

**An Interim Ordinance Declaring an Emergency and Adopting a Moratorium on the  
Acceptance of Permit Applications for Data Centers**

**WHEREAS** pursuant to the Growth Management Act, Chapter 36.70A RCW (“GMA”), 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** RCW 36.70A.390 and RCW 36.70.795 authorize the Board of County Commissioners 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 this interim ordinance; and

**WHEREAS** for the purposes of this ordinance, “Data Center” is defined as one or more facilities to house computing and networking equipment, along with storage and management systems, to support the storage, processing, retrieval, and distribution of digital data and applications, which exceed 2,000 square feet or have a total planned electrical load of 2 megawatts (mW) or greater; and

**WHEREAS** human activity has become increasingly dependent on rapidly expanding digital computing and storage capacity, creating significant economic interest in the development of Data Centers; and

**WHEREAS** Data Centers require land as well as large amounts of energy, can consume significant quantities of cooling water, and involve noise and other environmental impacts, all of which can place untenable strain on the communities and ecosystems in which they are sited; and

**WHEREAS** the Skagit River’s historic floodplain currently poses catastrophic risk to intensive development arising from riverine flooding, volcanic lahar flows from Mount Baker and Glacier Peak, and potential hydroelectric dam failure associated with the Skagit Valley’s five upstream hydroelectric dams owned by the City of Seattle and Puget Sound Energy; and

**WHEREAS** the Skagit County Comprehensive Plan requires that the Board “[a]dopt development regulations that prohibit intensive uses such as urban subdivisions, multi-family dwellings, commercial buildings, and industrial parks in the floodplain.” SCCP Policy 5A-5.3(c)(i); and

**WHEREAS** the Skagit County Comprehensive Plan provides that “[l]ow intensity land use activities such as agricultural, forestry, and recreational land uses should be encouraged in floodplain areas and other land uses in these areas should be discouraged.” SCCP Policy 5A-5.2(a)(i); and

**WHEREAS** the Skagit County Comprehensive Plan further provides that “[l]and uses, densities, and development activities in the floodplain and coastal high hazard areas should be limited to protect public health, safety, and welfare, to minimize expenditure of public money and costly flood control projects, and to maintain hydrologic systems, and to protect habitat for threatened and endangered species consistent with the National Marine Fisheries Service Biological Opinion (September 2008).” SCCP Policy 5A-5.2(a)(ii); and

**WHEREAS** the Skagit County Comprehensive Plan also requires the Board to “[c]onsider climate change, including sea level rise, extreme precipitation, increased winter streamflow, and other impacts, in floodplain management planning by updating flood hazard zones according to most recent climate change projections and modeling,” SCCP Policy 12J-1.3; and

**WHEREAS** the Board finds that development of Data Centers in the Skagit River’s historic floodplain is inconsistent with existing Skagit County plans and policies; and

**WHEREAS** Skagit County has declared that our natural resource lands and the long-term economies they support - including sustainable fisheries, farming and forestry - are the cornerstone of Skagit County’s community, values, culture and history, and, as such, their protection and enhancement is of paramount importance to Skagit County and its citizens;<sup>1</sup> and

**WHEREAS** Skagit County has declared that commercial, residential and industrial uses unrelated to natural resource use – and the steady degradation of the natural environment that they inevitably involve – are to be discouraged on designated natural resource lands; and

**WHEREAS** the protection of Skagit County’s natural resource land base has required generations of economic sacrifice, by which our community has knowingly forgone much of the wealth that intensive development has produced for urbanized Puget Sound cities and counties; and

**WHEREAS** the open space, natural environment and wildlife that we have successfully protected is a regional treasure, used and enjoyed by many tens of thousands of people each year; and

**WHEREAS** the Skagit River Basin is the most biologically significant river system in Puget Sound for anadromous fish, and is the only river in Washington that supports all five species of Pacific salmon as well as steelhead, bull trout and lamprey; and

**WHEREAS** Skagit County’s Comprehensive Plan and our consistent policy statements envision sustaining a robust Skagit fisheries resource in perpetuity, in part to help satisfy our collective national obligation under the 1855 Treaty of Point Elliott; and

**WHEREAS** uniquely suited for seed production due to its maritime proximity, the Skagit Valley and its world-class alluvial farm soil produce a substantial portion of the world’s brassica, spinach and other crop seed; and

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<sup>1</sup> See, e.g., 2025 Skagit County Comprehensive Plan Section 4, starting at p. 90; see also Skagit County Ordinance No. 20220007 (prohibiting offsite compensatory mitigation on lands zoned Ag-NRL).

**WHEREAS** a critical mass of Skagit farmland acreage is necessary to sustain crop rotation as well as agricultural processing, transport, storage and support services, and other infrastructure; and

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

**WHEREAS** with rising global instability in energy, fertilizer and food sectors as well as increasing climate disruption, protecting Skagit farmland and agriculture for its food production capacity is in the public interest; and

**WHEREAS** because Skagit County plans, policies and zoning discourage uses other than natural resource use, the market price per acre of Skagit County natural resource land is inherently low, which Data Center developers may find attractive for their purposes; and

**WHEREAS** the Board finds the siting and development of Data Centers on designated Skagit County natural resource lands to be inconsistent with Skagit County's existing policies and plans; and

**WHEREAS** the Skagit River already frequently falls below the minimum instream flow established by the Skagit Instream Flow Rule, WAC 173-503, leaving Skagit farmers unable to access the modest amount of irrigation water they need to survive in a warming and drying climate; and

**WHEREAS** Washington law requires that Skagit County independently consider the impacts of land use plans and decisions on surface water and groundwater resources. *Hirst v. Whatcom County*, 186 Wn.2d 648, 674 (2019), *see also* RCW 36.70A.070(5)(c)(iv); and

**WHEREAS** in light of the foregoing, it is unclear that the Skagit River Basin can support the significant additional water demand that Data Centers frequently involve; and

**WHEREAS** Skagit County Code Title 14 does not currently permit Data Centers as defined herein; and

**WHEREAS** given Skagit County's unique conditions, the Board finds it in the public interest to define and regulate Data Centers as an independent use under Skagit County Code, through an open, transparent and locally-grounded public process; and

**WHEREAS** the Board of County Commissioners finds that an emergency exists within the County, and the immediate adoption of an interim ordinance effecting a moratorium on Data Centers within Skagit County 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 Skagit County, its lands, natural resources, natural environment and human community.
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.

*[remainder of page left intentionally blank]*

**NOW THEREFORE, BE IT FURTHER ORDAINED:**

**Section 1.** The Board of County Commissioners hereby declares a moratorium providing that no permit applications for Data Centers as defined herein will be accepted.

**Section 2.** This ordinance shall take effect immediately upon passage by the Board of County Commissioners.

**Section 3.** The moratorium created by this ordinance shall be effective for six (6) months.

**Section 4.** Skagit County Planning and Development Services shall develop and propose amendments to Skagit County Code Title 14, consistent with applicable law, that further define and regulate Data Centers as an independent use under Skagit County Code.

**Section 4.** 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 5.** This ordinance and moratorium shall not apply to any applications vested before the effective date of this ordinance as set forth by SCC 4.06.190.

**Section 6.** 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.

*[remainder of page left intentionally blank]*

**Section 7.** The Board of County Commissioners will hold a public hearing on July 14, 2026 at 10:30 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 1st day of June 2026.

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



*Ron Wesen*

Ron Wesen, Chair

**ABSENT**

Peter Browning, Commissioner

*Joe Burns*

Joe Burns, Commissioner

**ATTEST:**

*Amber Epps*  
Linda Hammons, Clerk of the Board

**APPROVED:**

*Will Honea*  
Will Honea, Senior Civil Deputy  
Skagit County Prosecuting Attorney