

ORDINANCE NO. 1207

AN ORDINANCE OF THE CITY OF GIG HARBOR,
WASHINGTON, IMPOSING A 6.5% RETAIL SALES
AND USE TAX WITHIN THE GIG HARBOR
HOSPITAL BENEFIT ZONE.

PASSED: MAY 9, 2011

Prepared by:

K&L GATES LLP
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CITY OF GIG HARBOR
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* This Table of Contents and the Cover Page are for convenience of reference and are not intended to be a part of this ordinance.

ORDINANCE NO. 1207

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, IMPOSING A 6.5% RETAIL SALES AND USE TAX WITHIN THE GIG HARBOR HOSPITAL BENEFIT ZONE.

WHEREAS, the Washington State Legislature in its 2006 Regular Session approved SHB 2670, as Chapter 111, Laws of 2006 (the “Act”), authorizing the formation of hospital benefit zones; and

WHEREAS, a hearing was held on July 24, 2006, and the City Council of the City of Gig Harbor, Washington (the “City”) approved Ordinance No. 1052, forming the Gig Harbor Hospital Benefit Zone; and a hearing was held on October 23, 2006, and the City Council of the City of Gig Harbor, Washington approved Ordinance No. 1057, amending the Gig Harbor Hospital Benefit Zone; and

WHEREAS, subsequent to the formation of the Gig Harbor Hospital Benefit Zone, Pierce County, Washington (the “County”), pursuant to Resolution No. R2006-141 adopted on November 7, 2006, authorized an Interlocal Agreement with the City (the “Interlocal Agreement”), pursuant to which certain areas within the County and within the City’s urban growth boundaries would be included within the Gig Harbor Hospital Benefit Zone (as expanded, the “Benefit Zone”); and

WHEREAS, in November 2006, the Department of Revenue (the “Department”) approved the Benefit Zone and implemented the local tax location codes for the for the new zone effective January 1, 2007 for the purpose of imposing the local option sales and use tax authorized in RCW 82.14.465; and

WHEREAS, under the Act, the City and the County are authorized to finance certain public improvements including those set forth in City Ordinance No. 1052 as amended by City Ordinance No. 1057 (as defined therein, the “Public Improvements”); and

WHEREAS, pursuant to the Act and the Interlocal Agreement, the County will allocate excess local excise taxes to the City for the purpose of financing a portion of the costs of the Public Improvements; and

WHEREAS, the base year in which base amounts are determined for future calculations of incremental state and local sales and use tax revenues in the Benefit Zone was completed December 31, 2007 (the “Base Year”). In the Base Year, the State received \$4,549,775 in State sales and use tax on taxable activity generated within the Benefit Zone, and the 0.5% basic and 0.5% optional local sales and use taxes authorized in RCW 82.14.030 on taxable activity within the Benefit Zone generated \$452,359 in tax revenue for the City and \$241,427 for the County; and

WHEREAS, the year ending December 31, 2008 was the first measurement year for the Benefit Zone. In such year, the State received \$12,630,698 in State sales and use tax on taxable activity generated within the Benefit Zone, and the 0.5% basic and 0.5% optional local sales and use taxes authorized in RCW 82.14.030 on taxable activity within the Benefit Zone generated \$1,393,212 in tax revenue for the City and \$532,003 for the County; and

WHEREAS, the year ending December 31, 2009 was the second measurement year for the Benefit Zone. In such year, the State received \$13,157,466 in State sales and use tax on taxable activity generated within the Benefit Zone, and the 0.5% basic and 0.5% optional local sales and use taxes authorized in RCW 82.14.030 on taxable activity within the Benefit Zone generated \$1,402,160 in tax revenue for the City and \$604,518 for the County; and

WHEREAS, the year ending December 31, 2010 was the third measurement year for the Benefit Zone. In such year, the State received \$12,467,919 in State sales and use tax on taxable activity generated within the Benefit Zone, and the 0.5% basic and 0.5% optional local sales and use taxes authorized in RCW 82.14.030 on taxable activity within the Benefit Zone generated \$1,412,689 in tax revenue for the City and \$486,271 for the County; and

WHEREAS, pursuant to RCW 39.100.050, the City is authorized to impose a retail sales and use tax under RCW 82.14.465 to finance the Public Improvements; and

WHEREAS, the tax will be deducted from the amount of tax otherwise required to be collected or paid over to the State of Washington (the "State"), operating to shift a share of the sales and use tax revenues to Benefit Zone; and

WHEREAS, the rate of tax may not exceed 6.5% of the selling price in the case of a sales tax or the value of the article used in the case of a use tax but in no case may the tax exceed what is necessary for the City to receive its entire annual State contribution in a ten-month period of time; and

WHEREAS, revenues collected under RCW 82.14.465 are further limited to the lesser of (a) \$2 million, (b) the amount of local matching funds provided by the local government, or (c) the amount of incremental State revenue received by the State in the previous year as a result of economic development within the benefit zone; and

WHEREAS, the tax imposed under RCW 82.14.465 will expire upon the earlier of the date (a) the tax allocation revenues are no longer used for the Public Improvements and Public Improvement costs, (b) when bonds issued for financing the costs of the Public Improvements are retired, or (c) that is thirty years after the tax is first imposed; and

WHEREAS, it is deemed necessary and advisable that the City now impose a 6.5% sales and use tax in accordance with the Act for this purpose; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DOES ORDAIN; as follows:

Section 1. Findings. The City hereby finds it to be in the public interest and particularly in the interest of the citizens of the City to impose a sales and use tax in accordance with the Act.

(a) The estimated cost of the Public Improvements is \$136,570,000, all or a portion of which is expected to be financed by proceeds of bonds.

(b) The imposition of the local excise taxes by the City pursuant to RCW 39.100.050 and RCW 82.14.465 is in the best interests of the City and in furtherance of the purposes of the Act.

(c) In Ordinance No. 1052 and Ordinance No. 1057, the City Council has made the findings required by the Act.

Section 2. Imposition of Retail Sales and Use Tax. Pursuant to RCW 82.14.465, the City hereby levies a tax on each retail sale within the official boundaries of the City of 6.5% of the selling price. Pursuant to RCW 82.14.465, the City hereby also levies a tax or excise for the privilege of using within the City as a consumer the articles set forth in chapter 82.14 RCW, to be collected from every person within the official boundaries of this City. The tax shall be levied and collected in an amount equal to the value of the article used by the taxpayer multiplied by the rate in effect for the retail sales tax under this Section 2.

Notwithstanding anything to the contrary in this ordinance, the amount of taxes received by the City in any fiscal year (as defined in RCW 39.100.030) pursuant to the authority granted

in this ordinance shall not exceed the amount of the State contribution, and the taxes shall cease to be distributed for the remainder of any fiscal year in which either: (a) the amount of tax distributions totals the amount of the State contribution; (b) the amount of tax distributions totals the amount of local public sources, dedicated in the previous calendar year to finance Public Improvements authorized under chapter 39.100 RCW, expended in the previous year for Public Improvement costs or used to pay for other bonds issued to pay for Public Improvements; or (c) the amount of revenue from taxes imposed by all cities, towns, and counties under chapter 39.100 RCW totals the annual state credit limit of \$2 million in any fiscal year. If the taxes imposed pursuant to this ordinance cease to be distributed for any of the reasons provided in the preceding sentence, the taxes shall be distributed to the City again beginning in the next fiscal year, subject to the restrictions in RCW 82.14.465. Any revenue generated by the taxes imposed pursuant to this ordinance in excess of the amounts specified above shall be remitted to the State for such period.

Section 3. Taxable Events. The taxes imposed pursuant to Section 2 shall be in addition to other taxes authorized by law, and shall be collected from those persons who are taxable by the State of Washington under chapters 82.08 and 82.12 RCW, respectively, upon the occurrence of any taxable event within the taxing jurisdiction of the City.

Section 4. Duration of the Tax. The taxes imposed pursuant to Section 2 shall be in effect from July 1, 2011 until the earlier of the date (a) the tax allocation revenues are no longer used for the Public Improvements, (b) when bonds issued for financing the costs of the Public Improvements are retired, or (c) that is thirty years after the tax is first imposed.

Section 5. Consistency with State Tax. The taxes imposed herein shall comply with all applicable rules, regulations, laws, and court decisions regarding sales and use excise taxes as

imposed by the State under chapters 82.08 and 82.12 RCW and applicable regulations. The provisions of those chapters, to the extent they are not inconsistent with this ordinance, shall apply as though fully set forth herein.

Section 6. Collection of the Tax. The City shall transmit a copy of this ordinance to the Department. The City shall contract with the Department for the administration and collection of the taxes imposed herein. The Director of Finance of the City is hereby authorized to negotiate and execute such agreement on such terms as he deems to be in the best interests of the City.

Section 7. Distribution of Tax Proceeds and Limiting the Use Thereof. The Director of Finance of the City shall deposit the proceeds of the taxes imposed herein and received from the Department in the City's Hospital Benefit Zone Revenue Fund. The City's Hospital Benefit Zone Revenue Fund shall be used by the City solely for the purposes set forth in chapter 36.100 RCW.

Section 8. General Authorization. The Mayor, the City Administrator, the Director of Finance of the City, and each of the other appropriate officers, agents and representatives of the District are each hereby authorized and directed to take such steps, to do such other acts and things, and to execute such letters, certificates, agreements, papers, financing statements, assignments or instruments as in their judgment may be necessary, appropriate or desirable in order to carry out the terms and provisions of, and complete the transactions contemplated by this ordinance.

Section 9. Prior Acts. All acts taken pursuant to the authority of this ordinance but prior to its effective date are hereby ratified and confirmed.

Section 10. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

Section 11. Effective Date. This ordinance shall be effective five (5) days from and after the date of its final passage and publication as provided by law.

PASSED by the Council of the City of Gig Harbor, Washington, at a regular meeting thereof held this 9th day of May, 2011.

CITY OF GIG HARBOR, WASHINGTON

Charles L. Hunter
Mayor

ATTEST:

Molly M. Jowles
City Clerk

First Reading:	04/25/11
Date Approved:	05/09/11
Date of Publication:	05/11/11
Effective Date:	05/16/11

CLERK'S CERTIFICATE

I, the undersigned, the duly chosen, qualified, and acting Clerk of the City of Gig Harbor, Washington, and keeper of the records of the Council of the City (herein called the "Council"), DO HEREBY CERTIFY:

1. That the attached is a true and correct copy of Ordinance No. 1207 (herein called the "Ordinance") of the Council as finally adopted at a meeting of the Council held on the 9th day of May, 2011, and duly recorded in my office.
2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a quorum was present throughout the meeting and a legally sufficient number of members of the Council voted in the proper manner for the adoption of the Ordinance; that all other requirements and proceedings incident to the proper adoption of the Ordinance have been duly fulfilled, carried out and otherwise observed, and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 10 day of May, 2011.

Mally M. Jowles
City Clerk