDES Permit requirements are largely non-discretionary and relate to requirements for erosion and sedimentation control. Permittees are required to adopt specific and mandatory amendments to implement Permit requirements. Other amendments relate to the LID Principles Project (erosion and sediment controls for tree cutting) and construction site stormwater controls. “Housekeeping” and other conformance revisions, while discretionary, are necessary to more effectively implement the mandatory

requirements and the Clearing and Grading Code in general, and to ensure efficient and predictable review for project applicants.

The amendments are also intended to provide “housekeeping” revisions that increase the clarity and usability of the code and conformance revisions that ensure consistency between BCC provisions and the SWMMWW. Examples of “housekeeping” amendments include incorporation of language permitting the use of cross references as they exist on the date of ordinance adoption, or as they are subsequently amended. Inclusion of this language avoids the need to amend the code every time a reference is revised, and will reduce time spent on code updates in the future. This is one strategy that staff are employing to decrease demand on code amendment staffing resources, so that capacity can be directed to higher priority code development projects. Examples of conformance amendments include revisions to terms and definitions to align the Clearing and Grading Code with the NPDES Permit. These revisions are necessary to more effectively implement the mandatory requirements and the Clearing and Grading Code in general and to ensure efficient and predictable review for the project applicants.

### **ALTERNATIVES**

1. Direct staff to prepare a final ordinance consistent with the proposed code amendments, implementing non-discretionary NPDES Permit requirements, “housekeeping” and other conformance amendments, for final action on November 21, 2016, or at a future meeting to be scheduled before the December 31, 2016 deadline.

2. Provide alternative direction to staff.

### **RECOMMENDATION**

1. Alternative No. 1

### **ATTACHMENTS**

A. Draft amendments to the Clearing and Grading Code (Chapter 23.76 BCC) (strike-through draft format)

B. Draft amendments to the Clearing and Grading Code (Chapter 23.76 BCC) (clean version format)

### **AVAILABLE IN COUNCIL DOCUMENT LIBRARY**

N/A