

ORDINANCE NO. 1235

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE PROVISION OF WATER AND SEWER SERVICE OUTSIDE THE CITY LIMITS; AMENDING SECTIONS 13.04.080 AND 13.32.030 OF THE GIG HARBOR MUNICIPAL CODE RELATING THE GENERAL FACILITY CHARGE FOR WATER AND SEWER CONNECTIONS OUTSIDE THE CITY LIMITS; REPEALING CHAPTER 13.34 OF THE GIG HARBOR MUNICIPAL CODE AND REPLACING WITH A NEW CHAPTER 13.34 ESTABLISHING CONDITIONS FOR OWNERS OF PROPERTY IN OUTSIDE THE CITY LIMITS TO RECEIVE WATER OR SEWER SERVICE FROM THE CITY; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, RCW 35.67.310 and RCW 35.92.200 authorize the City to provide water and sewer service to property beyond the city limits; and

WHEREAS, the City may provide water and sewer service to property beyond its limits under such terms, conditions and payments as may be required by the City and evidenced in a written agreement between the City and the property owners; and

WHEREAS, the Washington State Supreme Court has held that the conditions a city may impose on the provision of such service are not limited to those relating to capacity, as long as they are reasonable and lawful (*MT Development LLC v. City of Renton*, 140 Wn. App. 422 (2007), *Yakima County Fire Protection District v. Yakima*, 122 Wn.2d 371 (1993)); and

WHEREAS, the City of Gig Harbor currently provides water and sewer to property lying outside the City limits upon the applicant's compliance with the City's conditions as set forth in chapter 13.34 GHMC, including a condition for properties within the urban growth area to annex as a condition of connection; and

WHEREAS, the City Council desires to remove the requirement for annexation of properties in the urban growth area as a condition of connection; and

WHEREAS, the City's SEPA Responsible Official issued a Determination of Non-significance for this Ordinance on February 6, 2012; and

WHEREAS, the Gig Harbor City Council considered the Ordinance at first reading and public hearing on March 12, 2012; Now, therefore,

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

Section 1. Section 13.04.080 of the Gig Harbor Municipal Code is hereby amended to add a new subsection C to read as follows:

13.04.080 Water system general facility charge.

A. The city shall charge the following fees to connect to the water utility system:

Meter Size	Capacity Factor(s)	General Facility Charge
3/4"	1.0	\$ 6,180.00
1"	1.67	10,320.00
1-1/2"	3.33	20,580.00
2"	5.33	32,940.00
Over 2"		Negotiable

B. Any remodel and/or use change shall pay the difference between the new use and/or size and the previous use and/or size. No refund shall be allowed for use and/or size reduction.

C. Water system general facility charge for connections outside the city limits shall be charged at 1.5 times the city rates.

Section 2. Section 13.32.060 - Amended. Section 13.32.060(A) of the Gig Harbor Municipal Code is hereby amended as follows:

13.32.060 Sewer general facilities charges.

A. The city shall impose a sewer general facilities charge of \$8,540 per equivalent residential unit to connect to the sewer system. The sewer general facilities charge for connection to the Shorecrest Community Septic System is \$13,300 per equivalent residential unit. The sewer general facilities charge for all other sewer connections outside the city limits shall be charged at 1.5 times the standard city rate.

Section 3. Chapter 13.34 of the Gig Harbor Municipal Code is repealed in its entirety and replaced with the following new chapter 13.34 to read as follows:

Chapter 13.34

WATER AND SEWER SERVICE OUTSIDE CITY LIMITS

Sections:

- 13.34.010 City's authority to provide service outside city limits
- 13.34.020 Water and sewer service outside the urban growth area
- 13.34.030 Water and sewer service application
- 13.34.040 Utility Extension Agreement

13.34.010 City's authority to provide service outside city limits.

The city is authorized, pursuant to RCW 35.67.310 and 35.92.200, to provide sewer and water service to property outside the city limits. The city's provision of such service is not mandatory. This chapter establishes the conditions imposed by the city on such service.

13.34.020 Water and sewer service outside the urban growth area.

Pursuant to RCW 36.70A.110(4), the city may only extend water and sewer outside the urban growth area in those limited circumstances shown to be necessary to protect basic public health and safety and the environment, and when such services are financially supportable at rural densities and do not permit urban development.

13.34.030 Water and sewer service application.

Any person owning property outside the city limits and desiring to have their property connected to the city's water supply system or sewer system shall make application at the office of the city clerk for both a concurrency certificate and the actual connection, on the appropriate form. Every such application shall be made by the owner of the property to be connected and supplied the service, or by his/her authorized agent. The property owner must state fully the purposes for which the water and/or sewer service is required and for properties outside the urban growth area, must also describe the manner in which the application satisfies the requirements in GHMC 13.34.020. In addition, the property owner must agree to sign a utility extension agreement with the all of the elements set forth in this chapter, and conform to the city's regulations concerning water and sewer service set forth in this title, as the same now exists or may be amended in the future. If the city receives such application, approves it under the procedures set forth herein, and subsequently issues a water or sewer concurrency certificate, such certificate shall expire within one year of the date of issuance if the applicant does not pay the required fees and request an actual hook-up or connection to the subject property within that time period.

13.34.040 Utility Extension Agreement.

A. Every applicant for water and/or sewer service outside the city limits, including, but not limited to, municipal corporations or quasi-municipal

corporations such as water, sewer or fire districts, must agree to sign an agreement with the city, which conditions the provision of the service on the following terms:

1. Agreement to Run with the Property. The agreement shall be recorded against the property in the Pierce County auditor's office, and shall constitute a covenant running with the land. All covenants and provisions of the agreement shall be binding on the owner and all other persons subsequently acquiring any right, title or interest in or to said property.

2. Warranty of Title. The agreement shall be executed by the owner of the property, who shall also warrant that he/she is authorized to enter into such agreement.

3. Costs of Design, Engineering and Construction of Extension. The owner shall agree to pay all costs of design, engineering and construction of the extension, which shall be accomplished to city standards and conform to plans approved by the city public works director. Costs of plan review and construction inspection shall also be paid by the owner.

4. Capacity Commitment Payments. The owner shall agree to pay for the city's reservation of sewer and/or water capacity, which is calculated as a percentage of the connection fee for the sewer and/or water service. Such payments shall be made under the payment schedule determined by the city.

5. Easements and Permits. The owner shall secure and obtain at the owner's sole cost and expense, all permits, easements and licenses necessary to construct the extension.

6. Dedication of Capital Facilities. The owner shall agree to dedicate all capital facilities constructed as part of the water and sewer extension (such as water or sewer main lines, pump stations, wells, etc.), at no cost to the city, upon the completion of construction, approval and acceptance by the city.

7. General Facilities Charges. The owner shall agree to pay the general facilities charges set by the city in GHMC 13.04.080(C) and/or 13.32.060 (as these sections now exist or may hereafter be amended), as a condition of connecting to the city water and/or sewer system. Such connection charges shall be calculated at the rate schedules applicable at the time of actual connection.

8. Agreement Not to Protest Annexation. The owner shall provide the city with an irrevocable power of attorney to allow a city representative to sign a petition for annexation on behalf of the property owner or the property

owner shall agree to sign a petition(s) for annexation of his/her property when requested to do so by the city.

9. Waiver of Right to Protest LID. If, at the time of execution of the agreement, the city has plans to construct certain improvements that would specially benefit the owner's property, the agreement shall specifically describe the improvement. The owner shall agree to sign a petition for the formation of an LID or ULID for the specified improvements at the time one is circulated, and to waive his/her right to protest formation of any such LID or ULID.

10. Development of Property to Conform to Applicable City Public Works Standards and Utility Regulations. The owner shall agree to comply with all of the requirements of the city's public works standards relating to water and/or sewer and utility regulations when developing or redeveloping the property subject to the agreement. The property owner shall be required to apply for and obtain a water and/or sewer concurrency certificate prior to making application for a utility extension agreement.

11. Termination for Noncompliance. In addition to all other remedies available to the city for the owner's noncompliance with the terms of the agreement, the city shall have the ability to disconnect the utility, and for that purpose may at any time enter upon the property.

B. Review and Approval of Application. The city council shall review the application and may, in its sole discretion, allow the extension or expansion of sewer service, if the council finds that:

1. The application conforms to all elements of this section, and the applicant has signed a utility extension agreement conforming to subsection A of this section; and

2. The city's wastewater treatment plant and NPDES permit will not be affected by the extension or expansion; and

3. The extension or expansion must be consistent with the goals of the city's sewer comprehensive plan and other applicable law, including, but not limited to, the State Environmental Policy Act (SEPA).

C. Conditions. The council's approval of any extension or expansion under this section may be conditioned. Such conditions may include, but are not limited to:

1. Restrictions may be placed on the hours that the city will accept sewage flow from the property;

2. Restrictions may be placed on the amount of sewage flow or water provided to the applicant;

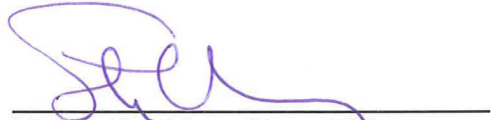
3. The property owner shall have the responsibility to maintain and operate his/her/its own facilities.

Section 4. 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 5. 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 Pro Tem of the City of Gig Harbor, this 26th day of March, 2012.

CITY OF GIG HARBOR



Mayor Pro Tem Steve Ekberg

ATTEST/AUTHENTICATED:



Molly M. Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney



Angela S. Belbeck

FILED WITH THE CITY CLERK: 03/07/12
PASSED BY THE CITY COUNCIL: 03/26/12
PUBLISHED: 04/04/12
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