Draft Comprehensive Plan Language Regarding Water Rights-Chapter 2.2.2 of Comp Plan

Water rights are property rights held by individual citizens, irrigation entities, municipalities, public and private utilities and governments. Water rights are recognized by state law. Surface water rights within Kittitas County are being adjudicated in an action commonly known as Acquavella. While Kittitas County recognizes existing water rights and that it has no power or authority to impair by any county action, ordinance, or policy, any lawful water right, Kittitas County does, under its authority from the Growth Management Act, have a duty and the authority to protect ground and surface water. Kittitas County may place limitations on the establishment of new uses of water based on the county’s authority to protect ground and surface water. Restrictions on the establishment of new uses of water do not interfere with existing rights because a water right does not become a vested property right until after the water is put to beneficial use. Such restrictive provisions set forth in Kittitas County Code are therefore not restrictions on water rights.

The Growth Management Act requires Counties to protect the quantity and quality of ground and surface water. The Washington Supreme Court has recently held that this protection of ground and surface water by municipalities planning under the Growth management Act will take the form of, among other things, determining whether an applicant has violated the exempt well statute or determining, at preliminary plat-stage and/or at building permit submittal, whether an applicant has legal access to the proposed provision of water. Kittitas County recently eliminated its administrative segregation provisions partially because that process failed to protect ground and surface water.

The protection of rural character and water quality and quantity are mutually inclusive by nature. Kittitas County, by respecting its GMA compliant zoning and density requirements which generally mandate larger lot sizes and lower densities in the rural areas, will reduce the number of new water withdrawals, and by extension the volume of water withdrawn. The elimination of zoning classifications and land use designations of an urban nature in the rural areas significantly reduces exposure to concentrations of potential contaminants as well as the amount of impervious surfaces constructed. The regulation upon exempt wells drilled, and the monitoring of the volume of water withdrawn from them, will discourage inappropriate types and levels of development in the rural area, further protecting and defining elements of the rural character such as resource based recreation, and the agrarian and range lands way of life.

(This language will replace the Water Rights section of the Comprehensive Plan and GPOs 2.15 through 2.19. GPOs 2.109A through BPO 2.109E will be moved to Section 2.2.1, General Planning Goals Objectives and Policies.)
Draft Development Regulations Regarding Adequate Provision of Potable Water

Chapter 13.03
Definitions

13.03.040 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 and 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.

13.03.060 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 Kittitas County Public Health Department (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 can be performed by a licensed well driller, pump installer, or knowledgeable KCPHD employee.

13.30.030 Group B Water System Operations and Maintenance

2. KCPHD may conduct a sanitary survey of a Group B Water System whenever:
   i. KCPHD receives a complaint;
   ii. KCPHD receives a request for a loan certification;
   iii. A Group B Water System changes ownership or the purveyor;
   iv. There is a system approved post January 1, 2006 and there is an absence of a satellite management agency. Routine sanitary surveys in this capacity will not occur more often than once every three (3) years;
   v. KCPHD determines a public health threat exists or is suspected.

Chapter 13.35
ADEQUATE WATER SUPPLY DETERMINATION FOR BUILDING PERMITS

Sections
13.35.010 Authority.
13.35.020 Applicability.

13.35.025 Required Submissions
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.
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);

2) proposing a new or supplemental water system making applications, including but not limited to, long plats, short plats, binding site plans, large lot subdivisions, conditional uses that require water or

3) proposing extensive changes to the old water system where the changes have the potential to negatively impact the water systems flow, a new use of an existing parcel or structure (such as converting a single family residence into a commercial office).

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. (Ord. 2011-006, 2011)

13.35.025 Required Submissions

All applications to which this chapter is applicable shall submit either:

1) a letter from a water purveyor stating that the purveyor has adequate water rights and will provide such water for the applicant’s project;

2) an adequate water right for the proposed project;

3) a certificate of water budget neutrality from the Department of Ecology or other adequate interest in water rights from a water bank; or

4) proof of an exempt well that is not subject to Ch. 173-539A WAC, meets the provisions of County Code and all other applicable regulations, and can be used solely by the applicant or as a shared or group system.

An applicant relying on subsection (4) of this section shall also submit information on “proximate parcels” held in “common ownership” as those terms are defined in WAC 173-539A-030 and otherwise demonstrate how the proposed use of an exempt well will not violate RCW 90.44.050 as currently existing or hereafter amended. No project, proposal, or activity to which this chapter is applicable shall be approved without one of these required submissions.

13.35.027 Water Use Limitations

(1) Any new use whose application seeking to satisfy the adequate water supply determination by either meeting the requirements of KCC 13.35.025(3) or (4) shall be metered. Meters and electronic reading devises shall meet the requirements set out by county policy. Metered uses shall pay an annual fee set by the county to recover the cost of administering a metering and monitoring program.
(2) Any new use whose application is seeking to satisfy the adequate water supply determination by meeting the requirements of KCC 13.35.025(3) by demonstrating an interest in a publicly operated public water bank, or KCC 13.35.025(4) shall be limited to an average of 350 gallons per day for rural indoor domestic use and irrigation of up to 500 square feet of outdoor land. All other outdoor water use shall be “water-budget neutral” or possess an existing water right as of (date), 2013. This 350 gallon average per day limit shall not be exceeded annually nor shall the withdrawal exceed 1050 gallons on any given day.

(3) All applications for subdivision of land into lots less than one acre in size within UGA’s shall utilize municipal water services if the applicant’s project is within 100 feet of an existing water line. All building permits on existing lots one-half (1/2) acre or larger would be permitted without connecting to existing water systems.

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;
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) and
4. Applicants shall submit a signed letter of agreement between the public water system purveyor or official and the land developer/owner granting delivery of potable water for the entire development. If the public water system is being developed specifically for the subdivision/plat, the water system must be approved by Washington State Department of Health (DOH), including issuance of a public water system ID number, prior to recommendation by KCPHD for final plat approval. Section 16.24.210 of the Kittitas County Code is not considered to be applicable for Group A public water systems as a Group A water system is held to a higher standard under Washington Administrative Code.

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;
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) and
4. Applicants shall have a well site inspection performed by KCPHD staff; complete and submit a Group B Public Water System Workbook to either KCPHD for water systems with 3-9 connections or Washington State Department of Health (DOH) for water systems with 10-14 connections or as amended by DOH; have the well(s) drilled; and submit a copy of an agreement with an approved Satellite Management Agency. In addition to these requirements all infrastructure for the Group B Water System including, but not limited to the well/pump house and storage tanks must be completed and water budget neutrality determination(s) from Washington State Department of Ecology (DOE) referencing the relevant subdivision and proposed parcels within the subdivision (if required by Chapter 173-539A WAC) must be provided to KCPHD prior to final approval. Final approval of the Group B Public Water System including issuance of the public water system ID number from DOH and wellhead protection...
areas shall be required on final mylars prior to recommendation by KCPHD for final plat approval. Section 16.24.210 KCC is not considered to be applicable for Group B public water systems as a Group B water system is held to a higher standard under Washington Administrative Code.

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. All treatment system designs shall be submitted by a professional engineer and bear the engineer's seal and signature. 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 five (5) 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.
      iv. The maximum amount of water to be withdrawn for a new use on an existing groundwater well or a new groundwater well will be limited to no more than 350 gallons per day to be measured on an annual average to be used for indoor domestic purposes. The 350 gallons per day may also be used to irrigate up to 500 square feet of landscape.
3. Water Distribution System. When the water source is a well and produces less than five (5) two (2) 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 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 \(X = \text{gallons per minute produced as determined by the four-hour draw down test}\). The required tank capacity could be as much as 2,657 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. 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.

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. All treatment system designs shall be submitted by a professional engineer and bear the engineer's seal and signature. 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 seventeen (17) 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.
      iv. The maximum amount of water to be withdrawn for a new use on an existing groundwater well or a new groundwater well will be limited to no more than 350 gallons per day to be measured on an annual average to be used for indoor domestic purposes. The 350 gallons per day may also be used to irrigate up to 500 square feet of outdoor landscape.

3. Water Distribution System. When the water source produces less than five 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: \((150)(5.47 - X)\) 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 715 2500 gallons depending on the flow of the well.
   b. A booster pump and pressure tank shall be included in the water distribution system.  

16.05.020 Requirements.

1. A. Whenever a binding site plan for an eligible project is proposed on a parcel of land for which neither a planned unit development or a building permit has been approved for the entire parcel, the following must be satisfied prior to recording: A conceptual site plan shall be prepared in a form prescribed by the director which includes the following information (if appropriate to the project type):
a. Maximum number of dwelling units permitted;  
b. Approximate size and location of all proposed buildings;  
c. Approximate layout of an internal vehicular circulation system, including proposed ingress and egress;  
d. Approximate location of proposed open space, including required landscaped areas, if any;  
e. Approximate location of parking areas;  
f. Location and size of utility trunk lines serving the site;  
g. Topography detailed to five-foot intervals;  
h. Location of water storage and fire hydrant location; and  
i. Demonstrate that the requirements of Chapter 13.35, Kittitas County Code, Adequate Water Supply Determination, can be met.

16.12.150 Road, Sewer, Water and Fire System Recommendations.

The Planning Official, county Public Works Director, county Health Officer, and the county Fire Marshal, shall certify to the Hearing Examiner, prior to the hearing, their respective recommendations as to the adequacy of the proposed road system; the proposed sewage disposal and potable water supply systems; compliance with Kittitas County Code Chapter 13.35, Adequate Water Supply Determination; and fire and life safety protection facilities within the subdivision.

16.32.050 Short plat review.

The planning official shall be vested with the responsibility of processing short plat applications. The county shall review and consider the proposed short subdivision with regard to:

A. Its conformance with all county subdivision, zoning, health and sanitation, roads and bridges, and fire and life safety regulations and with laws adopted by the state of Washington.
B. Its conformance to all standards and improvements required under this title.
C. Potential hazards created by flood potential, landslides, etc.
D. Provisions for all improvements and easements (roads, ditches, etc.) required by this title.
E. Access for all proposed lots or parcels by way of a dedicated road right-of-way or easement.
F. All other relevant facts which may determine whether the public interest will be served by approval of the proposed subdivision.
G. Lots or parcels created by the final platting of a subdivision or short subdivision may not be further divided within a five-year period without filing of a final plat; except as provided for in RCW 58.17.060 (Ord. 2011-013, 2011; Ord. 2005-31, 2005)

16.36.015 Criteria for eligibility as a large lot subdivision.

A. All large lot subdivisions shall conform to the county comprehensive plan and all zoning regulations in effect at the time the large lot subdivision is submitted.
B. Consistent with parcel creation by long and short subdivision provisions of this code, preliminary approval of large lot subdivisions shall mean that road and access requirements are identified and conformance with section 16.04 of this code has been met.
C. Proof that all lots or tracts created by large lot subdivision are approved for irrigation delivery by the appropriate irrigation entity or entities shall be provided.
D. Requirements for easements as set forth in Section 16.12.110 shall be met.
E. The appropriate dedication as provided for in 16.24.090 and 16.24.110, A dedication shall appear on the face of the large lot subdivision survey with the following statement:
KNOWN ALL MEN BY THESE PRESENT: that the undersigned, owner(s) in fee simple of the described real property, does hereby grant forever unto all owners of lots in this survey and all future plats in this survey a common ownership interest in all private roads shown.

F. A note shall appear on the subdivision survey with the following statement:

“NOTE: The lots in this survey are created through the large lot subdivision review process. As such there has been review for conformance with suitability for on-site sewage disposal and availability of potable water.”


H. All large lot subdivisions shall meet requirements of Kittitas County Code Chapter 13.35, Adequate Water Supply Determination.
Kittitas County Public Health Department
Administrative Policy

Potable Water for Subdivisions

Applications for subdivisions (short plats and long plats) in Kittitas County shall include the type of water system proposed in order to acquire preliminary approval. Prior to receiving final approval for subdivisions in Kittitas County, applicants shall be required to make appropriate provision for potable water supplies per RCW 58.17.110 which includes, but is not limited to, the following minimum requirements:

1. **GROUP A PUBLIC WATER SYSTEM**: Applicants shall submit a signed letter of agreement between the public water system purveyor or official and the land developer/owner granting delivery of potable water for the entire development. If the public water system is being developed specifically for the subdivision/plat, the water system must be approved by Washington State Department of Health (DOH), including issuance of a public water system ID number, prior to recommendation by KCPHD for final plat approval. Section 16.24.210 KCC is not considered to be applicable for Group A public water systems as a Group A water system is held to a higher standard under Washington Administrative Code.

2. **GROUP B PUBLIC WATER SYSTEM**: Applicants shall have a well site inspection performed by KCPHD staff; complete and submit a Group B Public Water System Workbook to either KCPHD for water systems with 3-9 connections or Washington State Department of Health (DOH) for water systems with 10-14 connections or as amended by DOH; have the well(s) drilled; and submit a copy of an agreement with an approved Satellite Management Agency. In addition to these requirements all infrastructure for the Group B Water System including, but not limited to, the well/pump house and storage tanks must be completed and water budget neutrality determination(s) from Washington State Department of Ecology (DOE) referencing the relevant subdivision and proposed parcels within the subdivision (if required by Chapter 173-539A WAC) must be provided to KCPHD prior to final approval. Final approval of the Group B Public Water System including issuance of the public water system ID number from DOH and wellhead protection areas shall be required on final mylars prior to recommendation by KCPHD for final plat approval. Section 16.24.210 KCC is not considered to be applicable for Group B public water systems as a Group B water system is held to a higher standard under Washington Administrative Code.

3. **INDIVIDUAL OR SHARED WATER SYSTEM**: Section 16.24.210 KCC applies to individual and shared water systems. Applicants shall submit a well log(s) and four hour draw down test from each proposed parcel within a subdivision, water budget neutrality determination(s) from DOE referencing the relevant subdivision and proposed parcels within the subdivision (if required by...
Chapter 173-539A WAC), and passing bacteriological and nitrate water quality test from each well. If the proposed subdivision does not have an existing well within the boundaries of each lot, a well must be drilled and the above information shall be provided to KCPHD prior to recommendation by KCPHD for final plat approval. If shared wells are proposed, in addition to the above requirements a copy of a shared well user’s agreement shall be recorded at the Kittitas County Auditor’s Office for each proposed parcel that proposes to utilize a 2-party shared water system.

This policy is meant as a guideline for applicants, however Kittitas County reserves the ability to require additional proof that adequate provisions for potable water have been made by the applicant depending on any health, safety and environmental concerns specific to the project. Compliance with all current state and local rules and regulations is required and if this policy is found to be in conflict with any applicable rule, regulation or ordinance, then the rule, regulation or ordinance shall control. All applicants are required to certify that they are in compliance with WAC 173-539A or that WAC 173-539A does not apply to the applicant.