

**An Ordinance Amending SCC 14.34.150(8)(c)  
and Repealing Interim Ordinance #O20120001**

**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 had to implement a minor amendment to its floodplain development regulations (SCC 14.34.150(8)(c)) by March 30, 2012, which would ensure construction of duct work at least one foot above the base flood elevation; and

**WHEREAS** if the County did not implement the change by March 30, 2012, the County's rating would have been lowered to a Level 5 which would reduce the insurance rate reduction to 25%; and

**WHEREAS** on March 26, 2012, the Skagit County Board of Commissioners considered and adopted Interim Ordinance #O20120001 in order to timely adopt the amendment; and

**WHEREAS** in advance of the Board's adoption of the Interim Ordinance, Planning and Development Services (the Department) initiated the public process for the proposed permanent adoption of the amendment to SCC 14.34.150(8)(c); and

**WHEREAS** on March 6, 2012, a Notice of Availability, SEPA Determination of Non-significance, and Notice of Planning Commission hearing was sent to the Skagit Valley Herald and published on March 8; and

**WHEREAS** on March 6, 2012, the Department sent a notice of proposed adoption to the Washington State Department of Commerce and requested expedited review pursuant to RCW 36.70A.106(3)(b); and

**WHEREAS** also on March 6, the Department sent the Department of Ecology copies of the SEPA checklist and Determination of Non-significance; and

**WHEREAS** on the evening of March 6, 2012, a Planning Commission information session was held on the proposed amendment; and

**WHEREAS** on March 8, 2012, the SEPA threshold determination was sent to tribes, governments, and other interested parties; and

**WHEREAS** on March 9, 2012, the Department made available a copy of the proposed amendment and SEPA documents at the Department offices and on the website; and

**WHEREAS** on March 27, 2012, a staff report and copy of the interim ordinance was sent to Planning Commission members; and

**WHEREAS** on April 3, 2012, the Planning Commission was scheduled to meet to consider the proposed action, however only three members of the Commission were in attendance and therefore a quorum was not reached; and

**WHEREAS** consideration of the proposed amendment was rescheduled to the next regular meeting of the Planning Commission scheduled for Tuesday, May 1, 2012; and

**WHEREAS** on April 11, 2012, a notice was published in the Skagit Valley Herald advertising the May 1, 2012, Planning Commission meeting and inviting public comment; and

**WHEREAS** on May 1, 2012, the Skagit County Planning Commission met as scheduled and advertised; and

**WHEREAS** no public comments were received on the proposal in advance of or at the May 1 public hearing; and

**WHEREAS** after a staff presentation and brief deliberations, the Planning Commission voted 7-0, with one Planning Commissioner absent, to recommend adoption of the proposed amendment [Attachment A to Planning Commission Recorded Motion] and repeal of Interim Ordinance #O20120001; and

**WHEREAS** after voting on the proposal, the Planning Commission chair signed a Recorded Motion reflecting the Planning Commission's recommendation and findings of fact for transmittal to the Skagit County Board of Commissioners [see Attachment 1]; and

**WHEREAS** on May 7, 2012, at a public meeting, the Skagit County Board of Commissioners deliberated on the Planning Commission's recommendations and findings of fact.

**NOW THEREFORE BE IT ORDAINED** that the Skagit County Board of Commissioners adopts the amendments to SCC 14.34.150(8)(c) as recommended by the Planning Commission in the Recorded Motion and attached thereto, to be effective immediately; and

**NOW THEREFORE BE IT FURTHER ORDAINED** that the Skagit County Board of Commissioners repeals Interim Ordinance #O20120001, effective immediately; and

**NOW THEREFORE BE IT FURTHER ORDAINED** that the Skagit County Board of Commissioners adopts the findings of fact and reasons for action set forth by the Planning Commission in its Recorded Motion; and

**NOW THEREFORE BE IT FINALLY ORDAINED** that if any section, sentence, clause, or phrase of this ordinance should be held to be noncompliant, invalid, or unconstitutional by a court of competent jurisdiction, such noncompliance, invalidity, or unconstitutionality shall not affect the compliance, validity, or constitutionality of any other section, sentence, clause, or phrase of this ordinance.



DATED this 7 day of May, 2012.

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



Kenneth A. Dahlstedt  
Kenneth A. Dahlstedt, Chairman

Sharon D. Dillon  
Sharon D. Dillon, Commissioner

Ron Wesen  
Ron Wesen, Commissioner

ATTEST:

Linda Hemmes  
Clerk of the Board

APPROVED AS TO FORM:

Jill M. Dvorkin  
Jill M. Dvorkin  
Civil Deputy Prosecuting Attorney

APPROVED AS TO CONTENT:

Mary R. Kristensen  
Director, Planning and Development Services

**Skagit County Planning Commission's Recorded Motion Recommending an Amendment to 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 had to implement a minor amendment to its floodplain development regulations (SCC 14.34.150(8)(c)) by March 30, 2012, which would ensure construction of duct work at least one foot above the base flood elevation; and

**WHEREAS** if the County did not implement the change by March 30, 2012, the County's rating would have been lowered to a Level 5 which would reduce the insurance rate reduction to 25%; and

**WHEREAS** on March 26, 2012, the Skagit County Board of Commissioners considered and adopted Interim Ordinance #O20120001 in order to timely adopt the amendment; and

**WHEREAS** in advance of the Board's adoption of the Interim Ordinance, Planning and Development Services (the Department) initiated the public process for the proposed permanent adoption of the amendment to SCC 14.34.150(8)(c); and

**WHEREAS** on March 6, 2012, a Notice of Availability, SEPA Determination of Non-significance, and Notice of Planning Commission hearing was sent to the Skagit Valley Herald and published on March 8; and

**WHEREAS** on March 6, 2012, the Department sent a notice of proposed adoption to the Washington State Department of Commerce and requested expedited review pursuant to RCW 36.70A.106(3)(b); and

**WHEREAS** also on March 6, the Department sent the Department of Ecology copies of the SEPA checklist and Determination of Non-significance; and

**WHEREAS** on the evening of March 6, 2012, a Planning Commission information session was held on the proposed amendment; and

**WHEREAS** on March 8, 2012, the SEPA threshold determination was sent to tribes, governments, and other interested parties; and

**WHEREAS** on March 9, 2012, the Department made available a copy of the proposed amendment and SEPA documents in the Department offices and on the website; and

**WHEREAS** on March 27, 2012, a staff report and copy of the interim ordinance was sent to Planning Commission members; and

**WHEREAS** on April 3, 2012, the Planning Commission was scheduled to meet to consider the proposed action, however only three members of the Commission were in attendance and therefore a quorum was not reached; and

**WHEREAS** consideration of the proposed amendment was rescheduled to the next regular meeting of the Planning Commission scheduled for Tuesday, May 1, 2012; and

**WHEREAS** on April 11, 2012, a notice was published in the Skagit Valley Herald advertising the May 1, 2012, Planning Commission meeting and inviting public comment; and

**WHEREAS** no public comments were received on the proposal in advance of the May 1 public hearing; and

**WHEREAS** on May 1, 2012, the Skagit County Planning Commission met to consider the Department's recommendation, any staff or public comments, and deliberate on the proposed action.

**NOW THEREFORE BE IT RESOLVED:**

After duly considering the record before it, the Planning Commission enters the following findings of fact, reasons for action, and recommendation to the Board of County Commissioners:



### Findings of Fact and Reasons for Action

1. Skagit County's participation in the CRS program under the National Flood Insurance Program is important because it reduces risk of flood-related losses and ensures lower flood insurance premiums for the citizens of Skagit County.
2. To maintain its current CRS rating of 4 (and corresponding 30% flood insurance premium discount), Skagit County must adopt an amendment to SCC 14.34.150(8)(c) that would 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.
3. The Skagit County Board of Commissioners passed Interim Ordinance #O20120001 on March 26, 2012, which implements this change on an interim basis.
4. Skagit County should adopt a permanent amendment to SCC 14.34.150(8)(c) to ensure the CRS Level 4 rating is maintained.

### Recommendation

Based on the above findings and reasons for action, JASON EASTON moved and -  
MARY J. MCGOFFIN seconded that the Skagit County Planning Commission recommend that the Board of County Commissioners:

1. Adopt the proposed amendment to SCC 14.34.150(8)(c) (Attachment A).
2. Repeal Interim Ordinance #O20120001 (Attachment B).

Commission Vote	Support	Oppose	Absent	Abstain
Annie Lohman, Chair	X			
Mary J. McGoffin, Vice Chair	X			
Josh Axthelm	X			
Jason Easton	X			
Carol Ehlers	X			
Dave Hughes	X			
Matt Mahaffie			X	
Elinor Nakis	X			

SKAGIT COUNTY PLANNING COMMISSION  
SKAGIT COUNTY, WASHINGTON

Annie Lohman  
Annie Lohman, Chair

5-1-12  
Date

Tim DeVries  
Tim DeVries, Secretary

5/1/12  
Date

# ATTACHMENT A

Amendment to Skagit County Code 14.34.150(8)(c). Amendment is underlined.

(8) Construction Materials and Methods.

- (a) Where construction occurs below the BFE, all new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage including, but not limited to, studs and wall plates, wall sheathing, insulation, interior wall finishes, exterior wall finishes or siding, etc.
- (b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (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 or located so as to prevent water from entering or accumulating within the ducts during conditions of flooding.
- (d) Buildings utilizing crawl space construction, where any portion of the crawl space is below the grade on all sides, shall meet the following requirements as excerpted from FEMA Technical Bulletin 11-01, which is hereby adopted by reference:
  - (i) Crawl space construction is not permitted in V zones.
  - (ii) Crawl space construction is not permitted in zones A0 and A1-A30 where velocities exceed 5 feet per second, unless it can be shown through engineering analysis that the structural components will resist flotation, collapse and lateral movement from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  - (iii) The interior grade of a crawl space must not be more than 2 feet below the lowest adjacent exterior grade.
  - (iv) The height of the crawl space, measured from the interior grade of the crawl space to the top of the foundation wall must not exceed 4 feet at any point. The height measured from the crawl space grade to the top of the next higher floor shall not exceed 5 feet at any point.
  - (v) There must be an adequate drainage system that removes floodwaters from the interior area of the crawl space, within a reasonable time, after a flood event.



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