

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

**ORDINANCE NO. 2015-067
AN ORDINANCE TO AMEND CHAPTER 13.35 AND ENACT CHAPTER 13.40
OF THE KITTITAS COUNTY CODE**

WHEREAS, the Kittitas County Board of County Commissioners is given authority to pass regulatory ordinances under the Washington State Constitution Article XI, §11 and Revised Code of Washington 36.32.120(7); and

WHEREAS, the health and safety of the people of Kittitas County is of great concern to the Kittitas County Board of County Commissioners; and

WHEREAS, Kittitas County, through the Kittitas County Public Health Department, is charged with the preservation, promotion, and improvement of health in the county; and

WHEREAS, the Kittitas County Board of County Commissioners wish to establish regulation for the administration, monitoring, and enforcement of the water mitigation and metering program for all wells mitigated through the Kittitas County Water Bank, and for other purposes; and

WHEREAS, a public hearing came on regularly before the Kittitas County Board of County Commissioners on October 20, 2015 and the public was provided due notice and opportunity to comment on the proposed ordinance; and

WHEREAS, the Kittitas County Board of County Commissioners believes that adopting this ordinance would be in the best interest of Kittitas County; and

NOW, THEREFORE, BE IT RESOLVED as follows:

Section 1. Kittitas County Code Chapter 13.35 and Chapter 13.40

That Chapter 13.35 of the Kittitas County Code is amended with underlined language added, lined out language deleted, and all other language remaining in full force and effect, and a new Chapter 13.40 is enacted, as detailed in Attachment "A" to this Ordinance, attached hereto and incorporated by this reference.

Section 2. Effective date

This ordinance shall become effective immediately upon adoption.

Section 3. County Website

The Information Technology Department is charged with incorporating and updating the amendment and enactment authorized herein on the Kittitas County website.

Section 4. Scrivener's Errors

The Prosecuting Attorney's Office is charged with correcting any scrivener's errors arising out of the amendment and enactment process. No further authorization will be required from the Kittitas County Board of County Commissioners for the Prosecuting Attorney's Office to effect correction of scrivener's errors relating to this Ordinance.

Section 5. Severability

If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

ADOPTED this 20th day of October, 2015.

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



Gary Berndt
Gary Berndt, Chairman

Julie A. Kjorsvik
Julie A. Kjorsvik

Obie O'Brien
Obie O'Brien, Vice-Chairman

APPROVED AS TO FORM:

Paul Jewell
Paul Jewell, Commissioner

Deputy Prosecuting Attorney

Attachment "A"

**Amendment of Kittitas County Code Chapter 13.35 and
Enactment of Kittitas County Code Section 13.40**

Section 1. The chapter heading of Kittitas County Code Chapter 13.35 is amended to read:

Chapter 13.35

ADEQUATE WATER SUPPLY DETERMINATION ~~FOR BUILDING PERMITS~~

Section 2. Kittitas County Code Section 13.35.020 is amended to read:

13.35.020 Applicability.

All new uses of water must comply with KCC 13.35.025-Interim Measures or KCC 13.35.027-Permanent Measures as applicable. 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 that do not require a change in the water system or 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 e(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. 2014-005, 2014; Ord. 2011-006, 2011)

Section 3. Kittitas County Code Section 13.35.027(1) is amended to read:

Effective Date: ~~10/1/15~~ 12/2/15-onward and applicable to all areas in the Yakima River drainage.

Section 4. A new Kittitas County Code Chapter 13.40 is added as follows:

Chapter 13.40

KITTITAS COUNTY MITIGATION AND METERING PROGRAM

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 one (1) year 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.

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 of 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.

13.40.030 Metering Requirements

Participants in the Kittitas County Water Bank 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, 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, the County will complete the 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.

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. Wells 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.

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.

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.