

ORDINANCE NO. 1312

AN ORDINANCE OF THE CITY COUNCIL OF GIG HARBOR, WASHINGTON, RELATING TO RESTAURANT USES IN THE WATERFRONT MILLVILLE DISTRICT; ALLOWING RESTAURANT 2 AND 3 USES AS A CONDITIONAL USE PERMIT IN THE PORTION OF THE WATERFRONT MILLVILLE DISTRICT ADJACENT TO AND SOUTHEAST OF DOROTICH STREET; EXTENDING THE HOURS OF OPERATION OF RESTAURANT USES IN THE SUBJECT PORTION OF THE WATERFRONT MILLVILLE DISTRICT FROM 7:00AM - 9:00PM TO 7:00AM – 9:30PM (LAST SEATING); LIMITING THE BAR AREA OF RESTAURANT 1 AND 3 USES TO 40 PERCENT OF THE CUSTOMER AREA; REQUIRING EQUIPMENT TO SIGNIFICANTLY LIMIT FOOD SMELL EMISSIONS FROM RESTAURANT 2 AND 3 USES; PROHIBITING THE USE OF DEEP-FAT FRYERS; AMENDING SECTIONS 17.14.020, 17.48.035 AND 17.48.090 OF THE GIG HARBOR MUNICIPAL CODE; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City currently has three levels of restaurant uses: Level 1, the lowest level use most similar to a deli or coffee shop, through Level 3, the highest level use most similar to a full service sit down restaurant; and,

WHEREAS, Restaurant 1 uses may not use a grill or deep-fat fryer and may only serve beer and wine in establishments no larger than 1,200 square feet; and,

WHEREAS, a Restaurant 1 use requires a conditional use permit in the Waterfront Millville (WM) zoning district; and,

WHEREAS, furthermore, Restaurant 1 uses are currently limited in the WM district to operating hours of 7:00AM to 9:00PM. Restaurant 1 is the only level of restaurant currently allowed in the WM district; and,

WHEREAS, the WM zoning district was established in 1991. The boundaries and intent of the district has remained unchanged since adoption. The intent of the WM is as follows:

It is the intent of this district to provide a wide range of uses and activities on the shoreline of Gig Harbor located within the area between Rosedale Street and Stinson Avenue. This district serves primarily as a medium intensity, mixed use waterfront district with an emphasis on medium-density residential, marine-dependent and marine-related uses. Uses which enhance the historic fishing village atmosphere and which are harmonious with surrounding residential areas are encouraged. (GHMC 17.48.010); and,

WHEREAS, in May 2014, Gig Harbor Marina, Inc., a property owner in the WM zoning district, submitted an application for a zoning code text amendment to allow Restaurant 2 and Restaurant 3 uses in the WM zoning district provided a conditional use permit is granted. In addition, the applicant proposed limiting the hours of operation so that last seating is no later than 9:00pm or 9:30pm, depending on the time of the year. The proposal was not specific to any location, but would have applied to all properties within the WM zoning district; and,

WHEREAS, Restaurant 2 uses have no cooking appliance limitation but cannot serve alcohol. Restaurant 3 uses have no cooking appliance limitation and can serve wine, beer and spirits in an establishment of any size; and,

WHEREAS, the Planning Commission held work-study sessions on this amendment on November 6th, 2014, December 4th, 2014, December 18th, 2014 and January 15, 2015. A public hearing was held on November 20th, 2014; and,

WHEREAS, after the public hearing, the applicant changed the application to reduce the affected area of WM district and proposed a closing hour of 11:00pm. The November 26th, 2014 letter where these changes were proposed stated: *We believe that these options would be preferable to the residents of Millville, therefore we are recommending this as your course of action*; and,

WHEREAS, on January 15th, 2015, the Planning Commission recommended approval of the amendment. In addition, the Planning Commission recommended changes to the hours of operation limitations for all restaurant uses in the affected area of the WM district. The Commission proposed hours of operation of 6:00 a.m. to 11:00 p.m.; and,

WHEREAS, the Gig Harbor City Council considered an ordinance at first reading and public hearing on February 23rd, 2015; and,

WHEREAS, after the public hearing, the Council decided to hold a joint meeting with the Planning Commission, applicant and staff to further discuss the proposed amendment; and,

WHEREAS, on March 16th, 2015 the City Council held the joint meeting and discussed hours of operation, bar area limitations, delivery times, food smells, economic vitality and the subject area; and,

WHEREAS, in 2012, the City held a town hall meeting to solicit ideas and feedback on the downtown. The Harbor Vision statement and the adopted Harbor Element of the Comprehensive Plan are the result of that meeting. At the town hall meeting, attendees were asked what uses are needed in downtown. 36 people identified restaurants as a needed use in the downtown area; the votes were not zone specific. This was the second highest tally; groceries received 43 votes; and,

WHEREAS, currently there are 19 restaurants, 1 food truck, and 3 tasting rooms (wine, beer and spirits) in the Harbor area; and,

WHEREAS, in the 12.2 acre WM district, there are two Restaurant 1 uses: Susanne's Bakery and Deli and Netshed No. 9. Other business uses in this district include: professional offices, marinas, commercial fishing docks and associated structures, a marine supply store, a kitchen goods store, and a nail salon; and,

WHEREAS, the 5.6 acre portion of WM district where Restaurant 2 and 3 would be conditionally allowed contains the majority of current businesses not related to commercial fishing. This portion of the WM district contains the two existing restaurants, a nail salon, marine supply store, a kitchen goods store and three marinas. In addition, permits have been approved for two new marine retail buildings in this portion of the district. Of the approximately 17 residential dwellings located in the WM district, five exist in the subject portion of the district; and,

WHEREAS, the proposed text amendment is consistent with the following goals and policies in the Comprehensive Plan:

- Policy 2.2.3.e: **Waterfront Land Use Designation**

Provides for a variety of mixed uses along the waterfront which are allowed under the City of Gig Harbor Shoreline Master Program and as more particularly defined under the zoning code. Generally, the lower intensity waterfront areas would favor residential and marinas while the more intense use waterfront areas would provide for higher density residential and commercial/retail uses.

From the Harbor Element:

- *Policy 3.10.1: Retain and support a mix of uses including fishing, boating, retail, commercial, and residential uses.*
- *Policy 3.10.3: Encourage appropriate commercial and retail services at street level to improve the pedestrian experience.*
- *Policy 3.12.1: Identify and amend current regulations and procedures that inhibit economic vitality within The Harbor.*
- *Policy 3.12.2: Work with the downtown businesses, property owners and community groups to establish a stronger economic base in The Harbor.*
- *Goal 3.13: Support local efforts to retain existing businesses and attract new businesses that provide a diversity of products and services desired by Gig Harbor residents and visitors.*
- *Policy 3.13.4: Encourage evening activities in the commercial districts; and,*

WHEREAS, the City Council finds that allowing Restaurant 2 and 3 uses as a conditional use is appropriate. Through the conditional use permit review, a specific restaurant's impacts will be considered and mitigated if necessary. This includes concerns about compatibility with any adjacent residences, parking needs and availability, and impact of restaurant operations such as delivery trucks, lighting, outdoor seating, smells, and garbage service. A conditional use permit requires a public hearing in front of the City's

hearing examiner with public notice to the general public and neighboring property owners; and,

WHEREAS, the City Council finds that a last seating time of 9:30pm is more likely to limit the impact of noise and light on surrounding neighborhoods than a set closing time when all patrons leave at once. Through the conditional use permit process, narrower hours of operation can be imposed if necessary based on the type of restaurant and operation specifics; and,

WHEREAS, the City Council finds that the proposed amendment is consistent with the intent of the WM district. The district is intended for medium intensity, mixed uses. The zone gives emphasis to medium-density residential, marine-dependent and marine-related uses. However, other uses which enhance the historic fishing village atmosphere and are harmonious with surrounding residential areas are encouraged. Restaurant 2 and 3 uses can be considered a medium-intensity use given the 3,500sf building size limitation, 9:30pm last seating, bar area limitation, prohibition of deep-fat fryers and food smell performance standard. By locating the allowance for Restaurant 2 and 3 uses in the more commercial area of the WM district and requiring a conditional use permit, an individual restaurant's impacts to the surrounding residential area can be minimized; and,

WHEREAS, the City Council finds that the amendment furthers the general welfare and enhances the historic fishing village atmosphere by filling an identified need of the community, attracting visitors to the area, helping with business retention, and generally adding vitality to the Harbor area while minimizing the impact to the surrounding residents through the conditional use permit process; and,

WHEREAS, based on the average peak p.m. hour vehicle trips for the City's restaurant use categories as quantified by the ITE Trip Generation manual, the allowance for Restaurant 2 and 3 uses is not likely to increase potential trips as compared to the potential trips for Restaurant 1 uses. Through the review of a conditional use permit application for a specific restaurant, a detailed traffic trip generation study will occur and traffic mitigation measures, if necessary, will be required; and,

WHEREAS, the WM district is entirely located within the City's Historic District, a design district overlay with detailed design standards intended to ensure that the historic character of downtown is maintained. Any new or substantially remodeled building for a restaurant use must meet the Historic District design standards; and,

WHEREAS, the City Council finds that in addition to Gig Harbor Marina's request, Restaurant 1 uses within the affected area should be allowed to have a last seating at 9:30pm to be consistent with Restaurant 2 and 3 uses; and,

WHEREAS, the proposed development regulations amendments were forwarded to the Washington State Department of Commerce on January 13, 2015, pursuant to RCW 36.70A.106, and was granted expedited review on January 28, 2015; and,

WHEREAS, the City's SEPA Responsible Official issued a threshold Determination of Nonsignificance (DNS) for this Ordinance on February 4, 2015; and,

WHEREAS, the Gig Harbor City Council considered the Ordinance at first reading and public hearing on April 13, 2015; and,

WHEREAS, the Gig Harbor City Council considered the Ordinance at a second reading on April 27, 2015 and the directed staff to amend the ordinance to prohibit deep-fat fryers and to limit the hours of operation to 7am – 9:30pm last seating; and,

WHEREAS, on May 11, 2015, the City Council held a third 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 17.14.020 in the Land Use Matrix chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.14.020 Land use matrix

Uses	PI	R-1	RLD	R-2	RMD	R-3	RB-1	RB-2	DB	B-1	B-2	C-1 ²⁰	PCD-C	ED ¹⁸	WR	WM	WC	PCD-BP	PCD-NB	MUD ²⁵
Restaurant 1	-	-	-	-	-	-	C ⁸	P	P	P	P	P	P	-	C ¹²	P	P	P	P	
Restaurant 2	-	-	-	-	-	-	-	P	-	P	P	P	C ²³	-	C ²⁹	P	C ²⁴	P	P	
Restaurant 3	-	-	-	-	-	-	-	P	-	P	P	P	C ²³	-	C ²⁹	P	C ²⁴	P	P	
Tavern	-	-	-	-	-	-	-	C	-	P	P	P	-	-	-	P	-	-	-	

¹ Accessory apartments requiring conditional use permits are subject to the criteria in GHMC Section 17.64.045.

² Home occupations are subject to Chapter 17.84 GHMC.

³ Adult entertainment facilities are subject to Chapter 17.58 GHMC.

⁴ Wireless communication facilities are subject to Chapter 17.61 GHMC.

⁵ Houses of religious worship shall be limited to parcels not greater than 5 acres.

⁶ Multiple-family dwellings shall be limited to no more than eight attached dwellings per structure in the R-3 district.

⁷ Sales, level 1 uses shall be limited to food stores in the RB-1 district.

⁸ See GHMC Section 17.28.090(G) for specific performance standards of restaurant 1 and food store uses in the RB-1 zone.

⁹ Animal clinics shall have all activities conducted indoors in the DB district.

¹⁰ Drive-in theaters are not permitted in the B-2 district.

¹¹ Marine industrial uses in the WM district shall be limited to commercial fishing operations and boat construction shall not exceed one boat per calendar year.

¹² Coffeehouse-type restaurant 1 uses shall not exceed 1,000 square feet in total size in the WM district.

¹³ Sales, level 1 uses shall be limited to less than 7,500 square feet per business in the PCD-NB district.

¹⁴ Residential uses shall be located above a permitted business or commercial use.

¹⁵ Houses of religious worship on parcels not greater than 10 acres are permitted uses in the MUD district; houses of religious worship on parcels greater than 10 acres are conditionally permitted uses in the MUD district.

¹⁶ Auto repair and boat repair uses shall be conducted within an enclosed building or shall be in a location not visible from public right-of-way and adjacent properties.

¹⁷ Only one triplex dwelling or one fourplex dwelling is conditionally permitted per lot in the WM district.

¹⁸ Planned unit developments (PUDs) are conditionally permitted in the ED district.

¹⁹ Junkyards, auto wrecking yards and garbage dumps are not allowed in the C-1 district.

²⁰ Clubs in the WM zone shall not serve alcoholic beverages and shall not operate a grill or deep-fat fryer.

²¹ Independent living facilities are conditionally allowed in the ED zone only when in combination with assisted living facilities, skilled nursing facilities or hospitals in the same site plan or binding site plan.

²² See GHMC Section 17.45.040 for specific performance standards of sales and restaurant uses in the ED zone.

²³ See GHMC Section 17.54.030 for specific performance standards of sales and restaurant uses in the PCD-BP zone.

²⁴ Permitted and conditional uses in the MUD district overlay are subject to the minimum parcel size and location requirements contained in GHMC 17.91.040(A).

²⁵ Level 1 and Level 2 charging only.

²⁶ Electric vehicle charging stations, level 1 and level 2 only, are allowed only as accessory to a principal outright permitted or principal permitted conditional use.

²⁷ The term "Rapid" is used interchangeably with Level 3 and Fast Charging.

²⁸ Only "electric vehicle charging stations – restricted" as defined in Chapter 17.73 GHMC.

²⁹ Only those properties lying adjacent to or southeast of Dorotich Street are allowed to request a conditional use permit for a Restaurant 2 or Restaurant 3 use. In other areas of WM zone, Restaurant 2 and Restaurant 3 uses are prohibited. See Chapter 17.48 GHMC for specific performance standards for restaurant uses in the WM zone.

Section 2. Section 17.48.035 in the Waterfront Millville (WM) chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.48.035 Hours of operation.

A. The following uses shall be limited to operating between the hours of 7:00 a.m. to 7:00 p.m., daily:

1. Sales, level 1;
2. Boat construction;
3. Clubs.

B. Restaurant 1 uses shall be limited to operating between the hours of 7:00 a.m. to 9:00 p.m., daily, except as provided for in subsection C.

C. All restaurant uses on properties adjacent to or southeast of Dorotich Street shall not open before 7:00 a.m. and shall seat the last customer no later than 9:30 p.m., daily.

Section 3. Section 17.48.090 in the Waterfront Millville (WM) chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.48.090 Performance standards.

* * *

H. Restaurant Uses. The bar area of restaurant 1 and 3 uses may not exceed more than 40% of the customer seating area of the restaurant. Restaurant 2 and 3 uses shall not operate a deep-fat fryer and shall install equipment that will significantly limit the emission of food smells from the restaurant.

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.

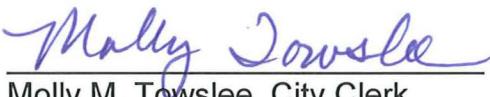
PASSED by the Council and approved by the Mayor of the City of Gig Harbor, this 11th day of May, 2015.

CITY OF GIG HARBOR



Jill Guernsey, Mayor

ATTEST/AUTHENTICATED:



Molly M. Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney



Angela G. Summerfield

FILED WITH THE CITY CLERK: 05/06/15
PASSED BY THE CITY COUNCIL: 05/11/15
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ORDINANCE NO: 1312