

**Chapter 90.36 RCW
ARTESIAN WELLS**

Sections

- 90.36.010 Right-of-way to wells.
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Aquifer protection areas: Chapter 36.36 RCW.

RCW 90.36.010 Right-of-way to wells. Any person who may be entitled to water from any artesian well shall have the right to condemn the right-of-way for a ditch to convey such water for the purpose of irrigation over the lands intervening between such well and the place where the party owning such water wishes to use the same, and such right-of-way may be condemned sufficient for the purposes of conveying the water, together with the right of ingress and egress, to construct, maintain and repair said ditch, *as is hereinafter provided for in this act. [1890 p 711 § 18; RRS § 7403.]

***Reviser's note:** The language "as is hereinafter provided for in this act" refers to 1889-90 pp 706-728 §§ 1-67 which has since been repealed with the exception of those sections now codified as RCW 90.28.030 and 90.28.040. Compare the provisions of later enactment in chapter 90.03 RCW.

RCW 90.36.020 Flow limited during certain period—Exceptions. It shall be unlawful for any person, firm, corporation or company having possession or control of any artesian well within the state, whether as contractor, owner, lessee, agent or manager, to allow or permit water to flow or escape from such well between the fifteenth day of October in any year and the fifteenth day of March next ensuing; PROVIDED, That *this act shall only apply to sections and communities wherein the use of water for the purpose of irrigation is necessary or customary; and PROVIDED FURTHER, That nothing herein contained shall prevent or prohibit the use of water from any such well between said fifteenth day of October and the fifteenth day of March next ensuing, for household, stock and domestic purposes only, water for said last named purposes to be taken from such well through a three-quarters inch stop and waste cock to be inserted in the piping of such well for that purpose. [1929 c 138 § 1; 1901 c 121 § 1; RRS § 7404.]

***Reviser's note:** "this act" refers to 1901 c 121 codified in RCW 90.36.020 through 90.36.050.

RCW 90.36.030 Capping well—Exceptions. It shall be the duty of every person, firm, corporation or company having possession or control of any artesian well, as provided in RCW 90.36.020, to securely cap the same over on or before the fifteenth day of October in each and every year in such manner as to prevent the flow or escape of water therefrom, and to keep the same securely capped and prevent

the flow or escape of water therefrom until the fifteenth day of March next ensuing; PROVIDED, HOWEVER, It shall and may be lawful for any such person, firm, corporation or company to insert a three-quarters inch stop and waste cock in the piping of such well, and to take and use water therefrom through such stop and waste cock at any time for household, stock, or domestic purposes, but not otherwise. [1929 c 138 § 2; 1901 c 121 § 2; RRS § 7405.]

RCW 90.36.040 Right of neighboring owner to cap well—Lien.

Whenever any person, firm, corporation or company in possession or control of an artesian well shall fail to comply with the provisions of *this act, any person, firm, corporation or company lawfully in the possession of land situate adjacent to or in the vicinity or neighborhood of such well and within five miles thereof may enter upon the land upon which such well is situate, and take possession of such from which water is allowed to flow or escape in violation of the provisions of RCW 90.36.020, and cap such well and shut in and secure the flow or escape of water therefrom, and the necessary expenses incurred in so doing shall constitute a lien upon said well, and a sufficient quantity of land surrounding the same for the convenient use and operation thereof, which lien may be foreclosed in a civil action in any court of competent jurisdiction, and the court in any such case shall allow the plaintiff a reasonable attorney's fee to be taxed as a part of the cost. This shall be in addition to the penalty provided for in RCW 90.36.050. [1901 c 121 § 4; RRS § 7407.]

***Reviser's note:** "this act," see note following RCW 90.36.020.

RCW 90.36.050 Penalty—1901 c 121. Any person whether as owner, lessee, agent or manager having possession or control of any such well, violating the provisions of *this act shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not exceeding two hundred dollars for each and every such offense, and the further sum of two hundred dollars for each ten days during which such violation shall continue. [1901 c 121 § 3; RRS § 7406.]

***Reviser's note:** "this act," see note following RCW 90.36.020.