

**ORDINANCE NO. 806**

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE, ZONING AND PROJECT PERMIT PROCESSING, MAKING CHANGES TO REFLECT LEGISLATIVE AMENDMENTS TO THE REGULATORY REFORM ACT (CHAPTER 36.70B RCW) SINCE ITS ADOPTION, ESTABLISHING PROCEDURES FOR THE CONDUCT OF OPEN AND CLOSED RECORD HEARINGS, UPDATING THE MATRICES FOR TYPING OF PROJECT PERMIT APPLICATIONS TO INCLUDE WIRELESS COMMUNICATIONS FACILITIES APPLICATIONS, ADOPTING NEW THRESHOLD REQUIREMENTS FOR PRE-APPLICATION CONFERENCES, POSTING, AMENDING SECTIONS 19.01.002, 19.01.003, 19.01.004, 19.01.005, 19.01.006, 19.01.007, 19.02.001, 19.02.002, 19.02.003, 19.02.004, 19.02.005, 19.03.001, 19.03.002, 19.03.003, 19.04.001, 19.04.002, 19.05.002, 19.05.001, 19.05.004, 19.05.005, 19.05.006, 19.05.009, 19.06.001, 19.06.002, 19.06.003, 19.06.004 OF THE GIG HARBOR MUNICIPAL CODE, REPEALING SECTIONS 19.05.008, AND 19.06.005 AND ADDING NEW SECTIONS 19.05.008, 19.05.009 AND 19.06.005.

WHEREAS, revisions to state law require amendments and modifications to City Codes regulating permit processing; and

WHEREAS, revisions to certain sections of the land use permitting code are needed to correct typographical errors and omissions and to clarify meanings; and

WHEREAS, pursuant to WAC 365-195-820(2), the City has not sent copies of this ordinance to DCTED and other State Agencies because these regulations are merely procedural and ministerial; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, ORDAIN AS FOLLOWS:

Section 1. Section 19.01.002 of the Gig Harbor Municipal Code (GHMC) is hereby amended to read as follows:

### **19.01.002 Determination of proper procedure type.**

A. Determination by Director. ~~The director of the community development department~~ Planning Director or his/her designee (hereinafter the "~~director~~" "Director") shall determine the proper procedure for all development applications. ~~If there is a question as to~~ Questions concerning the appropriate ~~type of~~ procedure, ~~the director shall resolve it~~ be resolved in favor of the higher numbered procedure ~~type number~~.

B. Optional Consolidated Permit Processing. An application that involves two or more procedures may be processed collectively under the highest numbered procedure required for any part of the application or may be processed individually under each of the application procedures identified ~~by the code in GHMC Section 19.01.003~~. The applicant may determine whether the application ~~shall will~~ be processed collectively or individually. If the ~~application~~ is applications are processed ~~under the individual procedure option~~ individually, the highest numbered type procedure ~~must be processed~~ shall be ~~prior to the subsequent lower numbered procedure~~ undertaken first, followed by the other procedures in sequence from the highest numbered to the lowest.

C. Decisionmaker(s). Applications processed in accordance with subsection B of this section which have the same ~~highest numbered~~ procedure number, but are assigned to different hearing bodies, shall be heard collectively by the highest decisionmaker(s). ~~The city council is the highest, followed by the hearing examiner or planning commission; the City Council being the highest body, followed by the Hearing Examiner or Planning Commission, as applicable, and then the director~~ Director. Joint public hearings with other agencies shall be processed according to GHMC 19.01.004. (~~Ord. 711 § 1, 1996~~).

Section 2. GHMC Section 19.01.003 is hereby amended to read as follows:

**19.01.003 Project permit application procedures.**

A. Action Type.

<b>PROCEDURE <u>FOR</u> PROJECT PERMIT APPLICATIONS (TYPE I - IV) LEGISLATIVE</b>					
	<b>TYPE I</b>	<b>TYPE II</b>	<b>TYPE III</b>	<b>TYPE IV</b>	<b>TYPE V</b>
Recommendation made by:	N/A	N/A	N/A	N/A	Planning Commission
Final decision made by:	<del>Admin.</del> <u>Director</u>	<u>Director</u>	Hearing Examiner	City Council	City Council
Notice of application:	No	No	Yes	Yes	No
Open record public hearing or <u>open record appeal of a final decision</u> :	No	Only if appealed, open record hearing before Hearing Examiner	Yes, before Hearing Examiner who renders final decision	No	Yes, before Planning Commission which makes recommendation to council
Closed record appeal/final decision:	No	No	Only if appealed, then before Council	Yes, before council to render final decision	Yes, or council could hold its own hearing
Judicial appeal:	Yes	Yes	Yes	Yes	Yes

B. Decisions.

TYPE I	TYPE II	TYPE III	TYPE IV	TYPE V
Permitted uses not requiring site plan review	Short plat	Preliminary plats; plat vacations and alterations	Final plats	Comp. plan amendments
Boundary line adjustments	Sign permits	<del>Site plan/binding</del> <u>plan/major amendments to site plan plans</u>		Development regulations
Minor amendments to PUD/PRD	Design review	<del>CUP/general</del> <u>CUP, general</u> variances, <del>including</del> sign permit variances, <u>and site specific rezones</u>		Zoning text amendments; <u>area wide zoning map amendments</u>
Special use permits	Land clearing/grading	<del>Shoreline mgmt</del> <del>permits</del> <u>substantial development, shoreline variance</u>		Annexations
Temporary construction trailers	Revisions to shoreline management permits	PRD/PUD and major amendments to PRD and PUD		
	Administrative variances	Amendment to height restriction area map		
	Administrative interpretations	Mobile/manufactured home park or subdivision		
	Home occupation permit			

TYPE I	TYPE II	TYPE III	TYPE IV	TYPE V
	Hardship variance, sign code			
	Modification to landscape plans			
	Minor amendment to PRD or PUD			

Section 3. GHMC Section 19.01.004 is hereby amended to read as follows:

**19.01.004 Joint public hearings.**

A. Administrator's Decision to Hold Joint Hearing. The ~~director~~ Director may combine any public hearing on a project permit application with any hearing that may be held by another local, state, regional, federal, or other agency, on the proposed action, as long as: (1) the hearing is held within the city limits; and (2) the requirements of subsection C below are met.

B. Applicant's Request for a Joint Hearing. The applicant may request that the public hearing on a permit application be combined as long as the joint hearing can be held within the time periods set forth in this title. In the alternative, the applicant may agree to a particular schedule if that additional time is needed in order to complete the hearings.

C. Prerequisites to Joint Public Hearing. A joint public hearing may be held with another local, state, regional, federal or other agency and the city, as long as City, when:

1. The other agency is not expressly prohibited by statute from doing so;

2. Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in ~~statute, ordinance, or rule~~ statutes, ordinances, or rules;

3. The agency has received the necessary information about the proposed project from the applicant in enough time to hold its hearing at the same time as the ~~local government~~ City hearing; ~~and or~~

4. The hearing is held within the geographic boundary of the ~~local government~~. (~~Ord. 711 § 1, 1996~~) City.

Section 4. GHMC Section 19.01.005(E) is hereby amended to read as follows:

**19.01.005 Legislative decisions.**

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E. Implementation. ~~The city council's~~ City Council decision shall be by ordinance or resolution and shall become effective ~~by passage of an~~ on the effective date of the ordinance or resolution. (~~Ord. 711 § 1, 1996~~).

Section 5. GHMC Section 19.01.006 is hereby amended to read as follows:

**19.01.006 Legislative enactments not restricted.**

Nothing in this chapter or the permit processing procedures shall limit the authority of the ~~city council~~ City Council to make changes to the ~~city's~~ City's comprehensive plan, or the City's development regulations as part of ~~an~~ the annual revision process ~~or the city's development regulations~~. (~~Ord. 711 § 1, 1996~~).

Section 6. GHMC Section 19.01.007 is hereby amended to read as follows:

**19.01.007 Exemptions from project permit application processing.**

A. Whenever a permit or approval in the Gig Harbor Municipal Code has been designated as a Type I, II, III or IV permit, the procedures in this title shall be followed in project permit processing. The following permits or approvals are specifically excluded from the procedures set forth in this title:

1. Landmark designations;
2. Street vacations;
3. Street use permits;
4. Impact fee decisions; and
5. Concurrency determinations.

B. Pursuant RCW 36.70B.140(2), building permits, boundary line adjustments or other construction permits, or similar administrative approvals categorically exempt from environmental review under SEPA (Chapter 43.21C RCW and the ~~city's~~ City's SEPA/environmental policy ordinance, Chapter 18.04 GHMC), or permits/approvals for which environmental review has been completed in ~~connections~~ connection with other project permits, are excluded from the following procedures:

1. ~~Determination of completeness (GHMC 19.02.003(A));~~
2. ~~Notice of application (GHMC 19.02.004) unless an open record hearing is allowed on the project permit decision;~~
3. Except as provided in RCW 36.70B.140, optional consolidated project permit review processing (GHMC 19.01.002(B));
4. Joint public hearings (GHMC 19.01.004);
5. Single report stating ~~that~~ all of the decisions and recommendations made as of the date of the report that ~~do not~~ not require an open public record hearing (GHMC 19.04.002(C));
6. Notice of decision (GHMC 19.05.008);

~~7. Completion of project review within any applicable time periods (including the 120 day permit processing time) (GHMC 19.05.008, 19.05.009). (Ord. 711 § 1, 1996).~~

Section 7. GHMC Section 19.02.001 is hereby amended to read as follows:

**19.02.001 Optional Pre-application conference.**

A.—~~Applications~~ Prior to filing applications for project permit Type I actions involving structures 5,000 or more square or over, Type III and Type IV actions shall not be accepted by the director ~~unless the applicant has requested III actions requiring a preliminary plat or site plan review and Type IV actions, the applicant may shall~~ request a pre-application conference. The purpose of the pre-application conference is to acquaint the applicant with the requirements of the Gig Harbor Municipal Code.

B. The conference shall be held within ~~45~~ 28 days of the request.

C.—~~Within five~~ Five or more working days following the conference, the ~~director~~ Director shall provide the applicant with:

1. A form which lists the requirements for a completed application;
2. A general summary of the procedures to be used to process the application;
3. The references to the relevant code provisions or development standards which may apply to ~~the~~ approval of the application;
4. The ~~city's~~ City's design guidelines.

D.—~~It is impossible for the conference to be an exhaustive review of all potential issues. The~~ Neither the discussions at the conference ~~or nor the information provided on~~ the form sent by the ~~city~~ Director to the applicant under GHMC 19.02.001(C) shall ~~not bind or prohibit the city's~~ bind the Director in any manner or prevent the Director's future application or enforcement of all applicable ~~law codes,~~ ordinances and regulations.



E. Pre-application conferences for all other types of applications ~~is~~ are optional, and requests for conferences will be considered on a time-available basis by the ~~director.~~ (Ord. 711 § 1, 1996) Director.

Section 8. GHMC Section 19.02.002 is hereby amended to read as follows:

**19.02.002 ~~Development~~ Project permit application.**

Applications for project permits shall be submitted ~~upon~~ on forms provided by the ~~director~~ Director. An application shall consist of all materials required by the applicable development regulations, and shall include the following general information:

- A. A completed project permit application form;
- B. A verified statement by the applicant that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has submitted the application with the consent of all owners of the affected property;
- C. A property and/or legal description of the site for all applications, as required by the applicable development regulations;
- D. The applicable fee;
- E. Evidence of adequate water supply as required by RCW 119.27.097; and \_\_\_\_\_
- F. Evidence of sewer availability. ~~(Ord. 711 § 1, 1996).~~

Section 9. GHMC Section 19.02.003 is hereby amended to read as follows:

**19.02.003 Submission and acceptance of application.**

A. Determination of Completeness. Within 28 days after receiving a project permit application, the ~~city~~ City shall mail or personally ~~provide a determination~~ deliver to the applicant a determination which states either: (1) that the application is complete; or (2) that the application is incomplete and what is necessary to make the application complete.

B. Identification of Other Agencies with Jurisdiction. To the extent known by the ~~city~~ City other agencies with jurisdiction over the project ~~permit application~~ shall be identified in the ~~city's determination required by GHMC 19.02.003(A)~~ Determination of Completeness.

C. Additional Information. A project permit application is complete for purposes of this section when it meets the submission requirements in GHMC 19.02.002, ~~as well as~~ and the submission requirements ~~contained in~~ of the applicable development regulations. ~~This determination of completeness~~ The Determination of Completeness shall be made when the application is ~~sufficient for continued processing~~ sufficiently complete for review even though additional information may be required or project modifications may be undertaken subsequently. The ~~city's determination of completeness~~ Director's Determination of Completeness shall not preclude the ~~city from requesting~~ Director's ability to request additional information or studies ~~either at the time of the notice of completeness or at some later time, if~~ whenever new information is required, or ~~where there are~~ are made to the proposed ~~action~~ project.

D. ~~Incomplete Application Procedure.~~ Applications.

1.—~~If~~ Whenever the applicant receives a determination from the ~~city~~ City that an application is not complete, the applicant shall have 90 days to submit the necessary information ~~to the city~~. Within 14 days after an applicant has submitted the requested additional information, the ~~city shall make the determination as described in GHMC 19.02.003(A),~~ Director shall make a Determination of Completeness and notify the applicant in the same manner. manner provided in subsection A of this paragraph 19.02.003.

2. If the applicant ~~either refuses in writing to submit additional information or~~ does not submit the required additional information requested within the 90-day period, the ~~director~~ Director shall make findings and issue a decision, according to the Type I procedure described in GHMC 19.01.003, that the application is has lapsed, ~~based upon the~~ for lack of information necessary to complete the review.

3. ~~In those situations where the director has made a determination~~ When the Director determines that an application has lapsed because the applicant has failed to submit the required information within the necessary time period, the applicant may request a refund of the application fee ~~unrelated to the city's determination of completeness.~~ remaining after the City's Determination of Completeness.

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E. ~~City's~~ E. Director's Failure to Provide Determination of Completeness. A project permit application shall be deemed complete under this section if the ~~city~~ Director does not provide a written determination to the applicant that the application is incomplete as provided in GHMC 19.02.003(A).

F. Date of Acceptance of Application. ~~When the project permit application is complete, the director~~ Project applications shall not be officially accepted until complete. When an application is found complete, the Director shall accept it and note the date of acceptance. (Ord. 711 § 1, 1996).

Section 10. GHMC Section 19.02.004 is hereby amended to read as follows:

**19.02.004 Notice of application.**

A. Generally. A ~~notice of application shall issue on~~ Notice of Application shall be provided to all City departments and agencies with jurisdiction of all Type III and IV project permit applications.

B. ~~SEPA Exempt Projects. A notice of application shall not be required for project permits that are categorically exempt under SEPA, unless a public comment period or an open record predecision~~ Issuance of Notice of Application.

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1. Within 14 days after the City has made a determination of completeness pursuant to GHMC Section 19.02.003, the Director shall issue a Notice of Application.

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2. If any open record pre-decision hearing is required for the requested project permit(s), the Notice of Application shall be provided at least 15 days prior to the open record hearing.

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C. Contents. The Notice of Application-

~~C. Contents. The notice of application shall include:~~

1. The date of submission of the initial application, the date of the notice of completion ~~for~~ and acceptance of the application, and the date of the ~~notice~~ Notice of application Application ;

2. A description of the proposed project ~~action~~ and a list of the project permits ~~included~~ requested in the application and, if applicable, a list of any studies requested under RCW 36.70A.440; 36.70B.070 or 36.70B.090;

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~~3. The identification of other~~ 3. A description of other required permits not included in the application, to the extent known by the ~~city~~ City;

~~4. The identification~~ A description of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;

5. A statement of setting forth: (a) the ~~limits of time for~~ the public comment period, which shall be not less than 14 nor more than 30 days following the date of ~~notice of application,~~ and statements of Notice of Application; (b) the right of any person to comment on the application, receive notice of and participate in any hearings, and request a copy of the decision once made, on the application; and (c) and any appeal fights rights;

6. The date, time, place and type of hearing, if ~~applicable and a hearing has been~~ scheduled at when the date of notice of the application Notice of Application is issued;

7. A ~~statement~~ summary of the preliminary determination of consistency required by GHMC Section 19.04.001, if one has been made at the time of notice, and of those development regulations that will be used for project mitigation and ~~of consistency~~ as provided in Chapter 19.04 GHMC;

8. Any other information determined appropriate by the ~~city~~ Director such as the ~~city's~~ Director's threshold determination, if complete at the time of issuance of the notice of application.

~~D. Time Frame for Issuance of Notice of Application.~~

~~1. Within 14 days after the city has made a determination of completeness of a project permit application, the city shall issue a notice of application.~~

~~2. If any open record predecision hearing is required for the requested project permit(s), the notice of application shall be provided at least 15 days prior to the open record hearing.~~

~~E. Public Comment on the Notice of Application. All public comments received on the notice of application must be received in the department of planning and building~~ Department of Planning by 5:00 p.m. on the last day of the comment period. Comments may be mailed, personally delivered or sent by facsimile; provided that mailed comments received after the comment period has expired will not be accepted. Comments should be as specific as possible.

~~(Ord. 711 § 1, 1996) E. SEPA Exempt Projects. A notice of~~

application shall not be required for project permits that are categorically exempt under SEPA, unless a public comment period or an open record pre-decision hearing is required.

Section 11. GHMC Section 19.02.005 is hereby amended to read as follows:

**19.02.005 Referral and review of project permit applications.**

Within 10 days of accepting a complete application, the ~~director~~ Director shall ~~do the following~~:

A. Transmit a copy of the application, or appropriate parts of the application, to each affected government agency and ~~city~~ City department for review and comment, including those responsible for determining compliance with state and federal requirements. The affected agencies and ~~city~~ City departments shall have 15 days to comment on the application. The ~~referral~~ agency or ~~city~~ City department is presumed to have no comments if comments are not received within the ~~specified time~~ 15-day period. The ~~director~~ Director shall grant an extension of time only if the application involves unusual circumstances. ~~Any extension~~ Extensions shall ~~only~~ be for a maximum of three ~~additional~~ working days.

B. ~~If a Type III procedure is required, provide~~ Provide for notice and hearing as set forth in Chapter 19.03 GHMC. ~~(Ord. 711 § 1, 1996)~~ for Type III procedures.

Section 12. GHMC Section 19.03.001 is hereby amended to read as follows:

**19.03.001 ~~Required public~~ Public notice of application.**

A. In addition to the ~~notice~~ Notice of ~~application~~ Application for Type ~~III~~ III and Type IV project permits, the ~~city~~ Director shall also provide public notice of a Type III and Type IV project permit ~~application~~ applications by posting the property or by publication in the ~~city's~~ City's official newspaper.

1. Posting. Posting of the property for site specific proposals shall consist of one or more notice boards as follows:

a. A single notice board shall be placed by the applicant:

i. At the midpoint of the ~~site~~ street ~~frontage~~ fronting the site or as otherwise directed by the ~~city~~ Director for maximum visibility;

ii. Five feet inside the street property line, except when the board is structurally attached to an existing building; provided, that no notice board shall be placed more than five feet from the street ~~property~~ without approval of the ~~department~~ Director;

iii. So that the top of the notice board is between ~~seven~~ five to ~~nine~~ six feet above grade; and

iv. Where it is completely visible to pedestrians.

b. Additional notice boards may be required when:

i. The site does not abut a public road;

ii. A large site abuts more than one public road; or

iii. The ~~director~~ Director determines that

additional notice boards are necessary to provide adequate public notice.

c. Notice boards shall be:

i. Maintained in good condition by the applicant during the notice period;

ii. In place at least 30 days prior to the date of any hearing, ~~or~~ and at least 15 days prior to the end of any required comment period;

iii. Removed within 15 days after the end of the notice period.

d. Removal of the notice board prior to the end of the notice period ~~may~~ shall be cause for discontinuance of the department review until the notice board is replaced and remains in place for the specified time period.

e. An affidavit of posting shall be submitted to the ~~director~~ Director by the applicant at least ten (10) days prior to the hearing or final comment date. ~~If the affidavits are~~ an affidavit is not filed as required, any scheduled hearing or date by which the public may comment on the application ~~will~~ shall be postponed ~~in order to allow~~ until there is compliance with ~~this~~ the notice requirement.

f. Notice boards shall be constructed and installed in accordance with specifications promulgated by the ~~department of community development~~ Director.



2. ~~Published Notice. Published notice shall include~~ Notice shall be published in the City's official newspaper or in a newspaper of general circulation, and shall contain at least the project location, description, type of permit(s) required, comment period dates, and a location where the complete application may be reviewed ~~in the city's official newspaper of general circulation in the general area where the proposal is located.~~

3. Shoreline Master Program (SMP) Permits.

a. Methods of Providing SMP Notice. Notice of the application of a permit under the purview of the ~~city's shoreline master program (SMP) is given by at least one~~ City's Shoreline Master Program (SMP) shall be given by one or more of the following methods:

i. Mailing of the notice to ~~the latest recorded~~ real property owners as shown by the records of the county assessor within ~~at least~~ 300 feet of the boundary of the property upon which the ~~substantial development is proposed~~ proposed project is to be built;

ii. Posting of the notice in a conspicuous manner, as determined by the Director, on the property upon which the project is to be constructed; or

iii. Any other manner deemed appropriate by the ~~city~~ Director to accomplish the objectives of reasonable notice to adjacent landowners and the public.

b. Content of SMP Notice. ~~The~~ SMP notices shall include:

i. A statement that any person desiring to submit written comments concerning an application, or desiring to receive notification of the final decision concerning an application ~~as expeditiously as possible after issuance of the decision, may submit the comments or requests for decisions to the city, may submit~~ comments, or requests for the decision, to the Director within 30 days of the last date ~~the~~ that notice is ~~to be published pursuant to this subsection. The city shall forward, in a timely manner following issuance of the decision, a copy of the decision to each person who submits a request for the decision;~~

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ii. ~~Notice of the hearing shall include a~~ ii.  
A statement that any person may submit oral or written comments on an application at the hearing;

iii. ~~The public comment period shall be 20 days. The notice shall state~~ An explanation of the manner in which the public may obtain a copy of the city's City's decision on the application no later than two days following its issuance. (Ord. 711 § 1, 1996) after its issuance.

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c. Public Comment Period. The public comment period shall be 20 days.

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d. The Director shall mail or otherwise deliver a copy of the decision to each person who submits comments or a written request for the decisions.

Section 13. GHMC Section 19.03.002 is hereby amended to read as follows:

### **19.03.002 Optional public notice.**

A. ~~As optional methods of providing public notice of any project permits, the city~~ The Director, in his or her discretion, may:

1. Notify the public or private groups with known interest in a ~~certain~~ proposal or ~~in the~~ type of proposal ~~being~~ considered;
2. ~~Notifying~~ Notify the news media;
3. ~~Placing~~ Place notices in appropriate regional or neighborhood newspapers or trade journals;
4. ~~Publishing~~ Publish notice in agency newsletters or ~~sending~~ send notice to agency mailing lists, either general lists or lists for specific proposals or subject areas; and
5. ~~Mailing~~ Mail notice to neighboring property owners.

B. The ~~city's~~ Director's failure to provide ~~the~~ an optional notice, as described in this subsection, shall not be grounds for invalidation of any permit decision. (~~Ord. 711 § 1, 1996~~).

Section 14. GHMC Section 19.03.003 is hereby amended to read as follows:

### **19.03.003 Notice of public hearing.**

A. Content of Notice of Public Hearing for All ~~Types of~~ Applications. The notice ~~given~~ of a public hearing required ~~in~~ by this chapter shall contain:

1. The name and address of the applicant ~~or~~ and the applicant's representative;

~~2. Description of the affected property, which may be in the form of either A description of the subject property reasonably sufficient to inform the public of its location, including but not limited to a vicinity location or written description, other than a map or postal address, and a subdivision lot and block designation, but need not include a legal description;~~

3. The date, time and place of the hearing;

~~4. A description of the subject property reasonably sufficient to inform the public of its location, including but not limited to the use of a map or postal address and a subdivision lot and block designation;~~

~~\_\_\_\_\_~~ 5. The nature of the proposed use or development;

~~\_\_\_\_\_~~ ~~6~~ 5. A statement that all interested persons may appear and provide testimony;

~~\_\_\_\_\_~~ ~~7~~ 6. The sections of the code that are pertinent to the hearing procedure;

~~\_\_\_\_\_~~ ~~8. When~~ 7. A statement explaining when information may be examined, and when and how written comments addressing findings required for a decision by the hearing body may be admitted;

~~\_\_\_\_\_~~ ~~9~~ 8. The name of a ~~local government~~ City representative to contact and the telephone number where additional information may be obtained;

~~\_\_\_\_\_~~ ~~10. That~~ 9. A statement that a copy of the application, all documents and evidence relied upon by the applicant, and

applicable criteria are available for inspection at no cost and that copies will be provided at the ~~city's cost;~~ requestor's cost; and

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~~11. That 10.~~ A statement explaining that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and that copies will be provided at the ~~city's~~ requestor's cost.

B. Mailed Notice. Mailed notice of the public hearing shall be provided as follows:

1. Type I, Type II, and Type IV Actions. No public notice is required because no public hearing is held, except ~~on~~ for an appeal of a Type II action.

2. Type III Actions. The ~~notice~~ Notice of the public hearing shall be mailed to:

a. The applicant;

b. All owners of property within 300 feet of the subject property;

c. Any person who submits written or oral comments on an application;

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d. For a plat alteration or a plat vacation pursuant to Chapter 16.07 GHMC. Notice shall be as provided in RCW 58.17.080 and 58.17.090.

3. Type III Preliminary Plat Actions. In addition to the

notice provided for Type III actions above, notice for preliminary plats and proposed subdivisions, ~~additional notice shall be provided as follows~~ shall also include the following:

a. Notice of the filing of a preliminary plat adjacent to or within one mile of the municipal boundaries of a any city or town, or which contemplates the use of the utilities any city or town utilities shall be given to the appropriate city or town authorities;

b. Notice of the filing of a preliminary plat of a proposed ~~subdivisions located in a city or town and subdivision~~ adjoining the ~~municipal~~ boundaries ~~thereof~~ of Pierce County shall be given to the appropriate county officials;

c. Notice of the filing of a preliminary plat of a proposed subdivision located adjacent to the right-of-way of a state highway or within two miles of the boundary of a state or municipal airport shall be given to the secretary of transportation, ~~who must respond within 15 days of such notice.~~

d. Special notice of the hearing shall be given to adjacent landowners by any ~~other~~ method deemed reasonable ~~method the city deems necessary by the Director~~. Adjacent landowners are the owners of real property, as shown by the records of the county assessor, located within 300 feet of any portion of the boundary of the proposed subdivision. If the owner of the real property which is proposed to be subdivided owns another parcel or parcels of real property which lie adjacent to the real property proposed to be subdivided, notice under RCW 58.17.909(1)(b) shall be given to owners of real property located with 300 feet ~~of~~ from any portion of the boundaries of ~~such adjacently located~~ the adjacent parcels ~~of real property~~ owned by the owner of the real property ~~proposed~~ to be subdivided.

4. Type V Actions. For Type V legislative actions, the ~~city~~ City shall publish notice as described in GHMC 19.03.003(D)(2), ~~and all other notice required by RCW 35A.12.160~~ 19.03.003(A) in the City's official newspaper.

5. General Procedure for Mailed Notice of Public Hearing.

a. The records of the Pierce County assessor's office shall be used for determining the property owner of record. Addresses for a mailed notice required by this code shall be obtained from the applicable county's real property tax records. The ~~director~~ Director shall ~~issue~~ cause to be issued a sworn certificate of mailing to all persons entitled to notice under this chapter. The ~~director~~ Director may provide notice to ~~other~~ persons other than those required to receive notice under the code.

b. All mailed public notices shall be deemed to have been ~~provided or~~ received on the date next business day following the day that the notice is deposited in the mail ~~or personally delivered,~~ whichever occurs first.

C. Procedure for Posted or Published Notice of Public Hearing.

1. Posted notice of the public hearing is required for all Type III and IV project permit applications. The posted notice shall be posted as required by GHMC 19.03.001 (A)(1).

2. Published notice is required for all Type III, IV and V procedures. ~~The published notice~~ Notice shall be published in the ~~city's~~ City's official newspaper.

D. Time and Cost of Notice of Public Hearing.

1. Notice shall be mailed, posted and first published not less than 10 nor more than 30 days prior to the hearing date. ~~Any posted notice~~ Posted notices shall be removed by the applicant within 15 days following the public hearing.

2. All costs associated with the public notice shall be borne by the applicant. ~~(Ord. 711 § 1, 1996).~~

Section 15. GHMC Section 19.04.001 is hereby amended to read as follows:

**19.04.001 Determination of consistency.**

A. Purpose. ~~When the city receives a~~ Consistency between a proposed project permit application, consistency between the proposed project and the applicable regulations and comprehensive plan should shall be determined through the process ~~in this chapter and the city's adopted SEPA ordinance, Chapter 18.04 GHMC described in this section.~~

B. Consistency. During project permit application review, the city Director shall determine whether ~~the items listed in this subsection are defined in the development regulations applicable to the proposed project. In or in the absence of applicable development regulations, the city shall determine whether the items listed in this subsection are defined in the city's adopted comprehensive plan. This determination of consistency shall include~~ the City's comprehensive plan, address the following:

1. The type of land use permitted at the site, including uses that may be allowed ~~under certain circumstances, if the criteria for their approval have been satisfied; and~~

2. The level of development, such as units per acre, density of residential development in urban growth areas, or



other measures of density; ~~and~~

3. Availability and adequacy of infrastructure and public facilities identified in the comprehensive plan, ~~if,~~

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4. ~~Whether~~ the plan or development regulations provide for funding of these facilities as required by Chapter 36.70A RCW; and

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~~4. Character~~ 5. The character of the proposed development, ~~such as as authorized by~~ development standards.

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~~(Ord. 711 § 1, 1996) C.~~ Project Review. Project review by the Director and appropriate City staff shall identify specific project design and conditions relating to the character of development, such as the details of site plans, curb cuts, drainage swales, the payment of impact fees, or other measures to mitigate a proposal's probable adverse environmental impacts. During project review, neither the Director nor any other City reviewing body may re-examine alternatives or hear appeals on matters found consistent with development regulations and/or the comprehensive plan, except for issues of Code interpretation.

Section 16. GHMC Section 19.04.002 is hereby amended to read as follows:

**19.04.002 Initial SEPA analysis.**

A. ~~The city shall also~~ In addition to the land use consistency review, the Director shall review the project permit application under the requirements of for consistency with the State Environmental Policy Act ("SEPA"), Chapter 43.21C RCW, the SEPA Rules, Chapter 197-11 WAC, and the ~~city~~ City environmental policy ordinance, Chapter 18.04 GHMC, and shall:

1. Determine whether ~~the~~ applicable regulations require studies ~~that to~~ adequately analyze all of the ~~project permit application's~~ proposed project's specific probable adverse environmental impacts;

2. Determine ~~if the~~ whether applicable regulations require mitigation measures ~~that to~~ adequately address such identified environmental impacts; ~~and 3. Determine whether additional studies are required and/or whether the project permit application should be conditioned with additional mitigation measures;~~

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~~4 3.~~ Provide prompt and coordinated review by other government agencies and the public on compliance with applicable environmental laws and plans, including mitigation for specific project impacts that have not been considered and addressed at the plan or development regulation level.

B. In its review of a project permit application, the ~~city may~~ Director shall determine ~~that~~ whether the requirements for environmental analysis, protection and mitigation measures in the applicable development regulations, comprehensive plan and/or in other applicable local, state or federal laws provide adequate analysis of and mitigation for the specific adverse environmental impacts of the ~~application~~ proposal.

C. If the ~~city~~ Director bases or conditions ~~its~~ his or her approval of the project permit application on compliance with the requirements or mitigation measures described in subsection A of this section, the ~~city~~ City shall not impose additional mitigation under SEPA during project review for the same adverse environmental impacts.

D. A comprehensive plan, development regulation or other applicable local, state or federal law provides adequate analysis of, and mitigation for, the specific adverse environmental impacts of ~~an~~ application a proposal when:

1. The impacts have been avoided or otherwise mitigated; or

2. The city has designated ~~as acceptable in the plan, regulation or law, that~~ certain levels of service, land use designations, development standards or other land use ~~planning required or conditions~~ allowed by Chapter 36.70A RCW are acceptable.

E. In ~~its decision~~ deciding whether a specific adverse environmental impact has been addressed by an existing ~~rule or law of another agency with jurisdiction with environmental expertise with regard to a specific environmental impact, the city~~ City plan or development regulation, or by the regulations or laws of another government agency, the Director shall consult orally or in writing with that agency and may expressly defer to that agency. In making this deferral, the ~~city~~ Director shall base or condition ~~its~~ any project approval on compliance with these other ~~existing rules or laws~~ regulations.

F. Nothing in this section limits the authority of the ~~city in its review or mitigation of a~~ Director in reviewing or mitigating the impacts of a proposed project to adopt or otherwise rely on environmental analyses and requirements under other laws, as provided by Chapter 43.21C RCW.

G. The ~~city~~ Director shall also review the application under Chapter 18.04 GHMC, the city environmental policy ordinance. ~~(Ord. 711 § 1, 1996).~~ ; provided, that such review shall be coordinated with the underlying permit application review.

Section 17. GHMC Section 19.04.003(C), (D) and (E) are hereby amended to read as follows:

C. Limitations on Planned Actions. The city shall limit planned actions to certain types of development or to specific geographical areas that are less extensive than the jurisdictional boundaries of the city, and may limit a planned action to a time period identified in the environmental impact statement or this title.

~~Section 18~~ Section 17. GHMC Section 19.05.001 is hereby amended to read as follows:

**19.05.001 General.**

Public hearings on all Type II, III and V project permit applications shall be conducted in accordance with this chapter. ~~(Ord. 711 § 1, 1996)~~ Public hearings conducted by the City Hearing Examiner shall also be subject to the Hearing Examiner's rules.

Section 19. GHMC Section 19.05.002 is hereby amended to read as follows:

**19.05.002 Responsibility of ~~director~~ the Director for hearing.**

The ~~director~~ Director shall:

- A. Schedule ~~an application~~ project applications for review and public hearing;
- B. ~~Give~~ Provide the required notice;
- C. Prepare the staff report on the application, which shall be a single report ~~stating which sets forth~~ all of the decisions made on the proposal as of the date of the report, including recommendations on project permits in the consolidated permit process that do not require an open record ~~predecision~~ pre-decision hearing. The report shall ~~state also describe~~ any mitigation required or proposed under the City's development regulations or ~~the city's~~ SEPA authority ~~under SEPA~~. If the threshold determination, other than a determination of significance, has not been issued previously by the ~~city~~ City the report shall include or append this determination. ~~In the case of a~~ With Type I or II project permit ~~application~~ applications, this report may be the permit;
- D. Prepare the notice of decision, if required by the hearing body, ~~and/or~~ and mail a copy of the notice of decision to those ~~required~~ entitled by this code chapter to receive ~~such~~ the decision. ~~(Ord. 711 § 1, 1996).~~

Section 20. GHMC Section 19.05.004(C) is hereby amended to read as follows:

19.05.004 Ex parte communications.

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C. ~~If a member of C.~~ If the hearing body receives an ex parte communication in violation of this section, he or she shall place on the record:

1. All written communications received;
2. All written responses to the communications;
3. The substance of all oral communications received, and all responses made; and
4. The identity of each person from whom the ~~examiner~~ member received any ex parte communication.

The hearing body shall advise all parties that these matters have been placed on the record. Upon request made after notice of the ex parte communication, any party desiring to rebut the communication shall be allowed to place a rebuttal statement on the record. ~~(Ord. 711 § 1, 1996).~~

Section 21. GHMC Section 19.05.005(A) and (B) are hereby amended to read as follows:

#### **19.05.005 Disqualification.**

A. A member of the hearing body who is disqualified shall be counted for purposes of forming a quorum. Any member who is disqualified ~~may do so only by making~~ shall make full disclosure to the audience, ~~abstaining of the reason(s) for the disqualification,~~ abstain from voting on the proposal, ~~vacating the seat on the hearing body~~ and physically ~~leaving~~ leave the hearing.

B. If ~~all~~ enough members of the hearing body are disqualified, so that a quorum cannot be achieved, then all members present, after stating their reasons for disqualification, shall be requalified and deliberations shall proceed ~~to resolve the issues.~~

Section 22. GHMC Section 19.05.006 is hereby amended to read as follows:

#### **19.05.006 Burden and nature of proof.**

Except for Type V actions, the burden of proof is on the proponent. The project permit application must be supported by convincing proof that it conforms to the applicable elements of the city's development regulations, and comprehensive plan ~~and.~~ The proponent must also prove that any significant adverse environmental impacts have been adequately ~~addressed.~~ (Ord. 711 § 1, 1996) mitigated.

Section 23. GHMC Section 19.05.007 is hereby amended to read as follows:

#### **19.05.007 Order of proceedings.**

The order of proceedings for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by administrative procedures as appropriate.

A. Before receiving ~~information~~ testimony and other evidence on the issue, the following shall be determined:

1. Any objections on jurisdictional grounds shall be noted on the record and if there is objection, the hearing body ~~has the discretion to~~ may proceed or terminate the proceeding;

2. Any ~~abstentions or~~ member disqualifications shall be determined.

B. The presiding officer may take official notice of commonly known and accepted information ~~related to the issue~~, such as:

1. ~~A provision of any ordinance, resolution, rule~~ Ordinances, resolutions, rules, officially adopted development ~~standard or~~ standards, and state law;

2. ~~Other public~~ Public records and facts ~~Judicially~~ noticeable by law.

C. ~~Matters~~ Information officially noticed need not be ~~established by proved by submission of formal~~ evidence ~~and may to~~ be considered by the hearing body ~~in its determination~~. Parties requesting official notice of any information shall do so on the record. ~~However, the~~ The hearing body, ~~however~~, may take notice of matters listed in subsection B of this section ~~if stated for the record~~. ~~Any matter at any time~~. Any information given official notice may be rebutted.

D. The hearing body may view the ~~area in dispute~~ proposed project site or planning area with or without notification to the parties, but shall ~~place~~ put into the record a statement setting forth the time, manner and circumstances of ~~such view on the record~~ the site visit.

E. Information shall be received from the staff and from proponents and opponents. The presiding officer may ~~approve or~~

~~deny a request from a person, in his or her discretion, permit persons attending the hearing to ask a question questions. Unless the presiding officer specifies otherwise, if the request to ask a question is approved, approved questions will be asked of persons submitting testimony by the presiding officer will direct the question to the person submitting testimony.~~

F. When the presiding officer has closed the public hearing portion of the hearing, the hearing body shall may openly discuss the issue and may further question a the staff or any person submitting information ~~or the staff if opportunity for rebuttal is provided. (Ord. 711 § 1, 1996).~~ An opportunity to present rebuttal shall be provided if new information is presented in the questioning. When all evidence has been presented and all questioning and rebuttal completed, the presiding officer shall officially close the record and end the hearing.

Section 24. GHMC Section 19.05.008 is hereby repealed and a new Section 19.05.008 is adopted to read as follows:

**19.05.008 Decision.**

A. Following the hearing procedure described in GHMC ~~19.04.007~~ 19.05.007, the hearing body shall approve, conditionally approve, or deny the application. If the hearing is an appeal, the hearing body shall affirm, reverse or, with the written consent of the applicant, which shall include a waiver of the statutory prohibition against two open record hearings, remand the decision ~~that is on appeal~~ for additional information.

B. The hearing body's written decision shall issue within 10 days ~~after the hearing on the project permit application. The notice of final decision shall issue within 120 days after the city notifies the applicant that the application is complete. The time frames set forth in this section and GHMC 19.04.009 shall apply to project permit applications filed on or after April 1, 1996~~ working days after close of record of the hearing and within 90 days of the opening of the hearing, unless a longer period is agreed to by the parties.

C. The city shall provide a notice of decision that also includes a



statement of any threshold determination made under SEPA (Chapter 43.21C RCW) and the procedures for administrative appeal, if any. For Type II, III and IV project permits, the notice of decision on the issued permit shall contain the requirements set forth in GHMC 19.04.002(C).

D. The notice of decision shall be provided to the applicant and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted substantive comments on the application.

E. Notice of the decision shall be provided to the public as set forth in GHMC 19.03.003(B) (2)(a) and (B)(2)(c).

F. If the city is unable to issue its final decision on a project permit application within the time limits provided for in this section, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of decision. (Ord. 711 § 1, 1996).

Section 25. A new section 19.05.009 of the Gig Harbor Municipal Code is hereby ~~added to the GHMC~~ amended to read as follows:

**19.05.009 Calculation of time periods for issuance of notice of final decision. Notice of Final Decision.**

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~~A. In determining the number of days that have elapsed after the local government has notified the applicant that the application is complete for purposes of calculating the time~~ A. The Director shall issue a Notice of Final Decision within 120 days of the issuance of the Determination of Completeness pursuant to GHMC Section 19.02.003; provided, that the time period for issuance of a Notice of Final Decision on a preliminary plat shall be 90 days, for a final plat 30 days, and a short plat 30 days. The notice shall include the SEPA threshold determination for the proposal and a description of any available administrative appeals. For Type II, III and IV project permits, the Notice shall explain that affected property owners may request a change in property tax valuation notwithstanding any program of revaluation.

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The Notice of Final Decision shall be mailed or otherwise delivered to the applicant, to any person who submitted comments on the application or requested a copy of the decision, and to the Pierce County Assessor.

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~~B. In calculating the 120 day period for issuance of the notice~~ Notice of final decision Final Decision, the following periods shall be excluded:

1. Any period during which the applicant has been requested by the ~~city~~ Director to correct plans, perform required studies, or provide additional required information. The period shall be calculated from the date the ~~city~~ Director notifies the applicant of the need for additional information until the earlier of the date the ~~local government~~ Director determines ~~whether that~~ whether that the additional information provided satisfies the request for information, or 14 days after the date the additional information ~~has been~~ is provided to the city;

2. If the ~~city~~ Director determines that the information submitted by the applicant under GHMC 19.04.009(A)(1) is insufficient, it shall ~~notify the applicant of the deficiencies~~

~~and the procedures under GHMC 19.04.009(A)(1) shall apply as if a new request for studies had been made is insufficient, the applicant shall be informed of the particular insufficiencies and the procedures set forth in subsection A(1) above for calculating the exclusion period shall apply;~~

3. ~~Any period during which an environmental impact statement is being prepared following a determination of significance pursuant of Chapter 43.21C RCW, if the city by ordinance has established time periods for completion of environmental impact statements, or if the local government and the applicant in writing agree to a time period for completion of an environmental impact statement(EIS) is being prepared pursuant to Chapter 43.21C RCW and GHMC Title 18. The time period for preparation of an EIS shall be governed by GHMC Section 18.04.140(B) ;~~

4. ~~Any period for consideration and issuance of a decision for administrative appeals of project permits, which shall be not more than 90 days for open record appeals and 60 days for closed record appeals, unless a longer period is agreed to by the Director and the applicant; if an open record appeal hearing or a closed record appeal, or both, are allowed. The time period for consideration and decision on appeals shall not exceed:~~

~~i. Ninety days for an open record appeal hearing; and~~

~~ii. Sixty days for a closed record appeal.~~

~~The parties may agree to extend these time periods;~~

5. ~~Any extension of time mutually agreed upon to by the applicant Director and the local government; and applicant.~~

B. The time limits established in this title do not apply if a project permit application:

1. Requires an amendment to the comprehensive plan or a development regulation;
2. Requires siting approval ~~of the siting~~ of an essential public facility as provided in RCW 36.70A.200; or
3. Is substantially revised by the applicant, in which case the time period shall start from the date ~~at which~~ that a Determination of Completeness for the revised application is issued by the Director pursuant to GHMC Section 19.02.003 and RCW 36.70.B070. ~~the revised project application is determined to be complete under RCW 36.70A.440.~~

Section 26. GHMC Section 19.05.009 is hereby repealed.

Section 27. GHMC Section 19.06.001 is hereby amended to read as follows:

**19.06.001 Appeals of decisions.**

~~Project~~ The right of appeal for all project permit applications shall be appealable as provided in the framework and Type V land use decisions shall be as described in the matrix set forth in GHMC 19.01.003. (Ord. 711 § 1, 1996).

Section 28. GHMC Section 19.06.002 is hereby amended to read as follows:

### **19.06.002 Consolidated appeals.**

~~A. All appeals of project permit application decisions, other than an appeal of determination~~ appeals of determinations of significance ("DS"), and exempt permits and approvals under GHMC Section 19.01.007, shall be considered together in a consolidated appeal using the appeal procedure for the highest type permit application.

~~B. Appeals of environmental determinations under SEPA, Chapter 18.04 GHMC, shall proceed as provided in that chapter. (Ord. 711 § 1, 1996).~~

Section 29. GHMC Section 19.06.003 is hereby amended to read as follows:

### **19.06.003 Standing to initiate an administrative appeal.**

A. Limited to Parties of Record. Only parties of record may ~~initiate~~ file an administrative appeal ~~of a Type II or III decision on a project permit application~~.

B. Definition. The term "parties of record," for the purposes of this chapter, shall mean:

1. The applicant;
2. Any person who testified at the open record public hearing on the application; and/or
3. Any person who submitted written comments concerning the application at the open record public hearing (excluding persons who have only signed petitions or mechanically produced form letters). ~~(Ord. 711 § 1, 1996).~~

Section 30. GHMC Section 19.06.004 is hereby amended to read as follows:

**19.06.004 ~~Closed record decisions and appeals.~~ Appeals of recommendations and decisions.**

~~A. Type II or III project permit~~ A. Permit decisions or recommendations. Appeals of ~~the a~~ hearing body's recommendation or decision or recommendation ~~on a Type II or III~~ and project permit application shall be governed by the following:

1. Standing. Only parties of record have standing to appeal the hearing body's decision.

2. Time to File. An appeal ~~of the hearing body's decision~~ must be filed within ~~14 calendar~~ 10 working days following of the issuance of the hearing body's written decision. Appeals ~~may~~ shall be delivered to the ~~planning department~~ Director by mail, by personal delivery or by fax before 5:00 p.m. on the last business day of the appeal period. Appeals received by mail after 5:00 p.m. on the last day of the appeal period will not be accepted, no matter when such appeals were mailed or postmarked.

3. Computation of Time. For the purposes of computing the time for filing an appeal, the day the hearing body's decision is ~~rendered~~ issued shall not be ~~included.~~ The counted. If the last day of the appeal ~~period shall be included unless it is a Saturday, Sunday, a day or holiday designated by RCW 1.16.050 or by the city's ordinances as a legal holiday, then it also is excluded and the filing must be completed a city ordinance, then the appeal must be filed~~ on the next business day ~~(RCW 35A.21.080).~~

4. Content of Appeal. Appeals shall be in writing, be accompanied by ~~an~~ the required appeal fee, and contain the following information:

a. Appellant's name, address and phone number;

b. ~~Appellant's~~ A statement describing ~~his or her~~ appellant's standing to appeal;

c. Identification of the application which is the subject of the appeal;

d. Appellant's statement of grounds for appeal and the facts upon which the appeal is based with specific references to the facts in the record;

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e. ~~The relief sought, including the specific nature and extent~~ e. The specific relief sought;

f. A statement that the appellant has read the appeal and believes the contents to be true, following by the appellant's signature.

5. Effect. The timely filing of an appeal shall stay the ~~effective date of the~~ hearing body's decision until such time as the appeal is ~~adjudicated by the council~~ concluded or withdrawn.

6. Notice of Appeal. The ~~director~~ Director shall provide ~~public mailed~~ notice of the appeal ~~as provided in GHMC 19.03.003(B)(2). (Ord. 711 § 1, 1996)~~ to all parties of record as defined in GHMC 19.06.003.

Section 31. GHMC Section 19.06.005 is hereby repealed ~~and a~~.

Section 32. A new Section 19.06.005 is hereby ~~adopted~~ added to the Gig Harbor Municipal Code, which shall read as follows:

### **19.06.005 Procedure for closed record decision/appeal.**

A. Closed record appeals shall be on the record established at the hearing before the hearing body whose decision is appealed, which shall include: The written decision of the hearing body, a transcript or tape recording of the proceedings, and copies of any exhibits admitted into the record. No new testimony or other evidence will be accepted except: (1) New information that was unknown to the parties at the time of the hearing which could not reasonably have been discovered by the parties and is necessary for a just resolution of the appeal; and (2) relevant information that, in the opinion of the Council, was improperly excluded by the hearing body. Appellants who believe that information was improperly excluded must specifically request, in writing prior to the closed record appeal, that the information be made part of the record. The request shall describe the information excluded, its relevance to the issues appealed, the reason(s) that the information was excluded by the hearing body, and why the hearing body erred in excluding the information. No reference to excluded information shall be made in any presentation to the Council on the merits, written or oral, until the Council has determined that the information should be admitted.

1. Parties to the appeal may present written and/or oral arguments to the Council. Argument shall describe the particular errors committed by the hearing body, with specific references to the appeal record.

2. The hearing shall commence with a presentation by the Director, or the Director's designee, of the general background and the issues in dispute. After the Director's presentation, the appellant(s), then the other parties of record shall make their arguments. Council members may question any party concerning disputed issues, but shall not request information not in the record.

3. The Council may affirm, modify reverse or, upon written agreement by the applicant to waive the statutory prohibition against more than one open record and one closed record hearing, and , if needed, to waive the requirement for a decision within the time periods set forth in RCW 36.70B.090, remand the decision to the hearing body for additional information.



B. Open record appeal hearings. An open record appeal hearing shall be conducted in the manner set forth in Chapter 19.05 GHMC.

Section 32. GHMC is hereby amended to add a new section 19.06.005 ~~19.06.005~~ 19.06.007 to read as follows:

**19.06.005 Resubmission of application**

Any permit application or other request for approval submitted pursuant to this Chapter that is denied shall not be resubmitted or accepted by the Director for reconsideration for a period of twelve months from the date of the last action by the City on the application or request unless, in the opinion of the Director, there has been a significant change in the application or a significant change in conditions related to the impacts of the proposed project.

Section 33. 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 34. This ordinance shall take effect and be in full force five (5) days after publication of an approved summary consisting of the title.

APPROVED:

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MAYOR, GRETCHEN A. WILBERT

ATTEST/AUTHENTICATED:

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CITY CLERK, MOLLY TOWSLEE

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY:

BY \_\_\_\_\_

FILED WITH THE CITY CLERK:                      October 12, 1998

PASSED BY THE CITY COUNCIL: November 9, 1998

PUBLISHED:    November 18, 1998

EFFECTIVE DATE:                                      November 23, 1998

ORDINANCE NO. 806

**SUMMARY OF ORDINANCE NO. 806**

of the City of Gig Harbor, Washington

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On the ninth day of November, 1998, the City Council of the City of Gig Harbor, passed Ordinance No. 806. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE, ZONING AND PROJECT PERMIT PROCESSING, MAKING CHANGES TO REFLECT LEGISLATIVE AMENDMENTS TO THE REGULATORY REFORM ACT, CHAPTER 36.70B RCW, SINCE ITS ADOPTION, ESTABLISHING PROCEDURES FOR THE CONDUCT OF OPEN AND CLOSED RECORD HEARINGS, UPDATING THE MATRICES FOR TYPING OF PROJECT PERMIT APPLICATIONS TO INCLUDE WIRELESS COMMUNICATIONS FACILITIES APPLICATIONS, ADOPTING NEW THRESHOLD REQUIREMENTS FOR PRE-APPLICATION CONFERENCES, POSTING, AMENDING SECTIONS 19.01.002, 19.01.003, 19.01.004, 19.01.005, 19.01.006, 19.01.007, 19.02.001, 19.02.002, 19.02.003, 19.02.004, 19.02.005, 19.03.001, 19.03.002, 19.03.003, 19.04.001, 19.04.002, 19.05.002, 19.05.001, 19.05.004, 19.05.005, 19.05.006, 19.05.009, 19.06.001, 19.06.002, 19.06.003, 19.06.004 OF THE GIG HARBOR MUNICIPAL CODE, REPEALING SECTIONS 19.05.008 AND 19.06.005 AND ADDING NEW SECTIONS 19.05.008 and 19.05.009 AND 19.06.005.

The full text of this Ordinance will be mailed upon request.

DATED this tenth day of November, 1998.

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CITY CLERK, MOLLY TOWSLEE