

ORDINANCE NO. 1266

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING; ADOPTING REGULATIONS ALLOWING FOR MODEL HOMES ON EXISTING AND PROPOSED PRELIMINARY PLATS PRIOR TO FINAL PLAT APPROVAL; PROVIDING LIMITED EXTENSIONS OF PLAT APPROVALS CONSISTENT WITH STATE LAW; ADDING NEW SECTIONS 16.01.045 and 16.05.007 AND AMENDING SECTIONS 16.06.003 and 16.06.006 OF THE GIG HARBOR MUNICIPAL CODE; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, model homes are homes that demonstrate a variety of housing designs together with all associated on-site improvements; and

WHEREAS, the City of Gig Harbor currently addresses allowance of model homes through development agreements prior to preliminary plat approval; and

WHEREAS, the Gig Harbor municipal code, through development agreements, limits these model homes to the PCD, DB and WC zoning districts; and

WHEREAS, the drafting of development agreements for model homes are costly to the applicant and time consuming for staff; and

WHEREAS, The City of Gig Harbor does not have an administrative process for existing and proposed preliminary plat applicants to incorporate model homes into their projects without the use of development agreements; and

WHEREAS, the City currently has 20-plus approved and in-process preliminary plats; and

WHEREAS, City staff met with the Planning and Building Committee of the City Council on May 6, 2013 to discuss incorporating model homes into the Gig Harbor Municipal Code; and

WHEREAS, the Planning and Building Committee of the City Council directed staff to draft an ordinance and zoning code amendment addressing model homes and present to City Council for direct consideration; and

WHEREAS, under Chapter 16, Laws of 2013, the Washington State Legislature provided for limited extensions relating to plat approvals, and the City Council desires to

amend sections 16.06.003 and 16.06.006 of the Gig Harbor Municipal Code to comply with the new requirements; and

WHEREAS, the proposed amendments were forwarded to the Washington State Department of Commerce on June 10, 2013, pursuant to RCW 36.70A.106; and

WHEREAS, the Gig Harbor SEPA Responsible Official issued a Determination of Nonsignificance for this interim ordinance on June 26th, 2013; and

WHEREAS, the Gig Harbor City Council considered the ordinance at first reading and public hearing on July 8, 2013; and

WHEREAS, on July 22, 2013, the City Council held a second reading during a regular City Council meeting; Now, therefore,

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

Section 1. Section 16.01 in the Definitions chapter of the Gig Harbor Municipal Code is hereby established, to read as follows:

16.01.045 Model Homes.

“Model Homes” are constructed homes that demonstrate a variety of housing designs together with all required on-site improvements (i.e., landscaping, improved driveways, patios, sewer and water infrastructure, etc). Model homes that provide for an office use, i.e., sales facility, shall meet the requirements of office/commercial use in the building plans.

Section 2. Section 16.05.007 in the Preliminary Plats chapter of the Gig Harbor Municipal Code is hereby established, to read as follows:

16.05.007 Model Homes

A. Eligibility. Any applicant who has received preliminary plat approval may apply for building permits for model homes, up to the number authorized under GHMC 16.05.007(C). Prior to the issuance of model home permit(s), the applicant must demonstrate that the following criteria are met:

1. The applicant has submitted and received all required permits and approvals required of the preliminary plat approval; and
2. All required retention and detention facilities necessary for the areas of the subdivision serving the model homes are in place and functional, and in accordance with the Civil Permit approved by the City of Gig Harbor; and
3. All critical areas upon or immediately adjacent to the areas of the subdivision serving the model home(s) have been protected or mitigated, in accordance with adopted critical areas regulations and preliminary plat approval; and

4. The model home(s) shall meet the access and fire protection requirements of Title 15 GHMC; and

5. All areas of the subdivision serving the model home(s) have installed frontage improvements including, but not limited to curb, gutter and sidewalk, street illumination, and landscaping as required by the preliminary plat approval or this code; and

6. All proposed streets serving the model homes shall be adequately marked with street signs conforming to the current MUTCD standards; and

7. Water and sewer conveyance systems are installed to each lot proposed for model homes, in accordance with the approved Civil Permit; and

8. Lot property corners of all lots proposed to be used for the model home complex have been set by a licensed, professional land surveyor in accordance with the preliminary plat lot configuration; and

9. All impact fees for model homes shall be paid prior to issuance of a building permit for the model homes; and

10. Fire protection features including access, hydrants, and fire flow must be provided in accordance with GHMC Title 15 and the approved civil plans prior to any combustible construction on any lot within the development. Such fire protection may be installed in a phased manner provided that they are in place and approved as prescribed by code for each individual parcel within the plat prior to issuance of a building permit for said parcel; and

11. Any model home utilized as an office space shall meet all applicable requirements for such use as provided for in Title 15 GHMC.

B. Application Process. In addition to the application requirements for a building permit, the following additional information for a model home shall be included:

1. The applicant shall have written authorization from the property owner permitting the model home(s) if the applicant is other than the owner of the approved preliminary plat; and

2. Title report current within the last thirty days; and

3. Name of approved preliminary plat as well as the proposed name of the final plat (if different); and

4. Date of preliminary plat approval; and

5. Date of preliminary plat expiration; and

6. Copy of Hearing Examiner decision approving the preliminary plat; and

7. Overall site plan showing the preliminary plat, including phases (if applicable) and the location of all proposed model homes; and

8. Individual site plan showing the location of the model home(s) in relation to the property lines and setbacks consistent with the preliminary plat approval; and

9. A statement from the applicant in which the applicant acknowledges that construction of any model home is at applicant's own risk and agrees to indemnify and hold harmless the City, its elected and appointed officials, employees, agents, and representatives from any and all claims related to the model homes, including but not limited to any costs of removal of such buildings and portions not in compliance with the final plat approval.

C. Number of Model Homes per plat. The number of allowed model homes varies per plat. Approved preliminary plats are allowed to have model homes as follows:

1. Plats with 5-19 lots may have one model home;
2. Plats with 20-50 lots may have up to 10% of the lots be model homes;
3. Plats with 51-99 lots may have no more than five model homes;
4. Plats with more than 100 lots may have up to 10% of the lots for model homes;
5. Percentages of model homes shall not be rounded up; and
6. In plats where there are multiple builders, no builder shall occupy all model home sites.

E. Certificate of Occupancy. Certificate of Occupancy shall not be granted for any of the model homes until the final plat has been recorded. However, the applicant may request final inspection and temporary occupancy for model homes prior to final plat recording, provided:

1. The owner and homebuilder have complied with applicable state law with regard to any agreements to transfer, sell or lease property within the preliminary plat prior to final plat recording; and
2. All Building and Fire Safety requirements have been met to the satisfaction of the City's Building Official and Fire Marshal; and
3. Driveway approaches for each model home requesting occupancy have been installed; and
4. Repairs to the roadway improvements have been completed as necessary due to damage as a result of model home construction; and
5. Miscellaneous utility work as necessary to minimize potential for damage to vehicles or tripping hazards has been completed; and
6. Miscellaneous work to provide access for maintenance or operation of underground utilities has been completed; and
7. No model home shall be occupied for residential use prior to recording of the final plat. No model home shall be sold, leased, rented or otherwise transferred in ownership until the final plat is recorded, unless the property interest is transferred in conjunction with a transfer in interest of the plat as a whole; and
8. The hours of operation for the model home(s) can only be between the hours of 6:00am to 9:00pm; and
9. The City's Building/Fire Safety Department and Public Works Department have verified all water (where served by City of Gig Harbor Water Department) and sewer connections are connected and installed in accordance with the approved Civil Permit.

Section 3. Section 16.06.003 in the Final Plats chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

16.06.003 Time frame for submission of final plat.¹

A. For preliminary plats approved on or after January 1, 2008 and through December 31, 2014. A final plat meeting all requirements of Chapter 58.17 RCW

and this title shall be submitted to the city for approval within seven years of the date of preliminary plat approval.

B. For preliminary plats approved on or after January 1, 2015. A final plat meeting all requirements of Chapter 58.17 RCW and this title shall be submitted to the city for approval within five years of the date of preliminary plat approval.

C. For preliminary plats approved on or before December 31, 2007. A final plat meeting all requirements of Chapter 58.17 RCW and this title shall be submitted to the city for approval within ten years of the date of preliminary plat approval, unless the plat is subject to the requirements adopted under Chapter 90.58 RCW. For plats subject to Chapter 90.58 RCW, subsection A of this section applies.

D. Extensions. An applicant may submit an application to the city at least 30 days prior to the expiration of the preliminary plat approval for a one-time extension of one year. Such extensions may be granted by the city only if:

1. The applicant agrees to construct the development in conformance with the zoning, design review, subdivision, public works standards and other development regulations in place at the time of the application for an extension; and

2. The applicant provides its consent to allow any agency providing a recommendation under RCW 58.17.150 to reconsider and modify its recommendation, and after such reconsideration, each recommendation is unchanged and supports such extension.

Section 4. Section 16.06.006 in the Final Plats chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

16.06.006 Effect of final plat approval.²

A. For final plats filed for record with the county auditor on or after January 1, 2008 and through December 31, 2014. Any lots in a final plat filed for record shall be a valid land use notwithstanding any change in zoning laws for a period of seven years from the date of filing. A subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances and regulations in effect at the time of approval under RCW 58.17.150(1) and (3) for a period of seven years after final plat approval unless the city council finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.

B. For final plats filed for record with the county auditor on or after January 1, 2015. Any lots in a final plat filed for record shall be a valid land use notwithstanding any change in zoning laws for a period of five years from the date of filing. A subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances and regulations in effect at the time of approval under RCW 58.17.150(1) and (3) for a period of five years after final plat approval unless the city council finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.

C. For final plats filed for record with the county auditor on or before December 31, 2007 and not subject to Chapter 90.58 RCW. Any lots in a final

plat filed for record shall be a valid land use notwithstanding any change in zoning laws for a period of ~~nine~~ ten years from the date of filing. A subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances and regulations in effect at the time of approval under RCW 58.17.150(1) and (3) for a period of nine years after final plat approval unless the city council finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.

D. For final plats subject to Chapter 90.58 RCW and filed for record on or before December 31, 2007, subsection A of this section applies.

Section 5. The code reviser is hereby directed to update the footnotes for GHMC 16.06.003 and 16.06.006 for consistency with ordinance.

Section 6. Retroactive Application. The provisions of Sections 5 and 7 amending GHMC 16.06.003 and 16.06.006 shall be effective retroactively to July 28, 2013.

Section 7. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be 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 8. 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 22nd day of July, 2013.

CITY OF GIG HARBOR

Charles L. Hunter
Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:

Molly Towslee
Molly M. Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

August Helborn

FILED WITH THE CITY CLERK: 07/03/13
PASSED BY THE CITY COUNCIL: 07/22/13
PUBLISHED: 07/24/13
EFFECTIVE DATE: 07/29/13
ORDINANCE NO. 1266