

1 Adopted: 06/25/14
2 Effective: 07/07/14

3 SNOHOMISH COUNTY COUNCIL
4 Snohomish County, Washington

5
6 AMENDED EMERGENCY ORDINANCE NO. 14-046

7
8 RELATING TO GROWTH MANAGEMENT; ADOPTING AN INTERIM OFFICIAL CONTROL
9 ON DEVELOPMENT WITHIN THE SR 530 FLOOD IMPACT AREA; ADDING A SECTION
10 TO CHAPTER 30.65 SCC; AND DECLARING AN EMERGENCY

11
12 WHEREAS, pursuant to the Growth Management Act (chapter 36.70A RCW), the
13 Snohomish County Council adopted regulations in chapter 30.65 SCC for the protection of
14 public safety, health and welfare in those areas subject to inundation due to flooding, and to
15 minimize losses due to flood conditions; and

16
17 WHEREAS, through Ordinance No. 84-014 on February 27, 1984, and Amended
18 Ordinance No. 05-068 on September 7, 2005, the Snohomish County Council adopted
19 provisions regulating development in special flood hazard areas, as further identified by the
20 Flood Insurance Rate Maps (FIRMS) which were adopted by reference and declared to be a
21 part of chapter 30.65 SCC; and

22
23 WHEREAS, Snohomish County Executive John Lovick issued a local proclamation of
24 emergency on March 22, 2014, following a landslide between Oso and Darrington along State
25 Route (SR) 530 (the "SR 530 Landslide") that resulted in a devastating loss of life and property;
26 and -

27
28 WHEREAS, the earth and debris deposited by the SR 530 Landslide has impeded the
29 flow of the North Fork of the Stillaguamish River and created localized flooding upstream of the
30 SR 530 Landslide; and

31
32 WHEREAS, the earth and debris deposited by the SR 530 Landslide has significantly
33 impacted the river channel of the North Fork of the Stillaguamish and has changed, and is
34 currently changing, the location and configuration of the river channel upstream, through and
35 downstream of the SR 530 Landslide; and

36
37 WHEREAS, the course of the river through the SR 530 Landslide continues to evolve
38 and Snohomish County, Washington State and Federal authorities cannot predict with certainty
39 at this time where the ultimate river course will run, rendering current regulatory maps and
40 regulations inadequate to govern future proposed development; and

41
42 WHEREAS, a significant amount of additional study is required before determining long-
43 term flood elevations and new flood maps; and

44
45 WHEREAS, the Snohomish County Council desires to reduce the potential that future
46 development will increase the number of people and dwellings that could be affected by
47 possible future periodic inundation due to flooding during the time that may be required for study
48 and development of new flood maps; and

1 WHEREAS, RCW 36.70A.390 provides that the Snohomish County Council may adopt a
2 moratorium, interim zoning ordinance, interim zoning map, and/or interim official control; and
3

4 WHEREAS, moratoria, interim zoning ordinances, and interim official controls enacted
5 under RCW 36.70A.390 are methods by which local governments may preserve the status quo
6 so that new plans and regulations will not be rendered moot by intervening development;
7

8 NOW, THEREFORE, BE IT ORDAINED:
9

10 **Section 1.** The Snohomish County Council adopts the following findings of fact and
11 conclusions:

- 12 A. The Snohomish County Council adopts and incorporates the foregoing recitals as findings
13 as if set forth fully herein.
- 14 B. SCC 30.65.010 requires that all development in special flood hazard areas complies with
15 the regulations set forth in chapter 30.65 SCC.
- 16 C. SCC 30.65.040 identifies special flood hazard areas as those designated by the Federal
17 Emergency Management Agency (FEMA) in a scientific and engineering report titled
18 "Flood Insurance Study for Unincorporated Snohomish County," dated September 16,
19 2005, and with the FIRMS for Snohomish County, Washington, and incorporated areas
20 revised September 16, 2005, or as amended and issued by FEMA on paper or digital
21 format, together with corresponding United States Army Corps of Engineers (USACE)
22 river study maps.
- 23 D. SCC 30.91D.250 provides that "development in special flood hazard areas" means any
24 manmade change to improved or unimproved real estate, including but not limited to
25 buildings or other structures, dams, walls, wharves, embankments, levees, dikes, piles,
26 bridges, improved roads, abutments, projections, channel rectifications, conduits, culverts,
27 wires, fences, rocks, gravel, refuse deposits, mining, dredging, filling, grading, excavation
28 or drilling, and works as defined in subtitle 30.9 SCC.
- 29 E. Chapter 30.65 SCC was developed and adopted using the requirements of the National
30 Flood Insurance Program.
- 31 F. The area inundated by flooding as a result of the SR 530 Landslide extended beyond the
32 mapped special flood hazard areas.
- 33 G. It is necessary and desirable to conduct further study and analysis, and encourage
34 additional public involvement, on the topic of potential hazards of future periodic
35 inundation due to flooding to determine whether new regulations are necessary for the
36 protection of public safety, health and welfare within those properties which could be
37 impacted by flooding associated with the blockage of the North Fork Stillaguamish River,
38 as determined through a simulation of the 100-year flow through a hydrologic river model
39 (HEC-RAS) produced by FEMA with support from USACE that reflects the river conditions
40 as of May 1, 2014, which will be referred to as the "SR 530 Flood Impact Area."
- 41 H. During the time required for the potential development of new flood maps, it is necessary
42 and desirable to require greater study of the changed, and changing, conditions within the
43 SR 530 Flood Impact Area.
- 44 I. If the County were to follow its regular, non-emergency public participation procedures to
45 adopt new flood maps related to flood hazards related to the SR 530 Landslide without

1 first adopting an interim official control, permit applications submitted under the current
2 regulations before any potential new regulations could be adopted would frustrate the
3 purpose of any such potential new regulations by increasing the number of people and
4 dwellings that could be affected by future flooding.

5 J. It is in the best interest of the health, safety, and welfare of the citizens of Snohomish
6 County to immediately adopt an interim official control on development within the SR 530
7 Flood Impact Area. Unlike a moratorium, which would completely prohibit any type of
8 development for six months, the interim official control allows certain types of new
9 development to occur in the SR 530 Flood Impact Area.

10 K. The interim official control was developed quickly to respond to an emergency. It is a
11 temporary measure. It has not gone through the regular process for refining and vetting
12 development regulations. Any development regulations that may result from additional
13 study and public involvement over the next six months may be completely different from
14 the interim control.

15 L. A new section is added to chapter 30.65 SCC that identifies the SR 530 Flood Impact Area
16 as a special flood hazard area. The new section limits the repair of structures damaged by
17 flooding that resulted from the SR 530 Landslide, subject to the requirements of chapter
18 30.65 SCC. Under the new section, no new structures are allowed in the SR 530 Flood
19 Impact Area. The new section does not apply to infrastructure repairs and reconstruction,
20 river bank stabilization and channelization, environmental clean-up or restoration, or any
21 activities related to and necessary for these activities as determined by the Director of the
22 Department of Planning and Development Services.

23 M. A map depicting the SR 530 Flood Impact Area is attached to this ordinance as Exhibit A.

24 N. This ordinance is exempt from the public participation requirements of chapter 30.73 SCC,
25 subject to the requirements of RCW 36.70A.390.

26 O. The amendments to chapter 30.65 SCC adopted by this ordinance bear a substantial
27 relationship to the public health, safety and welfare.

28 P. Pursuant to WAC 197-11-880 and SCC 30.61.020, the adoption of this ordinance is
29 exempt from the requirements for a threshold determination under the State
30 Environmental Policy Act (SEPA) because it is an action to avoid an imminent threat to
31 public health or safety or to prevent an imminent danger to public or private property.

32 Q. The Snohomish County Council discussed possible interim regulations at public meetings
33 on April 23, April 28, May 5, May 6, May 19, and June 2, 2014, and held a public hearing
34 on June 25, 2014, to consider the entire record and to hear public testimony on this
35 Emergency Ordinance No. 14-046.
36

37 **Section 2.** Pursuant to section 2.120 of the Snohomish County Charter, the Snohomish
38 County Council finds as a fact and concludes that adopting an emergency ordinance and interim
39 official control on development within the SR 530 Flood Impact Area is necessary for the
40 immediate preservation of the public peace, health or safety. Non-emergency options may not
41 provide adequate protection to people and property that may be affected by future flood
42 inundation that may occur as result of the SR 530 Landslide. Based on the foregoing, the
43 Snohomish County Council declares that an emergency exists and this ordinance shall take
44 effect immediately.
45

1 **Section 3.** The County Council hereby adopts the following interim official control:
2

3 A. A new section is added to chapter 30.65 of the Snohomish County Code to read:
4

5 **30.65.050 SR 530 Flood Impact Area.**
6

7 (1) Pursuant to Amended Emergency Ordinance No. 14-046, an interim control has been
8 adopted to allow time for the potential development of new regulatory maps and regulations
9 regarding development activities in the SR 530 Flood Impact Area. The SR 530 Flood Impact
10 Area is identified on a map adopted as Exhibit A to Amended Emergency Ordinance No. 14-
11 046, and such map shall be available for public review at the Department of Planning and
12 Development Services during business hours and on the county website.

13 (2) The SR 530 Flood Impact Area is established as a "special flood hazard area" pursuant to
14 SCC 30.65.040. In addition to the requirements identified in this chapter, the following
15 provisions shall apply within the SR 530 Flood Impact Area:

16 (a) Development shall be limited to the repair of existing structures that have experienced
17 flooding damage as a result of the March 22, 2014, SR 530 Landslide, subject to all
18 requirements in this chapter;

19 (b) No new structures shall be permitted; and

20 (c) The restrictions and prohibitions in this section shall not apply to:

21 (i) Infrastructure repairs and reconstruction;

22 (ii) Activities related to river bank stabilization and channelization;

23 (iii) Environmental clean-up or restoration activities; and

24 (iv) Any activities related to and necessary for the activities enumerated in subsections
25 (2)(c)(i), (2)(c)(ii) and (2)(c)(iii) of this section as determined by the Director.

26 (3) This section shall be repealed automatically six months after the effective date of
27 Amended Emergency Ordinance No. 14-046 unless renewed.
28

29 B. The SR 530 Flood Impact Area and its specific regulations, as described in new
30 section SCC 30.65.050, shall apply to those properties identified in Exhibit A, which is attached
31 hereto and incorporated by reference and is hereby adopted as an interim area map.
32

33 C. This interim official control shall be effective for six months. It may be renewed for
34 one or more six-month periods if a subsequent public hearing is held and findings of fact are
35 made prior to each renewal.
36


37 **Section 4. Request for review.** The Snohomish County Council requests that the
38 County Executive engage affected stakeholders and communities in the review of the
39 regulations for development near landslide hazard areas and propose any policies and
40 regulations deemed appropriate to serve the public health, safety, and welfare in Snohomish
41 County. The Snohomish County Council requests that the County Executive submit a work plan
42 to the County Council within 90 days from the effective date of this ordinance outlining the
43 scope, process, and schedule for completing this review.
44


45 **Section 5. Severability and savings.** If any section, sentence, clause, or phrase of this
46 ordinance shall be ruled to be invalid or unconstitutional by the Growth Management Hearings
47 Board or a court of competent jurisdiction, such ruling shall not affect the validity or
48 constitutionality of any other section, sentence, clause, or phrase of this ordinance, and the
49 section, sentence, clause, or phrase in effect prior to the effective date of this ordinance shall be

1 in full force and effect for that individual section, sentence, clause, or phrase as if this ordinance
2 had never been adopted.

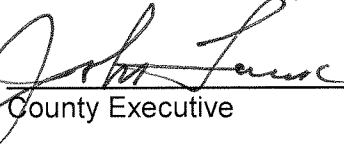
3
4 PASSED by a vote of four to one this 25th day of June, 2014.

5
6 SNOHOMISH COUNTY COUNCIL
7 Snohomish County, Washington

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9 
10 _____
11 Chairperson

12 ATTEST:
13 
14 _____
15 Asst. Clerk of the Council

17
18 APPROVED
19
20 EMERGENCY
21
22 VETOED

23 DATE: 6/27/14
24
25 
26 _____
27 County Executive

28
29 ATTEST:
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31 _____

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35 Approved as to form only:
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38 _____
39 Deputy Prosecuting Attorney

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D-9

Exhibit A

Amended Emergency Ordinance No. 14-046

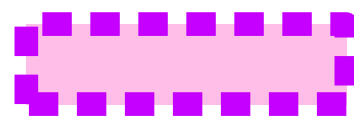


SR 530 Flood Impact Area Map

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SR 530 Landslide Impact Area

06/11/2014

Post Landslide Aerial Image 05-2014

-  Landslide Impact Area
-  Flood Impact Area
-  Assessor Parcel Line

Landslide Impact Area was delineated by Snohomish County Staff and incorporated LiDAR data, aerial photography, and ground photography/review collected April and May 2014.

Flood Impact Area boundaries are based on a simulation of 100-year flow through a hydraulic river model (HEC-RAS) produced by FEMA with support from USACE that reflects the river conditions as of May 15, 2014.

Map extent depicts areas that represent significant deviation from the current Flood Insurance Rate Map Index 53061 CINDOA, Sept. 16, 2005. The SR 530 Flood Impact Area only includes those areas shown within the map extent.

This map may be updated as new information and data become available.



All maps, data, and information set forth herein ("Data"), are for illustrative purposes only and are not to be considered an official citation to, or representation of, the Snohomish County Code. Amendments and updates to the Data, together with other applicable County Code provisions, may apply which are not depicted herein. Snohomish County makes no representation or warranty concerning the content, accuracy, currency, completeness or quality of the Data contained herein and expressly disclaims any warranty of merchantability or fitness for any particular purpose. All persons accessing or otherwise using this Data assume all responsibility for use thereof and agree to hold Snohomish County harmless from and against any damages, loss, claim or liability arising out of any error, defect or omission contained within said Data. Washington State Law, Ch. 42.56 RCW, prohibits state and local agencies from providing access to lists of individuals intended for use for commercial purposes and, thus, no commercial use may be made of any Data comprising lists of individuals contained herein.

Township 32 Range 7-8 Section 1, 7, 12

