

ORDINANCE NO. 902

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, AMENDING THE CITY'S IMPACT FEE ORDINANCE TO CHANGE THE DATE FOR CALCULATION OF THE AMOUNT OF THE FEE TO BE IMPOSED, CLARIFYING THE INAPPLICABILITY OF THE VESTING DOCTRINE TO IMPACT FEES CONSISTENT WITH WASHINGTON LAW, AMENDING GHMC SECTION 19.12.100 AND MAKING MINOR TYPOGRAPHICAL CORRECTIONS TO GHMC SECTION 19.12.110 TO CLARIFY THE FACT THAT THE IMPACT FEE WILL BE CALCULATED AT THE TIME OF BUILDING PERMIT ISSUANCE.

WHEREAS, the City's impact fee ordinance was adopted prior to the date that the Washington courts addressed the question whether such fees were subject to the vested rights doctrine, which allows developers to vest their applications to the land use control ordinances in place at the time complete building permit or preliminary plat applications are submitted; and

WHEREAS, the City desires to amend its impact fee ordinance to be consistent with the recent ruling by the Washington court that impact fees are not subject to the vesting doctrine; and

WHEREAS, Section 19.12.100 of the impact fee ordinance should also be amended to clarify the fact that the City will calculate and issue the impact fee at the time of building permit issuance; and

WHEREAS, the City SEPA Responsible Official has determined that this Ordinance is categorically exempt from SEPA, pursuant to WAC 197-11-800(20); and

WHEREAS, the City Community Development Director forwarded a copy of this Ordinance to the Washington State Office of Community Development on February 6, 2002 pursuant to RCW 36.70A.106; and

WHEREAS, the City Council held a public hearing and considered this Ordinance during its regular City Council meeting of February 11, 2002; and

WHEREAS, the City Council further considered this Ordinance during its regular City Council meeting of February 25, 2002; Now, Therefore,

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

Section 1. Section 19.12.100 of the Gig Harbor Municipal Code is hereby amended to read as follows:

19.12.100 Payment of Fees.

A. All developers shall pay an impact fee in accordance with the provisions of this chapter, which shall be calculated by the City at the time that the applicable development building permit is ready for issuance.

~~1. Vested Permits. The fee paid shall be the amount in effect as of the date the city determines that the applicable development permit is complete, as long as at least one development permit for the project is of the type that vests under the city's ordinances or state law.~~

~~2. Non-Vested Permits. If a developer submits an application for a development permit that does not vest under the city's ordinances or state law, then the fee paid shall be the amount in effect as of the date of permit issuance.~~

~~3. Plats. The amount of the impact fee shall be the amount established at the time the preliminary plat or short plat applications are determined to be complete by the city only if: (i) the approval of the preliminary plat has not expired; or (ii) at the very latest, the developer has submitted a complete building permit application for all construction in the plat within five years of the anniversary date of the shore plat or final plat.~~

B. The impact fee, ~~as initially calculated for a development permit,~~ shall be recalculated ~~at the time of issuance~~ if the development application is modified or conditioned in such a way as to alter park and transportation impacts for the development.

C. A developer may obtain a preliminary determination of the impact fee before submitting an application for a development permit by providing the director with the information needed for processing. However, because impact fees are not subject to the vested rights doctrine, the fee actually paid by the developer will be the impact fee in effect at the time of building permit issuance, regardless of any preliminary determination.

Section 2. Section 19.12.110 of the Gig Harbor Municipal Code is hereby amended to read as follows:

19.12.110 Time of payment of impact fees.

A. Payment of any required impact fees, calculated as set forth in GHMC 19.12.100(A)(3) shall be made prior to the issuance of a building permit. ~~If the impact fee is not at final approval, this shall be noted by a covenant placed on the face of the recorded plat and included in the deed for each affected lot within the plat.~~

* * *

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance is 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, clause or phrase of this Ordinance.

Section 4. Effective Date. This ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor this 25th day of Feb, 2002.

CITY OF GIG HARBOR

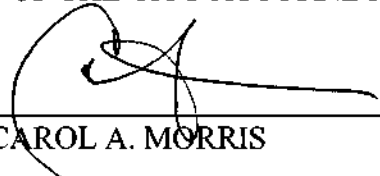


GRETCHEN WILBERT, MAYOR

ATTEST/AUTHENTICATED:

By: Molly M Towslee
MOLLY TOWSLEE, CITY CLERK

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

By: 
CAROL A. MORRIS

FILED WITH THE CITY CLERK: 2/6/02
PASSED BY THE CITY COUNCIL: 2/25/02
PUBLISHED: 3/6/02
EFFECTIVE DATE: 3/11/02
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