

**BOARD OF COUNTY COMMISSIONERS  
COUNTY OF KITTITAS  
STATE OF WASHINGTON**

**ORDINANCE NO. 2018-009**

**AMENDMENT OF KITTITAS COUNTY'S CODE CHAPTER 13**

**WHEREAS,** Pursuant to the 2014 Settlement Agreement with the Department of Ecology, the Department of Ecology committed to initiate rule making proceedings that would propose repeal of the Upper Kittitas Groundwater Rule found in CH. 173-539A WAC; and

**WHEREAS,** Conversations with the Department of Ecology regarding this repeal indicate that changes need to be made to Kittitas County regulations as a condition of consideration of such repeal; and

**WHEREAS,** The Board of County Commissioners desires such repeal and so proposed various changes to Ch. 13 KCC; and

**WHEREAS,** After due notice of the hearing had been given as required by law, a hearing was held on May 17, 2018 and the necessary inquiry was made into the public interest to be served by the proposed code change; and

**WHEREAS,** The Kittitas County Board of County Commissioners voted unanimously to approve the proposed changes to Ch. 13 KCC.

**BE IT HEREBY ORDAINED:** by the Board of County Commissioners of Kittitas County, Washington, after due deliberation and in the best interest of the public, does hereby approve amendment to Kittitas County Code to amend Ch. 13 KCC. Kittitas County Code Ch. 13 shall be amended by the county Information Technology department to read as found in the attached red-line.

**BE IT FURTHER ORDAINED:** that the Prosecutor's Office is hereby authorized, at its sole discretion, to direct the county Information Technology department to make any and all necessary changes to the code caused by scrivener's errors.

ADOPTED this 17<sup>th</sup> day of May 2018.

**BOARD OF COUNTY COMMISSIONERS  
KITTITAS COUNTY, WASHINGTON**

## Chapter 13.03

### DEFINITIONS

#### Sections

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#### **13.03.010 Adequate Water Supply Determination.**

An Adequate Water Supply Determination is performed by KCPHD to determine if the water system being proposed is adequate in the ability to supply potable water and protect health and safety of the users of the water system. ([Ord. 2011-006](#), 2011)

#### **13.03.020 Cistern System.**

A cistern system is an individual water system designed to receive trucked potable water (which may be supplemented with rainwater) that is stored in a cistern or water storage tank until delivery of the water through a treatment system to the tap or other end use in a dwelling unit. ([Ord. 2011-006](#), 2011)

#### **13.03.030 Cistern Source.**

The potable water to be placed in a Cistern System shall be transported from a community\_Group A water system. This potable water may also be supplemented with rainwater. ([Ord. 2011-006](#), 2011)

#### **13.03.040 Common Ownership.**

"Common ownership" means any type or degree of legal or equitable property interest held by an applicant in any proximate parcel. Common ownership also includes a joint development arrangement between an applicant and any owner of a proximate parcel. A joint development arrangement is defined as involving significant voluntary joint activity and cooperation between the applicant and the owner(s) of one or more proximate parcels with respect to the development of parcels in question. Joint activity and cooperation that is customary or required by land use or other legal requirements does not itself constitute a joint development arrangement. A joint development arrangement may be evidenced by, but is not limited to, agreements for coordinated development and shared use of services or materials for permitting, design, engineering, architecture, plat or legal documents, financing, marketing, environmental review, clearing or preparing land, or construction (including road construction); covenants; agreements for common use of building materials, equipment, structures, facilities, lands, water, sewer, or other infrastructure.

#### **13.03.050 Dwelling Unit.**

A dwelling unit is defined as a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking or sanitation that use potable water. Examples of a dwelling unit include, but are not limited to: a single family home, a guest cabin with potable water, studio apartment, converted garage with potable water added, etc. (Ord. 2011-006, 2011)

#### **13.03.060 Fill.**

Soil materials that have been displaced from their original location. (Ord. 2011-006, 2011)

#### **13.03.070 Four-Hour Draw Down Test.**

A four-hour draw down test is defined as a pump test that determines the maximum system design rate with a duration of at least four hours to establish information related to performance and efficiency of the well to demonstrate adequacy of water quantity to meet design criteria while not leading to water quality problems. A four-hour draw down test submitted to KCPHD shall encompass pump flow data at least every 30 minutes throughout the entire four hour duration that includes, but is not limited to: GPM measured, static level measured, and pumping level. A four-hour draw down test shall be performed by a licensed well driller or pump installer. (Ord. 2011-006, 2011)

#### **13.03.080 Group A Public Water System.**

A Group A public water system is defined by RCW 70.119.020 as having fifteen or more service connections, regardless of the number of people; or a system serving an average of twenty-five or more people per day for sixty or more days within a calendar year, regardless of the number of service connections; or a system serving one thousand or more people for two or more consecutive days. The Washington State Department of Health has the final authority to determine what qualifies as a Group A public water system. (Ord. 2011-006, 2011)

#### **13.03.090 Group B Public Water System.**

A Group B public water system is defined by RCW 70.119A.020 and the Joint Plan of Responsibility. A Group B water supply system serves fewer than 15 connections and serves fewer than twenty five people. A water supply system serving three to nine dwelling units and other non-residential small

systems serving fewer than 10 service connections and fewer than 25 people are under KCPHD approval authority. ([Ord. 2011-006](#), 2011)

**13.03.100 Health Officer.**

"Health Officer" means the Health Officer of the Kittitas County Public Health Department or the Health Officer's authorized representative. ([Ord. 2011-006](#), 2011)

**13.03.110 Individual Water System.**

A water system that serves a single residential dwelling unit. KCPHD has the final authority to determine what qualifies as a individual water system. ([Ord. 2011-006](#), 2011)

**13.03.120 KCPHD.**

Kittitas County Public Health Department. ([Ord. 2011-006](#), 2011)

**13.03.130 KCPHDFS.**

Kittitas County Public Health Department Fee Schedule, as most recently proposed by the Board of Health and then set by resolution of the Board of County Commissioners. ([Ord. 2011-006](#), 2011)

**13.03.140 Parcel.**

"Parcel" means any parcel, land, lot, tract or other unit of land.

**13.03.150 Person.**

Person means a natural person, joint venture, partnership, association, club, company, corporation, business trust, or organization, or the manager, lessee, agent, officer, or employee of any of them. ([Ord. 2011-006](#), 2011)

**13.03.160 Premises.**

The building or accompanying land of a lot, tract or parcel. ([Ord. 2011-006](#), 2011)

**13.03.170 Proximate.**

"Proximate" means all parcels that have at least one of the following attributes:

- Share any common boundary; or
- Are separated only by roads, easements, or parcels in common ownership; or
- Are within five hundred feet of each other at the nearest point.

**13.03.180 Shared Water System.**

A water system that serves two residential dwelling units. KCPHD has the final authority to determine what qualifies as a shared water supply system. ([Ord. 2011-006](#), 2011)

**13.03.190 Storage Unit.**

A storage unit is designed by a licensed engineer to hold water until needed for use in a dwelling unit. A storage unit can include, but is not limited to, a cistern, water storage tank and a flow equalization tank. ([Ord. 2011-006](#), 2011)



### **13.03.180 Treatment System.**

A treatment system is designed by a licensed engineer to remove contaminants from water to ensure that the water is potable prior to use. ([Ord. 2011-006](#), 2011)

### **13.03.200 Total Water Supply Available (TWSA)**

The amount of water available in any year from natural flow of the Yakima River and its tributaries, from storage in various government reservoirs on the Yakima watershed and from other sources to supply the contract obligations of the United States to deliver water and to supply claimed rights to the use of water on the Yakima River, and its tributaries, heretofore recognized by the United States.

### **13.03.190 Water Distribution System.**

The water distribution system is the system that delivers water from the water source throughout the building until use in the building or at the faucet. It includes but is not limited to pipes, pumps, flow equalization tanks, cisterns or water storage tanks, water treatment systems, and appurtenances. ([Ord. 2011-006](#), 2011)

### **13.03.200 Water Quality Test.**

A Water Quality Test is a test performed on a drinking water sample to determine if the water is considered potable by KCPHD. The following standards are adopted as passing water quality tests:

1. Group A water supply systems shall meet the standards in [Chapter 246- 290 WAC](#) for testing, water quality standards and monitoring;
2. Group B water supply systems shall meet the standards in [Chapter 246- 291 WAC](#) for testing, water quality standards and monitoring; and
3. Individual water systems, shared water systems and water haulers shall meet the standards in [Chapter 246-291 WAC](#) for water quality standards. At a minimum, a water quality test for individual water systems, shared water systems and water haulers shall include a nitrate and bacteriological test, and KCPHD may require additional tests to ensure water is potable. ([Ord. 2011-006](#), 2011)

### **13.03.210 Water Source.**

The water source is the origin of the water to be used as a potable water supply. An allowed water source is a direct connection to a Group A public water system in green or yellow status, a direct connection to an approved Group B public water system, a groundwater well that is not under the influence of surface water, or a cistern supplied from a Group A water system with optional supplemental rainwater collection. The method of constructing the water source and the use of the water source shall comply with any applicable federal, state and local requirements. KCPHD has the final authority to determine what an allowed water source is. ([Ord. 2011-006](#), 2011)

### **13.03.220 Water System.**

A water system is a water source connected to a water distribution system for one or more dwelling units or commercial businesses. ([Ord. 2011-006](#), 2011)

## **Chapter 13.35**

### **ADEQUATE WATER SUPPLY DETERMINATION**

([Ord. 2015-007](#), 2015)

## Sections

[13.35.010](#) Authority.

[13.35.020](#) Applicability.

[13.35.025](#) Repealed.

[13.35.027](#) Permanent Measures.

[13.35.028](#) Applicability Outside Yakima River Drainage.

[13.35.030](#) Group A Public Water System Requirements.

[13.35.040](#) Group B Water System Requirements.

[13.35.050](#) Individual Water System Requirements.

[13.35.060](#) Shared Water System Requirements.

### **13.35.010 Authority.**

The Health Officer of the Kittitas County Public Health Department has the authority, on behalf of the County, to ascertain whether there is evidence of an adequate water supply per [Section 19.27.097 RCW](#), including whether proposed water systems comply with all state and local engineering, design and construction standards as set forth in the Joint Plan of Responsibility between the State of Washington Department of Health and the Kittitas County Public Health Department. ([Ord. 2011-006](#), 2011)

### **13.35.020 Applicability.**

All new uses of water must comply with KCC [13.35.027](#)-Permanent Measures. An Adequate Water Supply Determination is required of all persons who are:

1. applying for a building permit with either:
  - a. a proposed new structure which will have potable water or
  - b. a proposed change in the number of dwelling units for any existing structures (such as making a single family structure into a duplex); or
  - c. a replacement or rebuild of a building with potable water; or
  - d. changes to a pre-existing water system that adds fixtures; or
2. making applications for land uses that require water, including but not limited to, long plats, short plats, binding site plans, large lot subdivisions, or conditional uses.\*

An Adequate Water Supply Determination shall not be required for building permits:

1. On lots created through formal platting and utilizing an approved Group A water system operated within an incorporated areas or Master Planned Resort of Kittitas County; or
2. On lots that do not require a change in the water system; or
3. On structures which will not have potable water plumbing.

Kittitas County hereby finds that new uses of groundwater that are not mitigated in the Yakima River drainage basin threaten to interfere with senior water rights and stream flows creating a public health and safety threat that warrants elimination of all vesting under [RCW 58.17.170\(3\)](#) for this chapter. Kittitas County hereby eliminates all such vesting pursuant to the authority granted in [RCW 58.17.170\(3\)](#) for this chapter. ([Ord. 2017-007](#), 2017; [Ord. 2015-010](#), 2015; [Ord. 2015-007](#), 2015; [Ord. 2014-005](#), 2014; [Ord. 2011-006](#), 2011)

\* Publisher's note: Corrected a grammatical error.



### **13.35.025 (Repealed)**

([Ord. 2017-007](#), 2017; [Ord. 2014-005](#), 2014)

### **13.35.027 Permanent Measures**

1. Effective Date 12/2/15-onward and applicable to all areas in the Yakima River drainage.
2. All new uses of ground water shall require either: 1) a letter from a water purveyor stating that the purveyor has adequate water rights and will provide the necessary water for the new use; 2) an adequate water right for the proposed new use; or 3) a certificate of water budget neutrality or other adequate interest in water rights from a water bank. No new use to which this chapter is applicable shall be approved without one of these required submissions.
3. All applicants for land divisions shall also submit information on "proximate parcels" held in "common ownership" and otherwise demonstrate how the proposed new use will not violate [RCW 90.44.050](#) as currently existing or hereafter amended.
4. Failure to obtain mitigation before commencement of an activity requiring mitigation shall be a code violation subject to enforcement under [Title 18 KCC](#).
5. Violation of water limits involved in the mitigation agreement shall be a matter between the land owner and the provider of mitigation and enforceable as provided in said mitigation agreements.
6. All mitigated water uses shall also demonstrate that they are metered and monitored annually in accord with the agreement between the land owner and the mitigation provider.
7. All mitigation during the Permanent Measures shall be for Total water supply available (TWSA), as measured at the Parker gauge on the Yakima River, and local tributary impairment.

([Ord. 2015-007](#), 2015; [Ord. 2014-005](#), 2014)

### **13.35.028 Applicability Outside Yakima River Drainage**

Applicants for land divisions within Kittitas County and outside the Yakima River drainage will need to comply with [KCC 13.35.027](#)(3) regardless of the date of project application.

([Ord. 2014-005](#), 2014)

### **13.35.030 Group A Public Water System.**

Applicants for an Adequate Water Supply Determination where the source is a Group A public water system shall provide to KCPHD:

1. A completed water adequacy application signed by the water purveyor along with any applicable fees;
2. The final water system identification number from the Department of Health; and
3. Verification that the Department of Health operating permit is either in Yellow or Green status. Applicants for a building permit expecting to be supplied with drinking water from a purveyor with an operating permit in Red status (inadequate) or in Blue status (operating without design approval, or exceeded number of DOH-approved connections) will not be approved by KCPHD.

([Ord. 2011-006](#), 2011)

### **13.35.040 Group B Public Water System.**

Applicants for an Adequate Water Supply Determination where the source is a Group B public water system shall provide to KCPHD:

1. A completed application signed by the water purveyor along with any applicable fees;
2. The final water system identification number from the Department of Health; and

3. Certification that the Group B public water system has been constructed and maintained in accordance with the KCPHD or DOH approved plans and specifications, including up to date monitoring and financial information. (Ord. 2011-006, 2011)

### **13.35.050 Individual Water System.**

Applicants for an Adequate Water Supply Determination with an individual water system shall meet the following requirements:

1. Application. Submit a completed application with any applicable fees to KCPHD.
2. Groundwater Well as Water Source. The water quality and quantity of the groundwater well shall be evaluated for an Adequate Water Supply Determination by KCPHD.
  - a. Water Quality. The water produced by the water source shall either:
    - i. Pass a water quality test with results submitted to KCPHD; or
    - ii. If the water fails the water quality test, then applicant shall
      1. Add a treatment system to raise the water quality to potable standards. The treatment system shall comply with all applicable federal , state and local regulations and shall protect the health and safety of the users of the system; and
      2. File a notice with the County Auditor describing the treatment system.
  - b. Water Quantity.
    - i. All wells to be used in an individual water system shall be constructed prior to the issuance of an Adequate Water Supply Determination.
    - ii. A well log recorded within the last ten (10) years demonstrating a minimum flow of two (2) gallons per minute (GPM) for at least a two (2) hour period shall be submitted to KCPHD.
      1. If a well log is not available or the well log indicates a flow of less than two (2) GPM for a two (2) hour period, then a four-hour draw down test shall be submitted to KCPHD.
      2. A well log that was recorded more than ten (10) years ago may be accepted at the discretion of the Health Officer.
    - iii. The minimum acceptable production level where the water source is a well is three hundred fifty (350) gallons per day for an individual water system.
3. Water Distribution System. When the water source is a well and produces less than two gallons per minute (2 GPM) according to the well log or four-hour draw down test, adequate flow equalization is required for periods of higher use within the dwelling unit. The water distribution system design shall meet the following requirements:
  - a. Flow equalization tank requirements shall be determined by the following:  $(150)(2-X \text{ gpm}) = \text{gallons of tank capacity needed}$  (where X = gallons per minute produced as determined by the four-hour draw down test). The required tank capacity could be as much as 263 gallons depending on the flow of the well.
  - b. A booster pump and pressure tank shall be included in the water distribution system.
4. Cistern as Water Source. When the proposed water source is a cistern, the applicant for a Water Supply Determination shall comply with Chapter 13.25 KCC. (Ord. 2014-015, 2014; Ord. 2014-005, 2014; Ord. 2011-006, 2011)

### **13.35.060 Shared Water System.**

Applicants for an Adequate Water Supply Determination with a connection to a shared water system shall meet the following requirements:



1. Application. Submit a completed application with any applicable fees to KCPHD. This includes a valid Shared Well Users Agreement signed by both users of the well that is recorded with the County Auditor.
2. Groundwater Well as Water Source. The water quality and quantity of the groundwater well shall be evaluated for an Adequate Water Supply Determination by KCPHD.
  - a. Water Quality. The water produced by the water source shall either:
    - i. Pass a water quality test with passing results submitted to KCPHD; or
    - ii. If the water fails the water quality test, then applicant shall:
      1. Add a treatment system to raise the water quality to potable standards. The treatment system shall comply with all applicable federal, state and local regulations and shall protect the health and safety of the users of the system; and
      2. File a notice with the County Auditor describing the treatment system.
  - b. Water Quantity.
    - i. All wells to be used in a shared water supply system shall be constructed prior to the issuance of an Adequate Water Supply Determination.
    - ii. A well log recorded within the last ten (10) years demonstrating a minimum flow of five (5) gallons per minute (GPM) for at least a two (2) hour period shall be submitted to KCPHD.
      1. If a well log is not available or the well log indicates a flow of less than five (5) GPM for the two (2) hour period, then a four-hour draw down test shall be submitted to KCPHD.
      2. A well log that was recorded more than ten (10) years ago may be accepted at the discretion of the Health Officer.
    - iii. The minimum acceptable production level for a shared water supply system is seven hundred (700) gallons per day.
3. Water Distribution System. When the water source produces less than five (5) gallons per minute according to the well log, adequate flow equalization is required for periods of higher use within the two dwelling units. The water distribution system design shall be submitted by a licensed engineer, bear the engineer's seal and signature, and meet the following requirements:
  - a. Flow equalization tank requirements shall be determined by the following:  $(150)(5-X \text{ gpm}) = \text{gallons of tank capacity needed}$  (where X = gallons per minute produced as determined by the four-hour draw down test). The required tank capacity could be as much as 675 gallons depending on the flow of the well.
  - b. A booster pump and pressure tank shall be included in the water distribution system. ([Ord. 2014-005](#), 2014; [Ord. 2011-006](#), 2011)

### **13.35.070 Cistern System**

Applicants for an Adequate Water Supply Determination with a cistern system shall meet the requirements set forth in KCC [13.25.080](#) and [13.25.090](#). ([Ord. 2017-007](#), 2017)

## **Chapter 13.40**

### **MITIGATION AND METERING PROGRAM**

#### **Sections**

[13.40.010](#) Eligibility.

- [13.40.020](#) Water Usage Packages.
- [13.40.030](#) Metering Requirements.
- [13.40.040](#) Well Requirements.
- [13.40.050](#) Septic Requirements.
- [13.40.060](#) Monitoring and Enforcement.

### **13.40.010 Eligibility**

Applicants for residential building permits requiring mitigation may use the publicly-operated Kittitas County Water Bank if certain qualifications are met. To be eligible to mitigate through the Kittitas County Water Bank, an applicant must meet the following requirements:

1. Be located within an area in which the Kittitas County Water Bank can provide adequate water mitigation, and
2. Submit an application for a residential building permit within two (2) years of issuance of the mitigation certificate. Commercial uses are not eligible.

Applicants must submit a project eligibility application, mitigation application, all applicable documentation, and all applicable fees (according to the Kittitas County Public Health Department fee schedule) to the Kittitas County Public Health Department (KCPHD) prior to submitting an Adequate Water Supply Determination application. Applicants will also be required to legally record the mitigation certificate and any applicable agreements on the title record associated with the property parcel. ([Ord. 2015-007](#), 2015)

### **13.40.020 Water Usage Packages**

Applicants with access to outdoor irrigation (as determined by a signed affidavit) will be required to purchase mitigation Package A, which consists of an annual average of 275 gallons per day of indoor domestic use only. The daily maximum withdrawal allowed on any given day is 825 gallons per day, as long as the annual average is not exceeded.

Applicants without access to outdoor irrigation (as determined by a signed affidavit) will be required to purchase mitigation Package B which consists of an annual average of 275 gallons per day or indoor domestic use only and up to an annual average of 25 gallons per day for outdoor irrigation of up to 500 square feet. The daily maximum withdrawal allowed on any given day is 900 gallons per day, as long as the annual average is not exceeded.

Applicants using a cistern water system as the potable water source will be allowed to purchase mitigation Package C, which consists of an annual average of 150 gallons per day of indoor domestic use only. Cistern users may purchase other water use packages as per design specifications as submitted and signed by a licensed engineer.

([Ord. 2017-007](#), 2017 [Ord. 2015-007](#), 2015)

### **13.40.030 Metering Requirements**

Participants in the Kittitas County Water Bank using wells as their potable water source will be required to meter their mitigated water usage and pay an annual fee (according to the Kittitas

County Public Health Department fee schedule) associated with the administration of a metering and monitoring program.

Participants will be responsible for the purchase and installation of all metering equipment as determined by the County's specifications. Meter installation must meet the following specifications and will be subject to inspection and applicable inspection fees:

1. The meter must be installed on the mainline prior to any residential lateral connections, spigots, or pressure tanks in a well house.
2. Meters will not be permitted in secured structures and must be accessible.
3. The meter must be installed according to manufacturer specifications despite varying pipe-fitting, pipe size, well locations and landscape conditions
4. Meter installation must have an even velocity profile. Installer must insure proper design and installation.
5. Meter must be installed in an accessible, weather resistant, meter box or equivalent, and be appropriate for location and geographic area.

Proper installation of metering equipment and functional water flow must be complete prior to the inspection and issuance of the Certificate of Occupancy.

If metering equipment requires maintenance, repair, and/or replacement, the property owner is responsible for ensuring proper equipment functionality. If the property owner does not comply with any needed maintenance, repair, and/or replacement of the metering equipment at the cost of the property owner through either an invoice for costs or a lien on the property.

Participants in the Kittitas County Water Bank using a cistern water system will submit records of all potable water deliveries to Kittitas County Public Health Department as referenced in KCC 13.25.090.(Ord. 2017-007, 2017 Ord. 2015-007, 2015)

#### **13.40.040 Well Requirements**

Wells being mitigated through the Kittitas County Water Bank that are drilled after 12/2/15 must meet the following conditions:

For wells 600 feet or closer to Type 1 and Type 2 stream and rivers, and natural wetlands, creeks, lakes, and ponds. Wells must be set back 100 feet or more from the surface water body when feasible and adhere to the following:

1. Well must be cased a minimum depth of 5 feet into the first consolidated layer or formation, or until the casing is refused by the formation (casing refusal); and
2. Wells must be drilled past the first consolidated layer or formation and into a water-bearing zone; and
3. Wells shall have a minimum bentonite or other equivalent seal of 18 feet, or be constructed in an equivalent manner consistent with Chapter 173-160 WAC.

In instances where the 100 foot minimum set back requirement cannot be met, in addition to (1) and (2), the well shall have a bentonite or other equivalent seal down to the first consolidated layer. ([Ord. 2015-007](#), 2015)

#### **13.40.050 Septic Requirements**

Kittitas County Water Bank applicants must record with the Kittitas County Auditor's Office a property covenant that restricts or prohibits trees or shrubs over a septic drain field on the parcel. ([Ord. 2015-007](#), 2015)

#### **13.40.060 Monitoring and Enforcement**

Water usage will be monitored for annual average daily use, maximum daily use, outdoor usage, and intentional violations such as meter tampering, falsifying documents, etc. Violations of water usage restrictions may result in enforcement actions such as Orders to Correct Violations, Notices of Violation and Abatement, and/or Notices of Infraction per [KCC Chapter 18](#). ([Ord. 2015-007](#), 2015)