

**ORDINANCE NO. 1161**

**AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE DISPOSAL OF SANITARY WASTE AND THE PROCEDURE TO OBTAIN AN EXCEPTION FROM THE REQUIREMENT TO HOOK-UP TO SEWER FOR NEW CONSTRUCTION; RE-INSERTING LANGUAGE THAT WAS INADVERTENTLY OMITTED IN THE ORDINANCE AMENDMENT PROCESS; REQUIRING THE PUBLIC WORKS DIRECTOR TO DETERMINE IF FOUR CIRCUMSTANCES EXIST BEFORE GRANTING AN EXCEPTION TO THE SEWER HOOK-UP REQUIREMENT, INCLUDING A DETERMINATION THAT THE LOT IS NOT IN AN AREA PLANNED TO BE SERVED BY CITY SEWER, AS SHOWN IN THE MOST RECENT COMPREHENSIVE SEWER PLAN, AMENDING SECTION 13.28.100 OF THE GIG HARBOR MUNICIPAL CODE.**

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WHEREAS, RCW 35.67.190 requires that property owners within the area served by the City's sewer system "shall be compelled to connect their private drains and sewers" to the City's system; and

WHEREAS, The City currently requires owners of new construction to obtain waste water and sanitary sewer hook-ups as set forth in GHMC Section 13.28.100; and

WHEREAS, on May 11, 2002, the City Council passed Ordinance 911, which established a procedure for the City Engineer to approve an exception to the sewer hook-up requirements in GHMC Section 13.28.100; and

WHEREAS, the exception procedure in Ordinance 911 included, as one of the prerequisite conditions, that "the subject lot is not located in an area planned to be served by sanitary sewer, as shown in the most current version of the City's six year capital improvement plan and sewer comprehensive plan," (Section 2, p. 4 of Ordinance 911); and

WHEREAS, on March 27, 2006 the City Council passed Ordinance 1037, which again amended the requirements for sewer hook-ups in GHMC Section 13.28.100, which deleted a prerequisite condition described above from the sewer hook-up exception process; and

WHEREAS, City Engineering staff recommends that this condition be inserted into GHMC 13.28.100; and

WHEREAS, after a review of the documentation surrounding the adoption of Ordinance 1037, the City believes this omission was inadvertent; and

WHEREAS, the City Council would like to re-insert the inadvertently omitted condition to GHMC Section 13.28.100; and

WHEREAS, the City SEPA Responsible Official has determined that this Ordinance is categorically exempt from SEPA under WAC 197-11-800;

Now, Therefore,

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

Section 1. Section 13.28.100 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**13.28.100 Public sanitary sewer Hook-Up Requirements and Exceptions.**

A. Definitions. For the purpose of this section, the words listed below shall have the following meanings:

1. *Human Occupancy* shall mean that the normally accepted use of the particular type of structure, building or home is living quarters, a place of work, office, store, or any other place where people will spend time, including, but not limited to, restaurants, churches, schools, theaters, and parks.

2. *Building* shall mean any structure built for the support or enclosure of persons, animals, chattels, or property of any kind.
3. *Structure* shall mean a combination of materials that is constructed or erected, either on or under the ground, or that is attached to something having a permanent location on the ground, excluding residential fences, retaining walls, rockeries and similar improvements of a minor character the construction of which is not regulated by the building code of the city.

B. Requirements for New Construction. The owners of all new houses, buildings, structures, or other uses of property used for human occupancy shall be required to connect the improvements on their properties to a public sanitary sewer, except as provided in subsection E of this section.

C. Requirements for Existing Houses, Buildings, Structures or Uses. The owners of all existing houses, buildings, structures, or other uses of property used for human occupancy situated in the City and abutting on any street, alley, or easement, which are not currently connected to the City's public sanitary sewer system shall not be required to connect, unless (a) a Local Improvement District (LID) is formed for the purpose of providing sewer to the property, or (b) there is a health or safety hazard associated with the private sewer or on-site septic system. If either of these two situations exist, the property owner ~~will~~shall be required to connect the property to the City's sewer system, and the City ~~shall~~will provide the property owner written notice of the requirement to connect.

D. Requirements for Houses, Buildings, Structures, or Uses Newly Annexed to the City. Owners of houses, buildings, structures, or uses of property used for human occupancy that are newly annexed to the City shall be required to connect to the City's sewer system as provided in Subsection C of this section.

E. Exceptions.

1. The ~~City Engineer~~ Public Works Director may approve an exception to the requirements of this section to address the on-site sewer needs of new buildings and structures to be constructed on individual lots created prior to the Washington State Legislature's adoption of the Growth Management Act (chapter 36.70A RCW) on July 1, 1990, if all of the following limited circumstances exist:

a. The subject lot is not within 200 linear feet as measured from the nearest property line along the path of sewer main construction to

an existing public sanitary sewer; and

a. b. The subject lot in its current configuration was created prior to July 1, 1990, and

b. c. The septic system to be constructed will serve no more than one single-family dwelling unit or no more than one building or no more than one structure on the lot meeting the criteria of this subsection; and,

d. The property owner shall record a notice against the lot, in a form approved by the City Attorney, providing notice to all subsequent purchasers that the city's approval of a septic system under these procedures will not affect the city's ability to enforce any of the requirements of this section or this chapter (including the requirement to connect to a public sanitary sewer in the future) against the lot at any time in the future, as long as the conditions described in that subsection exist.

## 2. Expiration of Exception, Appeals.

a. ~~The City Engineer~~ Public Works Director's denial of an exception shall not be a final, appealable decision if the request for the exception is made prior to submission of a project permit application for construction of the building or structure on the lot. If a request is denied, a property owner may make a subsequent request for an exception at the time of submission of a project permit application for construction of a structure or building on the property, or at the time any circumstances pertinent to the criteria in this subsection substantially change.

b. If the request for the exception is made in conjunction with the submission of a project permit application for construction of the building or structure on the lot, the ~~City Engineer's~~ Public Works Director's decision may only be appealed together with (and/or following the procedures associated with) an appeal of the underlying project permit application.

c. ~~The City Engineer's~~ The Public Works Director's granting of an exception that is not associated with a project permit application shall expire within one year if a project permit application is not submitted to the city. ~~The City Engineer's~~ The Public Works Director's granting of an exception associated with a project permit application shall expire concurrent with the underlying permit.

3. This procedure is exempt from the procedures in GHMC Title 19, pursuant to RCW 36.70B.140.

F. Penalties for Noncompliance. The City may implement the procedures

set forth in GHMC Section 13.28.130 for a property owner's failure to comply with the requirements of this section. In the alternative or in addition to GHMC Section 13.28.130, the City may impose penalties on the property owner in an amount equal to the charge that would be made for sewer service if the property was connected to the sewer system, on the date required by this section. Pursuant to RCW 35.67.194, all penalties shall be considered revenues of the system.

Section 2. Severability. 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 3. Effective Date. This ordinance shall take effect and be in full force five (5) days after publication of a summary, consisting of the title.

PASSED by the Gig Harbor City Council and the Mayor of the City of Gig Harbor this 26<sup>th</sup> day of May, 2009.

CITY OF GIG HARBOR

  
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CHARLES L. HUNTER, MAYOR

ATTEST/AUTHENTICATED:

By:   
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MOLLY TOWSLEE, CITY CLERK

APPROVED AS TO FORM:

By:   
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Angela S. Belbeck, CITY ATTORNEY

FILED WITH THE CITY CLERK: 05/06/09  
PASSED BY THE CITY COUNCIL: 05/26/09  
PUBLISHED: 06/03/09  
EFFECTIVE DATE: 06/08/09  
ORDINANCE NO: 1161