



# Water Availability

Planning & Development Services · 1800 Continental Place · Mount Vernon WA 98273  
voice 360-416-1320 · inspections 360-416-1330 · [www.skagitcounty.net/planning](http://www.skagitcounty.net/planning)



**Water law in Skagit County (and Washington State as a whole) changes rapidly. This handout provides only generalized guidance, and makes no guarantees as to the development potential of your property.**

## When is water review required?

County code requires water review for applications for building permits, special use permits, shoreline permits, boundary line adjustments, subdivisions, and variances.<sup>1</sup>

## What is required?

Building permit applicants must show the **physical and legal** availability of an **adequate** potable water supply.<sup>2</sup> Skagit County considers a water supply adequate only if it is capable of supplying at least 350 gallons of water per day per dwelling, meets siting criteria, and meets water quality standards.<sup>3</sup>

The documentation required to show water availability depends on the water source, the proposed use, and the location of the water source and the use.

All water sources have limitations on allowed uses. Water sources include:

- Public water system
- Individual drilled well
- Dug well or driven point well
- Surface water source
- Rainwater catchment system

## Connection to a public water system

A permitted connection to a major public water system is the easiest and preferred way to demonstrate water availability.

### Connection to City of Anacortes, Town of La Conner, Skagit PUD, or Swinomish Tribe water

These water systems are known to have sufficient legal connections for future users. An applicant must verify that the water system has capacity to connect at their location by submitting verification of water availability. See the Water Review application form.

### Connection to another public water system (including two-connect and community water systems)

Smaller public water systems have limited numbers of legal connections. An applicant must ask the water system to submit documentation of their available connections, system design, and capacity. See the Water Review application form.

<sup>1</sup> SCC 12.48.030, definition of “building permits.”

<sup>2</sup> RCW 19.27.097.

<sup>3</sup> SCC 12.48.030, definition of “adequate water supply.”

## Required Connection to Public Water

If your project is within ½ mile of a Surface Water Source Limited (SWSL) stream, you may be required to connect to an existing public water system if service is timely and reasonably available to your property and may be subject to other restrictions.<sup>4</sup> SWSL streams are:

- Carpenter Creek
- Coal Creek
- Diobsud Creek
- Friday Creek
- Grandy Creek
- Jones Creek
- Lake Erie
- Nookachamps Creek
- Samish River
- Whitehall Creek

Within ½ mile of Friday Creek and the Samish River, there is no density bonus for CaRD land divisions.<sup>5</sup>

## Connection to surface water sources

Use of surface waters (e.g., lakes, rivers, streams) always requires a water right. To research whether you have a surface water right, use Ecology’s Water Resources Explorer at [www.ecy.wa.gov/programs/wr/info/webmap.html](http://www.ecy.wa.gov/programs/wr/info/webmap.html).

Existing buildings connected without a water right may be allowed to continue use in some circumstances.

## Connection to an individual drilled well

From a health perspective, drilled wells are highly preferred over driven point and dug wells.<sup>6</sup>

Any well without a water right must be used consistent with the permit-exempt well statute, which allows the following:<sup>7</sup>

- Providing water for livestock (no gallon per day limit)
- Watering a non-commercial lawn or garden one-half acre in size or less (no gallon per day limit, however limited to reasonable use)
- Providing water for a single home or groups of homes (limited to 5,000 gallons per day)
- Providing water for industrial purposes, including irrigation (limited to 5,000 gallons per day but no acre limit)

The rules for groundwater wells vary depending on geographic area. Look up your region on the map at

<sup>4</sup> SCC 14.24.340(3)(a)(i). “Timely and reasonable” means within 120 days. RCW 70.116.060(3)(b).

<sup>5</sup> SCC 14.24.350(1)(b).

<sup>6</sup> SCC 12.48.250(1).

<sup>7</sup> RCW 90.44.050.

[www.skagitcounty.net/drinkingwater](http://www.skagitcounty.net/drinkingwater) to determine which rules apply to your property.

### **A. Nooksack (WRIA 1)**

Senate Bill 6091 (signed January 19, 2018) allows permit-exempt wells subject to the requirements of that legislation.

### **B. Samish (portion of WRIA 3)**

Wells are not regulated by adopted instream flows or closures in this area. New permit-exempt wells are likely allowed.

### **C. Skagit Instream Flow Rule Area (WRIA 3 and 4)**

Litigation has severely constrained access to water within the Skagit Basin.<sup>8</sup> Wells in continuous use prior to April 14, 2001, are allowed. All other applications require further research and evaluation. New permit-exempt wells are likely **not** allowed.

### **D. Skagit Rule Water Availability Zone (portion of WRIA 3)**

Although this area is within the Skagit Instream Flow Rule area, Ecology has identified this area as one where wells do not have an impact on instream flows. New permit-exempt wells are likely allowed.

### **E. Saltwater Islands (WRIA 3)**

New permit-exempt wells on Skagit County's saltwater islands (e.g., Fidalgo, Guemes) are allowed, but may be subject to seawater intrusion rules (see below).

### **F. Stillaguamish (WRIA 5)**

This area is subject to the Stillaguamish Instream Flow Rule.<sup>9</sup> A limited amount of water is reserved for future domestic uses. New uses are limited to 150 gallons per day. Existing users without a right or claim should apply for a claim.

## **Connection to a dug or driven point well**

Dug wells and driven point wells are considered alternative water sources and are discouraged from a water quality perspective. The constraints on legal water availability for drilled wells (above) also apply to dug wells, points, and surface water sources.

If you have a dug or driven point well, the Department will require you to ensure your water source is compliant before issuing you a building permit for a structure that relies on the water source. For example, dug wells must be properly capped to prevent pollutants, objects, animals, and people from entering the well,<sup>10</sup> and filtration and treatment may be required to ensure the water is safe to drink.

## **Connection to rainwater catchment system**

New rainwater catchment systems are allowed only for residential purposes. The roof collecting the rainwater must

be part of a fixed structure above the ground with a primary purpose other than the collection of rainwater for beneficial use (e.g., a house, or garage).<sup>11</sup> See our handout on rainwater catchment systems.

## **Other Considerations**

### **Abandoned Wells**

Abandoned wells can be very dangerous. State law requires abandoned wells to be properly decommissioned.<sup>12</sup>

### **Relinquishment**

With some exceptions, any water right that has a five-year period without use is considered relinquished<sup>13</sup> and may not be used to demonstrate an adequate water supply for a building permit.

### **Siting Issues**

- No wells may be placed or replaced in the floodway.
- Wells are prohibited within 1000 ft of a dumpsite or landfill.

### **Seawater Intrusion**

In the following areas, additional rules apply to new and existing wells to protect groundwater from seawater intrusion:<sup>14</sup>

- areas within one-half mile of a marine shoreline;
- the entirety of Guemes, Sinclair, Cypress, and Vendovi islands

You must submit your water source application for review **before** you drill a new well in these areas.<sup>15</sup> Rainwater catchment is encouraged where a known seawater intrusion problem exists.<sup>16</sup>

### **Testing and Treatment**

Except for connections to public water systems, you will be required to submit test results by a certified laboratory of your water.<sup>17</sup> Results for inorganics must have been done within the last five years; results for bacteria within the last six months. A filtration or treatment system may be required if your water source does not meet the drinking water quality standards.

## **For more information**

Please contact our Water Resources staff or visit us at [www.skagitcounty.net/drinkingwater](http://www.skagitcounty.net/drinkingwater).

<sup>11</sup> Ecology POL 1017 regarding collection of rainwater for beneficial use.

<sup>12</sup> WAC 173-160-381.

<sup>13</sup> RCW 90.14.130-180.

<sup>14</sup> SCC 14.24.380.

<sup>15</sup> SCC 14.24.380(2)(a).

<sup>16</sup> SCC 14.24.380(3)(a).

<sup>17</sup> SCC 12.48.230(2) and SCC 12.48.030, definition of "evaluation" and water quality standards in SCC 12.48.110.

<sup>8</sup> See *Swinomish Indian Tribal Community v. Department of Ecology*.

<sup>9</sup> WAC 173-505.

<sup>10</sup> WAC 173-160-261.