

**CITY OF GIG HARBOR
ORDINANCE NO. 856**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, CONTINUING A MORATORIUM UNDER RCW 36.70A.390 ON THE ACCEPTANCE OF APPLICATIONS FOR PLANNED UNIT DEVELOPMENTS UNDER CHAPTER 17.90 GHMC AND PLANNED RESIDENTIAL DEVELOPMENTS UNDER CHAPTER 17.89 GHMC UNTIL DECEMBER 31, 2000, SETTING THE DATE FOR A PUBLIC HEARING ON THE CONTINUATION OF THE MORATORIUM, DEFINING THE DEVELOPMENT APPLICATIONS SUBJECT TO THE MORATORIUM AND AFFIRMING THE EMERGENCY NATURE OF THE MORATORIUM IMPOSED ON MAY 8, 2000.

WHEREAS, on May 8, 2000, the City Council passed Ordinance No. 843, adopting an immediate moratorium on the acceptance of certain nonexempt development applications for property in the City; and

WHEREAS, RCW 36.70A.390 requires that the City hold a public hearing on the moratorium within 60 days of its adoption, and that the City Council adopt findings of fact and conclusions to justify the continued imposition of the moratorium; and

WHEREAS, on June 12, 2000, at a regular City Council meeting, the City Council held a public hearing on the moratorium and accepted testimony from all members of the public desiring to be heard; and

WHEREAS, on June 12, 2000, the City Council also deliberated on the issue whether to maintain the moratorium, and voted to continue the moratorium described above; and

WHEREAS, on July 10, 2000, the City Council passed Ordinance No. 846, which adopted findings of fact and conclusions supporting a six-month moratorium, as well as a work plan for the Planning Commission to follow in the development of amendments to the PUD and PRD chapters; and

WHEREAS, Ordinance No. 846 provided that the City Council was required to terminate the moratorium through the passage of another ordinance; and

WHEREAS, on November 13, 2000, the City Council voted to continue the moratorium until December 31, 2000; and

WHEREAS, RCW 36.70A.390 and RCW 35A.63.220 provide that a moratorium may be effective for a period of up to one year if a work plan is developed and that a six month moratorium may be renewed for one or more six month periods if a subsequent public hearing is held and findings of fact are made; and

WHEREAS, the Planning Commission developed a recommendation to the City Council in the form of amendments to the PRD and PUD chapters; and

WHEREAS, the City staff made certain changes to the recommendation to clarify procedure, and on November 13, 2000, the City Council voted to send the recommendations formulated by staff back to the Planning Commission for review;

WHEREAS, on November 16, 2000, the Planning Commission considered the staff recommendations, provided their approval of same and directed staff to send the recommendation to the City Council for a public hearing on December 11, 2000; and

Now, Therefore,

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

Section 1. Definitions. For the purpose of this Ordinance, the following definitions shall apply:

A. **“Exempt Development Permits”** shall include any planned unit development application or planned residential development application which was complete and submitted to the City on the effective date of Ordinance No. 843 or No. 846 or thereafter, or any planned unit development or planned residential development that has already received final approval by the City. In addition, “exempt development permits” include any other land use, subdivision or development approval that is not described as a “non-exempt development permit” in subsection “B” below.

B. **“Non-Exempt Development Permit”** shall include any planned unit development application or planned residential development application which was submitted to the City but was not complete on the effective date of Ordinance No. 843 or No. 846 or thereafter, as well as any planned unit development or planned residential development applications that are submitted to the City after that time.

Section 2. Purpose. The purpose of extending this moratorium until December 31, 2000 is to allow the City adequate time to hold a public hearing(s) to consider the recommendation of the Planning Commission on the Planning Commission’s proposed amendments to chapter 17.89 GHMC for planned residential developments and chapter 17.90 GHMC for planned unit developments. The City Council has scheduled such a public hearing for December 11, 2000. A copy of the recommendations of the Planning Commission were made available to the public on November 22, 2000. The public will have an opportunity to review the recommendations and

provide comment before the public hearing on December 11, 2000. An extension of the moratorium until December 31, 2000 will accommodate this procedure and satisfy the public participation requirements of the Growth Management Act.

The above activities must be performed during a moratorium on the acceptance of non-exempt development permits, so that a property owner cannot vest to existing regulations, which may be substantially changed during this process. The courts have recognized that municipalities may need to adopt immediate moratoria without notice so that developers could not frustrate long-term planning by obtaining vested right to develop their property, thereby rendering new development regulations moot. Matson v. Clark County Board of Commissioners, 79 Wn. App. 641, 904 P.2d 317 (1995).

Section 3. Moratorium Continued and Public Hearing on Moratorium. In light of the above, the City Council hereby continues the moratorium imposed on May 8, 2000, on the acceptance of all non-exempt development permit applications for property within the City, until December 31, 2000. Pursuant to RCW 36.70A.390 and RCW 35A.63.220, the City Council shall hold a public hearing on this moratorium within the next sixty (60) days. The Council shall schedule this hearing for December 11, 2000. Immediately after the public hearing, the Council shall adopt findings of fact on the subject of this moratorium, and either justify its continued imposition or cancel the moratorium.

Section 4. 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, sentence, clause or phrase of this Ordinance.

Section 5. Declaration of Emergency. The City Council hereby declares that this Ordinance shall take effect immediately upon passage by a majority vote plus one of the whole membership of the Council, and that the same is not subject to a referendum (RCW 35A.12.130). Without a continuation of the moratorium on the City's acceptance of non-exempt development applications for property, such applications could become vested under regulations subject to imminent change by the City in its development regulation revision process. This Ordinance does not affect any vested rights, nor will it prohibit all development in the City, because those property owners with exempt applications/permit and previously obtained approvals for development may proceed with processing or development, as the case may be.

Section 6. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 7. Effective Date. This Ordinance shall take effect and be in full force immediately upon passage as set forth above.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor this 27th day of November, 2000.

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: (Signature)
CAROL A. MORRIS

FILED WITH THE CITY CLERK: 11/21/00
PASSED BY THE CITY COUNCIL: 11/27/00
PUBLISHED: 12/6/00
EFFECTIVE DATE: 11/27/00
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