

**Chapter WCC 24.11
DRINKING WATER**

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24.11.010 Authority and purpose.

A. The director shall administer this chapter under the authority and requirements of Chapters 64.06, 70.05, 70.54, 70.116, and 90.44 RCW and Chapters 173-160, 246-290 and 246-291 WAC. The director may charge fees for this administration as allowed in Chapter 70.05 RCW. (Ord. 2002-024).

B. The Whatcom County board of health enacted this chapter to minimize the risks to human health by promoting safe drinking water and to establish minimum:

1. Standards for siting, design, and protection of drinking water sources.
2. Standards for construction of drinking water sources, storage, treatment and distribution systems.
3. Standards for operation and maintenance of drinking water systems.
4. Requirements for drinking water source disclosure information for developed property sales. (Ord. 2002-024).

24.11.020 Adoption by reference.

A. Whatcom County hereby adopts Chapter 246-290 WAC, Group A Public Water Systems, Chapter 246-291 WAC, Group B Public Water Systems, and the current adopted Whatcom County Coordinated Water System Plan (CWSP) or its successor. If a conflict arises between Chapter 246-290 WAC and this chapter as amended or between Chapter 246-291 WAC and this chapter as amended, or between the CWSP and this chapter as amended, the more restrictive regulation shall prevail. Whatcom County will automatically incorporate any subsequent amendments to Chapters 246-290 or 246-291 WAC, or to the CWSP into this chapter.

B. Whatcom County hereby adopts Chapter 173-160 WAC, Minimum Standards for Construction and Maintenance of Wells. If a conflict arises between Chapter 173-160 WAC and this chapter as amended, the more restrictive regulation shall prevail. Whatcom County will automatically incorporate any subsequent amendments to Chapter 173-160 WAC into these regulations. (Ord. 2002-024).

24.11.030 Definitions.

The following definitions together with the definitions in Chapters 173-160, 246-290 and 246-291 WAC shall apply:

1. "Accessory apartment" means a separate complete residential unit designed for occupancy by a family. It is substantially contained within the contiguous structure or attached garage of a single-family residence and there is internal access between the units; and meets the requirements of Whatcom County Code Chapter 20 Zoning.
2. "Adequate" means meets the applicable standards contained in these regulations.
3. "Alternative private water supply" means a source of water that is not supplied by a private water supply well or public water system; which may include contaminated groundwater well, spring, surface water, sea water, or rainwater catchment.

4. "Applicant" means an individual, trust, firm, joint stock company, corporation, partnership, association, state, county commission, political subdivision of a state, and interstate body or the federal government or an agency of the federal government requesting director approval of evidence of adequate water.
5. "Approved" means a written statement of acceptability, in terms of the requirements in this chapter, issued by the director or the department.
6. "Area of known groundwater contamination" means an area of regional groundwater contamination with defined boundaries that has been identified by the director and confirmed by the board of health.
7. "Authorized agent" means any person who:
 - a. Makes decisions regarding the operation and management of a public water system whether or not he or she is engaged in physical operation of the system; or
 - b. Makes decisions whether to improve, expand, purchase or sell the system; or
 - c. Has discretion over the finances of the system.
8. "Commercial business" means a permanent nonresidential use that includes, but is not limited to retail, service, or manufacturing activities.
9. "Consolidated formation" means any geological formation in which the earth materials have become firm and cohesive through natural rock formation processes. Such rocks commonly found in Washington include basalt, granite, sandstone, shale, conglomerate and limestone. An uncased bore hole will normally remain open in these formations.
10. "Contaminant" means any substance present in drinking water which may adversely affect the health of the consumer.
11. "Contaminated groundwater" means water containing a primary inorganic or organic substance that may adversely affect the health of the consumer.
12. "Coordinated water system plan" (CWSP) means a plan for public water systems within a critical water supply service area, as defined in RCW 70.116.030, which identifies the present and future needs of the systems and sets for the means for meeting those needs in the most efficient manner possible.
13. "Detached accessory dwelling unit" means a separate and complete dwelling unit not attached in any way to the main or existing dwelling unit; designed for occupancy by a family; and meets the requirements of Whatcom County Code Chapter 20 Zoning.
14. "Declaration of covenant" means a recorded agreement that binds the owner(s) of the property(s) on which the well exists from the described restricted uses within the sanitary control area.
15. "Developed property" means a parcel of land containing at least one building.
16. "Director" means the director of Whatcom County Health Department, or a representative authorized by the director.
17. "DOH" means the Washington State Department of Health

18. "Dry season" means the time period beginning August 1st and ending September 30th of any given year.

19. "Dwelling unit" means a structure, or unit within a structure; with independent living facilities for one or more persons that includes permanent provisions for living, sleeping, eating, cooking, and sanitation. A dwelling unit includes, but is not limited to:

- a) Single-family residence; or
- b) Each unit of a multi-family building, for example an apartment or condominium unit.

20. "Ecology" means the Washington State Department of Ecology.

21. "Group A Water System" means a public water system that serves:

- a) 15 or more service connections; or
- b) 25 or more people per day for 60 or more days per year; or
- c) 1,000 or more people for 2 or more consecutive days.

22. "Group B Water System" means a public water system that serves:

- a) Less than 15 service connections; and
- b) Less than 25 people per day; or
- c) 25 or more people per day for fewer than 60 days per year.

23. "Joint plan of responsibility" means an agreement between Whatcom County health and human services and Washington State Department of Health described in WAC 246-291-030.

24. "Peak household flow" means four gallons of water per minute for at least 60 minutes.

25. "Potential source of contamination" means any cesspool, sewer, privy, septic tank, drainfield, manure pile, manure lagoon, garbage of any kind or description, barn, chicken house, rabbit hutch, pigpen, or other enclosure or structure for the keeping of fowl or animal, or storage of liquid or dry chemical, herbicide or pesticide, or any other item that may have the potential for adversely affecting the quality of the water.

26. "Private water supply" means a water supply serving up to two single family residences or a commercial business for which the director has waived all public water system development and monitoring standards found in WAC 246-291-005 and 030. Public water system rules do not apply to water systems that provide water to one or two service connections. Private water supplies shall not be approved to serve a connection with a use listed under WCC 24.11.040()(a) through (h). See alternative private water supply definition for surface water, rainwater, seawater and contaminated sources.

27. "PDS" means Whatcom County Planning and Development Services

28. "Project" means development applications for subdivision and/or building permit that will be treated as a single project for the purpose of administering these water regulations. The Health Officer may use the following criteria in determining if development applications will be determined to be a project:

- a) Common, adjacent or overlapping ownership of lots or parcels;
- b) Owners connected by joint development contracts;
- c) Common origin of lots from parent parcels;
- d) Contemporaneous development schedules;
- e) Similar SEPA review;
- f) Construction of common roads; and/or
- g) Common easements and utility corridors.

29. "Public water system" means any system providing piped water for consumption, excluding a system serving only one single-family residence and any system with four or fewer connections serving only residences on the same farm.

30. "Purveyor" means an agency or subdivision of the state or a municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or other entity owning or operating a public water system. Purveyor also means the authorized agent of such entities.

31. "Restrictive covenant" means a recorded agreement that binds the owner(s) of the adjacent property(s) on which the well exists from the described restricted uses within the sanitary control area.

32. "Sanitary control area" means a defined area around a well where certain activities and or practices are not allowed.

33. "Satisfactory results" means the level of any specified contaminant does not exceed the maximum contaminant level (MCL) allowable by state or federal law. If a conflict arises between state and federal standards, the more restrictive shall prevail.

34. "Service" means a connection to a public water system designed to serve a single-family residence, dwelling unit, or equivalent use.

35. "Single Family Residence" means a residential structure in which one or more persons maintain a common household. A structure is not a single family residence if it is used for an activity requiring a permit or license under one or more of the following rules:

- a) Food service, chapter 246-215 WAC;
- b) Food inspection, chapter 16-165 WAC;
- c) Residential treatment facilities, chapter 246-337 WAC;
- d) Transient accommodations, chapter 246-360 WAC;
- e) Boarding homes licensing rules, chapter 388-78A WAC;
- f) Minimum licensing requirements for child care centers, chapter 170-295 WAC;
- g) School-age child care center minimum licensing requirements, chapter 170-151 WAC; or
- h) Adult family home minimum licensing requirements, chapter 388-76 WAC.

36. "Spring" means a source of water where an aquifer comes in contact with the ground surface and where water is discharged to the ground surface.

37. "Surface water" means a body of water open to the atmosphere and subject to surface runoff, excluding sea water.

38. "Unconsolidated formation" means any naturally occurring, loosely cemented, or poorly consolidated earth material including such material as uncompacted gravel, sand, silt and clay.

39. "Water availability" means the applicant has access to an adequate supply of safe drinking water which meets the intent of the Growth Management Act of 1990, as amended, and other requirements for the provision of a safe and adequate water supply.

40. "WAF" means a water availability form, and all required documents, indicating the availability of safe and adequate water supply.

41. "Water source" means any well, spring, rainwater catchment, or surface body of water used for the purpose of supplying water.

42. "Water system" means any combination of water source, collection, treatment, storage, and piping which supplies drinking water for human consumption.

43. "WCHD" means the Whatcom County Health Department.

44. "Well" means any excavation intended for locating, diverting, artificial recharging, observing, monitoring, dewatering, or withdrawing groundwater. (Ord. 2002-024).

24.11.040 General requirements.

A. Applicants must submit all required forms, letters and documents to the director.

B. The director will consider applications for water availability proposing to use groundwater, spring water, surface water, sea water or rainwater.

C. The director shall evaluate the availability of a public water system prior to approving the use of a private water supply. If it is determined that a public water system is available and willing to provide water, the applicant must connect to that public water system when:

1. The applicant proposes to use surface water, spring water, rainwater, or contaminated groundwater; or
2. The applicant proposes to build on a lot located in a short subdivision or long subdivision that Whatcom County approved based on the availability of public water; or
3. The existing public water system has water lines adjacent to the property line of the applicant and connection is consistent with RCW 36.70A.110(4); or
4. The existing public water system has defined a "service area boundary" in accordance with the Whatcom County Coordinated Water System Plan which includes the property of the applicant.

D. The director will only approve a private water supply well for proposed short subdivisions or long subdivisions when analytical results of untreated water samples meet state and federal water quality MCL standards .

E. Purveyors of public water systems and private water supply applicants must comply with Washington State Department of Ecology water right requirements. Compliance will include at a minimum, possession of a water right permit or certificate for:

1. All surface water sources excluding seawater.
2. All groundwater withdrawals using more than 5,000 gallons per day. Development proposals considered to be a single project shall be limited to 5,000 gallons per day under RCW 90.44.050.
3. Irrigating more than one-half acre of lawn or noncommercial garden. (Ord. 2013-028 § 2 Exh. B; Ord. 2002-024).

Private potable water withdrawal shall not be approved if the source falls within the boundaries of an area where Ecology has determined by rule that water for development does not exist.

24.11.050 Water availability required.

Prior to issuance of a building permit the applicant must provide evidence of an adequate water supply to Whatcom County Planning and Development Services (PDS) except when:

- A. A building does not require potable water.
- B. A residential remodeling does not add additional bedrooms or result in an increase of floor space of more than 50 percent.
- C. A commercial remodeling does not result in an increase of floor space of more than 50 percent or change the use of the site.
- D. PDS determines that the building will replace a demolished or removed building and the building will not have a change in use, more bedrooms, or more than 50 percent greater floor space than the previous building. (Ord. 2002-024).

WAF approvals for public water shall expire one year from the date the public water system certifies the availability of service. WAF approvals for private water shall expire three years from the date of the most recent analytical water sampling results.

24.11.060 Determining adequacy of water supply for building permit applications proposing to use an existing public water system.

A. Prior to director approval of evidence of an adequate water supply where the applicant proposes to obtain water from an existing public water system the applicant must:

1. Submit to the director, a Water Availability Form (WAF) for Public Water signed by an authorized representative of the water system proposing to serve water to the building. The authorized representative:
 - a. Must indicate on the form that the water system will provide water to the proposed building.

b. Must sign a statement that they have reviewed the system records and ensures that the water system complies with Chapters 246-290 and 246-291 WAC and WCHD requirements.

B. The director will review the completed WAF approval. The director will approve the completed form if:

1. The applicant and the authorized representative met all the criteria listed on the form.
2. The purveyor of the water system has the approval from DOH or WCHD to provide water to the building. (Ord. 2002-024).
3. The public water system has current test results from a certified laboratory for coliform bacteria and nitrate. Coliform bacteria test results must be satisfactory.

WAF approvals for public water shall expire one year from the date the public water system certifies the availability of service.

24.11.070 Determining adequacy of water supply for building permit applications proposing to create a new public water system.

Prior to director approval of evidence of an adequate water supply, an applicant proposing to create a new public water system must comply with:

- A. Provisions of the Whatcom County Coordinated Water System Plan.
- B. Chapters 246-290 and 246-291 WAC, and all other applicable local and state regulations for public water systems.
- C. The applicable sections of this chapter pertaining to public water systems. (Ord. 2002-024).

24.11.080 Determining adequacy of water supply for building permit applications proposing to use a private water supply well.

- A. Prior to director approval of evidence of an adequate private water supply, the applicant must comply with provisions of the Whatcom County Coordinated Water System Plan.
- B. Prior to director approval of evidence of an adequate water supply where the applicant proposes to use a private water supply well to serve a single family residence or dwelling unit, the applicant must submit a completed WAF for private water supply and all required documents to the director for approval.
- C. Prior to director approval of evidence of an adequate water supply where the applicant proposes to use a private water supply well to serve two single-family residences, dwelling units, subdivision, or a commercial business, the applicant must:

1. Notify the director of the intent to use a well or wells.
2. Request that the director conduct a site inspection and approve the proposed well sites.

D. Upon request from the applicant, the director will conduct a site inspection for the purpose of approving the location. Well site inspection approvals shall expire three years from the date of the inspection. If the director cannot approve a well location the director will deny the application and give the reasons for denial.

E. If the director approves the well location the applicant shall submit a completed WAF for private water supply well (1 or 2 connection) or commercial well and all required documents for each well to the director for approval.

F. The director will review the completed form and required documents submitted by the applicant for approval. The director will approve the form if:

1. The applicant met all the criteria listed on the form.
2. The applicant submitted all of the required documents.
3. The well site proposed by the applicant does not fall within the boundaries of an area where Ecology has determined by rule that water for development does not exist.
4. The applicant has demonstrated that service from an existing public water system is not available. If the project property is within a public water system service area boundary, the applicant must provide a Denial Form certified by the public water system. Denial Forms shall expire three years from the date of certification.
4. The well construction and well site proposed by the applicant meets the requirements listed in Chapter 173-160 WAC. Except, siting requirements for private wells serving one single family residence relating to roads and property lines do not apply to wells drilled prior to October 10, 1990, when:
 - a. The applicant provides a well log documenting the well drilling date.
 - b. The director determines the existing well site does not threaten public health.
5. The well site proposed by the applicant meets the following minimum setback requirements except as noted in subsection (F)(4) of this section. Well site to:
 - a. Building or building overhang, five feet.
 - b. Septic tank, 50 feet.
 - c. Edge of on-site sewage system absorption field, 100 feet.
 - d. Privies, 100 feet.
 - e. Sewer line, 50 feet.
 - f. Sewage or manure lagoon, 200 feet.

- g. Property line of any parcel containing an active solid waste landfill, inactive solid waste landfill, closed solid waste landfill or illegal solid waste landfill, 1,000 feet.
 - h. County road or state highway right-of-way, 100 feet, except the director may approve a reduction to 50 feet when the well location would result in obtaining water from a well that meets the conditions specified in WCC 24.11.080(6)(b).
6. For private water supply wells serving one single family residence or commercial business constructed after October 1, 1990, the applicant submitted a copy of a declaration of covenant and/or a restrictive covenant, recorded with the Whatcom County auditor's office for a sanitary control area which includes all property not owned by the applicant within a 100-foot radius of the well, and/or any property within a 100-foot radius of the well located on any adjacent parcel.
- a. For private water supply wells serving two single family residences, the applicant submitted a copy of a declaration of covenant and/or restrictive covenant recorded with the Whatcom County auditor's office for a sanitary control area which includes all property within a 100-foot radius of the well.
 - b. However, the director may approve a reduction of the sanitary control area to a 50-foot radius when the well location would result in obtaining water from:
 - i. A consolidated formation where the well draws water from at least 30 feet below the ground surface and the well is at least 100 feet from the edge of an on-site sewage system absorption field, and at least 200 feet from a sewage or manure lagoon or a privy.
 - ii. An unconsolidated formation protected by at least a six-foot clay or other poorly permeable layer, and the well is at least 100 feet from the edge of an on-site sewage system absorption field, and at least 200 feet from a sewage or manure lagoon or a privy.
7. For private water supply well serving two connections, other than an ADU on the same parcel as the primary residence, the applicant has submitted a copy of a shared well agreement recorded with the Whatcom County auditor's office.
8. The source provides an instantaneous minimum flow of four gpm or a minimum of 400 gallons in a 24 hour period for each single family residence, dwelling unit, or commercial business. Except, the director may approve a yield less than four gpm, if the applicant provides the director with plans for an approved water reservoir. To demonstrate quantity:
- a. The applicant must provide to the director the results of an approved water yield test. The applicant may determine the water yield from the source by using a pump test, bailer test or air test conducted for a minimum of one hour.
 - b. The director may require the applicant to provide the results of a four-hour pump test conducted during the dry season when a source yields less than one gpm.
9. Certified laboratory results of an untreated water sample show satisfactory results for:

- a. Coliform bacteria analyzed from a sample containing no residual chlorine.
 - b. The inorganic chemicals: arsenic, barium, cadmium, chromium, lead, mercury, fluoride, nitrate, selenium, and silver.
10. The applicant has submitted all other satisfactory analytical water sampling results for contaminants the director deemed significant based on:
- a. Local trends in water quality.
 - b. The vulnerability of the source to known or suspected water quality or quantity problems or if the location of the source falls within the boundary of an area of known groundwater contamination.
11. When untreated water sample analyses required in subsections (F8) or (F9) of this section confirm that the water exceeds any state or federal primary maximum contaminant levels (MCL), the director may approve a contaminated WAF once the applicant has:
- a. Designed and installed a treatment system meeting the requirements for WAF approval of a contaminated water supply well to reduce the levels of the contaminants to below the MCL.
 - b. Signed and recorded with the Whatcom County auditor's office the following documents:
 - i. A document stating which contaminate the untreated source water exceeded.
 - ii. A document stating that the applicant has had a water treatment system designed that meets WCHD WAF approval for a contaminated Well Source (as amended) and secures a potable water supply for the building.
 - iii. A document stating that the applicant has installed a treatment system according to the design reviewed by the director and treated water sample results that verify system performance.
 - iv. A document stating that the applicant agrees to adhere to the operation, maintenance, and monitoring plan for the designed treatment system.
 - v. A document stating that the applicant understands that the obligation to comply with treatment system design, installation, operation and monitoring lies with the applicant and not Whatcom County.
 - vi. If a service connection to a public water system becomes available, applicants obtaining water from a contaminated source must provide current test results showing water treatment is adequately maintaining water quality below maximum contaminant levels (MCL). If the quality does not meet the MCL, the applicant is required to hook up to a public system. (Ord. 2002-024).

24.11.090 Determining adequacy of water supply for building permit applications proposing to use an alternative private water supply.

A. Prior to director approval of evidence of an adequate private water supply, the applicant must comply with provisions of the Whatcom County Coordinated Water System Plan.

B. The director shall not approve use of an alternative private water supply as evidence of an adequate water source unless the applicant:

1. Cannot obtain water from an existing public water system.
2. Cannot use an approved source of groundwater from a well.
3. Could only use contaminated groundwater.
4. Provides documentation showing that they cannot drill an adequate well on their property.

C. Prior to director approval of evidence of adequate water supply where the applicant proposes to use spring, surface water, sea water, or rainwater to serve one single family residence or dwelling unit, the applicant must:

1. Notify the director of the intent to use an alternative water supply.
2. Provide information to the director showing that they cannot drill an adequate well on their property.
3. Request that the director conduct a site inspection and approve the proposed location, if the applicant is proposing to use a spring.

D. Upon request from the applicant, the director will conduct a site inspection for the purpose of approving the location of the spring. If the director does not approve the location the director will deny the application and give the reason for denial.

E. If the director approves the location of the spring, or the applicant proposes to use surface water, sea water, or rainwater, the applicant must submit a completed WAF and all required documents for approval by the director.

F. The director will review the completed WAF and required documents for approval. The director will approve the application if:

1. The applicant met all the criteria listed on the WAF.
2. The applicant submitted all of the required documents.
3. Meet all other state and local regulations.
4. The surface water site proposed by the applicant does not fall within the boundaries of an area where Ecology has determined by rule that water for development does not exist.

5. The applicant has demonstrated that service from an existing public water system is not available. If the project property is within a public water system service area boundary, the applicant must provide a Denial Form certified by the public water system. Denial Forms shall expire three years from the date of certification.

6. The spring site proposed by the applicant does not fall within the boundaries of an area where Ecology has determined by rule that water for development does not exist.

7. The applicant can maintain the minimum following setbacks between the spring and:

- a. Building or building overhang, five feet.
- b. Septic tank, 200 feet.
- c. Edge of on-site sewage system absorption field, 200 feet.
- d. Privies, 200 feet.
- e. Sewer line, 200 feet.
- f. Sewage or manure lagoon, 200 feet.
- g. Property line of any parcel containing an active solid waste landfill, inactive solid waste landfill, closed solid waste landfill or illegal solid waste landfill, 1,000 feet.
- h. County road or state highway right-of-way and/or easement, 200 feet.

5. The applicant submitted a copy of a declaration of covenant and/or a restrictive covenant recorded with the Whatcom County auditor's office for a sanitary control area which includes all property within a 200-foot radius of the spring.

6. The source provides an instantaneous minimum flow of four gpm or a minimum of 400 gallons in a 24 hour period for each single family residence, dwelling unit, or commercial business. Except, the director may approve a yield less than four gpm, if the applicant provides the director with plans for an approved water reservoir. To demonstrate quantity:

- a. The applicant must provide to the director the results of an approved water yield test. The applicant may determine the water yield from the source by using a pump test, bailer test or air test conducted for a minimum of one hour.
- b. The director may require the applicant to provide the results of a four-hour pump test conducted during the dry season when a source yields less than one gpm.

7. Sign and have recorded with the Whatcom County auditor's office the following documents:

- a. A document stating which contaminate the untreated source water exceeded. If untreated source water does not exceed the MCL for a contaminant, the applicant will at least provide disinfection and treatment for coliform bacteria.
 - b. A document stating that the applicant has had a water treatment system designed that meets WCHD WAF approval for an alternative water source, and secures a potable water supply for the building.
 - c. A document stating that the applicant has installed a treatment system according to the design reviewed by the director and treated water sample results that verify system performance.
 - d. A document stating that the applicant agrees to adhere to the operation, maintenance, and monitoring plan for the designed treatment system.
 - e. A document stating that the applicant understands that the obligation to comply with treatment system design, installation, operation and monitoring lies with the applicant and not Whatcom County.
 - f. When the public system is available, any person obtaining water from contaminated source must provide current test results showing water treatment is adequately maintaining water quality below maximum contaminant levels (MCL). If the quality does not meet the MCL, the applicant is required to hook up to a public system. (Ord. 2002-024).
9. Certified laboratory results of treated and untreated water sample analyses show satisfactory results for:
- a. Coliform bacteria analyzed from a sample containing no residual chlorine.
 - b. The inorganic chemicals: for arsenic, barium, cadmium, chromium, lead, mercury, fluoride, nitrate, selenium, and silver.
10. The applicant has submitted all other satisfactory analytical water sampling results for contaminants the director deemed significant based on:
- a. Local trends in water quality.
 - b. The vulnerability of the source to known or suspected water quality or quantity problems or if the location of the source falls within the boundary of an area of known groundwater contamination.

24.11.100 Determining adequacy of water supply for short subdivisions, long subdivisions or binding site plans proposing to use an existing public water system.

A. Prior to director approval of availability of an adequate water supply where the applicant proposes to obtain water from an existing public water system to service lots of a short subdivision, long subdivision, or a binding site plan the applicant must:

- 1. Comply with the provisions of the Whatcom County Coordinated Water System Plan.

2. Submit to the director, a WAF for public water signed by an authorized representative of the water system proposing to serve water to each lot. The authorized representative:

a. Must indicate that the water system will provide water to each proposed lot.

b. Must sign a statement that they have reviewed the system records and ensures that the water system is in compliance with Chapters 246-290 and 246-291 WAC and WCHD requirements.

B. The director will review the completed WAF to determine the availability of adequate water. The director will make a determination of adequate water when:

1. The applicant and the authorized representative meet all the criteria listed on the form.

2. The purveyor of the water system has the approval from DOH or the WCHD to provide water to the short subdivision, long subdivision or binding site plan, except for Group A water systems the following conditions also apply:

a. DOH has issued a green operating permit to the purveyor; or

b. DOH has determined that the purveyor significantly complies with Chapter 246-290 WAC. (Ord. 2002-024).

3. The purveyor of Group B public water systems have provided satisfactory test results from a certified laboratory for coliform bacteria and nitrate that are less than one year old.

C. The director may not approve the use of existing public water systems that would withdraw a total number of gallons that exceeds the Groundwater Permit Exemption (RCW 90.44.050) of 5,000 gallons per day for a single project, unless the applicant has valid water rights to withdraw more than that allowed by the group exemption.

24.11.110 Determining adequacy of water supply for short subdivisions, long subdivisions or binding site plans proposing to use a new public water system.

Prior to director approval of availability of an adequate water supply where the applicant proposes to create a new public water system to service lots of a short subdivision, long subdivision, or a binding site plan the applicant must comply with:

A. Provisions of the Whatcom County Coordinated Water System Plan.

B. Chapters 246-290 and 246-291 WAC, and all other applicable local and state regulations for public water systems.

C. The applicable sections of this chapter pertaining to public water systems. (Ord. 2002-024).

D. Ecology water right requirements. The director may not approve new public water systems that would withdraw a total number of gallons that exceeds the Groundwater

Permit Exemption (RCW 90.44.050) of 5,000 gallons per day for a single project, unless the applicant has valid water rights to withdraw more than that allowed by the exemption.

24.11.120 Determining adequacy of water supply for short subdivisions or long subdivisions proposing to use a private water supply well(s)

A. When WCC Title 21 requires the applicant to provide public water service to each lot, the applicant shall create a Group B Public water system as defined in Chapter 246-291 WAC. This includes a water system where one well services two lots.

B. Prior to director approval of availability of an adequate water supply where the applicant proposes to use a private water supply well(s) to service lots of a short subdivision or long subdivision the applicant must:

1. Comply with the provisions of the Whatcom County Coordinated Water System Plan.
2. Notify the director of the intent to use a private well or wells.
2. Request that the director conduct a site inspection and approve the proposed well sites.

C. Upon request from the applicant, the director will conduct a site inspection for the purpose of approving the location. Well site inspection approvals shall expire three years from the date of the inspection. If the director cannot approve a well location the director will deny the application and give the reasons for denial.

D. If the director approves the well locations the applicant shall submit a completed WAF (1 or 2 connection) and all required documents for each well to the director for approval.

E. The director may not approve wells that would withdraw a total number of gallons that exceeds the Groundwater Permit Exemption (RCW 90.44.050) of 5,000 gallons per day for a single project, unless the applicant has valid water rights to withdraw more than that allowed by the exemption.

F. The director will review each completed form and required documents for approval. The director will approve the availability of adequate water when:

1. The applicant met all the criteria listed on the WAF.
2. The applicant submitted all of the required documents.
3. The well site(s) proposed by the applicant does not fall within the boundaries of an area where Ecology has determined by rule that water for development does not exist.
4. The applicant has demonstrated that service from an existing public water system is not available. If the project property is within a public water system service area boundary, the applicant must provide a Denial Form certified by the public water system. Denial Forms shall expire three years from the date of certification.

4. The director has determined the well and well site proposed by the applicant meets the requirements listed in Chapter 173-160 WAC.
5. The applicant can maintain the minimum following setbacks between any well and:
 - a. Building or building overhang, five feet.
 - b. Septic tank, 50 feet.
 - c. Edge of on-site sewage system absorption field, 100 feet.
 - d. Privies, 100 feet.
 - e. Sewer line, 50 feet.
 - f. Sewage or manure lagoon, 200 feet.
 - g. Property line of any parcel containing an active solid waste landfill, inactive solid waste landfill, closed solid waste landfill or illegal solid waste landfill, 1,000 feet.
 - h. County road or state highway right-of-way and/or easement, 100 feet, except the director may approve a reduction to 50 feet when the well location would result in obtaining water from a well that meets the conditions specified in WCC 24.11.160(6)(a).
6. The applicant submitted a copy of a declaration of covenant and/or a restrictive covenant recorded with the Whatcom County auditor's office for a sanitary control area which includes all property within a 100-foot radius of any well, except:
 - a. The director may approve a reduction of the sanitary control area to a 50-foot radius when the well location would result in obtaining water from:
 - i. A consolidated formation where the well draws water from at least 30 feet below the ground surface and the well is at least 100 feet from the edge of an on-site sewage system absorption field, and at least 200 feet from a sewage or manure lagoon, or a privy.
 - ii. An unconsolidated formation protected by at least a six-foot clay or other poorly permeable layer and the well is at least 100 feet from the edge of an on-site sewage system absorption field, and at least 200 feet from a sewage or manure lagoon or a privy.
7. For wells serving two single family residences, the applicant submitted a copy of a shared well agreement recorded with the Whatcom County auditor's office.
8. The source provides an instantaneous minimum flow of four gpm or a minimum of 400 gallons in a 24 hour period for each single family residence, dwelling unit, or commercial business. Except, the director may approve a yield less than four gpm, if the applicant provides the director with plans for an approved water reservoir. To demonstrate quantity:

- a. The applicant must provide to the director the results of an approved water yield test. The applicant may determine the water yield from the source by using a pump test, bailer test or air test conducted for a minimum of one hour.
 - b. The director may require the applicant to provide the results of a four-hour pump test conducted during the dry season when a source yields less than one gpm.
9. Certified laboratory results of an untreated water sample show satisfactory results for:
- a. Coliform bacteria analyzed from a sample containing no residual chlorine.
 - b. The inorganic chemicals: for arsenic, barium, cadmium, chromium, lead, mercury, fluoride, nitrate, selenium, and silver.
10. The applicant has submitted all other satisfactory analytical water sampling results for contaminants the director deemed significant based on:
- a. Local trends in water quality.
 - b. The vulnerability of the source to known or suspected water quality or quantity problems or if the location of the source falls within the boundary of an area of known groundwater contamination. (Ord. 2002-024).

24.11.130 Determining adequacy of water supply for short subdivisions or long subdivisions proposing to use alternative private water supplies.

The director shall not approve a private spring, surface water, sea water, contaminated source, or rainwater as a water source for a proposed short subdivision, long subdivision or a binding site plan. (Ord. 2002-024).

24.11.140 Public water systems.

A. A purveyor of a public water system shall comply with all provisions of the Whatcom County Coordinated Water System Plan, Chapters 246-290 and 246-291 WAC and all other applicable state and local regulations.

B. The director shall apply and enforce those provisions pertaining to public water systems consistent with the division of responsibilities set forth in the joint plan of responsibility described in the current interagency agreement between DOH and WCHD. (Ord. 2002-024).

C. Applicants of proposed Group B public water systems shall submit a "Construction Completion Report for Public Water System Projects" within three years of receiving the notice of design report approval. If the applicant fails to submit the construction completion report for public water system projects within the specified timeframe, the Group B public water system application shall be expired.

D. Proposed group B public water systems that have received design report approval shall have a maximum validity of five years from the date of design report approval or

remain valid for an additional year beyond the effective date of this chapter, whichever assures the most lenient expiration date.

24.11.150 Water source disclosure requirements for real property sales.

In a transaction for the sale of real property, the seller shall deliver to the buyer a completed Water System Disclosure form in addition to any other disclosures as required under Chapter 64.06 RCW. Unless the buyer has expressly waived the right to receive the disclosure statement, failure by the seller to provide the disclosure statement will result in a private cause of action on the part of the purchaser against the seller. The director will not enforce any provisions of this section. (Ord. 2002-024).

24.11.160 Variance clause.

The director, upon written petition of the owner of a private water supply may grant a variance to any section of this chapter when:

- A. No health hazard would exist as a result of this action;
- B. The results of the variance remain consistent with the intent of this chapter. (Ord. 2002-024);
- C. Technical justification was submitted by a licensed hydrogeologist or engineer if requested by the director.

24.11.170 Inspection.

- A. The director shall have the authority to inspect any public water system at any reasonable time for the purpose of evaluating compliance with this chapter.
- B. The director shall have the authority to inspect a private water supply or well site at any reasonable time to make a determination related to the approval of a WAF. (Ord. 2002-024).

24.11.180 Enforcement.

When owner, operator, purveyor, or person fails to comply with the provisions of this chapter except WCC 24.11.210, Water source disclosure requirements for real property sales, the director or local prosecuting attorney's office may initiate enforcement actions, disciplinary actions, or other legal proceedings authorized by law, including but not limited to any one or combination of the following:

- A. Administrative hearings convened at the request of the director.
- B. A notice, issued pursuant to Chapter 24.07 WCC, and directed to the owner, operator, purveyor and/or person causing violations of this chapter.
- C. Civil penalties as per Chapter 24.07 WCC. (Ord. 2002-024).

24.11.190 Appeals.

Any aggrieved person may appeal any decision of the director using the appeals process outlined in Chapter 24.07 WCC. (Ord. 2002-024).

24.11.200 Fees.

The Whatcom County council shall set and renew fees annually and post the fees in a schedule. (Ord. 2002-024).

24.11.210 Severability.

Should any section, subsection, paragraph, sentence, clause or phrase of this chapter be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this regulation. (Ord. 2002-024).

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