

1 **BEFORE THE WESTERN WASHINGTON GROWTH**  
2 **MANAGEMENT HEARINGS BOARD**

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4 **EVERGREEN ISLANDS, et al.,**

5 **Petitioners,**

6  
7 **v.**

8 **SKAGIT COUNTY,**

9 **Respondent,**

10 **and**

11 **AFFILIATED HEALTH SERVICES, et al.,**

12 **Intervenors.**

**No. 00-2-0046c**

**COMPLIANCE  
ORDER  
(SIGN ORDINANCE)**

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17 **I. SUMMARY OF THE DECISION**

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19 This matter comes before the Board for determination of compliance with the Growth Management  
20 Act (GMA, Act). On February 6, 2001 the Board, as part of its Final Decision and Order in this Case,  
21 found the County's sign regulations for rural Skagit County out of compliance with RCW  
22 36.70A.030 (14)(a) and RCW 36.70A.070 (5)(c) and ordered the County to adopt much stricter sign  
23 regulations for rural Skagit County so that signage did not predominate over open space, the natural  
24 landscape, or vegetation. Later, on January 31, 2002, when the County had not adopted new sign  
25 regulations and, in fact, reverted to an even less stringent sign ordinance, the Board imposed  
26 invalidity and determined that the County's current sign ordinance interfered with Goal 2 (Reducing  
27 Sprawl) and Goal 10 (the Environment) of the Growth Management Act (GMA). On September 14,  
28 2004, the Board lifted invalidity based on the amendments that the County had made to its sign  
29 ordinance through the adoption of Ordinance No. 020040010. While Petitioners filed briefs objecting  
30 to many of the sign ordinance changes, at argument they raised only objections to the allowance of  
31 billboards in rural Skagit County. This order finds the County's sign ordinance as amended by  
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1 Ordinance 020040010 to be compliant because the County has confined billboards to four Rural  
2 Freeway Service (RFS) Zones. These RFS zones are compliant LAMIRDS that allow for more  
3 intense development and contain that development. Billboards are appropriately restricted to these  
4 LAMIRDS that serve the freeway, which is already a very intensive land use. The County has also  
5 adopted other new regulations that establish stricter parameters for rural signs. Petitioners have not  
6 sustained their burden of proof that these stricter parameters do not comport with the Board's  
7 February 6, 2001 order, requiring that the County's sign ordinance comply with RCW  
8 36.70A.030(14)(a), and RCW 36.70A.070(5)(c). For these reasons, the Board finds the County's  
9 regulations governing billboards in rural Skagit County are compliant with RCW 36.70A.030 (14)(a),  
10 and RCW 36.70A.070 (5)(c).  
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## 12 **II. PROCEDURAL HISTORY**

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15 In its February 6, 2001, Final Decision and Order in this case, the Board required Skagit County to  
16 set "much stricter parameters for rural signage" to protect the rural character of the County and  
17 conform with RCW 36.70A.030(14)(a) and .070(5)(c). If compliance was not achieved within 90  
18 days, the Board said it would consider Petitioners' request for invalidity. On January 2, 2002, the  
19 Board found the County had not yet adopted new sign regulations to protect rural character and had  
20 reverted back to an older, more noncompliant sign ordinance. For these reasons, the Board decided  
21 that SCC 14.16.820 and Skagit County's failure to ensure that its rural lands remain rural through  
22 adequate signage controls, substantially interfered with the fulfillment of Goals (2) and (10) of the  
23 Act. In its September 11, 2003, Compliance Order in this case, the Board gave the County an  
24 additional 180 days to complete its work on revising its sign ordinance to protect rural character. On  
25 June 14, 2004, the County adopted amendments to its sign ordinance—Skagit County Ordinance  
26 020040010. On August 31, 2004, the Board held a telephonic hearing. Ms. June Kite represented  
27 Friends of Skagit County (FOSC) and Mr. Samuel W. ("Billy") Plauche represented Skagit County.  
28 All three Board members attended. On September 14, 2004, the Board issued Order Re: Lifting  
29 Invalidity (Sign Ordinance).  
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1 When the County failed to enact stricter signage controls to protect rural character as directed by the  
2 original order in this case, the Board found that the County's current sign regulations substantially  
3 interfered with RCW 36.70A.020(2), the GMA's sprawl reduction goal, and RCW 36.70A.020 (10),  
4 the Act's environmental protection goal. *Evergreen Islands v. Skagit County*, Case No. 00-2-0046c  
5 (Compliance Order, January 2, 2002).  
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8 On June 14, 2004, the County adopted Ordinance No. 020040010 in response to the Board's finding  
9 of invalidity in this case. The County requested that the Board lift the finding of invalidity and find  
10 compliance based on the amendments to chapter 14.16 SCC that the County adopted in this  
11 ordinance.  
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14 In their briefs<sup>1</sup>, Petitioners opposed the motion to lift invalidity and find compliance, and raised  
15 concerns about the County's sign ordinance amendments that included the following:

- 16 • Nonconforming signs could remain in place for three years.
- 17 • Many signs could remain in place because they were approved through a special use permit.
- 18 • Billboards that are allowed in Rural Freeway Service (RFS) Zones dominate over the natural  
19 environment and should not be allowed in rural Skagit County.
- 20 • Off premise signs could occur on every parcel in the rural area.
- 21 • Size of on-premise signs and rural industrial and commercial signs were too large and too tall  
22 and are not consistent with rural character.
- 23 • Landscaping requirements for signs would be ineffective.
- 24 • There were not enough restrictions on the size and number of pennants, banners, flags, etc.,  
25 that businesses could have for promotions and the restrictions on the number of promotions  
26 that used these items were not enough.  
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31 <sup>1</sup> Friends of Skagit County Response to County's Statement of Actions Taken to Achieve Compliance (July 7, 2004),  
32 Friends of Skagit County Response to County's Statement of Actions Taken to Achieve Compliance (July 22, 2004), and  
Friends of Skagit County's Reply Brief for the Compliance Hearing (August 23, 2004).

- Despite these amendments, the sign ordinance still did not protect rural character and continued to substantially interfere with the goals and requirements of the GMA.

However, at the Compliance Hearing, Petitioners' representative stated that most of Petitioners' concerns about the sign ordinance amendments have been alleviated; the remaining issue concerns billboards being allowed in the Rural Freeway Service (RFS) Zone. Petitioner argued that the allowed size and spacing of billboards in the RFS Zone interfered with the rural character of the surrounding rural area and that Washington Department of Transportation's tourist information signs were adequate to convey needed information to the traveling public. Petitioners continue to contend that the County's regulation of billboards substantially interferes with the goals of the GMA and that, therefore, the finding of invalidity should not be lifted.

Respondent County pointed out that the County's new amendments confined billboards to the four RFS Zones. The County maintained that RFS Zones are compliant Limited Areas of More Intense Development (LAMIRDs) and are appropriate locations for billboards.

On September 14, 2004, the Board issued an order that the County pursuant to RCW 36.70A.320(4) had demonstrated that the sign ordinance no longer interfered with the RCW 36.70A.020 (2) the sprawl reduction goal and RCW 36.70A.020 (10) the environmental goal. See *Evergreen Islands v. Skagit County*, Case No.00-2-0046c (Order Re: Lifting Invalidity (Signs), September 14, 2004).

Having found that through the adoption of Ordinance No. 020040010, Skagit County's sign ordinance no longer interferes with the GMA, the Board reviews whether the County's sign ordinance now complies with the Act. Because the only objection to the County's amendments Petitioners continued to raise at argument was the continued allowance of billboards in rural Skagit County, the Board will limit our compliance discussion to this issue.

SCC 14.16.820 (5) now prohibits billboards except in RFS zones. These zones are Limited Areas of More Intense Rural Development (LAMIRDs) that have been carefully scrutinized by the County and

1 by this Board. In *City of Anacortes v. Skagit County*, Case No. 00-2-0049c (Final Decision and  
2 Order, February 6, 2001), this Board remanded all the RFS zones to the County for further analysis of  
3 the logical outer boundary of these LAMIRDs. On January 31, 2002, the Board found that the  
4 County's logical outer boundaries for all of these LAMIRDs, except one, the Southeast Quadrant of  
5 the Bow Hill LAMIRD, to be compliant. Later, when the County eliminated this area from the Bow  
6 Hill LAMIRD, all the County's RFS zones were deemed compliant with RCW 36.70A.070 (5) (d)  
7 (iv).

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10 SCC 14.16.120, which sets out the requirements for RFS zones, permits billboards as an  
11 administrative special use. Billboards have been an established use in RFS zones since the zones'  
12 inception. Under the County's noncompliant sign code, billboards were permitted in several other  
13 zoning districts (Natural Resource Industrial, Aviation Related, Bayview Ridge Industrial, Bayview  
14 Ridge Heavy Industrial, Industrial Forest).

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17 The amendments to the sign code adopted by Ordinance No. 020040010 now confine billboards to  
18 RFS zones. The County has prevented billboards from predominating over open space, the natural  
19 landscape, and vegetation by restricting billboards to compliant RFS LAMIRDs. In this case, this  
20 type of LAMIRD is an appropriate place for billboards because of the following: (1) LAMIRDs, by  
21 definition, allow more intensive uses in the rural zones, (2) the boundaries for these LAMIRDs have  
22 been found to contain rural development, and (3) these LAMIRDs are adjacent to a very intensive  
23 use, Interstate 5, so that billboards are consistent with the intensity of use. The Board finds that the  
24 County's restrictions on billboards comply with the Board's order to set much stricter parameters for  
25 rural signage, RCW 36.70A.070(5)(c), and RCW 36.70A.030 (14) (a).

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29 When Board issued its September 24, 2004 order that lifted invalidity because the County had  
30 demonstrated that the sign ordinance no longer interfered with the RCW 36.70A.020 (2) the sprawl  
31 reduction goal and RCW 36.70A.020 (10) the environmental goal, it gave the following reasons, in  
32 addition to confining billboards to RFS zones, for lifting invalidity:

- 1 • Nonconforming off-premise signs that were not permitted through the use of special use
- 2 permit must be phased out over three years.
- 3 • The regulations for signs apply to all zoning districts in the County.
- 4 • Abandoned signs; flashing, revolving, animated, and moving signs; strobelights; searchlights;
- 5 revolving signs; and certain types of rooftop signs are prohibited.
- 6 • Temporary signs advertising community events are limited in type, size, and duration.
- 7 • Larger commercial and industrial signs are confined to businesses and industries located in
- 8 LAMIRDS.
- 9 • The County has authority to remove signs that are a threat to health and safety and makes it
- 10 clear that illegal signs will be abated through the County's regular enforcement procedures.
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14 Although Petitioners did not address the concerns that they had raised in their briefs about the type of  
15 signs mentioned above, these facts also demonstrate that the County has adopted stricter parameters  
16 for the regulation of signs and that Petitioners have not sustained the burden of proof that these  
17 regulations do not comply with RCW 36.70A.030 (14) (a) and RCW 36.70A.070 (5) (c).

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19 **Conclusion:** Regarding the regulation of billboards, the only issue that Petitioners argued, the Board  
20 finds that the County complies with the Board's February 6, 2001 order regarding the regulation of  
21 signs in rural Skagit County, RCW 36.70A.030(14) (a), and RCW 36.70A.070 (5)(c). Regarding the  
22 regulation of other signs and whether the County's other sign amendments comply with the Board's  
23 order to adopt much stricter sign parameters (to ensure signage does not predominate over open  
24 space, the natural environment, and vegetation pursuant to RCW 36.70A.030 (14)(a) and RCW  
25 36.70A.070 (5)(c)), the Board finds that Petitioners have not sustained the burden of proof pursuant  
26 to RCW 36.70A.320(2).  
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## 29 VI. FINDINGS OF FACT

- 30 1. Skagit County is a county located west of the crest of the Cascade Mountains that
- 31 has chosen to or is required to plan under RCW 36.70A.040.
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2. Petitioners are organizations that, through their members and representatives, submitted written and oral comments to the Board of County Commissioners on this compliance issue.
3. In Ordinance No. 020040010, the County adopted amendments to its sign regulations that apply to rural Skagit County .
4. At argument, Petitioners limited their objections to the sign ordinance amendments that allow billboards in rural Skagit County. Those issues which were not argued are deemed “abandoned”.
5. The amendments to Skagit County’s sign ordinance adopted by Ordinance No. 020040010 prohibit billboards in rural Skagit County except in Rural Freeway Service (RFS) zones.
6. Prior to the adoption of these amendments, the County allowed billboards in several zones including RFS zones.
7. RFS zones are Limited Areas of More Intense Development (LAMIRDs) that contain existing rural development and have been found compliant by this Board.
8. RFS zones are located adjacent to Interstate Highway 5.
9. Under the new amendments to the County’s sign regulations, nonconforming off-premise signs not permitted through the use of special use permits must be phased out over three years.
10. The new sign regulations apply to all zoning districts in the County.
11. Abandoned signs; flashing, revolving, animated, and moving signs; strobelights; searchlights; revolving signs; and certain types of rooftop signs are prohibited throughout the rural zone(s).
12. Temporary signs advertising community events are limited in type, size, and duration.
13. Larger commercial and industrial signs are confined to businesses and industries located in LAMIRDs.

1 14. The County has authority to remove signs that are a threat to health and safety and  
2 makes it clear that illegal signs will be abated through the County's regular  
3 enforcement procedures.

4 15. On September 14, 2004, this Board issued an order that lifted invalidity on sign  
5 regulations in rural Skagit County because the County has demonstrated its  
6 regulations no longer interfered with Goal 2 and Goal 10 of the GMA pursuant to  
7 RCW 36.70A.320(4).  
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10 **VII. CONCLUSIONS OF LAW**  
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- 12 A. This Board has jurisdiction over the parties and subject matter of this compliance action.  
13 B. Petitioners have standing to challenge this compliance action on the basis of their participation  
14 in the proceedings below.  
15 C. The County's sign regulations regarding billboards in Skagit County as amended by Ordinance  
16 No. 020040010 comply with RCW 36.70A.030 (14)(a) and RCW 36.70A.070 (5)(c), as  
17 directed in the Board's February 6, 2001 order,  
18 D. The County's stricter sign regulations adopted in Ordinance No. 020040010 comply with RCW  
19 36/70A.070(5)(c) as required by the Board's February 6, 2001 order .  
20 E. Petitioners have not sustained their burden of proof pursuant RCW 36.70A. 320(2) to  
21 demonstrate that the County's sign regulations for rural Skagit County after the adoption of  
22 amendments to the County's sign ordinance by Ordinance No. 020040010 do not comply with  
23 RCW 36.70A.030 (14), and RCW 36.70A.070 (5)(c).  
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27 **VIII. ORDER**

28 The regulations with respect to signage in rural Skagit County comply with the Growth Management  
29 Act. The portion of the Case No. 00-2-0046c that deals with signage in rural Skagit County is now  
30 CLOSED.  
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1 This is a Final Order under RCW 36.70A.300(5) for purposes of appeal.

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3 Pursuant to WAC 242-02-832(1), a motion for reconsideration may be filed within ten days of  
4 issuance of this final decision.  
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7 So ORDERED this 3rd day of November, 2004.  
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9 WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD  
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Holly Gadbow, Board Member

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Margery Hite, Board Member

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Gayle Rothrock, Board Member  
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