

INTERIM ORDINANCE NO. _____

An Interim Ordinance Amending SCC 14.34.150(8)(C) to Update a Floodplain Development Standard Regarding Duct Work Construction Necessary To Maintain Skagit County's Community Rating System Level 4 Rating under the National Flood Insurance Program

WHEREAS pursuant to the Growth Management Act (GMA), Chapter 36.70A RCW, the Skagit County Board of Commissioners has adopted the Skagit County Comprehensive Plan and Title 14, the Unified Development Code, for all unincorporated areas of Skagit County; and

WHEREAS Skagit County Board of Commissioners adopted floodplain development regulations (Skagit County Code Chapter 14.34) as part of its Unified Development Code, Ordinance No. 17938, on July 24, 2000, and has amended the regulations periodically to remain current with federal and state standards and requirements; and

WHEREAS floodplain development regulations help protect life and property from flood damage and are required as a condition of participation in the Federal Emergency Management Agency's (FEMA) National Flood Insurance Program (NFIP); and

WHEREAS the Community Rating System (CRS) is a voluntary incentive program within the NFIP that recognizes and encourages community floodplain management activities that exceed the minimum NFIP requirements; and

WHEREAS when jurisdictions participate in the CRS program, flood insurance premium rates are *discounted to reflect the reduced flood risk resulting from the community actions meeting the three goals of the CRS:*

1. Reduce flood losses;
2. Facilitate accurate insurance rating; and
3. Promote the awareness of flood insurance; and

WHEREAS a community is assigned a rating depending on the number of actions taken meeting the CRS goals; and

WHEREAS Skagit County has a CRS rating of 4 which provides a 30% reduction of standard flood insurance rates for residents of unincorporated Skagit County; and

WHEREAS in order to maintain the County's Level 4 CRS rating, Skagit County must implement a minor amendment to its floodplain development regulations which would ensure construction of duct work at least one foot above the base flood elevation by March 30, 2012, and

WHEREAS if the County does not implement the change by March 30, 2012, the County's rating will be lowered to a Level 5 which will reduce the insurance rate reduction to 25%; and

WHEREAS RCW 36.70A.390 and RCW 36.70.795 authorize the County Commissioners to adopt a moratorium, interim zoning ordinance, or interim official control without notice and public hearing, provided that the County holds a public hearing within sixty (60) days after the adoption of

the moratorium, interim zoning ordinance, or interim official control and thereafter adopts findings of fact justifying the action; and

WHEREAS an interim ordinance adopted under RCW 36.70A.390 and RCW 36.70.795 may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period; and

WHEREAS an interim ordinance is necessary to ensure the County meets the deadline imposed by FEMA for adoption of the CRS minimum standard.

NOW, THEREFORE, BE IT ORDAINED:

The Board of County Commissioners adopts the following findings of fact:

1. A county may adopt an interim development regulation pursuant to SCC 36.70A.390 and 36.70.795.
2. SCC 14.34.150(8)(c) currently requires that all duct work be constructed above the base flood elevation.
3. The interim ordinance would amend this section to require that all duct work be constructed at least one foot above the base flood elevation, or alternatively to ensure the duct work is located to prevent water from entering during conditions of flooding. consistent with new CRS minimum standards.
4. An interim ordinance is necessary to ensure that Skagit County maintains its Level 4 CRS Rating and corresponding low flood insurance premiums by adopting the regulatory change by the March 30, 2012, deadline.
5. The Skagit County Board of Commissioners finds that ensuring reduced flood insurance premiums and reducing risk to property by adopting this amendment is in the best interest of the residents of Skagit County.
6. The Skagit County Board of Commissioners will hold a public hearing within 60 days of the adoption of this interim ordinance pursuant to RCW 36.70A.390 and RCW 36.70.795, unless a permanent amendment to the Flood Damage Prevention Ordinance is adopted before the scheduled public hearing, in which case it will be canceled as moot.
7. This ordinance is exempt from the public participation requirements of the GMA, subject to the requirements of RCW 36.70A.390.
8. Skagit County is pursuing the permanent adoption of this amendment concurrently with the adoption of this interim ordinance. A Notice of Availability, SEPA Determination of Non-significance, and Notice of Planning Commission hearing was published in the Skagit Valley Herald on March 8, 2012, for the proposed permanent adoption of this amendment to SCC 14.34.150(8)(c). A copy of the proposed amendment and SEPA documents were made available at the Planning and Development Services (the Department) on Friday March 9, 2012, and on the website the same day. A staff report is also available.

9. Pursuant to RCW 36.70A.106(3)(b), the Department sent a notice of proposed adoption to the Washington State Department of Commerce and requested expedited review on March 6, 2012. The Department also sent the Department of Ecology copies of the SEPA checklist and Determination of Non-significance on March 6, 2012. The SEPA threshold determination was sent to tribes, governments, and other interested parties on March 8, 2012.
10. A Planning Commission information session was held on March 6, 2012, and a public hearing is scheduled for April 3, 2012. Public comments on the proposal will be received through Friday, March 30, 2012, and also at the April 3 public hearing.

NOW THEREFORE, BE IT FURTHER ORDAINED:

Section 1. The Board of County Commissioners hereby amends Skagit County Code 14.34.150(8)(c) to read as follows (amendment shown in underline):

(c) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated to a level of 1 foot above base flood elevation or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Ducts that serve mechanical equipment shall be elevated and located so that the entire duct is at least one foot above the base flood elevation.

Section 2. This amendment is an interim ordinance and shall take effect immediately upon passage by the Board of County Commissioners.

Section 3. The interim ordinance is effective for six months or until replaced by a permanent ordinance.

Section 4. This ordinance does not apply to any applications vested before the effective date of this ordinance. An application is vested pursuant to Skagit County Code 14.02.050 when the application is deemed complete pursuant to Skagit County Code 14.06.090.

Section 5. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance.

Section 6. The Board of Skagit County Commissioners will hold a public hearing at 10:30am on May 15, 2012, in the Commissioners Hearing Room, 1800 Continental Place, Mount Vernon, Washington, pursuant to RCW 36.70A.390 and RCW 36.70.795.

WITNESS OUR HANDS AND THE OFFICIAL SEAL OF OUR OFFICE this 26 day of March, 2012.

**BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

Kenneth A. Dahlstedt
Kenneth A. Dahlstedt, Chair

Sharon D. Dillon
Sharon D. Dillon, Commissioner

Ron Wesen
Ron Wesen, Commissioner

ATTEST:

Amber Kellogg, Asst.
~~Linda Hammons~~ Clerk of the Board

APPROVED AS TO FORM:

Jill M. Dyorkin
Jill M. Dyorkin, Civil Deputy
Prosecuting Attorney's Office

APPROVED AS TO CONTENT:

Gary R. Christensen
Gary R. Christensen, Director
Planning & Development Services