

1 **Chapter 15.20**

2 **FLOOD DAMAGE PREVENTION***

3 **Sections:**

4 15.20.010 Statutory authorization.

5 15.20.020 Findings of fact.

6 15.20.030 Statement of purpose.

7 15.20.040 Methods of reducing flood losses.

8 15.20.050 Definitions.

9 15.20.070 Basis for establishing areas of special flood hazard.

10 15.20.080 Compliance.

11 15.20.090 Abrogation and greater restrictions.

12 15.20.100 Interpretation.

13 15.20.110 Warning and disclaimer of liability.

14 15.20.120 Development permit—Required—Application.

15 15.20.130 Director of Planning and Community Development or designee—Administration

16 15.20.140 Director of Planning and Community Development—Duties

17 15.20.150 Appeals procedure.

18 15.20.160 Variances.

19 15.20.180 General standards.

20 15.20.190 Specific standards.

21 15.20.195 Specific standards for AO zones or areas of shallow flooding.

22 15.20.197 Specific standards for construction in special flood risk zones.

23 15.20.200 Floodways.

24 15.20.205 Encroachment standards.

25 15.20.210 Coastal high hazard area.

26 15.20.220 Wetlands management.

27 15.20.230 Penalties and enforcement.

28 * Prior ordinance history: Resolutions 8937, 9243, 9244, 9316 and 9320; and Ordinances 7947,

29 8770, 10225 and 10331.

30
31 **15.20.010 Statutory authorization.**

32 The Legislature of the State of Washington has in RCW Chapter 36.70 delegated the
33 responsibility to local governmental units to adopt regulations designed to promote the public
34 health, safety, and general welfare of its citizenry. Therefore, the County of Skagit, State of
35 Washington, does ordain the provisions set forth in this chapter.
36 (Ord. 16311 (part), 1996; Ord. 11888 (part), 1988; Ord. 11216 (part), 1987)

37
38 **15.20.020 Findings of fact.**

39 (1) The flood hazard areas of Skagit County are subject to periodic inundation which results
40 in loss of life and property, health and safety hazards, disruption of commerce and
41 governmental services, extraordinary public expenditures for flood protection and relief, and
42 impairment of the tax base, all of which adversely affect the public health, safety and general
43 welfare.

44 (2) These flood losses are caused by the cumulative effect of obstructions in areas of special
45 flood hazards which increase flood heights and velocities, and when inadequately anchored,
46 damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise
47 protected from flood damage also contribute to the flood loss.

48 (Ord. 16311 (part), 1996; Ord. 11888 (part), 1988; Ord. 11216 (part), 1987)

49

50 **15.20.030 Statement of purpose.**

51 It is the purpose of this chapter to promote the public health, safety, and general welfare, and
52 to minimize public and private losses due to flood conditions in specific areas by provisions
53 designed:

- 54 (1) To protect human life and health;
- 55 (2) To minimize expenditure of public money and costly flood control projects;
- 56 (3) To minimize the need for rescue and relief efforts associated with flooding and generally
57 undertaken at the expense of the general public;
- 58 (4) To minimize prolonged business interruption;
- 59 (5) To minimize damage to public facilities and utilities such as water and gas mains,
60 electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- 61 (6) To help maintain a stable tax base by providing for the sound use and development of
62 areas of special flood hazard so as to minimize future flood blight areas;
- 63 (7) To ensure that potential buyers are notified that property is in an area of special flood
64 hazard; and
- 65 (8) To ensure that those who occupy the areas of special flood hazard assume responsibility
66 for their actions. (Ord. 16311 (part), 1996: Ord. 11888 (part), 1988: Ord. 11216 (part), 1987)

67

68 **15.20.040 Methods of reducing flood losses.**

69 In order to accomplish its purpose, this chapter includes methods and provisions for:

- 70 (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to
71 water or erosion hazards, or which result in damaging increases in erosion or in flood heights
72 or velocities;
- 73 (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be
74 protected against flood damage at the time of initial construction;
- 75 (3) Controlling the alteration of natural floodplains, stream channels, and natural protective
76 barriers, which help accommodate or channel floodwaters;
- 77 (4) Controlling filling, grading, dredging, and other development which may increase flood
78 damage; and
- 79 (5) Preventing or regulating the construction of flood barriers which will unnaturally divert
80 floodwaters or which may increase flood hazards in other areas. (Ord. 16311 (part), 1996: Ord.
81 11888 (part), 1988: Ord. 11216 (part), 1987)

82

83 **15.20.050 Definitions.**

84 Unless specifically defined below, words or phrases used in this Chapter shall be interpreted
85 so as to give them the meaning they have in common usage and to give this Chapter its most
86 reasonable application.

- 87 (1) "Appeal" means a request for a review of the Planning Director or his designee's
88 interpretation of any provision of this Chapter.
- 89 (2) "Area of Shallow Flooding" means a designated AO or AH zone on the flood insurance
90 rate map (FIRM). The base flood depths range from one (1) to three (3) feet; a clearly defined
91 channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity
92 flow may be evident. AO is characterized as sheet flow and AH indicates ponding.
- 93 (3) "Area of Special Flood Hazard" means the land in the floodplain within a community
94 subject to a one (1) percent or greater chance of flooding in any given year. Designation on
95 maps always includes the letters A or V.
- 96 (4) "Base flood" means the flood having a one (1) percent chance of being equaled or
97 exceeded in any given year.
- 98 (5) "Best available information" means in the absence of official flood insurance rate map

99 data, communities can use data from other federal, state, or other sources provided this data
100 has either been generated using technically defensible methods or is based on reasonable
101 historical analysis and experience.

102 (6) “Breakaway walls” means any type of walls, whether solid or lattice, and whether
103 constructed of concrete, masonry, wood, metal, plastic, or any other suitable building material
104 which are not part of the structural support of the building and which are so designed as to
105 break away, under abnormally high tides or wave action, without damage to the structural
106 integrity of the building on which they are used or any buildings in which they might be
107 carried by floodwaters.

108 (7) “Coastal high hazard area” means the area subject to high velocity waters, including but
109 not limited to storm surge or tsunamis. The area is designated on a FIRM as Zone V1-30.

110 (8) “Critical facility” means a facility for which even a slight chance of flooding would be
111 too great. Critical facilities include but are not limited to schools, hospitals, police, fire, and
112 emergency response installations, nursing homes, installations which produce, use, or store
113 hazardous materials or hazardous waste.

114 (9) “Development” means any manmade change to improved or unimproved real estate,
115 including but not limited to buildings or other structures, mining, dredging, filling, grading,
116 paving, excavation, or drilling operations located within the area of special flood hazard.

117 (10) “Dwelling unit” means a structure or that part of a structure which is used as a
118 home, residence, or sleeping place by one or more persons maintaining a common household,
119 including but not limited to single family residences and multiplexed units, apartment
120 buildings, and mobile homes or manufactured homes.

121 (11) “Flood” or “flooding” means a general and temporary condition of partial or
122 complete inundation of normally dry land areas from:

123 (a) The overflow of inland or tidal waters; and/or
124 (b) The unusual and rapid accumulation of runoff or surface waters from any source.

125 (12) “Flood insurance rate map” (FIRM) means the official map on which the Federal
126 Insurance Administration has delineated both the areas of special flood hazards and the risk
127 premium zones applicable to the community.

128 (13) “Flood insurance study” means the official report provided by the Federal
129 Insurance Administration that includes flood profiles, the flood boundary—floodway map, and
130 the water surface elevation of the base flood.

131 (14) “Flood protection elevation” means one foot above the base flood elevation.

132 (15) “Floodway” means the channel of a river or other watercourse and the adjacent
133 land areas that must be reserved in order to discharge the base flood without cumulatively
134 increasing the water surface elevation more than one (1) foot.

135 (16) “Lowest floor” means the lowest floor of the lowest enclosed area (including
136 basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles,
137 building access or storage, in an area other than a basement area, is not considered a building’s
138 lowest floor, provided that such enclosure is not built so as to render the structure in violation
139 of the applicable non-elevation design requirements of this ordinance found at Section
140 15.20.190(1).

141 (17) “Manufactured home” means a structure, transportable in one or more sections
142 which is built on a permanent chassis and is designed for use with or without a permanent
143 foundation when connected to the required utilities. For floodplain management purposes the
144 term “manufactured home” also includes park trailers, travel trailers, and other similar
145 vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the
146 term “manufactured home” does not include park trailers, travel trailers, and other similar
147 vehicles.

148 (18) “Manufactured home park or subdivision” means a parcel (or contiguous parcels)
149 of land divided into two or more manufactured home lots for rent or sale.
150 (19) “New construction” means structures for which the “start of construction”
151 commenced on or after the effective date of this ordinance.
152 (20) “Permanent foundation” means reinforced piers, columns, piles or pedestals that
153 may be made up of wood posts, reinforced concrete block or steel, and are capable of resisting
154 design loads.
155 (21) “Person” means an individual, partnership, corporation, association, organization,
156 cooperative, public or municipal corporation, or any agency of the state or local governmental
157 unit however designated.
158 (22) “Ready for highway use” means that a recreational vehicle is on its wheels or
159 wheels and jacking system, is attached to the site only by quick disconnect type utilities and
160 security devices, is currently licensed and has no permanently attached additions.
161 (23) “Recreational vehicle” means a vehicular type unit primarily designed for
162 recreational camping, travel, or seasonal use which has its own motive power or is mounted
163 on or towed by another vehicle. The basic entities are: Travel trailer, folding camper trailer,
164 park trailer, truck camper, motor home, and multi use vehicles.
165 (24) “Residential structure” means all structures serving or designed as a dwelling
166 unit, residence or for occupation by residence.
167 (25) “Special flood hazard area” means an area subject to a base or one hundred year
168 flood; areas of special flood hazard are shown on a flood hazard boundary map or flood
169 insurance rate map as Zone A, AO, A1 30, AE, A99, AH, VO, V1 30, VE, or V.
170 (26) “Special flood risk zone” means an area within the 100 year floodplain from the
171 beginning to the end of Gages Slough which meets the following criteria:
172 (a) An area within 500 feet of the centerline of the slough having a ground elevation
173 which is three feet or more below the 100 year floodplain elevation.
174 (b) An area lying between the landward toe of the dikes and levees along the Skagit
175 River and a line 500 feet landward thereof. (Where dikes or levees do not exist, the ordinary
176 high water mark shall be utilized to measure the special flood risk zone.)
177 (27) “Start of construction” includes substantial improvement, and means the date the
178 building permit was issued, provided the actual start of construction, repair reconstruction,
179 placement or other improvement was within 180 days of the permit date. The actual start
180 means either the first placement of permanent construction of a structure on a site, such as the
181 pouring of slab or footings, the installation of piles, the construction of columns, or any work
182 beyond the stage of excavation; or the placement of a manufactured home on a foundation.
183 Permanent construction does not include land preparation, such as clearing, grading and
184 filling; nor does it include the installation of streets and/or walkways; nor does it include
185 excavation for a basement, footings, piers, or foundation or the erection of temporary forms;
186 nor does it include the installation on the property of accessory buildings, such as garages or
187 sheds not occupied as dwelling units or not part of the main structure.
188 (28) “Structure” means a walled and roofed building including a gas or liquid storage
189 tank that is principally above ground.
190 (29) “Substantial improvement” means:
191 (a) Any repair, reconstruction, or improvement of a structure, the cost of which equals or
192 exceeds fifty (50) percent of the market value of the structure either:
193 (i) Before the improvement or repair is started; or
194 (ii) If the structure has been damaged and is being restored, before the damage
195 occurred. For the purposes of this definition, substantial improvement is considered to occur
196 when the first alteration of any wall, ceiling, floor, or other structural part of the building

197 commences whether or not that alteration affects the external dimensions of the structure.
198 (b) The term does not, however, include either:
199 (i) Any project for improvement of a structure to comply with existing state or local
200 health, sanitary, or safety code specifications which are solely necessary to assure safe living
201 conditions; or
202 (ii) Any alteration of a structure listed on the National Register of Historic Places or
203 a State Inventory of Historic Places.
204 (30) "Variance" means a grant of relief from the requirements of this chapter which
205 permits construction in a manner that would otherwise be prohibited by this chapter.
206 (31) "Water dependent" means a water dependent structure for commerce or industry
207 which cannot exist in any other location and is dependent on the water by reason of the
208 intrinsic nature of its operations.
209 (32) "Wetlands" means lands transitional between terrestrial and aquatic systems
210 where the water table is usually at or near the surface or the land is covered by shallow water.
211 Wetlands have one or more of the following three attributes: (a) at least periodically, the land
212 supports predominately hydrophytes; (b) the substrate is predominately undrained hydric soil
213 and (c) the substrate is nonsoils and is saturated with water or covered by shallow water at
214 some time during the growing season of each year. (Ord. 16311 (part), 1996: Ord. 11888
215 (part), 1988: Ord. 12216 (part), 1987)

216
217 **15.20.070 Basis for establishing areas of special flood hazard.**

218 The areas of Special Flood Hazard identified by the Federal Emergency Management Agency
219 in the scientific and technical engineering report entitled "Flood Insurance Study for the
220 Unincorporated Areas of Skagit County Washington," dated May 11, 1984, with
221 accompanying flood insurance rate and floodway maps and subsequent revisions, is hereby
222 adopted by reference and declared to be a part of this chapter. The Board of County
223 Commissioners, shall obtain, review, and reasonably utilize more recent and accurate data
224 supplied by Federal, State, or other sources for requiring that the provisions of Sections
225 15.20.190 and 15.20.195 be met. The Flood Insurance Study is on file with the Skagit County
226 Department of Planning and Community Development, County Administration Building,
227 Mount Vernon, Washington 98273. (Ord. 16311 (part), 1996: Ord. 11888 (part), 1988: Ord.
228 11216 (part), 1987)

229
230 **15.20.080 Compliance.**

231 No structure or land shall hereafter be constructed, located, extended, converted, or altered
232 without full compliance with the terms of this chapter, R.C.W. Chapter 86.16 and W.A.C.
233 173-158. (Ord. 16311 (part), 1996: Ord. 11888 (part), 1988: Ord. 11216 (part), 1987)

234
235 **15.20.090 Abrogation and greater restrictions.**

236 This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants,
237 or deed restrictions. However, where this chapter and another ordinance, easement, covenant,
238 or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall
239 prevail. (Ord. 16311 (part), 1996: Ord. 11888 (part), 1988: Ord. 11216 (part), 1987)

240
241 **15.20.100 Interpretation.**

242 In the interpretation and application of this chapter, all provisions shall be:

- 243 (1) Considered as minimum requirements;
244 (2) Liberally construed in favor of the governing body; and
245 (3) Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord.

246 16311 (part), 1996: Ord. 11888 (part), 1988: Ord. 11216 (part), 1987)

247

248 **15.20.110 Warning and disclaimer of liability.**

249 The degree of flood protection required by this chapter is considered reasonable for
250 regulatory purposes and is based on scientific and engineering considerations. Larger floods
251 can and will occur on rare occasions. Flood heights may be increased by manmade or natural
252 causes. This chapter does not imply that land outside the areas of special flood hazards or uses
253 permitted within such areas will be free from flooding or flood damages. This chapter shall
254 not create liability on the part of Skagit County, any officer or employee thereof, or the
255 Federal Insurance Administration, for any flood damages that result from reliance on this
256 chapter or any administrative decision lawfully made thereunder. (Ord. 16311 (part), 1996:
257 Ord. 11888 (part), 1988: Ord. 11216 (part), 1987)

258

259 **15.20.120 Development permit—Required—Application.**

260 A development permit shall be obtained before construction or development begins within
261 any area of special flood hazard established in Section 15.20.070. The permit shall be for all
262 structures including manufactured homes, as set forth in Section 15.20.050, and for all other
263 development including fill and other activities, also as set forth in Section 15.20.050.
264 Application for a development permit shall be made on forms furnished by the Director of
265 Planning and Community Development or his designee and may include, but not be limited
266 to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations
267 of the area in question; existing or proposed structures, fill, storage of materials, drainage
268 facilities, and the location of the foregoing. Specifically, the following information is
269 required:

- 270 (1) Elevation in relation to mean sea level, of the lowest habitable floor of all structures;
271 (2) Elevation in relation to mean sea level to which any structure has been floodproofed;
272 (3) Verification by a registered professional engineer or architect that the floodproofing
273 methods for any nonresidential structure meet the floodproofing criteria in subsection (2) of
274 Section 15.20.190;
275 (4) Description of the extent to which any watercourse will be altered or relocated as a result
276 of proposed development. (Ord. 16311 (part), 1996: Ord. 11888 (part), 1988: Ord. 11216
277 (part), 1987)

278

279 **15.20.130 Director of Planning and Community Development or designee—**
280 **Administration.**

281 The Director of Planning and Community Development or his designee is hereby appointed to
282 administer and implement this chapter by granting or denying development permit
283 applications in accordance with its provisions.
284 (Ord. 16311 (part), 1996: Ord. 11888 (part), 1988: Ord. 11216 (part), 1987)

285

286 **15.20.140 Director of Planning and Community Development—Duties.**

- 287 (1) Duties of the Director of Planning and Community Development or his designee shall
288 include, but not be limited to:
289 (a) Reviewing all development permits to determine that the permit requirements of this
290 chapter have been satisfied;
291 (b) Reviewing all development permits to determine that all necessary permits have been
292 obtained from those federal, state or local governmental agencies from which prior approval is
293 required;
294 (c) Reviewing all development permits to determine if the proposed development is

295 located in the floodway and if located in the floodway, assuring that the encroachment
296 provisions of subsection (1) of Section 15.20.200 are met.
297 (2) Use of Other Base Flood Data. When base flood elevation data has not been provided in
298 accordance with Section 15.20.070, the Director of Planning and Community Development or
299 his designee shall obtain, review, and reasonably utilize any base flood elevation data
300 available from a federal, state, or other source, in order to administer subsection (1) of Section
301 15.20.190, subsection (2) of Section 15.20.190, subsection (1) of Section 15.20.197, and
302 Section 15.20.200.
303 (3) Information to be Obtained and Maintained. The Director of Planning and Community
304 Development or his designee shall:
305 (a) Where base flood elevation data is provided through the Flood Insurance Study or
306 required as in Section 15.20.140(2), obtain and record the actual elevation (in relation to mean
307 sea level) of the lowest habitable floor (including basement) of all new or substantially
308 improved structures, and whether or not the structure contains a basement;
309 (b) For all new or substantially improved flood proofed structures:
310 (i) verify and record the actual elevation (in relation to mean sea level), and
311 (ii) Maintain the floodproofing certifications required in subsection (3) of Section
312 15.20.120,
313 (c) Maintain for public inspection all records pertaining to the provisions of this chapter;
314 (d) In coastal high hazard areas, certification shall be obtained from a registered
315 professional engineer or architect that the structure is securely anchored to adequately
316 anchored pilings or columns in order to withstand velocity waters.
317 (4) Alteration of Watercourses. The Director of Planning and Community Development or
318 his designee shall:
319 (a) Notify adjacent communities and the Department of Ecology prior to any alteration
320 or relocation of a watercourse, and submit evidence of such notification to the Federal
321 Insurance Administration;
322 (b) Require that maintenance is provided within the altered or relocated portion of said
323 watercourse so that the flood carrying capacity is not diminished.
324 (5) Interpretation of FIRM Boundaries. The Director of Planning and Community
325 Development or his designee shall make interpretations where needed, as to exact location of
326 the boundaries of the areas of special flood hazards (for example, where there appears to be a
327 conflict between a mapped boundary and actual field conditions). The person contesting the
328 location of the boundary shall be given a reasonable opportunity to appeal the interpretation as
329 provided in Section 15.20.150. (Ord. 16311 (part), 1996; Ord. 11888 (part), 1988; Ord. 11216
330 (part), 1987)

331 **15.20.150 Appeals procedure.**

333 (1) The Skagit County Hearing Examiner shall hear and decide appeals when it is alleged
334 that there is an error in any requirement, decision or determination made by the Director of
335 Planning and Community Development or his designee in the enforcement or administration
336 of the ordinance.
337 (2) Appeals shall be filed in writing in duplicate with the Skagit County Hearing Examiner
338 within twenty (20) days of the date of the action being appealed. An appeal must set forth
339 grounds demonstrating to the satisfaction of the Hearing Examiner that the appellant would be
340 adversely affected by the action taken.
341 (3) Upon the filing of an appeal, the Hearing Examiner shall set the time and place at which
342 the matter will be considered. At least a twelve (12) days notice of such time and place
343 together with one copy of the written appeal, shall be given to the official whose decision is

344 being appealed. At least twelve (12) days notice of the time and place shall also be given to
345 the adverse parties of record in the case. The official from whom the appeal is being taken
346 shall forthwith transmit to the Hearing Examiner, all of the records pertaining to the decision
347 being appealed, together with such additional written report as he deems pertinent.

348 ~~(4) The Hearing Examiner may reverse or affirm wholly or in part, or may modify the order,~~
349 ~~requirement, decision or determination as should be made, and to that end, shall have all the~~
350 ~~powers of the administrative official from whom the appeal is taken, in so far as the decision~~
351 ~~on the particular issue is concerned.~~

352 ~~(5) Appeals of a decision made by the Hearing Examiner will be heard by the Board of~~
353 ~~County Commissioners in accordance with Section 14.04.240 of the Skagit County Code.~~
354 ~~Decisions by the Board of County Commissioners can be appealed to the Superior Court in~~
355 ~~accordance with Section 14.04.210(6)(e) of the Skagit County Code. (Ord. 16311 (part), 1996;~~
356 ~~Ord. 11888 (part), 1988; Ord. 11216 (part), 1987)~~

357 ~~15.20.160 Variances.~~

358 ~~Variances may be authorized in specific cases from the terms of this chapter as will not be~~
359 ~~contrary to the public interest where, owing to special conditions, a literal enforcement of the~~
360 ~~provisions of this chapter would result in unnecessary hardship. It shall be the duty of the~~
361 ~~Hearing Examiner to hear and decide on all variance requests.~~

362 ~~(1) A variance from the terms of this chapter shall not be considered unless and until a~~
363 ~~written application for a variance is submitted to the county in an approved form and the~~
364 ~~appropriate fees are paid.~~

365 ~~(2) The Hearing Examiner shall hold a public hearing on all variance requests. Notification~~
366 ~~of such hearings shall follow the same procedure as outlined in Section 14.04.150(3)(d) of the~~
367 ~~Skagit County Code.~~

368 ~~(3) The burden of proof shall be on the applicant to bring forth evidence in support of the~~
369 ~~application and to provide sufficient information on which any decision has to be made on the~~
370 ~~application. The applicant must demonstrate that the requested variance conforms to the~~
371 ~~following standards:~~

372 ~~(a) That special conditions and circumstances exist which are peculiar to the land,~~
373 ~~structure, or building involved and which are not applicable to other lands, structures, or~~
374 ~~buildings in the same special flood hazard area.~~

375 ~~(b) That literal interpretation of the provisions of this chapter would deprive the~~
376 ~~applicant of rights commonly enjoyed by other properties in the same flood hazard area under~~
377 ~~the terms of this chapter.~~

378 ~~(c) That the special conditions and circumstances do not result from the actions of the~~
379 ~~applicant.~~

380 ~~(d) The granting of the variance requested will not confer on the applicant any special~~
381 ~~privilege that is denied by this chapter to other lands, structures, or buildings in the same flood~~
382 ~~hazard area.~~

383 ~~(4) The Hearing Examiner shall make the following findings in the granting of any variance:~~

384 ~~(a) The reasons set forth in the application justify the granting of the variance, and that~~
385 ~~the variance is the minimum variance that will make possible the reasonable use of land,~~
386 ~~building, or structure.~~

387 ~~(b) The granting of the variance will be in harmony with the general purpose and intent~~
388 ~~of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to~~
389 ~~public welfare.~~

390 ~~(c) Under no circumstances shall the Hearing Examiner grant a variance to allow a use~~
391

392 not permissible under the terms of this chapter or any use expressly or by implication
393 prohibited by the terms of this chapter, W.A.C. 173-158, R.C.W. 86-16 or 44 CFR Part 60 of
394 the National Flood Insurance Program.

395 (5) In granting any variance, the Hearing Examiner may prescribe such conditions and
396 safeguards as are necessary to secure adequate protection for the locality in which the use is to
397 be permitted. (Ord. 16311 (part), 1996; Ord. 11888 (part), 1988)

398

399 **15.20.180 General standards.**

400 In all areas of special flood hazards the following standards are required:

401 (1) Anchoring.

402 (a) All new construction and substantial improvements shall be anchored to prevent
403 flotation, collapse or lateral movement of the structure.

404 (b) All manufactured homes must likewise be anchored to prevent flotation, collapse or
405 lateral movement, and shall be installed using methods and practices that minimize flood
406 damage. Anchoring methods may include, but are not limited to, use of over the top or frame
407 ties to ground anchors.

408 (2) Recreational Vehicles.

409 (a) Recreational vehicles shall not be used as permanent dwelling units; and

410 (b) When located in Flood Hazard Areas designated as A, A1-10, A12, A14, A16, A18,
411 A21, V1, V4, AO, and AH the vehicle shall be ready for highway use.

412 (3) Construction Materials and Methods.

413 (a) All new construction and substantial improvements shall be constructed with
414 materials and utility equipment resistant to flood damage.

415 (b) All new construction and substantial improvements shall be constructed using
416 methods and practices that minimize flood damage.

417 (c) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other
418 service facilities shall be designed and/or otherwise elevated or located so as to prevent water
419 from entering or accumulating within the components during conditions of flooding.

420 (4) Utilities.

421 (a) All new and replacement water supply systems shall be designed to minimize or
422 eliminate infiltration of floodwaters into the system;

423 (b) New and replacement sanitary sewage systems shall be designed to minimize or
424 eliminate infiltration of floodwaters into the systems and discharge from the systems into
425 floodwaters;

426 (c) On-site disposal systems shall be located to avoid impairment to them or
427 eontamination from them during flooding.

428 (5) Subdivision Proposals.

429 (a) All subdivision proposals shall be consistent with the need to minimize flood
430 damage;

431 (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas,
432 electrical, and water systems located and constructed to minimize flood damage;

433 (c) All subdivision proposals shall have adequate drainage provided to reduce exposure
434 to flood damage; and

435 (d) Where base flood elevation data has not been provided or is not available from
436 another authoritative source, it shall be generated for subdivision proposals and other
437 proposed developments which contain at least fifty (50) lots or five (5) acres (whichever is
438 less).

439 (6) Review of Building Permits. Where flood elevation data is not available, applications for

440 building permits shall be reviewed to assure that proposed construction will be reasonably
441 safe from flooding. The test for reasonableness is a local judgment and includes use of
442 historical data, high water marks, photographs of past flooding, etc., where available. Failure
443 to elevate at least two feet above grade in these zones may result in higher insurance rates.
444 (Ord. 16311 (part), 1996; Ord. 11888 (part), 1988; Ord. 11216 (part), 1987)

445
446 **15.20.190 Specific standards.**

447 In all areas of special flood hazards where base flood elevation data has been provided as set
448 forth in Section 15.20.070, or subsection (2) of Section 15.20.140, the following provisions
449 are required:

450 (1) Residential Construction. New construction and substantial improvement of any
451 residential structure shall have the lowest floor, elevated one foot or more above the base
452 flood elevation. Fully enclosed areas below the lowest floor that are subject to flooding are
453 prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior
454 walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement
455 must either be certified by a registered professional engineer or architect or must meet or
456 exceed the following minimum criteria:

457 (a) A minimum of two openings having a total net area of not less than one square inch
458 for every square foot of enclosed area subject to flooding shall be provided.

459 (b) The bottom of all openings shall be no higher than one foot above grade.

460 (c) Openings may be equipped with screens, louvers/ or other coverings or devices
461 provided that they permit the automatic entry and exit of floodwaters.

462 (2) Nonresidential Construction. New construction and substantial improvements of any
463 commercial, industrial or other nonresidential structure shall either have the lowest floor
464 elevated one foot or more above the base flood elevation or together with attendant utility and
465 sanitary facilities, shall:

466 (a) Be floodproofed so that below one foot above the base flood elevation the structure is
467 watertight with walls substantially impermeable to the passage of water;

468 (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads
469 and effects of buoyancy;

470 (c) Be certified by a registered professional engineer or architect that the design and
471 methods of construction are in accordance with accepted standards of practice for meeting
472 provisions of this subsection based on their development and/or review of the structural
473 design, specifications and plans. Such certifications shall be provided to the official as set
474 forth in Section 15.20.140 (3)(b).

475 (d) Nonresidential structures that are elevated, not floodproofed, must meet the standards
476 for space below the lowest floor as set forth in Section 15.20.190(1).

477 (e) Applicants floodproofing nonresidential buildings shall be notified that flood
478 insurance premiums will be based on rates that are one foot below the floodproofed level (e.g.,
479 a building constructed to the base flood level will be rated as one foot below that level).

480 (3) All manufactured homes to be placed or substantially improved within Zones A1-30, AH,
481 and AE shall be elevated on a permanent foundation such that the lowest floor of the
482 manufactured home is one foot or more above the base flood elevation system in accordance
483 with the provisions of subsection 15.20.180(1)b.

484 (4) Critical facilities should be afforded additional flood protection due to their nature.
485 Communities therefore shall impose minimum standards which are in addition to those used
486 for other types of development. Construction of new critical facilities shall be to the extent
487 possible, located outside the limits of the one hundred year floodplain as identified on the
488 community's FIRM. Construction of new critical facilities shall be permissible within the one

489 hundred year frequency floodplain if no feasible alternative site is available. Critical facilities
490 constructed within the one hundred year frequency floodplain shall have the lowest floor
491 elevated to three or more feet above the level of the one hundred year frequency flood.
492 Floodproofing and sealing measures shall be taken to ensure that toxic substances will not be
493 displaced by or released into floodwaters. Access routes elevated to or above the level of the
494 one hundred year frequency flood shall be provided to all critical facilities to the extent
495 possible. (Ord. 16311 (part), 1996; Ord. 11888 (part), 1988; Ord. 11216 (part), 1987)

496
497 **15.20.195 Specific standards for AO zones or areas of shallow flooding.**

498 Shallow Flooding Zones (AO Zones) appear on the Flood Insurance Rate Maps with depth
499 designations from one to three feet and in some areas with water velocities indicated. In these
500 areas, the following provisions apply:

501 (1) New construction and substantial improvements of residential structures within AO
502 Zones shall have the lowest floor (including basement) elevated above the highest adjacent
503 grade of the building site, one foot or more above the depth number specified on the Flood
504 Insurance Rate Map (FIRM). Where appropriate, such structures shall be elevated above the
505 crown of the nearest road, one foot or more above the depth number specified on the FIRM.
506 Where velocities of five feet per second or greater are listed in an AO Zone, new structures
507 within 200 feet of the toe of any dike shall be constructed to the following standards in
508 addition to those listed above:

509 (a) All buildings or structures shall be elevated so that the lowest supporting member is
510 located no lower than one foot or more above the base flood elevation level, with all space
511 below the lowest supporting member open so as not to impede the flow of water except for
512 breakaway walls provided for in subsection (f) of this section.

513 (b) All buildings or structures shall be securely anchored on pilings or columns.

514 (c) Pilings or columns used as structural support shall be designed and anchored so as to
515 withstand all applied loads of the base flood flow.

516 (d) Compliance with provisions of (a), (b), and (c) of this section shall be certified by a
517 registered professional engineer or architect.

518 (e) There shall be no fill used for structural support.

519 (f) Breakaway walls shall be allowed below the base flood elevation; provided, they are
520 not a part of the structural support of the building and are designed so as to break away under
521 abnormally high water velocities without damage to the structural integrity of the building on
522 which they are to be used.

523 (g) If breakaway walls are utilized, such enclosed space shall not be used for human
524 habitation.

525 (2) New construction and substantial improvements of nonresidential (commercial and
526 industrial) structures within AO Zones shall either:

527 (a) Have the lowest floor (including basement) elevated above the highest adjacent grade
528 of the building site, one foot or more above the depth number specified on the FIRM. Where
529 appropriate, such structures shall be elevated above the crown on the nearest road, one foot or
530 more above the depth number specified on the FIRM; or

531 (b) Together with attendant utility and sanitary facilities be completely floodproofed one
532 foot or more above the base flood elevation so that any space below that level is watertight
533 with walls substantially impermeable to the passage of water and with structural components
534 having the capability of resisting hydrostatic and hydrodynamic loads and effects of
535 buoyancy. If this method is used, compliance shall be certified by a registered professional
536 engineer or architect; or,

537 (c) If located in an AO Zone with water velocities of five feet per second or greater and

538 within 200 feet of the toe of a dike shall be constructed to the standards of subsections 1(a)
539 through 1(g) above.

540 (3) Require adequate drainage paths around structures on slopes to guide floodwaters around
541 and away from proposed structures. (Ord. 16311 (part), 1996; Ord. 11888 (part), 1988; Ord.
542 11216 (part), 1987)

543
544 **15.20.197 Specific standards for construction in special flood risk zones.**

545 The following construction standards are required in special flood risk zones as defined in
546 Section 15.20.050:

547 (1) New construction and substantial improvements of residential and nonresidential
548 structures within special flood risk zones shall have the lowest supporting member elevated
549 one foot or more above the base flood elevation and shall be constructed according to the
550 standards provided in subsections 15.20.195(1)(a) through (g).

551 (2) Regardless of method of construction, critical facilities are prohibited in the special flood
552 risk zones

553 (3) There shall be no fill or new construction within the channel of Gages Slough. (Ord.
554 16311 (part), 1996; Ord. 11888 (part), 1988; Ord. 11216 (part), 1987)

555
556 **15.20.200 Floodways.**

557 Located within areas of special flood hazard established in Section 15.20.070 are areas
558 designated as floodways. Since the floodway is an extremely hazardous area due to the
559 velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the
560 following provisions apply:

561 (1) Prohibit encroachments, including fill, new construction, substantial improvements, and
562 other development unless certification by a registered professional engineer or architect is
563 provided demonstrating that encroachments shall not result in any increase in flood levels
564 during the occurrence of the base flood discharge.

565 (2) Prohibit construction or reconstruction of residential structures except for:

566 (a) Repairs, reconstruction, or improvements to a structure which do not increase the
567 ground floor area; and

568 (b) Repairs, reconstruction, or improvements to a structure the cost of which does not
569 exceed fifty percent of the market value of the structure either (i) before the repair,
570 reconstruction, or improvement is started, or (ii) if the structure has been damaged, and is
571 being restored, before the damage occurred. Work done on structures to comply with existing
572 health, sanitary, or safety codes or to structures identified as historic places shall not be
573 included in the fifty percent determination.

574 (3) If subsections (1) and (2) of this section are satisfied, all new construction and substantial
575 improvements shall comply with all applicable flood hazard reduction provisions of Sections
576 15.20.180 through 15.20.210.

577 (4) Building and development near streams without a designated floodway shall comply with
578 the requirements of 44 CFR 60.3(b)(3) and (4) and (c)(10) of the National Flood Insurance
579 Program regulations. (Ord. 16311 (part), 1996; Ord. 11888 (part), 1988; Ord. 11216 (part),
580 1987)

581
582 **15.20.205 Encroachment standards.**

583 No new construction, substantial improvements, or other development (including fill) shall be
584 permitted within Zones A1-30 on the community's FIRM, unless it is demonstrated that the
585 cumulative effect of the proposed development, when combined with all other existing and
586 anticipated development, will not increase the water surface elevation of the base flood more

587 than one foot at any point within the community. (Ord. 16311 (part), 1996; Ord. 11888 (part),
588 1988; Ord. 11216 (part), 1987)

589

590 **15.20.210 Coastal high hazard area.**

591 Coastal high hazard areas (V zones) are located within the areas of special flood hazard
592 established in Section 15.20.070. These areas have special flood hazards associated with high
593 velocity waters from tidal surges and, therefore, the following provisions shall apply:

594 (1) All new construction and substantial improvements in Zones V1-V30 shall be elevated on
595 pilings and columns so that:

596 (a) The bottom of the lowest horizontal structural member of the lowest floor (excluding
597 the pilings or columns) is elevated one foot or more above the base flood level; and

598 (b) The pile or column foundation and structure attached thereto is anchored to resist
599 flotation, collapse and lateral movement due to the effects of wind and water loads acting
600 simultaneously on all building components. Wind and water loading values shall each have a
601 one percent chance of being equaled or exceeded in any given year (100-year mean recurrence
602 interval);

603 A registered professional engineer or architect shall develop or review the structural design,
604 specifications and plans for the construction and shall certify that the design and methods of
605 construction to be used are in accordance with accepted standards of practice for meeting the
606 provisions of (a) and (b) of this Section.

607 (2) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural
608 member of the lowest floor (excluding pilings and columns) of all new and substantially
609 improved structures in Zones V1-V30 and whether or not such structures contain a basement.
610 The local administrator shall maintain a record of all such information.

611 (3) All new construction shall be located landward of the rear of mean high tide.

612 (4) Provide that all new construction and substantial improvements have the space below the
613 lowest floor either free of obstruction or constructed with nonsupporting breakaway walls,
614 open wood lattice work, or insect screening intended to collapse under wind and water loads
615 without causing collapse, displacement, or other structural damage to the elevated portion of
616 the building or supporting foundation system. For the purpose of this section, a breakaway
617 wall shall have a design safe loading resistance of not less than 10 and no more than 20
618 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance
619 of 20 pounds per square foot (either by design or when so required by local or State codes)
620 may be permitted only if a registered professional engineer or architect certifies that the
621 designs proposed meet the following conditions:

622 (a) Breakaway wall collapse shall result from a water load less than that which would
623 occur during the base flood; and

624 (b) The elevated portion of the building and supporting foundation system shall not be
625 subject to collapse, displacement, or other structural damage due to the effects of wind and
626 water loads acting simultaneously on all building components (structural and nonstructural).
627 Maximum wind and water loading values to be used in this determination shall each have a
628 one percent chance of being equaled or exceeded in any given year (100-year mean recurrence
629 interval).

630 (5) If breakaway walls are utilized, such enclosed space shall be usable solely for parking of
631 vehicles, building access, or storage. Such space shall not be used for human habitation.

632 (6) Prohibit the use of fill for structural support of the building.

633 (7) Prohibit man-made alteration of sand dunes which would increase potential flood
634 damage. (Ord. 16311 (part), 1996; Ord. 11888 (part), 1988; Ord. 11216 (part), 1987)

635

636 **15.20.220 Wetlands management.**

637 Wetlands are areas of great natural productivity and hydrological utility, providing natural
638 flood control, flood desynchronization, and flow stabilization of rivers and streams. The
639 unrestricted use and development of wetlands will destroy many of these beneficial qualities
640 which directly affect human health and safety during flood events. The piecemeal alteration
641 and destruction of wetlands through draining, dredging, filling, and other means has an
642 adverse cumulative impact on their ability to reduce flood damage.

643 The County should to the maximum extent possible, seek to avoid the long and short term
644 adverse impacts associated with the destruction or modification of wetlands, especially those
645 activities which limit or disrupt the ability of the wetland to ameliorate flooding impacts.
646 Proposals for development within special flood hazard areas shall not impact wetlands and
647 these activities in or around wetlands shall not negatively affect public safety, health, and
648 welfare by disrupting the wetlands ability to reduce flood and storm hazards. (Ord. 16311
649 (part), 1996; Ord. 11888 (part), 1988)

650 **15.20.230 Penalties and enforcement.**

651 (1) The Attorney General or the Skagit County Prosecuting Attorney shall bring such
652 injunctive, declaratory, or other actions as are necessary to ensure compliance with this
653 chapter and W.A.C. 173-158.

654 (2) Any person who fails to comply with this chapter and W.A.C. 173-158 shall also be
655 subject to a civil penalty not to exceed one thousand dollars for each violation. Each violation
656 or each day of noncompliance shall constitute a separate violation.

657 (3) The penalty provided for in this section shall be imposed by a notice in writing, either by
658 certified mail with return receipt requested or by personal service, to the person incurring the
659 same from the Department of Ecology or the County, describing the violation with reasonable
660 particularity and ordering the act or acts constituting the violation or violations to cease and
661 desist or, in appropriate cases, requiring necessary corrective action to be taken within a
662 specific and reasonable time.

663 (4) Any penalty imposed pursuant to this section by the Department of Ecology shall be
664 subject to review by the Pollution Control Hearings Board. Any penalty imposed pursuant to
665 this section by the County shall be subject to review by the Skagit County Hearing Examiner
666 in accordance with Section 15.20.150 of the Skagit County Code. Any penalty jointly
667 imposed by the Department of Ecology and the County shall be appealed to the Pollution
668 Control Hearings Board. (Ord. 16311 (part), 1996; Ord. 11888 (part), 1988
669