

**ORDINANCE NO. 985**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO FLOODPLAIN REGULATIONS, MAKING AMENDMENTS TO THE CITY'S FLOODPLAIN REGULATIONS TO CORRECT TYPOGRAPHICAL ERRORS AND TO ACCURATELY REFLECT THE TITLE OF CITY OFFICIALS REFERENCED IN THE CODE; AMENDING GIG HARBOR MUNICIPAL CODE SECTIONS 15.04.050, 15.04.060, 15.04.080 AND 15.04.090.**

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WHEREAS, the City's floodplain regulations contain certain typographical errors and need to be corrected to correctly reference the titles of City officials enforcing the code; Now, therefore:

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

Section 1. Section 15.04.050 of the Gig Harbor Municipal Code is amended to read as follows:

**15.04.050 General provisions.**

A. Lands to Which this Chapter Applies. This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city.

B. Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Gig Harbor," dated March 2, 1981, with accompanying flood insurance maps is adopted by reference and declared to be a part of the ordinance codified in this chapter. The Flood Insurance Study is on file at Gig Harbor City Hall, ~~3105 Judson Street~~, Civic Center, 3510 Grandview Street, Gig Harbor, Washington.

C. Penalties for Noncompliance. No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Failure to comply with any of the provisions of this chapter (including violations of conditions and safeguards

established in connection with conditions) shall constitute a violation of this chapter. Any person who violates this chapter or fails to comply with any of its requirements shall incur a cumulative civil penalty in the amount of \$50.00 per day from the date set for correction thereof, as prescribed in Title 15 Chapter 15.18 GHMC. Nothing contained in this chapter shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

D. Abrogation and Greater Restrictions. This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. Interpretation. In the interpretation and application of this chapter, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted

under state statutes.

F. Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Larger flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made under this chapter.

Section 2. Section 15.04.060 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**15.04.060 Administration.**

A. Establishment of Development Permit.

1. Development Permit Required. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in GHMC Section 15.04.050 (B). The permit shall be for all structures including manufactured homes, as ~~set forth in GHMC 15.06.040~~, defined in the Building Code adopted in Title 15 GHMC, and for all

development including fill and other activities, also as set forth in ~~GHMC Section 15.06.040~~, Title 15 GHMC.

2. Application for Development Permit. Application for a development permit shall be made on forms furnished by the building official. A complete development permit shall include the following: ~~and may include but not be limited to,~~

a. plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. Specifically, the following information is required:

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;

2. Elevation in relation to mean sea level to which any structure has been floodproofed;

3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in GHMC 15.04.070(B)(2); and

b. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

B. Designation of the building official/fire marshal. The building official/fire marshal is appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

C. Duties and Responsibilities of the building official/fire marshal. Duties of the building official/fire marshal shall include, but not be limited to:

1. Permit Review.

a. Review all development permits to determine that the permit requirements of this chapter have been satisfied.

b. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

2. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with GHMC 15.04.050(B), Basis For Establishing the Areas of Special Flood Hazard, the building official shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer GHMC 15.04.070(B), Specific Standards.

3. Information to be Obtained and Maintained.

a. Where base flood elevation data is provided through the Flood Insurance Study or required as in subsection (C)(2) of this section obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or

substantially improved structures, and whether or not the structure contains a basement.

- b. For all new or substantially improved floodproofed structures:
  - i. Verify and record the actual elevation (in relation to mean sea level); and
  - ii. Maintain the floodproofing certifications required in subsection (A)(2) of this section.
- c. Maintain for public inspection all records pertaining to the provisions of this chapter.

#### 4. Alteration of Watercourses.

- a. Notify adjacent communities and the State Department of Ecology's Floodplain Management Section prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- b. Require that maintenance is provided within the altered or relocated portion of such watercourse so that the flood carrying capacity is not diminished.

5. Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in subsection (D) of this section.

#### D. Variance Procedure.

##### 1. Appeal Board.

- a. The building code advisory board shall hear and decide appeals and requests for variances from the requirements of this chapter.
  - b. The building code advisory board shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the building official in the enforcement or administration of this chapter.
  - c. Those aggrieved by the decision of the building code advisory board, or any taxpayer, may appeal such decision to the city council.
  - d. In passing upon such applications, the building code advisory board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
    - i. The danger that materials may be swept onto other lands to the injury of others;
    - ii. The danger to life and property due to flooding or erosion damage;
    - iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

- iv. The importance of the services provided the proposed facility to the community;
  - v. The necessity to the facility of a waterfront location, where applicable;
  - vi. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - vii. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - viii. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - x. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  - xi. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- e. Upon consideration of the factors of subsection (D)(1)(d) of this section and the purposes of this chapter, the building code advisory board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- f. The building official shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

## 2. Conditions for Variances.

- a. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items set out in subsections (D)(1)(d)(i) through (xi) of this section have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.
- b. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.
- c. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

e. Variances shall only be issued upon:

i. A showing of good and sufficient cause;

ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant;

iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in subsection (D)(1)(d) of this section, or conflict with existing local laws or ordinances.

f. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

g. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except GHMC 15.04.060(D)(2)(a), and otherwise complies with GHMC 15.04.070(A)(1) and (A)(2), general standards.

h. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

Section 3. Section 15.04.080 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**15.04.080 Excavation, grading, fill – Permit required.**

The building ~~inspector~~ official/fire marshal shall require the issuance of a permit for any excavation, grading, fill or construction in the community.

Section 4. Section 15.04.090 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**15.04.090 Mudslide hazard.**

The building ~~inspector~~ official/fire marshal shall require review of each permit application to determine whether the proposed site and improvements will be reasonably safe from mudslide hazards, a further review must be made by persons qualified in geology and soils engineering; and the proposed new construction, substantial improvement, or grading must

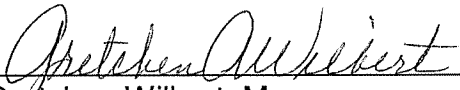
- (a) be adequately protected against mudslide damage, and
- (b) not aggravate the existing hazard.

Section 5. 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.

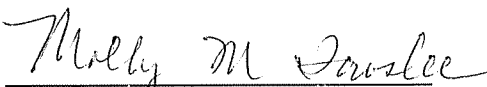
Section 6. Effective Date. This ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor this 10<sup>th</sup> day of January, 2005.

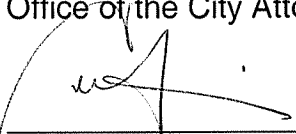
CITY OF GIG HARBOR

  
\_\_\_\_\_  
Gretchen Wilbert, Mayor

ATTEST/AUTHENTICATED:

  
\_\_\_\_\_  
Molly Towslee, City Clerk

APPROVED AS TO FORM:  
Office of the City Attorney

  
\_\_\_\_\_  
Carol A. Morris, City Attorney

FILED WITH THE CITY CLERK: 12/8/04  
PASSED BY THE CITY COUNCIL: 1/10/05  
PUBLISHED: 1/19/05  
EFFECTIVE DATE: 1/24/05  
ORDINANCE NO: 985