

# Water Availability in Thurston County

*Hirst* Decision, ESSB 6091, and beyond...

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Thurston County Planning Commission

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# Overview

- What is the Hirst Decision and why should we care?
- What did the “Hirst Fix” bill (ESSB 6091) actually fix?
- What happens next?

## PLEASE NOTE:

- This is a County planner perspective
- I am not a legal expert on water law

What is the  
Hirst decision?



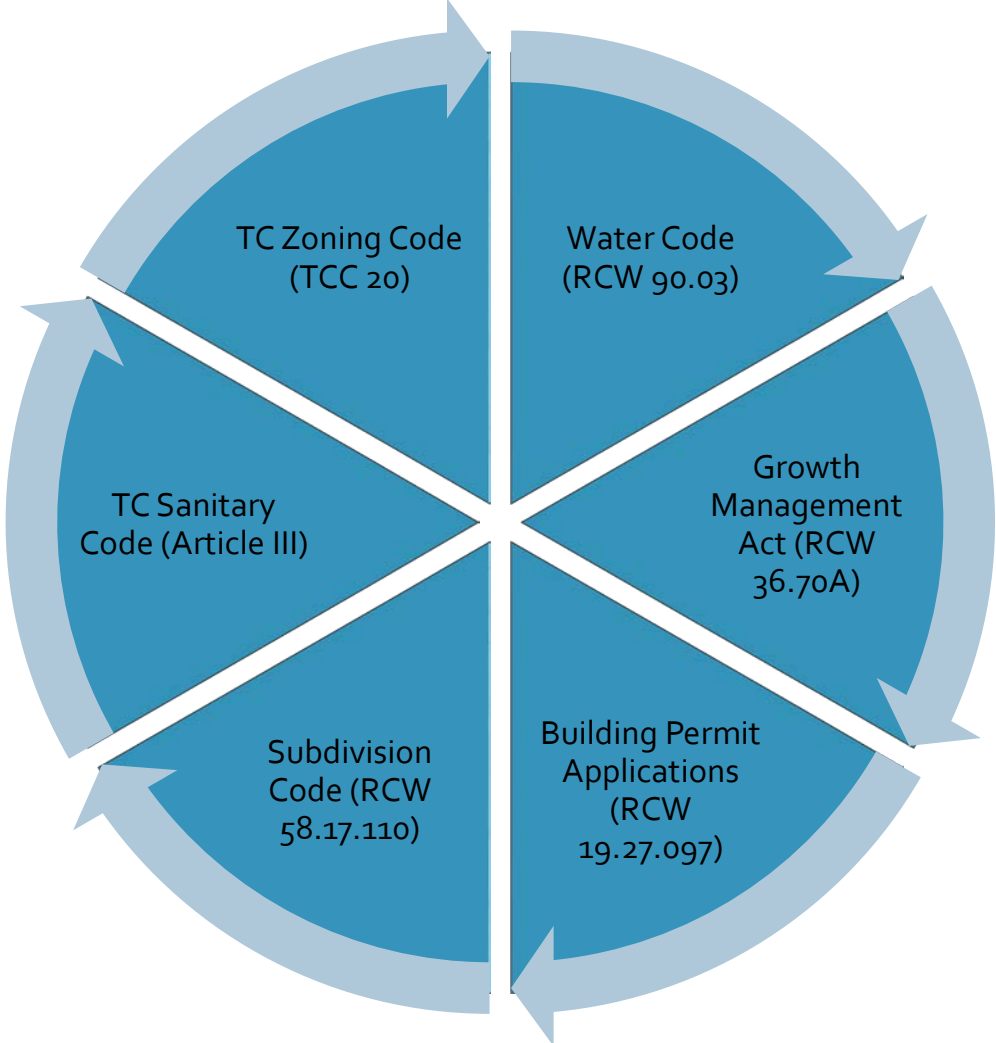


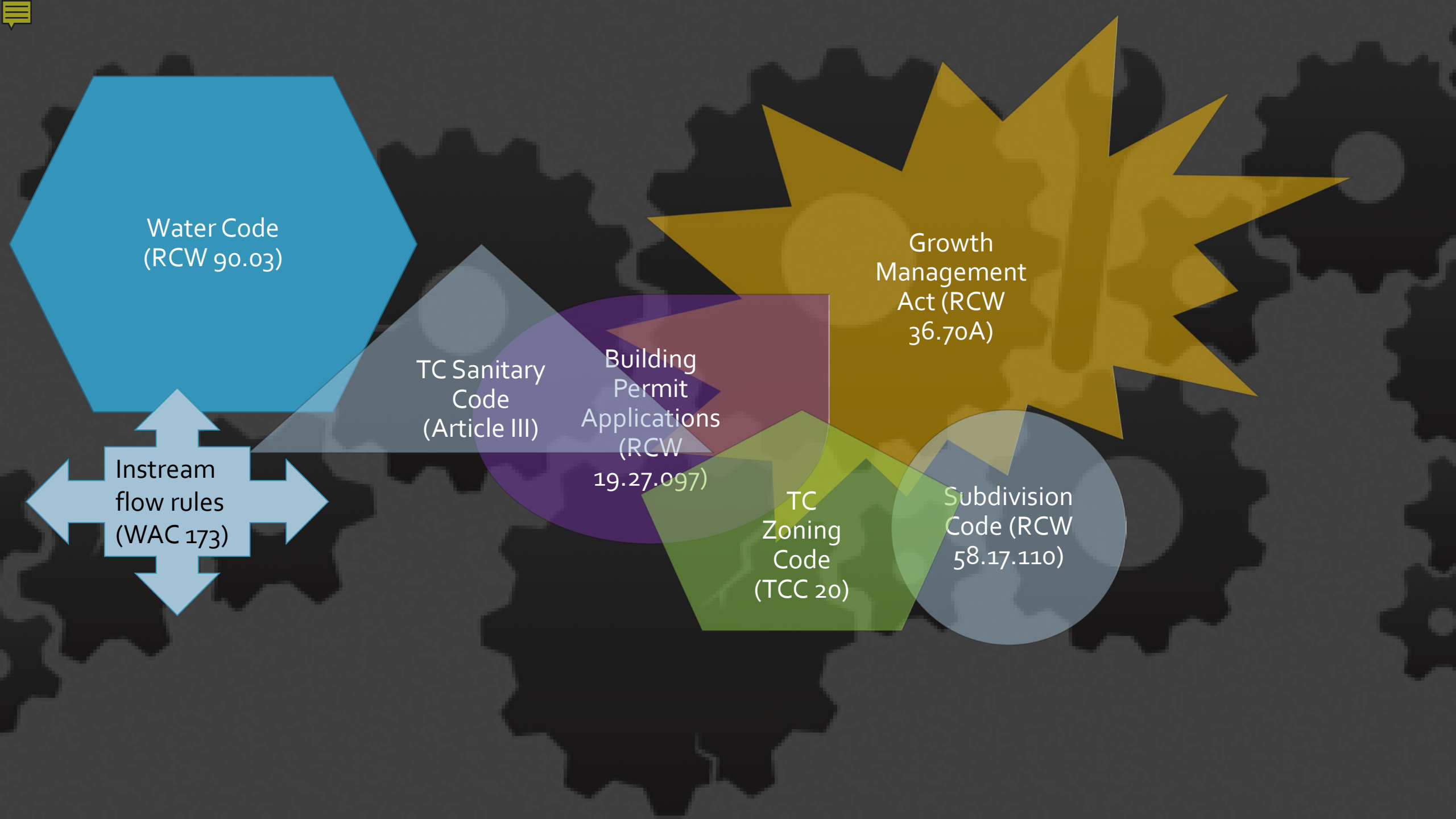
What is the  
*Hirst* decision?

*Hirst*  $\neq$  Water Rights  
(primarily)

*Hirst* = Growth Management  
requirement

# Regulatory Framework: A Well Oiled Machine?





Water Code  
(RCW 90.03)

Instream  
flow rules  
(WAC 173)

TC Sanitary  
Code  
(Article III)

Building  
Permit  
Applications  
(RCW  
19.27.097)

TC  
Zoning  
Code  
(TCC 20)

Subdivision  
Code (RCW  
58.17.110)

Growth  
Management  
Act (RCW  
36.70A)



Water Code  
(RCW 90.03)

First in time,  
first in right

Growth  
Management  
Act (RCW  
36.70A)

Plan for future  
growth

RCW 90.03.010

—  
Water Code

“The power of the state to regulate and control the waters within the state shall be exercised as hereinafter in this chapter provided. Subject to existing rights **all waters within the state belong to the public**, and **any right** thereto, or to the use thereof, **shall be hereafter acquired only by appropriation for a beneficial use** and in the manner provided and not otherwise; and, as between appropriations, **the first in time shall be the first in right**. Nothing contained in this chapter shall be construed to lessen, enlarge, or modify the existing rights of any riparian owner, or any existing right acquired by appropriation, or otherwise.”



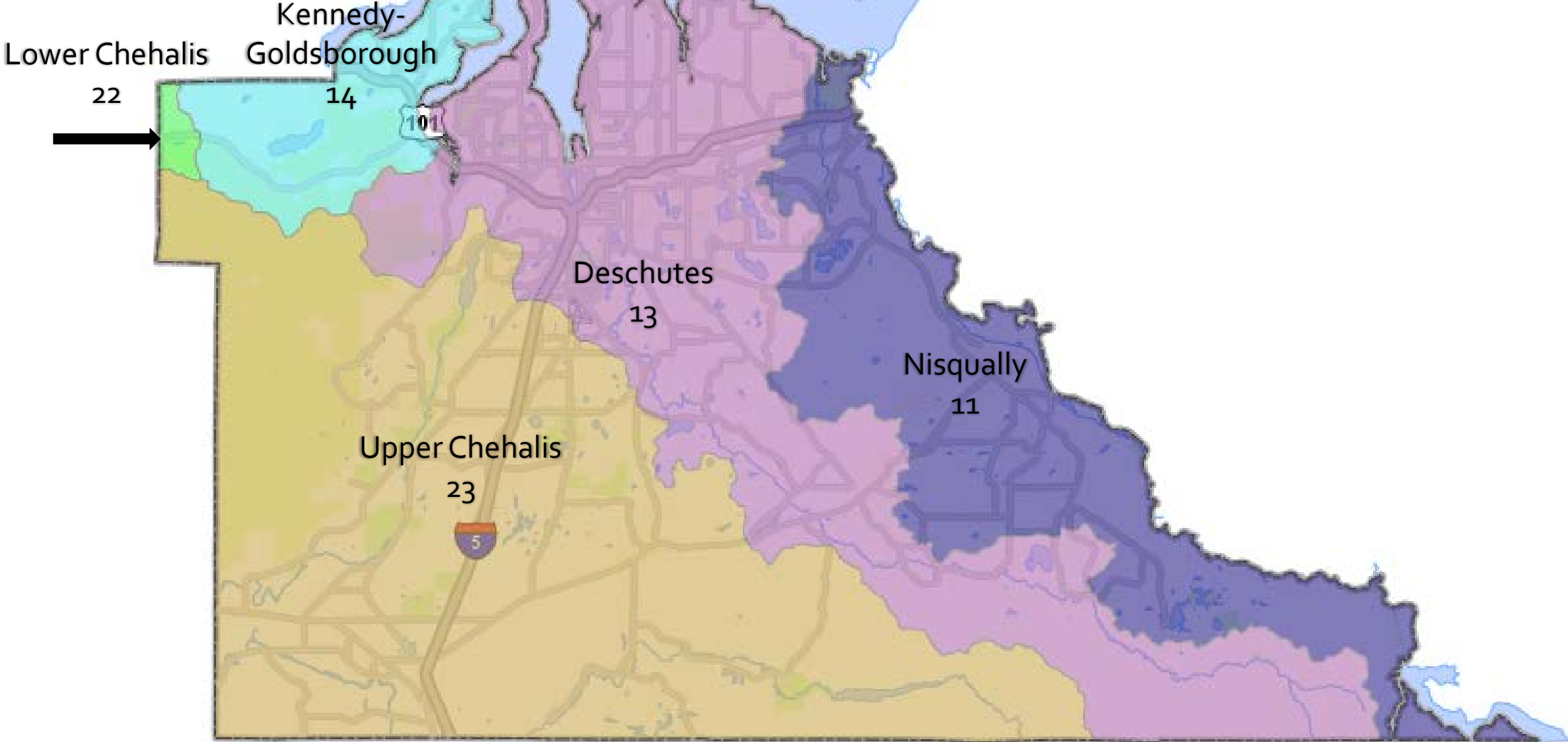


# Instream Flow Rules





# Thurston County WRIA Boundaries





RCW 90.44.050  
—  
Permit to  
withdraw

**Exemptions (no permit needed)**

- Stock-watering
- Watering of lawn or noncommercial garden up to ½ acre
- Domestic uses up to 5,000 gallons/day
- Industrial uses up to 5,000 gallons/day



RCW 36.70A.070

—  
Comprehensive  
plans,  
Mandatory  
elements

“A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces, general aviation airports, public utilities, public facilities, and other land uses. The land use element shall include population densities, building intensities, and estimates of future population growth. **The land use element shall provide for protection of the quality and quantity of groundwater used for public water supplies.** Wherever possible, the land use element should consider utilizing urban planning approaches that promote physical activity. Where applicable, the land use element shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.”

# County Permitting Process

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(Super-simplified)

Development proposal

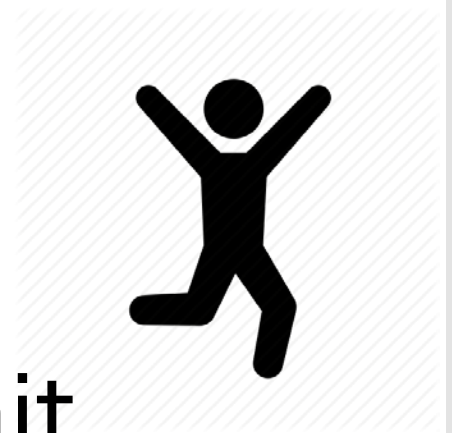


County review



Issue a Building permit

Certificate of Water Availability (COWA)



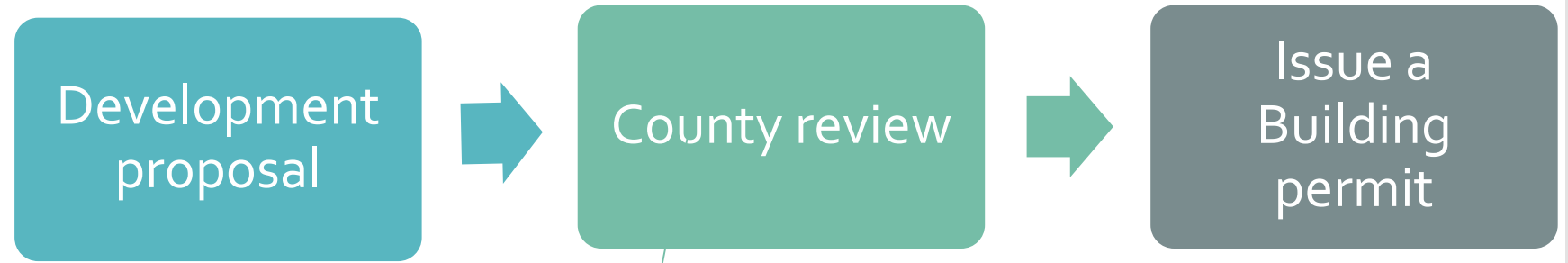
County  $\neq$  well permit



Source: Getty images

# County Permitting Process

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post-Hirst



Hirst Requirement:  
County to make an independent  
determination of water availability





ESSB 6091

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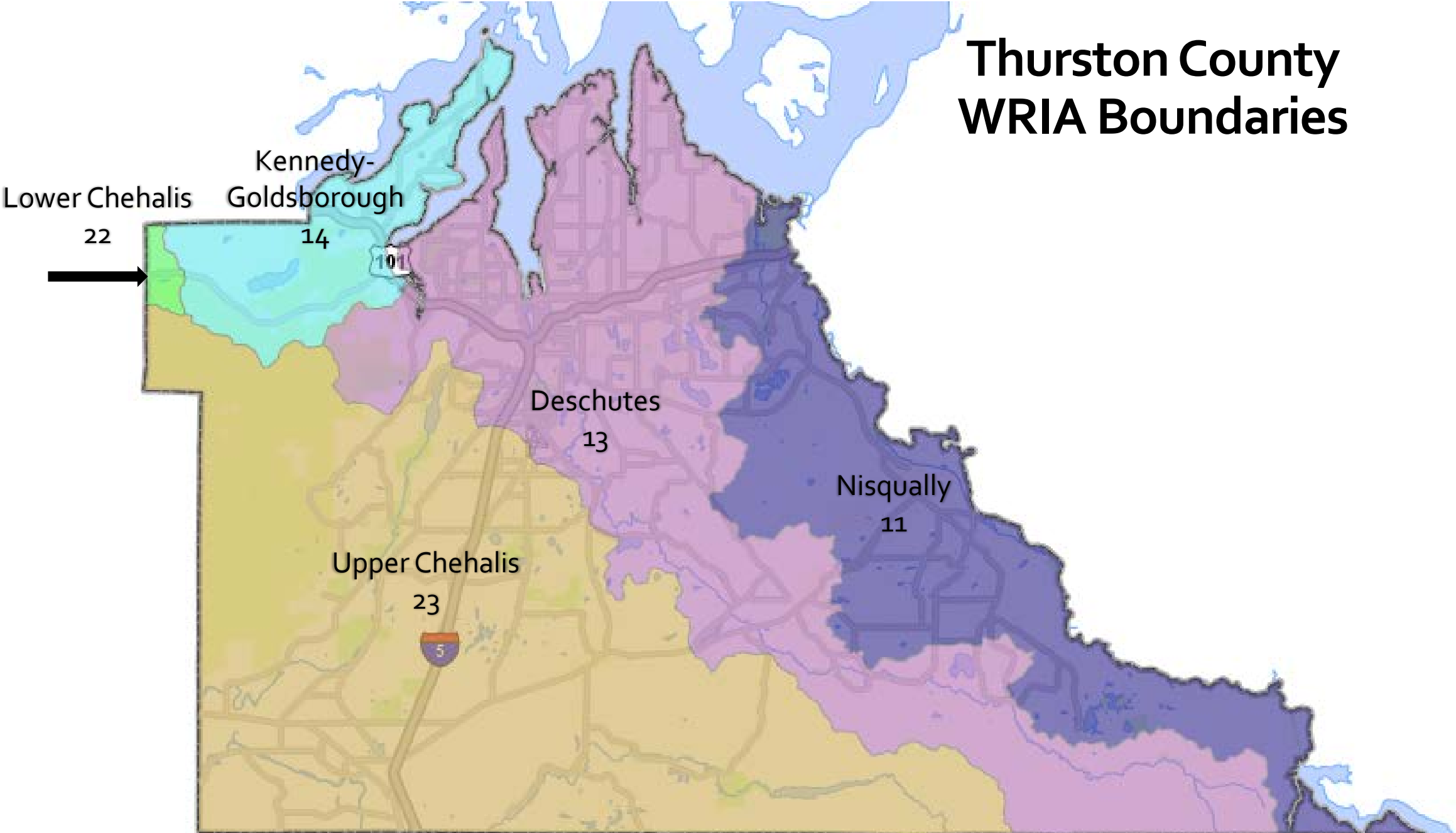
Short term

- January 19, 2018
- Responsibility → Ecology
- Collect \$500 for each new permit-exempt well
- Recording requirements





# Thurston County WRIA Boundaries



WRIA	Fee for New Permit-Exempt Domestic Use	Max Annual Average Water Use Restriction (gallons/day/connection)	LID Required?	Watershed Plan Lead	Watershed Plan Adoption Deadline	If no plan adopted by deadline?
11	\$500	3,000		Nisqually River Council	Feb 1, 2019	Ecology adopts rules by August 1, 2020
13, 14	\$500	950*	Y	Ecology and committee	June 30, 2021	Reviewed by Salmon Recovery Funding Board and adopted by Ecology
22, 23	\$500	3,000		Chehalis Basin Partnership	Feb 1, 2021	Ecology adopts rules, no deadline specified



ESSB 6091  
-  
Long Term

- Policy language in the Comprehensive Plan
- Watershed Planning groups
- Lists of Actions
- Pilot projects
- Rulemaking and policy changes

Thank You!

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