

## Chapter 13.30

### WATER MITIGATION PROGRAM

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#### **13.30.005 General Purpose and Authority**

The purpose and intent of this title is to provide the authority for and the procedures to be followed in guiding and regulating development in Chelan County with the intent of promoting the safe and efficient use of water resources as provided for in Revised Code of Washington (RCW), notably RCW Chapters 36.32, 36.70, 36.96 and 90.42 and to implement the goals, policies, and objectives of the Chelan County comprehensive plan.

#### **13.30.010 Mitigation Requirement Defined**

RCW 19.27.097 requires that each applicant for a building permit for a building necessitating potable water shall provide evidence of an adequate water supply for the intended use of the building.

1. Evidence of an adequate water supply may be in the form of a water right from the Department of Ecology, a letter from an approved water purveyor stating the ability to provide water, a mitigation certificate issued by Chelan County, or another form sufficient to verify the existence of an adequate water supply. An application for a water right shall not be sufficient proof of an adequate water supply.
2. Applicants for building permits involving new indoor, outdoor, or combined indoor and outdoor water use for dwellings as defined in 14.98.050, -610, -615, -620, and 625 in the following basins and sub-basins must provide evidence of mitigation to or purchase mitigation from the Chelan County Department of Natural Resources upon submitting the building permit where a public or private water supply is not available to the property:
  - Entiat Basin (WRIA 46, WAC 173-546)
  - Lake Chelan Basin within the reserve area above Lake Chelan Dam managed by the Washington State Department of Ecology (WRIA 47)
  - The following Subbasins within the Wenatchee Basin (WRIA 45, WAC 173-545)
    - Lower Wenatchee Subbasin (WAC)
    - Icicle Subbasin
    - Mission Subbasin

- Chumstick Subbasin
  - Peshastin Subbasin
  - Upper Wenatchee Subbasin
  - Lake Wenatchee Subbasin
  - White Subbasin
  - Chiwaukum Subbasin
  - Chiwawa Subbasin
  - Nason Subbasin
3. The requirements of this section shall apply to applications for delivery of water to existing buildings in the Lake Chelan Basin where no water rights exist for that property.
  4. There is currently no mitigation requirement for water use in the Stemilt, Squilchuck, Antoine Creek, or Colockum subbasins or for building permits issued within the Columbia River corridor outside of the designated subbasin rule areas identified herein.

### **13.30.020 Mitigation Suitability**

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Mitigation for new building permits is considered suitable if:

1. It is held by the County and made available for such use.
2. It is held by the applicant and appurtenant to the applicant's property or by Ecology in trust on behalf of the applicant. The County may require evidence from the applicant of ownership of the subject right in whole or in part or access to the mitigation in the form of a deed, trust water agreement or other suitable evidence verifiable through Chelan County Department of Natural Resources.

### **13.30.030 Eligibility for County Mitigation**

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Applicants for building permits requiring mitigation may use mitigation from Chelan County if certain qualifications are met. To be eligible to use Chelan County mitigation, an applicant shall comply with the following requirements:

1. Be located within an area in which Chelan County can provide adequate water mitigation.
2. Submit an application for County mitigation with a building permit.
3. Provide all applicable documentation and pay all applicable fees to Chelan County.
4. Record the mitigation certificate on the title for the property. Preliminary approval of the mitigation certificate shall be issued with issuance of a building permit. The final mitigation certificate shall be issued and filed of record for each parcel when final occupancy is granted for each building permit. If the occupancy certificate is not issued within five years of issuance of the building permit, Chelan County will cancel the preliminary approval and the applicant's rights to a mitigation certificate shall terminate, subject to Chelan County's extension of the preliminary approval for good cause.

### **13.30.040 Eligibility for Applicant Mitigation**

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Applicants may propose mitigation other than that supplied by the County. To be eligible to mitigate for the building permit, an applicant shall comply with the following requirements:

1. Propose mitigation that is suitable for the intended use as defined in 13.30.020.

2. Submit a Mitigation Plan concurrent with an application for a building permit requesting applicant-supplied or third-party supplied mitigation to be reviewed by the County.
3. Receive County approval for the Mitigation Plan, and adhere to conditions of the approval.
4. Provide all applicable documentation and all applicable fees to Chelan County.
5. Deed the portion of the right intended to be relied on for mitigation to Chelan County.
6. Record the mitigation certificate on the title for the property. The mitigation certificate shall be recorded when final occupancy is granted for each building permit.

#### **13.30.050 Mitigated Water Use**

The County applies a standardized water use rate of one-half acre-foot per year to residential indoor and residential outdoor water use. Applicants requesting non-residential water uses are evaluated on a case-by-case basis. For residential indoor and outdoor water use, the following criteria apply to the one-half acre foot per year:

1. Mitigated water use is based on September Consumptive Use (SCU) in the Wenatchee and Entiat Basins.
2. Mitigated water use is based on Total Water Use in the Lake Chelan subbasin.
3. For all basins and subbasins, the extent of outdoor irrigation authorized cannot exceed one-half acre in size.

#### **13.30.060 Water Measurement Requirements**

Chelan County is responsible for maintaining an accurate accounting of water measurement under building permits issued for its mitigation program. Chelan County bases water measurement on metered usage and spot measurements of outdoor irrigation. In order to receive mitigation under this program, applicants shall:

1. Install a water measuring device of a manufacturer and model as approved by the County.
2. Allow access to the property with reasonable notice if requested by the County under Section 13.30.110.
3. Report monthly water use measurements by January 31<sup>st</sup> of each calendar year to the County.
4. Keep the water measuring device maintained and in good working condition. If the property owner does not comply with any needed maintenance, then repair and/or replace the water measuring device, the County may make such repairs at the cost of the property owner through either an invoice or a lien on the property.
5. Report any water measuring device malfunctions promptly to the County.
6. Do not tamper, falsify, misreport, or otherwise mischaracterize water use from the water measuring device.

#### **13.30.070 Well Construction and Aquifer Measurement Requirements**

In order to receive mitigation under this program, applicants shall:

1. Allow periodic access to any well to allow for water level measurements and water testing of the source aquifer.
2. Construct wells in accordance with State (WAC 173-160) and County well construction and siting requirements.

3. Agree to well construction specifications and restrictive covenants if required by the County.

### **13.30.080 Septic Requirements**

Applicants shall record with the Chelan County Auditor's Office a property covenant that prohibits trees or shrubs over a septic drain field on the parcel for which a building permit been submitted, along with all other restrictive covenants required by state or local authorities.

### **13.30.090 Fee Schedule**

The Chelan County Fee Schedule for all applications, permits, licenses, inspections, and appeals required by this Title shall be proposed by the Chelan County Department of Natural Resources and set by resolution of the Board of County Commissioners. Fees shall include the one-time fees associated with the initial permit application, the monthly or annual assessments and any assessments resulting from excess water usage. Failure to pay any required fee or assessments may result in denial of application, permit, license or inspection, and/or revocation of license, and/or closure of any water system, septic system or well for which fees are unpaid.

### **13.30.100 Monitoring and Enforcement**

Violations of water usage restrictions or other requirements of this chapter may result in enforcement actions such as Orders to Correct Violations, Notices of Violation and Abatement, and/or Notices of Infraction per County Code.

### **13.30.110 Right of Entry**

Whenever necessary to make an inspection to enforce or determine compliance with the provisions of any water usage rules and regulations, or whenever the County or County Representative has cause to believe that a violation of any water usage rules and regulations has been or is being committed or whenever the County or County Representative has cause to believe there is an overuse or improper use of permitted water, the County or County Representative may enter any building, structure, property or portion thereof at reasonable times to inspect the same.

1. If such building, structure, property or portion thereof is occupied, the County or County Representative shall present identification credentials, state the reason for the inspection, and request entry.
2. If such building, structure, property or portion thereof is unoccupied, the County or County Representative shall first make a reasonable effort to locate the owner or other persons having charge or control of the building, structure, property or portion thereof and request entry. If the County or County Representative is unable to locate the owner or such other persons and the County or County Representative has reason to believe that conditions therewith create an immediate and irreparable health hazard, then the County or County Representative shall make entry.
3. Unless entry is consented to by the owner or person in control of any building, structure, property or portion thereof or conditions are believed to exist which create an immediate and irreparable health hazard, the County or County Representative prior to entry shall obtain a search warrant as authorized by the laws of the state.