WHEREAS, pursuant to the Growth Management Act (chapter 36.70A RCW), the Snohomish County Council adopted regulations in Chapter 30.62B SCC for the protection of public safety, health and welfare in geologically hazardous areas, including: erosion hazard, landslide hazard, seismic hazard, mine hazard, volcanic hazard, and tsunami hazard areas; and

WHEREAS, by Motion No. 10-437 on September 7, 2010, the Snohomish County Council adopted portions of the Snohomish County Natural Hazards Mitigation Plan, including Map 14-1, Landslide Hazard Areas; and

WHEREAS, Snohomish County Executive John Lovick issued a local proclamation of emergency on March 22, 2014, following a landslide between Oso and Darrington that resulted in a devastating loss of life and property; and

WHEREAS, the extent of the landslide near Oso was significantly greater than was forecast based on the Snohomish County Natural Hazards Mitigation Plan; and

WHEREAS, a significant amount of additional study and public involvement may be required before determining if permanent changes in regulations may be appropriate to balance the potential hazards of future landslides with the rights of property owners to use and develop their land, and if so, what those changes should be; and

WHEREAS, the Snohomish County Council desires to reduce the potential that future residential development will increase the number of people and dwellings that could be affected by possible future landslides during the time that may be required for study and development of potential new permanent regulations; and

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

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

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

A. The Snohomish County Council adopts and incorporates the foregoing recitals as findings as if set forth fully herein.

B. SCC 30.62B.130(6) requires, for all development activity or action requiring a project permit, that the applicant submit a site development plan that shows the location of all geologically hazardous areas on and within 200 feet of the site, to the extent possible.

C. SCC 30.62B.340(2) generally requires structures to be set back from the toe of a slope in a landslide hazard area a minimum of 50 feet or the height of the slope divided by two, whichever is greater, subject to exceptions.

D. Chapter 30.62B SCC was developed and adopted using best available science.

E. The area impacted by the landslide near Oso extended more than six times the height of the slope that failed.

F. It is necessary and desirable to conduct further study, analysis, and public involvement on the topic of landslide hazards to determine whether new regulations are necessary for the protection of public safety, health and welfare near landslide hazard areas.

G. During the time required for the potential development of new regulations, it is necessary and desirable to require greater study, more disclosure, and greater setbacks from landslide hazard areas for applications for development near landslide hazard areas.

H. If the county were to follow its regular, non-emergency public participation procedures to adopt new regulations related to landslide hazards without first adopting an interim official control, permit applications submitted under the current regulations before any potential new regulations could be adopted would frustrate the purpose of any such potential new regulations by increasing the number of people and dwellings that could be affected by future landslides.

I. It is in the best interest of the health, safety, and welfare of the citizens of Snohomish County to immediately adopt an interim official control on development near landslide hazard areas. Unlike a moratorium, which would ban new applications for six months, the interim official control allows new applications under temporary regulations that require greater study, more disclosure, and greater setbacks from landslide hazard areas.

J. The interim official control was developed quickly to respond to an emergency. It is a temporary measure. It has not gone through the regular process for refining and vetting development regulations. Any development regulations that may result from additional study and public involvement over the next six months may be completely different from the interim control.
K. The amendments to SCC 30.62B.140 would require a geotechnical report for any
development activity or action requiring a project permit located within a specified
distance above or below a landslide hazard area. The distance above the
landslide hazard area would be equal to 200 feet or the height of the slope,
whichever is greater. The distance below the landslide hazard area would be
equal to 200 feet or two times the height of the slope, whichever is greater. The
geotechnical report would have to analyze the potential for rare or exceptional
landslides. This additional study may help identify and mitigate risks at a greater
distance from landslide hazard areas.

L. The amendments to SCC 30.62B.160 would require disclosure of potential
landslide hazards to be recorded with the county auditor for all new development
within a specified distance above or below a landslide hazard area, where that
distance is the same distance as required for a geotechnical report. To ensure that
landslide hazard areas have been adequately identified and appropriate measures
for the protection of public safety have been established, geotechnical reports will
be required for approval of every development activity even if development
activities or plans had been previously approved on the site. This additional
information is required to determine whether the current code requirements are
met and it does not create a new land use control. These provisions may help
better inform project applicants, landowners, residents, and the general public of
potential landslide hazards.

M. The amendments to SCC 30.62B.340 would increase the minimum setback from
the top of a slope in a landslide hazard area to a distance equal to the height of the
slope. They would increase the minimum setback from the toe of a slope in a
landslide hazard area to a distance equal to two times the height of the slope.
These setbacks can be reduced if there is no alternative location on the property
and the geotechnical report demonstrates that the alternative setbacks provide
protection which is at least equal to that provided by the minimum setback.

N. Applicants who submitted permit applications for development in or near landslide
hazard areas prior to the effective date of this ordinance may have a vested right
to have their applications processed under the regulations that were in effect when
their applications were deemed complete, regardless of this interim official control
or any future regulations that may be adopted. It is in the best interest of the
health, safety, and welfare of the citizens of Snohomish County that such
applicants be notified that landslides could extend beyond the setbacks required
by the existing code, that proceeding with development near landslide areas may
expose them to risk despite the protections in the existing code, and to
recommend that they suspend development or comply with the interim official
control until new regulations are in place. If they choose to proceed under the
existing regulations, they do so at their own risk and they should take appropriate
steps to evaluate and mitigate that risk.

O. This ordinance is exempt from the public participation requirements of Chapter
30.73 SCC, subject to the requirements of RCW 36.70A.390.
P. The amendments to Chapter 30.62B SCC adopted by this ordinance bear a substantial relationship to the public health, safety and welfare.

Q. Pursuant to WAC 197-11-880 and SCC 30.61.020, the adoption of this ordinance is exempt from the requirements for a threshold determination under the State Environmental Policy Act (SEPA).

Section 2. Pursuant to section 2.120 of the Snohomish County Charter, the Snohomish County Council finds as a fact and concludes that adopting an emergency ordinance and interim official control on development near landslide hazard areas is necessary for the immediate preservation of the public peace, health or safety. Non-emergency options may not provide adequate protection to people and property that may be affected by future landslides that extend beyond the setbacks in the current code. Based on the foregoing, the Snohomish County Council declares that an emergency exists and this ordinance shall take effect immediately.

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

A. Snohomish County Code Section 30.62B.140, added by Amended Ordinance 06-061 on August 1, 2007, is amended to read:

30.62B.140 Geotechnical report requirements.

(1) A geotechnical report will be required for any development activity or action requiring a project permit proposed within:

(a) An erosion hazard area;

(b) A landslide hazard area or its setback;

(c) Two hundred feet of a landslide hazard area or within a distance from the top of the slope equal to two times the height of a slope or within a distance of the toe of the slope equal to four times the height of the slope, except that this does not apply to any development activity or action requiring a project permit related to the repair or reconstruction of SR 530, Mt. Index River Road, and utilities and other infrastructure where they were damaged or destroyed by landslides in 2014;

(d) Two hundred feet of a mine hazard area; or

(((d))) (e) Two hundred feet of any faults.

(2) The geotechnical report shall be prepared, stamped, and signed by a licensed engineer or geologist and contain the following information relevant to the geologically hazardous area:
(a) The topography at contour intervals of five feet unless the underlying project permit requires a lesser interval;

(b) Significant geologic contacts, landslides, or downslope soil movement on and within 200 feet of the site;

(c) A channel migration zone study when required pursuant to SCC 30.62B.330(2);

(d) Impervious surfaces, wells, drain fields, drain field reserve areas, roads, easements, and utilities on site;

(e) The location or evidence of any springs, seeps, or other surface expressions of groundwater;

(f) The location or evidence of any surface waters;

(g) Identification of all existing fill areas;

(h) The location and extent of all proposed development activity;

(i) A discussion of the geological condition of the site including:

(i) a description of the soils in accordance with the Natural Resource Conservation Service indicating the potential for erosion;

(ii) engineering properties of the soils, sediments, and rocks on the subject property and adjacent properties and their effect on the stability of the slope;

(iii) a description of the slope in percent gradient; ((and))

(iv) the location or evidence of seismic faults and soil conditions indicating the potential for liquefaction; and

(v) analysis of any potential hazard from a rare or exceptional landslide that could be triggered by unusual amounts of precipitation, channel migration, earthquakes, or changes in land cover;

(j) The proposed method of drainage and locations of all existing and proposed surface and subsurface drainage facilities and patterns, and the locations and methods for erosion control;

(k) The extent and type of existing vegetative cover;

(l) A vegetation management and restoration plan prepared by persons experienced in vegetation management and restoration plans such as botanists, landscape architects and certified arborist, or other means for maintaining long-term stability of slopes;
(m) Analysis of erosion rates, slope recession rates and potential impacts to existing or
proposed development from wave cutting, stream meandering, or other erosional forces
to determine the recommended solution for bank or shoreline stabilization or flood
protection in conformance with SCC 30.62B.320(2); and

(n) Any other information necessary to determine compliance with this chapter.

B. Snohomish County Code Section 30.62B.160, added by Amended Ordinance
06-061 on August 1, 2007, is amended to read:

30.62B.160 Permanent identification, development restrictions, and recording.

The following measures for permanent identification, development restrictions and
disclosure of geologically hazardous areas are required for any development activity or
action requiring a project permit, except those occurring in public and private road or
utility easements and rights-of-way, or those conducted for the primary purpose of
habitat enhancement.

(1) Critical area site plan.

(a) All erosion, landslide, and mine hazard areas and seismic faults shall be designated
on a critical area site plan.

(b) The critical area site plan shall be drawn to a standard engineering scale and include
at minimum:

(i) the boundaries of the site;

(ii) a legal description of the subject property;

(iii) accurate locations of the geologically hazardous area(s), identified by hazard type;

and

(iv) visual and written documentation of any permanent restrictions on development
activities in the geologically hazardous area occurring as a result of compliance with this
chapter, including, but not limited to: structural setbacks and vegetation retention
requirements or other restrictions as may be required pursuant to this chapter.

(2) Recording. Critical area site plans or disclosure notices as required pursuant to SCC
30.62B.160(1) or (3) shall be recorded with the county auditor. Documentation of
recording shall be provided to the department prior to permit issuance.

(3) Disclosure requirements for buildings in volcanic, ((and)) tsunami, and landslide
hazard areas. A disclosure notice acknowledging that the development is occurring on
or within 200 feet of a volcanic or tsunami hazard area or in or within a specified

AMENDED EMERGENCY ORDINANCE NO. 14-029
RELATING TO GROWTH MANAGEMENT, ADOPTING AN INTERIM OFFICIAL CONTROL ON DEVELOPMENT
NEAR LANDSLIDE HAZARD AREAS, AMENDING SCC 30.62B.140, .160, AND .340, DECLARING AN
EMERGENCY, AND SETTING A HEARING DATE -6
distance of a landslide hazard area, where the distance is the greater of (a) 200 feet
from the landslide hazard area, or (b) twice the height of the slope from the top, or (c)
four times the height of the slope from the toe. The notice shall include the following
disclosure text, as appropriate:

(a) For volcanic hazard areas, "This property is on or within 200 feet of the Glacier Peak
Volcanic Hazard Area, which is subject to periodic and potentially life-threatening
destructive mud, water, and debris flows."; or

(b) For tsunami hazard areas, "This property is on or within 200 feet of a tsunami hazard
area, which could be subject to potentially life-threatening destructive waves."; or

(c) For landslide hazard areas, “This property is in or near a landslide hazard area,
which could be subject to potentially life-threatening destructive landslides or mudflows.”

(4) Previously approved critical area site plans. For any development activity, action
requiring a project permit or clearing occurring consistent with a previously approved
critical area site plan shall be governed according to the terms and conditions of the
approved site plan, provided that all erosion, landslide, mine and seismic hazard areas
have been adequately identified and appropriate measures for the protection of public
safety have been established. To ensure that all landslide hazard areas have been
adequately identified and appropriate measures for the protection of public safety have
been established, compliance with the requirements for a geotechnical report pursuant
to SCC 30.62B.140 is required for approval of every development activity or project
permit, notwithstanding approval of any previous application or critical area site plan.

C. Snohomish County Code Section 30.62B.340, added by Amended Ordinance
06-061 on August 1, 2007, is amended to read:

30.62B.340 Landslide hazard areas.

(1) Development activities, actions requiring project permits and clearing shall not be
allowed in landslide hazard areas or their required setbacks unless there is no alternate
location on the subject property.

(2) Structures shall be setback from landslide hazard areas unless the department
approves a deviation as provided below.

(a) Setbacks shall be established as follows:

(i) the minimum top of slope setback shall be equal to 50 feet or the height of the slope
   ((divided by three)), ((or 50 feet,)) whichever is greater;

(ii) the minimum toe of slope setback shall be equal to 50 feet or the height ((divided by
two)) of the slope multiplied by two, whichever is greater; and
(iii) slope setbacks shall be no less than the minimum necessary to ensure that structural shoreline stabilization measures will not be necessary to protect the development.

(b) Deviations from setbacks may be allowed when the applicant demonstrates that the following conditions are met:

(i) there is no alternate location for the structure on the subject property; and

(ii) a geotechnical report demonstrates that:

(A) the alternative setbacks provide protection which is equal to that provided by the standard minimum setbacks; and

(B) the proposal meets the requirements of SCC 30.62B.320.

(3) In addition to the requirements in SCC 30.62B.320 the following standards and requirements apply to development activities, actions requiring project permits and clearing in landslide hazard areas:

(a) Vegetation shall not be removed from a landslide hazard area, except for hazardous trees based on review by a qualified arborist or as otherwise provided for in a vegetation management and restoration plan;

(b) The factor of safety for landslide occurrences shall not be decreased below the limits of 1.5 for static conditions or 1.1 for dynamic conditions. Analysis of dynamic conditions shall be based on horizontal acceleration as established by the current version of the International Building Code;

(c) Tiered piles or piers shall be used for structural foundations where possible to conform to existing topography;

(d) Retaining walls that allow for the maintenance of existing natural slope area shall be used wherever possible instead of graded artificial slopes;

(e) Provided there is no practical alternative, utility lines and pipes may be constructed in landslide hazard areas under the following conditions:

(i) the line or pipe shall be located above ground and properly anchored or designed so that it will continue to function in the event of an underlying slide; and

(ii) stormwater conveyance systems shall be designed with high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equivalent; or

(iii) alternatively, utilities may be bored below landslide hazard areas provided they are located beneath the depth of potential slope failure.
(f) Point source discharge of stormwater may be allowed in landslide hazard areas under the following conditions:

(i) the stormwater is conveyed via continuous storm pipe downslope to a point where it does not increase risk to landslide hazard areas or other properties downstream from the discharge;

(ii) the stormwater is discharged at flow durations matching predeveloped conditions with adequate energy dissipation into existing channels; or

(iii) discharge upslope of the landslide hazard area may only occur if:

(A) it is dispersed onto a low-gradient undisturbed setback adequate to infiltrate all surface and stormwater runoff; and

(B) the discharge will not decrease the stability of the slope.

(4) Development activities or actions requiring a project permit occurring in or within a specified distance of a landslide hazard area, where the distance is the greater of (a) 200 feet from the landslide hazard area, or (b) twice the height of the slope from the top, or (c) four times the height of the slope from the toe, shall comply with the identification, disclosure, and recording requirements of SCC 30.62B.160.

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

Section 5. Public hearing. The Snohomish County Council will hold a public hearing on June 11, 2014, at the hour of 10:30 a.m. in the Henry M. Jackson Board Room, 8th Floor, Robert J. Drewel Building, 3000 Rockefeller, Everett, Washington, for the purpose of hearing public testimony on this matter in accordance with RCW 36.70A.390. The notice for the public hearing shall specifically indicate that this ordinance may be renewed for one or more six month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

Section 6. Request for review. The Snohomish County Council requests that the County Executive engage affected stakeholders and communities in the review of the regulations for development near landslide hazard areas and propose any policies and regulations deemed appropriate to serve the public health, safety, and welfare in Snohomish County. The Snohomish County Council requests that the County Executive submit a work plan to the County Council within 90 days outlining the scope, process, and schedule for completing this review.

Section 7. Notice to applicants. The Snohomish County Council requests that the County Executive provide a special notice to all applicants with pending applications
for development in or within a specified distance of a landslide hazard area, where the
distance is the greater of 200 feet or twice the height of the slope from the top or four
times the height of the slope from the toe. The notice should advise the applicant that:
(1) The landslide that occurred between Oso and Darrington on March 22, 2014,
showed that landslides can extend beyond the setbacks required by the current code.
(2) The county has adopted an interim official control on development near
landslide hazard areas.
(3) The purpose of the interim official control is to require more study, more
disclosure, and greater setbacks from landslide hazard areas on a temporary basis to
provide time for additional study and potential development of new regulations to
address landslide hazards.
(4) Their application is in an area where the interim official control would require
additional geotechnical analysis.
(5) Proceeding with development near landslide hazard areas without additional
geotechnical analysis may have risks that are not addressed in the current code.
(6) Snohomish County recommends that they suspend development or comply
with the interim official control until the county determines whether new landslide hazard
area regulations should be adopted.
(7) If they choose to proceed under the existing regulations, they do so at their
own risk and they should take appropriate steps to evaluate and mitigate that risk.
(8) Any other information the Executive deems appropriate.

Section 8. Severability and savings. If any section, sentence, clause, or phrase
of this ordinance shall be ruled to be invalid or unconstitutional by the Growth
Management Hearings Board or a court of competent jurisdiction, such ruling shall not
affect the validity or constitutionality of any other section, sentence, clause, or phrase of
this ordinance, and the section, sentence, clause, or phrase in effect prior to the
effective date of this ordinance shall be in full force and effect for that individual section,
sentence, clause, or phrase as if this ordinance had never been adopted.

PASSED by a vote of ___ to ___ this ____ day of April, 2014.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

______________________________
Chairperson

ATTEST:

_______________________
Clerk of the Council

(   ) APPROVED
AMENDED EMERGENCY ORDINANCE NO. 14-029
RELATING TO GROWTH MANAGEMENT, ADOPTING AN INTERIM OFFICIAL CONTROL ON DEVELOPMENT
NEAR LANDSLIDE HAZARD AREAS, AMENDING SCC 30.62B.140, .160, AND .340, DECLARING AN
EMERGENCY, AND SETTING A HEARING DATE -11