

**An Interim Ordinance Declaring an Emergency and Adopting a Moratorium on the
Acceptance of Permit Applications for Certain Uses and Activities
On Agricultural (Ag-NRL) Lands**

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

WHEREAS RCW 36.70A.390 and RCW 36.70.795 authorize the Board to adopt moratoria, interim zoning ordinances, and interim official controls to preserve the *status quo* while new plans and regulations are being developed; and

WHEREAS RCW 36.70A.390 and RCW 36.70.795 permit the County to adopt such measures without notice and public hearing when deemed appropriate to promote the public health, safety and welfare, provided that the County holds a public hearing within sixty (60) days after the adoption of the interim ordinance; and

WHEREAS with its rich, subirrigable soil, temperate maritime climate and relatively abundant rainfall and water supply, Skagit Valley farmland is uniquely positioned to face climate-related disruption, which is already rendering food production a tenuous proposition in other areas; and

WHEREAS the protection of Skagit County’s agricultural land base has required generations of sacrifice, by which Skagit landowners have intentionally forgone the business opportunity and wealth that intensive population-based development has produced in other Puget Sound counties; and

WHEREAS only some 88,000 acres of prime Skagit farmland remain, and continued conversion of prime farmland to other uses is likely to have far-reaching effects on the stability and viability of Skagit County’s agricultural economy; and

WHEREAS uniquely suited for seed production due to its maritime proximity, the Skagit Valley produces a substantial portion of the world’s brassica, spinach and other crop seed; and

WHEREAS Skagit County’s prime agricultural soil is a critical and irreplaceable natural resource that we are duty-bound to protect for future generations, and protecting the Skagit for commercially viable agriculture is squarely in the public interest; and

WHEREAS Skagit County has declared that natural resource lands, including agricultural lands, are a cornerstone of the County’s economy, culture, community, and history, and as such, their protection and enhancement is of paramount importance to Skagit County and its citizens; and

WHEREAS Skagit County has consistently declared that development unrelated to agriculture is to be discouraged on designated Agricultural Natural Resource Lands (Ag-NRL); and

WHEREAS Skagit County has adopted a broad range of GMA Comprehensive Plan policies and development regulations intended to ensure long-term conservation of agricultural lands, see, in particular, Skagit County Code (“SCC”) 14.16.400; and

WHEREAS Skagit Valley farmland and the open space our community has successfully protected for food production is a regional treasure used and enjoyed by many tens of thousands of visitors each year, as well as birds and other wildlife; and

WHEREAS tourism activity drawn by Skagit farming and farmland provides substantial supplemental income for many smaller, family-oriented farming operations, which the Board wishes to protect and promote to the extent consistent with agricultural production as the land’s principal use; and

WHEREAS Skagit County Code 14.16.400(2)(b) provides that “Agricultural Accessory Uses” are permitted on Ag-NRL zoned lands, while Skagit County Code 14.04.020 defines “Agricultural Accessory Uses” to include “[a]ctivities associated with tourism which promote local agriculture...” (emphasis added); and

WHEREAS this has been unilaterally interpreted by a number of agricultural landowners to allow regular, ongoing celebratory events, including weddings, concerts and similar activities involving large gatherings, with an increasingly tenuous connection to local agricultural production, in some cases overtaking agricultural activity as the principal use of the land; and

WHEREAS by introducing large numbers of vehicles and people into the midst of ongoing agricultural activity, regular events conducted as a primary business have created conflicts with the ongoing use of Skagit County land for agriculture, a problem likely to continue to grow unless appropriately regulated; and

WHEREAS the unrestricted use of agricultural lands for ongoing events as a regular business activity can price farmland beyond the economic reach of agricultural use, reducing the amount of land available for agricultural use as the primary activity; and

WHEREAS Skagit County has reasonable fear that access to Skagit County’s agricultural land base by business seeking to operate regular events, if left unrestricted, will interfere with and jeopardize the intent of Skagit County’s Comprehensive Plan and development regulations that prime farmland soil be devoted principally to agricultural production over the long term; and

WHEREAS the Board is currently considering permanent regulations relating to events and tourism on lands zoned Ag-NRL, and the Board is concerned that the prospect of new development regulations may precipitate a rush to initiate unpermitted new uses and activities that are inconsistent with the intent expressed herein, as well as the public peace, health and safety; and

WHEREAS the Board finds that an emergency exists within the County, and the immediate adoption of an interim ordinance effecting a moratorium is necessary for the immediate

preservation of the public peace, health, and safety and for the support of Skagit County government and its existing institutions; and

WHEREAS this action is taken consistent with the State Environmental Policy Act (SEPA) provisions at WAC 197-11-880 regarding emergency actions.

NOW, THEREFORE, BE IT ORDAINED:

The Board of County Commissioners adopts the foregoing findings of fact, finding further as follows:

1. The United States Supreme Court in *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*, 535 U.S. 302 (2002), held that moratoria are essential tools for successful development regulation and re-affirmed that moratoria are not per se takings.
2. The regulations currently in effect do not adequately ensure the protection of Ag-NRL lands as agricultural lands of long-term commercial significance in Skagit County.
3. Skagit County intends to develop permanent regulations to address the deficiencies in the current regulations.
4. This interim ordinance is exempt from the public participation requirements of the GMA, subject to the requirements of RCW 36.70A.390.
5. An emergency exists and the immediate adoption of a moratorium imposed by this ordinance is necessary for the protection of the public health, safety, property, and peace.

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NOW THEREFORE, BE IT FURTHER ORDAINED:

Section 1. The Board hereby declares a moratorium providing that no permit applications for business uses proposed on lands zoned Ag-NRL involving regular, ongoing events, to include weddings, concerts, retail fairs, or other gatherings of similar nature, shall be accepted.

Section 2. This ordinance shall not apply to any application vested before the date of this ordinance. An application shall be vested pursuant to Skagit County Code 14.02.050 when the application is deemed complete pursuant to Skagit County Code 14.06.090.

Section 3. For all purposes under Skagit County Code ("SCC"), the term "Agricultural Accessory Use" (SCC 14.04.020) shall not be interpreted to permit business activity involving the regular and ongoing conduct of events such as weddings, concerts, retail fairs, rodeos or any other gathering of a similar nature.

Section 4. This ordinance shall take effect immediately upon passage by the Board of County Commissioners.

Section 5. This ordinance shall not apply to activities in substantial and continuous operation before the date of this ordinance, which shall be treated as existing non-conforming uses.

Section 6. This ordinance pertains only to zoning under SCC 14.16.400, and shall not be interpreted as establishing pre-existing or vested rights as to any building, health, safety, environmental or other code or law in effect as of the date of this ordinance.

Section 7. The Administrative Official is hereby directed to develop a process that will allow landowners to document asserted existing non-conforming use through entry into a Voluntary Compliance Agreement (VCA). The process adopted by the Administrative Official shall include a deadline to submit required documentation of existing activity. The process shall be adopted as an Administrative Official Interpretation pursuant to SCC 14.06.040(3).

Section 8. This ordinance is not intended to modify SCC 14.16.400's land use and siting criteria, including interpretation thereof by the Administrative Official previously or in the future, and any new structure erected or use of land arising subsequent to the date of this ordinance shall not be deemed an existing non-conforming use.

Section 9. The moratorium created by this ordinance shall be effective for six (6) months.

Section 10. The ordinance and moratorium may be renewed for one or more six (6) month periods if a subsequent public hearing(s) is held, and findings of fact are made prior to each renewal.

Section 11. 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 12. The Board of Skagit County Commissioners will hold a public hearing on Monday, March 25, 2024 at 11:30 a.m. in the Commissioners Hearing Room, 1800 Continental Place, Mount Vernon, Washington, for the purpose of hearing public testimony on this matter in accordance with RCW 36.70A.390.

WITNESS OUR HANDS AND THE OFFICIAL SEAL OF OUR OFFICE this 29th day of January 2024.

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



Peter Browning, Chair

Lisa Janicki, Commissioner

Ron Wesen, Commissioner

ATTEST:

Dinda Hammer
Clerk of the Board

APPROVED AS TO FORM:

Will Honea, Senior Deputy
Skagit County Prosecuting Attorney

APPROVED AS TO CONTENT:

Jack Moore, Director
Planning & Development Services