

ORDINANCE NO. 994

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS, AMENDING THE CITY'S PROCEDURES FOR CHARGING PRIVATE APPLICANTS FOR THE COSTS ASSOCIATED WITH EIS PREPARATION, AMENDING SECTION 18.04.140 OF THE GIG HARBOR MUNICIPAL CODE.

WHEREAS, the City's code currently requires that an applicant for a development pay for the costs associated with preparation of an EIS; and

WHEREAS, the City's existing procedures are not specific as to the manner in which the City will charge the applicant; Now, therefore:

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

Section 1. Section 18.04.140 of the Gig Harbor Municipal Code is hereby amended to read as follows:

18.04.140. EIS – Preparation.

A. **Responsible Official's responsibilities.** Preparation of draft and final EISs and SEISs shall be under the direction of the responsible official. Before the City issues an EIS or SEIS, the responsible official shall be satisfied that it complies with this chapter and chapter 197-11 WAC.

B. **Time Limit.** ~~The draft and final EIS or SEIS shall be prepared at the City's option by the City staff, the applicant or a consultant approved by the city. If the responsible official requires an EIS for a proposal and determines that someone other than the city will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the city's procedure for EIS preparation, including approval of the draft and final EIS prior to distribution. The fee for the preparation of the draft and final EIS shall be as established under chapter 3.30 GHMC.~~

Subject to delays caused by the applicant's failure to provide needed information and other delays beyond the city's control, draft and final EIS's will be completed within one year of the date of the declaration of significance, unless the city and the applicant agree in writing to a different estimated time period for completion.

C. Requirement for Additional Information. The city may require an applicant to provide additional information which the City does not possess, including information which must be obtained by specific investigations. This provision is not intended to expand or limit an applicant's other obligations under WAC 197-11-100, or other provisions of regulation, statute or ordinance. An applicant shall not be required to produce information under this provision which is not specifically required by this chapter, nor is the applicant relieved of the duty to supply any other information required by statute, regulation or ordinance.

D. Fees.

1. For the purpose of reimbursing the City for necessary costs and expenses relating to its compliance with the SEPA rules and this chapter in connection with private projects, the following schedule of fees are established (in addition to the fees in the City's fee resolution):

a. For a threshold determination which requires information in addition to that contained in or accompanying the environmental checklist, a fee in an amount equal to the actual costs and expenses incurred by the City in conducting any studies or investigations necessary to provide such information;

b. For all private projects requiring an EIS for which the City is the lead agency and for which the responsible official determines that the EIS shall be prepared by the employees of the City, or that the City will contract directly with a consultant or consultants for the preparation of an EIS, a fee in an amount equal to the actual costs and expenses incurred by the City in preparing the EIS. Such fee shall also apply when the City determines that the applicant may prepare the EIS, and the responsible official determines that substantial revisions or reassessing of impacts must be performed by employees of the City to ensure compliance with the provisions of the SEPA Guidelines and this chapter.

2. If the responsible official determines that an EIS is required, and that the EIS shall be prepared by employees of the City or by a consultant or consultants retained by the City, or that

the applicant-prepared EIS shall be substantially re-written by employees of the City, the private applicant shall be advised by the responsible official of the estimated costs and expenses of preparing or rewriting the EIS prior to actual preparation or rewriting, and the private applicant shall post a bond or otherwise insure payment of such costs and expenses. A consultant or consultants may be recommended by the applicant. The final decision to hire a consultant or consultant shall be made by the City Council.

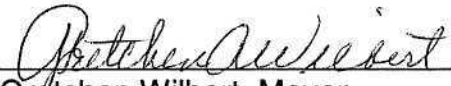
3. All fees owed the City under this Section shall be paid in full by the private applicant prior to final action by the City on the private project. Any fee owed the City under this subsection D shall be paid by the private applicant prior to the initiation of actual preparation of an EIS (if required) or actual rewriting of an applicant-prepared EIS by the City or its consultant(s). For all EIS's involving multiple applicants, the cost of preparation shall be divided among the applicants according to the nature, amount and type of work to be performed. The city shall ask the EIS consultant to estimate the costs related to the portion of the EIS associated with each application. The city shall make the final decision on the costs to be billed each applicant, regardless of whether the EIS is prepared by a consultant or the city. If a private applicant disputes the amount of the fee, the fee may be paid under protest and without prejudice to the applicant's right file a claim and bring an action to recover the fee.

Section 2. 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 3. 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 11th day of April, 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:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
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