

ORDINANCE NO. 1169

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO STORMWATER AND GRADING REGULATIONS; REPEALING AND REPLACING CHAPTER 14.20 OF THE GIG HARBOR MUNICIPAL CODE TO ADOPT NEW REGULATIONS RELATING TO STORMWATER; AMENDING SECTION 18.10.080 OF THE GIG HARBOR MUNICIPAL CODE; ADDING NEW CHAPTER 14.40 TO THE GIG HARBOR MUNICIPAL CODE TO ADOPT REGULATIONS RELATING TO GRADING; REPEALING AND REPLACING CHAPTER 12.06 OF THE GIG HARBOR MUNICIPAL CODE TO ESTABLISH A CIVIL PERMIT PROCESS; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Gig Harbor (the “City”) is regulated under the Washington State Department of Ecology’s Western Washington Phase II Municipal Stormwater Permit (the “Permit”); and

WHEREAS, the Permit became effective on February 16, 2007 and contains various requirements for stormwater management and operations that must be implemented over the 5-year permit term ending February 15, 2012; and

WHEREAS, the Permit broadly applies to City activities that include maintenance and operations of City facilities, permitting of development, inspections and enforcement of regulations, and other activities conducted in the City’s Municipal Separate Storm Sewer System; and

WHEREAS, the City will be adopting code policies and procedures as needed to comply with the Permit; and

WHEREAS, to meet the conditions of the Permit, a Stormwater Management Program (“SWMP”) has been prepared that outlines all requirements of the Permit and a summary of the City’s work program to meet those requirements over the 5-year permit term, and will be updated annually to incorporate progress on implementing the SWMP and changes to projected future work efforts; and

WHEREAS, the revisions and additions of this ordinance are intended to meet Condition S5.C.4 of the Permit with the goal of improving and maintaining water quality

in compliance with the Clean Water Act, which includes adoption of a new stormwater technical manual such as Department of Ecology's Stormwater Manual, or an equivalent Stormwater Manual from an NPDES Phase I jurisdiction; and

WHEREAS, the new stormwater technical manual includes many of the requirements that have been previously provided by the existing Chapter 14.20 GHMC and is based on the recently approved Pierce County Stormwater Management and Site Development Manual; and

WHEREAS, the revisions of this ordinance remove the requirement for a drainage permit and create instead the new requirement for a civil permit and/or a grading permit; and

WHEREAS, the Public Works Department currently informally requires review of civil improvements through review and implementation of the Public Works Standards; and

WHEREAS, the new requirements for a civil permit are intended to enhance the transparency of the City's permitting requirements for public works projects and replace the requirements for a drainage permit; and

WHEREAS, Title 15 GHMC, Building and Construction, currently places the authority of grading with the Community Development Director, which no longer exists; and

WHEREAS, the Public Works Department currently informally reviews and enforces grading permits on behalf of the Community Development Director with enforcement in accordance with Title 15 GHMC; and

WHEREAS, the new requirements for a grading permit are intended to enhance the transparency of the City's permitting and enforcement of grading projects by establishing a grading code in Title 14 GHMC, which is enforced by the Public Works Director under Title 12 GHMC; Now, therefore

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

Section 1. Chapter 14.20 of the City of Gig Harbor Municipal Code is repealed.

Section 2. A new Chapter 14.20 of the City of Gig Harbor Municipal Code is hereby added to read as follows:

Chapter 14.20 STORMWATER MANGEMENT

14.20.010 Declaration of Title

This Code shall be known as the “Stormwater Management Code”.

14.20.020 Purpose

The purpose of this Code is to:

1. Guide development or redevelopment activities within the City of Gig Harbor with regards to stormwater drainage. The provisions of this Code establish the minimum standards and construction procedures that must be met before issuance of a permit for development or redevelopment of property;
2. Minimize or eliminate the impacts of increased runoff, erosion, and sedimentation caused by land disturbance, development, and redevelopment;
3. Promote site planning and construction practices that seek to maintain the natural hydrologic conditions;
4. Require that stormwater facilities be operated, maintained, and repaired in conformance with this Code. The provisions of this Code establish the minimum level of compliance that must be met for maintaining stormwater facilities within the City;
5. Provide for inspection and maintenance of stormwater facilities in the City to ensure an effective and functional stormwater drainage system;
6. Not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this code; and
7. Meet the requirements of the City’s National Pollution Discharge Elimination System Permit for Municipal Separate Storm Sewer Systems.

14.20.030 Definitions

“Basin” shall mean an area from which surface runoff is concentrated, usually to a single point such as the mouth of a stream

“Best management practice” or “BMP” shall mean the schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial

practices, that when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington.

“Development” shall mean any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, placement of manufactured home/mobile home, mining, dredging, clearing, filling, grading, paving, excavation, drilling operations, or the subdivision of property. See also the definitions for redevelopment and land disturbing activities.

“Erosion” shall mean the wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep. Also, detachment and movement of soil or rock fragments by water, wind, ice, or gravity

“Land disturbing activity” shall mean any activity that results in a movement of earth or a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to clearing, grading, filling, and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered a land-disturbing activity. Vegetation maintenance practices are not considered land-disturbing activity.

“Municipal Separate Storm Sewer System (MS4)” or “stormwater drainage system” means the system of conveyances including sidewalks, roads with drainage systems, municipal streets, catchbasins, curbs, gutters, ditches, manmade channels, or storm drains owned and operated by the city and design or used for collecting or conveying stormwater.

“Redevelopment” shall mean, where a site that is already substantially developed (i.e., has 35 percent or more of existing impervious surface coverage), the creation or addition of impervious surfaces; the expansion of a building footprint or addition or replacement of a structure; structural development including construction, installation or expansion of a building or other structure; replacement of impervious surface that is not part of a routine maintenance activity; and land disturbing activities.

“Stormwater” shall mean that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes and other features of a stormwater drainage system into a defined surface water body, or a constructed infiltration facility.

“Stormwater facility” shall mean a constructed component of a stormwater drainage system, designed or constructed to perform a particular function, or multiple functions. Stormwater facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention ponds, retention ponds, constructed wetlands, infiltration devices, catch basins, oil/water separators, and biofiltration swales.

14.20.040 Adoption of Technical Manual

The *Gig Harbor Stormwater Management and Site Development Manual*, most recent version, hereafter called the “Manual”, is hereby adopted as the City’s manual for controlling runoff from new development, redevelopment and construction sites.

14.20.050 Authority

The Public Works Director (Director), or an assignee, shall have the authority to administer and enforce this Code. The Director shall also have the authority to develop and implement procedures to administer and enforce this Code. The Director may approve, conditionally approve, or deny an application for activities regulated by this Code. The Director is authorized to develop a regular inspection program for all stormwater facilities in the City.

14.20.060 Applicability

The provisions of this Code shall apply to all site development activities, both public and private, within the City of Gig Harbor.

Any land development which is required by operation of any City of Gig Harbor Code, state law, or federal law to construct, install, or modify any natural or manmade drainage features within, abutting, or serving the development shall do so in accordance with this Code. However, where the provisions of this Code directly conflict with any other Gig Harbor Code, state or federal law, comprehensive drainage plan, or special study, the more stringent provisions shall apply to the extent permissible by law.

Approval of any land development activity by the City of Gig Harbor does not constitute approval of other applicable permits that may be required by other agencies. The fact that any activity is exempt from the permit requirements of this Code shall not constitute an exemption from any other City code, ordinance, or state or federal law.

14.20.070 Exemptions

The following are exempt from the requirements of this Code:

1. Site development or redevelopment activities approved under an existing unexpired development permit prior to the effective date of this code. These activities shall instead meet the requirements of the code in place at the time of development permit approval; and
2. Site development or redevelopment permit applications that has been deemed a complete application prior to the effective date of this code. These applications

shall instead meet the requirements of the code in place at the time the application was deemed complete; and

3. Commercial agriculture and forest practices regulated under Title 222 WAC, except for Class IV General Forest Practices that are conversions from timber land to other uses; and
4. Development that is undertaken by the Washington State Department of Transportation in state highway rights-of-way and is regulated by Chapter 173-270 WAC, the Puget Sound Highway Runoff Program.
5. Road construction and/or maintenance activities, including the creation of wetland mitigations sites and storm ponds, undertaken by the Gig Harbor Public Works Department shall be exempt from the administrative requirements of this Code, but shall comply fully with the technical requirements contained herein.
6. An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid Building Permit. This shall not exempt the placement of any fill material removed from such an excavation, and shall not exempt any excavation beyond the limits of the basement or footing excavations nor exempt excavations having an unsupported height greater than 4 feet after the completion of such a structure.
7. Agricultural crop management outside of critical drainage areas limited to the preparation of soil by turning, discing, or other means endorsed by the local Conservation District.
8. Excavation for cemetery graves.
9. The disposal of solid waste, wood waste, problem waste and demolition waste authorized pursuant to chapter 70.95 RCW, and regulations presently enacted or as may be amended or as specifically approved by the Pierce County Health District.
10. The on-site stormwater management for mining, quarrying, excavating, processing, and/or stockpiling of rock, sand, gravel, aggregate, or clay where established and provided by law, and a permit for said activity has been issued by the State of Washington or the Federal Government, provided such operations do not exceed the minimum requirements of this Code at the discharge location to the MS4.
11. Exploratory excavations under the direction of a qualified professional engineer.
12. Grading activities already approved by separate permit granted by any governing authority, provided that the activities meet the minimum requirements of this Code.

13. Emergency sandbagging, diking, ditching, filling, pumping, eductor truck work, or similar work during or after periods of extreme weather conditions when done to protect life or property.
14. Discharges of regulated effluent from any commercial or municipal facility holding a valid state or federal wastewater discharge permit.
15. Discharges from acts of nature not compounded by human negligence.
16. Discharges from properly operating on-site domestic sewage systems.
17. Discharges from properly applied agricultural chemicals or materials.

14.20.080 Variances

The Director of Public Works may grant a variance from the provisions of this Code, provided that all criteria are met as adopted in Section 12.16.010 of the Gig Harbor Municipal Code.

14.20.090 Discharge of Stormwater Directly to Puget Sound

Development or redevelopment sites that abut Puget Sound or tidally influenced areas of rivers and streams discharging into Puget Sound do not need to meet the flow control requirements of the Manual provided sufficient BMPs are provided to mitigate increased release rates and potential for erosion. All other requirements of the Manual shall be met.

14.20.100 Drainage Associated With Civil Construction and Grading Activities

- A. All civil construction activities shall conform to the requirements of Chapters 12.02 and/or 12.06 GHMC.
- B. All grading activities shall conform to the requirements of Chapter 14.40 GHMC.
- C. All site development and redevelopment activities shall meet the requirements of the Manual.
- D. Stormwater flows shall be accepted onto, and shall be discharged from, a project site at the natural or otherwise legally existing locations.

14.20.110 Changes in Site Topography

- A. The maximum surface gradient on any artificially created slope without a retaining structure shall be two (2) feet of horizontal run to one (1) foot of vertical fall (2:1). This gradient may be increased to that gradient which can be demonstrated through engineering calculations to be stable, if, in the opinion of the Director, it has been demonstrated by the Applicant through engineering calculations performed by a qualified professional engineer that surface erosion can be controlled to that erosion rate equal to a properly stabilized 2:1 slope under the same conditions.
- B. Any rockery or other retaining structure greater than four feet in height must be permitted under a separate Building Permit issued by the City.
- C. The Applicant shall at all times protect adjacent private properties and public rights-of-way or easements from damage occurring during development. The Applicant shall restore private property and public improvements damaged by his/her operations.
- D. The Applicant shall be responsible for obtaining and coordinating all required State or Federal permits associated with the disturbance of wetlands or other regulated activities.

14.20.120 Maintenance of Erosion and Sedimentation Control

It shall be the responsibility of the Contractor performing the land disturbing activities to maintain all temporary erosion and sediment control and drainage facilities in good operating condition at all times, as described in the Manual. It shall be the responsibility of the property owner to maintain all permanent erosion and sediment control and drainage facilities in good operating condition at all times, as described in the Manual.

14.20.130 Agreements, Easements, Tracts, and Covenants

- 1. Each development installing stormwater facilities or drainage systems beyond the City's right of way shall submit a completed stormwater facilities maintenance agreement on a City form prior to approval of construction.
- 2. Drainage easements shall be provided for all stormwater conveyance systems that are not located in public rights-of-way or tracts. Said drainage easements shall be granted to the parties responsible for providing on-going maintenance of the systems and shall be of sufficient width to accommodate maintenance equipment and excavations relative to the depth and size of the systems.
- 3. Drainage easements through structures are not permitted.

4. Stormwater facilities that are to be maintained by the City, together with maintenance access roads to said facilities, shall be located in public right-of-way, separate tracts dedicated to the City, or drainage easements located in designated open space. The exception is for stormwater conveyance pipes that may be located within easements on private property, provided that all catch basins can be accessed without entering private property.
5. All runoff from impervious surfaces, roof drains, and yard drains shall be directed so as not to adversely affect adjacent properties. Wording to this effect shall appear on the face of all binding site plans, short plats, boundary line adjustments, and final plats/PRDs, and shall be contained in any covenants required for a development.

14.20.140 Basin Planning

An adopted and implemented basin plan tailored to a specific basin may be used to develop requirements for source control, stormwater treatment, streambank erosion control, wetlands, and water quality sensitive areas. Adopted and implemented watershed-based basin plans may be used to modify any or all of the minimum requirements addressed in the Manual, provided that the level of protection for surface or ground water achieved by the basin plan will equal or exceed that which would otherwise be achieved by implementation of the provisions of this Code in the absence of a basin plan. Basin plans shall evaluate and include, as necessary, retrofitting of BMPs for existing development and/or redevelopment in order to achieve watershed-wide pollutant reduction goals. Standards developed from basin plans shall not modify any of the above requirements until the basin plan is formally adopted and fully implemented by the City.

14.20.150 Maintenance of Stormwater Facilities by Owners

For privately maintained stormwater facilities and BMPs, the maintenance requirements specified in this Code, including the Manual, shall be enforced against the owner(s) of the subject property served by the stormwater facility.

14.20.160 City Acceptance of New Stormwater Facilities

The City may accept for maintenance those new residential stormwater facilities constructed under an approved permit that meet the following conditions:

1. Improvements in residential plats/PRDs have been completed on at least 80% of the lots, unless waived by the Director; and
2. All drainage facilities have been inspected and accepted by the Director and said drainage facilities have been in satisfactory operation for at least two (2) years; and

3. All drainage facilities reconstructed during the maintenance period have been accepted by the Director; and
4. The stormwater facility, as designed and constructed, conforms to the provisions of this Code; and
5. All easements and tracts required under this Code, entitling the City to properly operate and maintain the subject drainage facility, have been conveyed to the City and have been recorded with the Pierce County Auditor; and
6. For non-standard drainage facilities, an operation and maintenance manual, including a maintenance schedule, has been submitted to and accepted by the City; and
7. A complete and accurate set of reproducible mylar record drawings and a digital file in a drafting format acceptable by the Director have been provided to the City of the stormwater facilities.

14.20.170 City Acceptance of Existing Stormwater Facilities

The City may accept for maintenance those stormwater facilities for residential developments existing prior to the effective date of this Code that meet the following conditions:

1. Improvements in residential plats/PRDs have been completed on at least 80% of the lots; and
2. An inspection by the Director has determined that the stormwater facilities are functioning as designed; and
3. The stormwater facilities have had at least two (2) years of satisfactory operation and maintenance, unless otherwise waived by the Director; and
4. The person or persons holding title to the properties served by the stormwater facilities submit a petition containing the signatures of the title holders of more than 50% of the lots served by the stormwater facilities requesting that the City maintain the stormwater facilities; and
5. All easements required under this Code, entitling the City to properly operate and maintain the subject stormwater facilities, have been conveyed to the City and have been recorded with the Pierce County Auditor; and
6. The person or persons holding title to the properties served by the stormwater facilities show proof of the correction of any defects in the drainage facilities, as required by the Director; and
7. A complete and accurate set of reproducible mylar record drawings and a digital file in a drafting format acceptable by the Director have been provided to the City of the stormwater facilities; and
8. The stormwater facilities meet current design standards as defined in the Manual or a variance has been approved.

14.20.180 City Inspections of Privately Maintained Stormwater Facilities

The Director is authorized to develop an inspection program for privately owned and maintained stormwater facilities in the City. The party (or parties) responsible for maintenance and operation shall be identified. The purpose of this inspection program shall be to determine if said storm water facilities, conveyance structures, and water quality facilities are in good working order and are properly maintained, and to ensure that stormwater management BMPs are in place and that non-point source pollution control is being implemented. Critical stormwater facilities, as so deemed by the Director, may require a more frequent inspection schedule.

14.20.190 Test Procedures

In the event that water quality testing is utilized in determining whether a violation of this Section has occurred, said water quality test procedures shall be followed as described in the most recent edition of the "Code of Federal Regulations, Part 136".

14.20.200 Violations of This Code

The placement, construction or installation of any structure, or the connection to a public storm drainage facility, or the discharge to a public drainage facility or any activity which violates the provisions of this Code shall be and the same is hereby declared to be unlawful and a public nuisance. The City may take enforcement action as set forth in Chapter 12.17 GHMC to ensure that any such activity, Code violation or property condition declared to be a public nuisance ceases and is abated through the use of civil or criminal penalties and Stop Work Orders, as well as any other remedies which are set forth in this Code, the Gig Harbor Municipal Code, or any applicable ordinance or statute, including, but not limited to revocation of any permits. The choice of enforcement action taken and the severity of any penalty shall be determined as set forth in Chapter 12.17 GHMC.

Section 3. Section 18.10.080 GHMC is revised to read:

The ~~community development~~ Public Works Director shall require that any excavation, grading, fill or construction be performed only after issuance of a permit pursuant to GHMC Title 14 ~~15~~.

Section 4. A new Chapter 14.40 is added to Title 14 of the Gig Harbor Municipal Code to read as follows:

Chapter 14.40 GRADING

14.40.010 Purpose.

- A. The purpose of this chapter is to promote, protect and preserve the public interest by regulating land alteration, particularly the grading of land in the city.
- B. This chapter is necessary in order to provide minimum development regulations and construction procedures which will preserve, replace or enhance natural processes and characteristics to the maximum extent practicable, consistent with the zoning and subsequent development of the land within the city; to minimize water quality degradation and the sedimentation of creeks, streams, ponds, lakes, wetlands and other water bodies; to minimize the impact of increased runoff erosion and sedimentation on non-consenting persons caused by improper land development and maintenance practices; to maintain and protect groundwater resources; to minimize adverse effects of alteration in ground and surface water quantities, locations, and flow patterns; to promote safety upon city roads and right-of-way; to decrease potential landslide, flood, and erosion damage to public and private property; and to promote site planning and building practices which are consistent with the city's natural topographical, vegetational and hydrological features.
- C. This chapter is intended to promote the health, safety and welfare of the public and nothing in this chapter is intended to or shall be deemed to create a duty on the part of the city to protect or promote the interests of any particular person or class of persons. The existence of these regulations or any failure, refusal or omission of the city to enforce any provision in this chapter shall not prevent, supplant or affect the right of any person affected by the grading operations of another to invoke such private remedies as may be available against such other person.

14.40.020 Definitions.

For the purposes of this chapter, the definitions listed under this section shall be construed as specified in this section:

“Abbreviated Plan” means the project threshold for Abbreviated Plans described in the Gig Harbor Stormwater Management and Site Development Manual.

“Approved” means approved by the designated permit authority for grading permits.

“As-graded” means the surface condition after the completion of grading.

“Bench” means a relatively level step excavated into earth material on which fill is to be placed.

“Borrow” means earth material acquired from an off-site location for use in grading on a site.

“Brush” means vegetation one foot to four feet in height.

“Building” means any structure used or intended for supporting or sheltering any use or occupancy.

“Civil engineer” means a professional engineer licensed to practice in the state of Washington in civil engineering.

“Civil engineering” means the application of knowledge of the forces of nature, principles of mechanics and the properties of materials to the evaluation, design and construction of civil works for the beneficial uses of mankind.

“Clearing” means the act of destroying or removing vegetation by mechanical or chemical means. See Chapter 17.94 GHMC.

“Grading permit” means the written permission of the permit authority to the permittee to proceed with the act of grading and land development within the provisions of this chapter.

“Compaction” means the densification of a fill by mechanical means.

“Critical Area” means those lands which are subject to natural hazards, contain important or significant natural resources or which have a high capability of supporting important natural resources. See Chapter 18.08 GHMC.

“Cut” – See “Excavation”.

“Development standards” means the Public Works Standards and/or the Gig Harbor Stormwater Management and Site Development Manual as approved by the city council.

“Earth material” means any rock, natural soil or any combination thereof.

“Engineering geologist” means a professional engineering geologist licensed to practice in the state of Washington experienced and knowledgeable in engineering geology.

“Engineering geology” means the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.

“Erosion” means the wearing away of the ground surface as a result of action by wind, water and/or ice.

“Excavation” means the removal of earth material by artificial means, also referred to as a cut.

“Existing grade” means the land elevation prior to grading.

“Fill” means deposition of earth material by artificial means.

“Filling” means any act by which earth, sand, gravel, rock or other solid material is deposited, placed, pushed, pulled or transported to a place other than the place from which it is excavated and the materials so placed.

“Finished grade” means the grade of the site after alterations are completed.

“Grade” means the vertical location of the ground surface.

“Grading” means any act which changes the elevation of the ground surface, including either excavation activities or fill activities.

“Ground cover” means root vegetation normally less than one foot in height.

“Grubbing” means the act of root vegetation removal from beneath the surface of the earth.

“Hydrologist” means a professional hydrologist licensed to practice in the state of Washington who has experience or specialized training in hydrology.

“Impervious” means without significant capacity to transmit water.

“Intermittent” means interrupted at intervals, periodic, recurrent, flowing in the same direction (streams), or depressions which fill on a frequent basis (ponds).

“Key” means a compacted fill placed in a trench excavated in earth material beneath the toe of a slope.

“Overstory” means vegetation above ten feet in height.

“Permit authority” means the Public Works Director. The director may designate subordinate(s) to make approvals, sign permits, and carry out other responsibilities in application to this code.

“Permittee” means the person(s) or entity to whom a grading permit is issued.

“Professional finding” means a written professional opinion with the professional’s seal from the state of Washington stating the facts observed or found and comparison of the characteristics of the work with the known minimal required criteria, followed by an opinion of the suitability of such work to perform the intended function.

“Registered professional” means a person currently licensed by the state of Washington to practice in engineering, architecture, landscape architecture, geotechnical engineering, geology, hydrology and/or surveying.

“Regulatory agencies” means appropriate departments of a governmental body.

“Rough grade” means the stage of construction at which the ground elevations are near the finished elevations planned.

“Sediment” means waterborne particles, graded or undefined, occurring by erosive action.

“Sedimentation” means the process of deposition of soil and organic particles displaced, transported, and deposited by water or wind.

“Sensitive lands” means lands possessing slopes in excess of twenty-five percent on unstable soil, natural drainage, geological or vegetative characteristics which pose potentially hazardous impacts for occupants of the land or its neighbors. See also “Critical Area”.

“Significant vegetation” as defined in GHMC 17.99.590.

“Siltation” means deposition of fine textured sediment in streams and surfaced waters.

“Site” means that defined portion of any lot(s) or parcel(s) of land or contiguous combination thereof, where grading is performed or permitted.

“Slope” means an inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

“Soil” means naturally occurring superficial deposits overlying bedrock.

“Soils engineering” means the application of the principles of soils mechanics in the investigation, evaluation and design of civil works involving the use of earth materials and the inspection and/or testing of the construction thereof.

“Stage” means a defined increment of work.

“Storm return interval” is an expression of the probability with which a storm of a given intensity and duration can be expected to occur; term used by a hydrologist to predict runoff quantities.

“Stream” means the surface water route generally consisting of a channel with bed, banks, or sides, in which surface waters flow in draining from higher or lower land, both perennial and intervening; the channel and intervening artificial components, excluding flows which do not persist more than twenty-four hours after cessation of rainfall at some time of the year.

“Structure” means that which is built or constructed including, but not limited to, tanks, towers, fences, silos, and chimneys. See also “Building”.

“Surface waters” means water bodies exposing a free water surface, with or without movement, such as streams, lakes, bogs, and ponds.

“Terrace” means a relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.

“Tree” means a woody perennial plant with one or more main stem(s) or trunk(s) which develop many branches.

“Understory” means vegetation four feet to ten feet in height.

“Vegetation” means all organic plant life growing on the surface of the earth.

14.40.030 Permit authority.

The permit authority is the designated agent for the issuance of grading permits. The permit authority shall have the authority to develop administrative procedures to carry out the purposes and intent of this grading code. Such administrative procedures should be developed in consultation with technical advisors as circumstances require and shall be made available to the public for comment at least seventeen days before adoption.

14.40.040 Permit required.

- A. Application. No person shall make changes or cause changes to be made in the surface of any land by grading, excavating, filling, stockpiling or the removal or disturbance of the natural topsoil thereon without first having obtained a valid grading permit, except as provided in subsection B of this section.
- B. Exemptions. A grading permit shall not be required for the following:
 - 1) Agricultural crop management;
 - 2) Excavation and filling of cemetery graves;
 - 3) Routine maintenance of existing landscaping;
 - 4) Emergency situations involving immediate danger to life or property or substantial fire hazards;
 - 5) Excavations for wells, dewatering wells, or trenches for utilities;
 - 6) Exploratory excavations performed under the direct supervision of a design professional registered in the State of Washington.
 - 7) In any one year an excavation less than 50 cubic yards which:
 - a. Is less than one foot in depth; and
 - b. Does not obstruct a stream or surface water; and
 - c. Does not create a cut slope greater than five feet in height and steeper than two horizontal to one vertical; and
 - d. Is adequately protected against erosion.
 - 8) In any one year a fill less than 50 cubic yards which:
 - a. Is less than one foot in depth; and
 - b. Does not obstruct a stream or surface water; and
 - c. Is not intended to support structures; and
 - d. Does not create a fill slope greater than three feet in height and steeper than five horizontal to one vertical; and
 - e. Is adequately protected against erosion.
 - 10) Grading within five feet of a proposed footing that is required for placement of a building that is associated with a valid building permit.

14.40.050 Requirements.

It is the intent of this section to promote practices consistent with the city's natural topographic, vegetational, and hydrologic features, and to control substantial land alterations of a speculative nature. In considering whether to issue a permit, and in considering whether and what type of conditions should be imposed, the permit authority shall apply the following standards and criteria:

- A. General. The permit authority may approve or approve with modifications an application submitted under this subsection only if:
 - 1) The proposal is in accord with the comprehensive plan, comprehensive drainage plan, zoning code, critical areas ordinance, drainage management code, National Flood Insurance Program, and other city codes and adopted standards,
 - 2) The approval of the proposal will not pose a threat to or be detrimental to the public health, safety and welfare, and
 - 3) The applicant has demonstrated that approval of the proposal is necessary for the reasonable development or maintenance of the property.
- B. Hazards. Whenever the permit authority determines that any existing excavation or embankment or fill on private property has become a hazard to life and limb, or endangers property, or adversely affects the safety, use or stability of a public way or drainage channel, the owner of the property upon which the excavation or fill is located, or other person or agent in control of the property, upon receipt of notice in writing from the permit authority, shall within the period specified therein repair or eliminate such excavation or embankment so as to eliminate the hazard and be in conformance with the requirements of this code.
- C. Gig Harbor Stormwater Management and Site Development Manual. All grading projects shall be subject to meeting the requirements of the Gig Harbor Stormwater Management and Site Development Manual, most recent version, hereafter called the "Manual".

14.40.060 Permit—Application.

To obtain a permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall also include the following applicable information:

- A. Plan submittals in accordance with the Gig Harbor Stormwater Management and Site Development Manual, most recent version.
- B. Applicants for grading on slopes of critical areas or on slopes fifteen percent or greater but not exceeding thirty-five percent may be required by the permit authority to submit a grading report described in Section 14.40.060(C).
- C. Applicants for grading on slopes in excess of thirty-five percent shall submit a grading report prepared by a professional engineer licensed by the state of Washington. The required grading report shall contain the following information, including recommended methods for mitigating identified impacts and a description of how these mitigating measures may impact adjacent property:
 - 1) Soils Report. This report shall include data regarding the nature, distribution and strength of existing soils and the characteristics of the underlying

geology, conclusions and recommendations for grading procedures, design criteria for corrective measures and opinions and recommendations covering the carrying capabilities of the site; and

- 2) Hydrology Report. This report shall include an adequate description of the hydrology of the site, conclusions and recommendations regarding the effect of hydrologic conditions on the proposed development and options and recommendations covering the carrying capabilities of the sites to be developed.

- D. Any additional information that may be required by the city shall be provided by independent consultants hired by the city at applicant's expense.

14.40.070 Permit—Fees.

Before accepting a permit application, the permit authority shall collect a permit fee. Such fee shall be determined according to the standard fee schedule approved by the city council by resolution.

14.40.080 Permit—Expiration.

For any permit authorized under this chapter the permit authority shall impose a time limit within which the proposed site work must be completed. The time limit for expiration of the permit shall be 180 days unless otherwise noted on the approved grading plans and conditioned on the approved grading permit. The Director is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing with justifiable cause demonstrated.

14.40.090 Financial Guarantees.

- A. All projects, except those projects meeting the requirements of Section 14.40.040(B) or those projects requiring only an Abbreviated Plan, shall establish a financial guarantee in accordance with the Manual in the form of cash escrow account, irrevocable letter of credit, or other form of credit which may be acceptable to the city at its sole discretion.
- B. The financial guarantee shall be sufficient to reimburse the city if it should become necessary for the city to enter the property for the purpose of correcting and/or eliminating hazardous conditions relating to soil stability and/or erosion, or to restore vegetation, and/or for other purposes authorized in this chapter. In addition, the financial guarantee may be required to protect the city from potential damage claims and/or other damage to city streets, utilities or property in the same manner and extent as may be required prior to issuance of a building permit pursuant to other sections of this code.

- C. In no case shall the financial guarantee be less than 125% of the estimated value of the grading activities provided by the applicant's civil engineer and approved by the permit authority.
- D. Should the city, during the course of construction, find it necessary to expend the financial guarantee to correct any work not in accordance with the approved plans and specifications, a stopwork order shall be issued to the permittee on any additional work until the financial guarantee is reestablished by the permittee.

14.40.100 Cuts.

- A. General.
 - 1) Unless otherwise recommended in the approved soils engineering and/or engineering geology report, cuts shall conform to the provisions of this section.
 - 2) In the absence of an approved soils engineering report, these provisions may be waived by the permit authority for minor cuts not intended to support structures.
- B. Slope. The slope of cut surfaces shall be no steeper than is safe for the intended use and shall be no steeper than two horizontal to one vertical unless the owner furnishes a soils engineering or an engineering geology report, or both, stating that the site has been investigated and giving an opinion that a cut at a steeper slope will be stable and not create a hazard to public or private property. The report shall be reviewed and approved by the city engineer prior to earth work.
- C. Terracing. Terracing shall be provided as required. See Section 14.40.130.

14.40.110 Fills.

- A. General.
 - 1) Unless otherwise recommended in the approved soils engineering report, fills shall conform to the provisions of this section.
 - 2) In the absence of an approved soils engineering report, these provisions may be waived by the permit authority for minor fills not intended to support structures.
- B. Fill Location. Fill slopes shall not be constructed on natural slopes steeper than two to one.
- C. Preparation of Ground. The ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, topsoil and other unsuitable materials, scarifying to provide a bond with the new fill and, where slopes are steeper than

five to one and the height is greater than five feet, by benching into sound bedrock or other competent material as determined by the soils engineer. The bench under the toe of a fill on a slope steeper than five to one shall be at least ten feet wide. The area beyond the toe of fill shall be sloped for sheet overflow or a paved drain shall be provided. When fill is to be placed over a cut, the bench under the toe of fill shall be at least ten feet wide but the cut shall be made before placing the fill and acceptance by the soils engineer or engineering geologist or both as a suitable foundation for fill.

D. Fill Material.

- 1) Organic material shall not be permitted in fills. Except as permitted by the building official, no rock or similar irreducible material with a maximum dimension greater than twelve inches shall be buried or placed in fills.
- 2) Exceptions. The permit authority may permit placement of larger rock when the soils engineer properly devises a method of placement, continuously inspects its placement and approves the fill stability. The following conditions shall also apply:
 - a. Prior to issuance of the grading permit, potential rock disposal areas shall be delineated on the grading plan.
 - b. Rock sizes greater than twelve inches in maximum dimension shall be ten feet or more below grade, measured vertically.
 - c. Rocks shall be placed so as to assure filling of all voids.

E. Compaction. All fills shall be compacted to a minimum of ninety percent of maximum density as determined by the *International Building Code* (IBC) as adopted by the City. In-place density shall be determined in accordance with the IBC.

F. Slope. The slope of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes shall be no steeper than two horizontal to one vertical.

G. Terracing. Terracing shall be provided and the area above fill slopes and the surfaces to terraces shall be graded and paved as required. See Section 14.40.130.

14.40.120 Setbacks.

- A. General. Cut and fill slopes shall be set back from site boundaries in accordance with this section. Setback dimensions shall be horizontal distances measured perpendicular to the site boundary.
- B. Top of Cut Slope. The top of cut slopes shall be made not nearer to a site boundary line than one fifth of the vertical height of cut with a minimum of two feet and a maximum of ten feet. The setback may need to be increased for any required interceptor drains.

- C. Toe of Fill Slope. The toe of fill slope shall be made not nearer to the site boundary line than one-half the height of the slope with a minimum of two feet and a maximum of twenty feet. Where a fill slope is to be located near the site boundary and the adjacent off-site property is developed, special precautions shall be incorporated in the work as the permit authority deems necessary to protect the adjoining property from damage as a result of such grading. These precautions may include but are not limited to:
- 1) Additional setbacks;
 - 2) Provision for retaining or slough walls;
 - 3) Mechanical or chemical treatment of the fill slope surface to minimize erosion;
 - 4) Provisions for the control of surface waters.
- D. Modification of Slope Location. The permit authority may approve alternate setbacks using the variance process adopted by Section 12.16.010 GHMC. The permit authority may require an investigation and recommendation by a qualified engineer or engineering geologist to demonstrate that the intent of this section has been satisfied.

14.40.130 Terracing.

- A. General. Unless otherwise indicated on the approved grading plans, terracing and related drainage shall conform to the provisions of this section for cut or fill slopes steeper than three horizontal to one vertical.
- B. Terrace.
- 1) Terraces at least six feet in width shall be established at not more than thirty-foot vertical intervals on all cut or fill slopes to control surface drainage and debris except that where only one terrace is required, it shall be at mid-height. For cut or fill slopes greater than sixty feet and up to one hundred twenty feet in vertical height, one terrace at approximately mid-height shall be twelve feet in width. Terrace widths and spacing for cut and fill slopes greater than one hundred twenty feet in height shall be designed by the civil engineer and approved by the permit authority. Suitable access shall be provided to permit property cleaning and maintenance.
 - 2) Swales or ditches on terraces shall have a minimum gradient of five percent and must be paved with reinforced concrete not less than three inches in thickness or an approved equal paving. They shall have a minimum depth at the deepest point of one foot and a minimum paved width of five feet.
 - 3) A single runoff swale or ditch shall not collect runoff from a tributary area exceeding thirteen thousand five hundred square feet (projected) without discharging into a down drain.

- C. Subsurface Drainage. Cut and fill slopes shall be provided with subsurface drainage as necessary for stability.
- D. Disposal of drainage.
 - 1) All drainage facilities shall be designed to carry water to the nearest practicable drainage way approved by the permit authority. Erosion of ground in the area of discharge shall be prevented by installation of non-erosive down drains or other devices.
 - 2) Building pads shall have a drainage gradient of two percent toward approved drainage facilities. The permit authority may approve alternate gradients using the variance process adopted by Section 12.16.010 GHMC.
 - 3) Exception. The gradient from the building pad may be one percent if all of the following conditions exist throughout the permit area:
 - a. No proposed fills are greater than ten feet in maximum depth.
 - b. No proposed finish cut or fill slope faces have a vertical height in excess of ten feet.
 - c. No existing slope faces, which have a slope face steeper than ten horizontally to one vertically, have a vertical height in excess of ten feet.
- E. Interceptor Drains. Paved interceptor drains shall be installed along the top of all cut slopes where the tributary drainage area above slopes towards the cut and has a drainage path greater than forty feet measured horizontally. Interceptor drains shall be paved with a minimum of three inches of concrete or gunite and reinforced. They shall have a minimum depth of twelve inches and a minimum paved width of thirty inches measured horizontally across the drain. The slope of drain shall be approved by the building official.

14.40.140 Erosion control.

Temporary and permanent erosion control measures shall be provided in accordance with the Gig Harbor Stormwater Management and Site Development Manual.

14.40.150 Grading inspection.

- A. General. All projects which include grading shall be subject to inspection by the permit authority. The permit authority shall be granted unlimited right of entry to the work site by submittal of the grading application for the purposes of review, making inspections to determine that the requirements of the plans and permits are being complied with, and for the purposes of taking corrective measures of an emergency nature. The cost of such corrective measures shall be borne by the permittee. The permit authority may require inspection and testing by an approved testing agency at any stage of the application or project.

- B. Contractor requirements. Every contractor or other person performing or directing the performance of any work requiring a permit under this chapter shall have in his/her possession prior to commencement of and during all phases of the work an original or copy of a valid permit therefore, and shall further have a duty to be familiar with the terms and conditions of the permit and approved plans.
- C. Engineered Grading Requirements.
- 1) For grading projects requiring plan submittals by a professional engineer licensed to practice in the State of Washington, it shall be the responsibility of the professional engineer who prepares the plan submittal to incorporate all recommendations from the soils engineer and engineering geology reports into the grading plan. The professional engineer shall be responsible for the inspection and approval of the grading within the professional engineer's area of technical specialty. This responsibility shall include, but need not be limited to, inspection and approval as to the establishment of line, grade and drainage of the development area. The professional engineer shall act as the coordinating agent in the event the need arises for liaison between the other professionals, the contractor and the permit authority. The professional engineer also shall be responsible for the preparation of revised plans and the submission of as-graded record drawings upon completion of the work. The grading contractor shall submit in a form prescribed by the permit authority a statement of compliance to the record drawing.
 - 2) Soils engineering and engineering geology reports shall be required as specified. Before and during grading all necessary reports, compaction data and soil engineering and engineering geology recommendations shall be submitted to the civil engineer and the permit authority by the soils engineer and the engineering geologist.
 - 3) The soils engineer's area of responsibility shall include, but not be limited to, the professional inspection and approval concerning the preparation of ground to receive fills, testing for required compaction, stability of all finish slopes and the design of buttress fills, where required, incorporating data supplied by the engineering geologist.
 - 4) The engineering geologist's area of responsibility shall include, but need not be limited to, professional inspection and approval of the adequacy of natural ground for receiving fills and the stability of cut slopes with respect to geological matters and the need for subdrains or their groundwater drainage devices. He shall report his findings to the soils engineer and the civil engineer for engineering analysis.
 - 5) The permit authority shall inspect the project at the various stages of the work requiring approval to determine that adequate control is being exercised by the professional consultants.

- D. Regular Grading Requirements.
- 1) The permit authority may require inspection and testing by an approved testing agency at permittee's expense.
 - 2) The testing agency's responsibility shall include, but need not be limited to, approval concerning the inspection of cleared areas and benches to receive fill, and the compaction of fills.
- E. Notification of Noncompliance. If, in the course of fulfilling his responsibility under this chapter, the civil engineer, the soils engineer, the engineering geologist or the testing agency finds that the work is not being done in conformance with this chapter or the approved grading plans, the discrepancies shall be reported immediately in writing to the person in charge of the grading work and to the permit authority. Recommendations for corrective measures, if necessary, shall be submitted to the permit authority.
- F. Transfer of Responsibility for Approval. If the registered professional or the testing agency of record is changed during the course of the work, the work shall be stopped until the replacement has agreed to accept the responsibility within the area of his or her technical competence for approval upon completion of the work.
- G. It shall be the permittee's responsibility to notify the permit authority or his designee at least forty-eight (48) hours prior to the time required for inspection. If the permit authority fails to inspect the project within eight working hours after the scheduled inspection time, the permittee may proceed with the project but shall not be relieved from compliance with the requirements of the plans, specifications, and permit as approved. All inspections and testing required shall be determined prior to issuance of the permit, except those that may be required when conditions exist that were not covered in the documents submitted when requesting a permit. The permit authority may require additional inspection or testing if conditions are found to be different than those presented in the plans or supporting documents; however, if and when conditions change, it shall be the responsibility of the applicant or the professional consultants who submitted the plans or documents to provide the permit authority with recommended changes to procedures, for its review and approval.
- H. Suspension of Permits. Whenever the permit authority determines that the act or intended act of grading (excavation or fill) has become or will constitute a hazard to life and limb, or endangers property, or adversely affects the safety, use or stability of a public way, drainage channel, stream or surface water, including siltation and sedimentation therein, the permit authority shall immediately suspend the clearing and grading permit. The permittee or other person or agent in control of the property, upon receipt of notice in writing from the permit authority shall, within the period specified therein, terminate such clearing, grading, excavation, embankment or fill, or eliminate the same from the development plans.

14.40.160 Work completion.

- A. Final Reports. Upon completion of the rough grading work and at the final completion of the work the permit authority may require the following reports and drawings and supplements thereof:
- 1) As-graded record drawings in accordance with Section 14.40.150(C)(1) GHMC prepared by the civil engineer including original ground surface elevations, as-graded ground surface elevations, lot drainage patterns and locations and elevations of all surface and subsurface drainage facilities. The civil engineer shall state that to the best of his/her knowledge the work was done in accordance with the final approved grading plan.
 - 2) A soils-grading report prepared by the soils engineer, including locations and elevations of field density tests, summaries of field and laboratory tests and other substantiating data and comments on any changes made during grading and their effect on the recommendations made in the soil engineering investigation report. The soils engineer shall render a finding as to the adequacy of the site for the intended use.
 - 3) A geologic grading report prepared by the engineering geologist, including a final description of the geology of the site and any information disclosed during the grading and the effect of same on recommendations incorporated in the approved grading plan. The engineering geologist shall render a finding as to the adequacy of the site for the intended use as affected by geologic factors.
- B. Notification of Completion. The permittee or the permittee's agent shall notify the permit authority when the grading operation is ready for final inspection. Final approval shall not be given until all work and all erosion-control measures have been completed in accordance with the final approved grading plan and the required reports have been submitted.
- C. Maintenance Guarantee. All projects, except those projects meeting the requirements of Section 14.40.040(B) or those projects requiring only an Abbreviated Plan, shall submit a financial maintenance guarantee for a period of two years from the date of the notification of completion. The guarantee shall be in a form acceptable to the city attorney and shall be signed by the owner(s) of the property. The value of the financial maintenance guarantee shall be 15 percent of the project civil engineer's opinion of probable cost as approved by the permit authority.

14.40.170 Enforcement.

- A. In the event the City finds deficiencies under the approved plans or other permit conditions or any violation of this chapter, the property owner shall make such

corrections as are necessary within fifteen days of the date of written notice by registered mail, return receipt requested, to the owner of record and the occupant of the property.

- B. In the event the person or persons violating this chapter shall fail to make corrections within fifteen days of the date of written notice by the city, the city may:
 - 1) Prosecute violations of this chapter in accordance with Section 12.17 GHMC.
 - 2) By council resolution, declare any conditions which constitute or will constitute a violation of any of the provisions of this chapter, or rules or regulations adopted under this chapter, a public nuisance for which the city may seek legal or equitable relief to enjoin any acts or practices or abate any such conditions.
 - 3) Revoke the right to occupancy of the subject property and/or enter on the property as may be required to correct deficiencies as required by the approved grading plan. All costs for corrective measures and enforcement actions shall be borne by the property owner.
- C. Notwithstanding any other provision of this chapter, whenever the permit authority finds that a violation of this chapter or rules or regulations adopted under this chapter has created or is creating an unsanitary, dangerous, or other condition which, in his judgment, constitutes an immediate hazard, he may suspend or revoke any permit for which the approval of grading plan is required on the project or development where the violation exists and suspend or terminate operations under the permit immediately.
- D. Any person discharging material which will block, damage or contaminate the drainage system of the city shall be liable for all costs incurred by the city or others in cleaning up or correcting the action and may be charged with a misdemeanor punishable by fines.
- E. Penalty or enforcement provisions provided in this chapter shall not be exclusive, and the city may pursue any remedy or relief deemed appropriate in response to a violation of this chapter or the rules and regulations adopted under this chapter. The city council may institute a suit for a mandatory injunction directing a person to remove a structure or make the same comply with its terms. If the city council is successful in its suit, the respondent shall bear the costs of the action.
- F. The failure or refusal of the city to enforce any provision of this chapter, and as amended, shall not constitute a waiver or bar to prevent enforcement thereof against any person for any other violation by any other person.

Section 5. Chapter 12.06 of the City of Gig Harbor Municipal Code is repealed.

Section 6. A new Chapter 12.06 of the City of Gig Harbor Municipal Code is provided as follows:

Chapter 12.06 Civil Construction Permitting and Maintenance

12.06.010 Purpose

The purpose of this Code is to:

1. Establish a permit process for submittal, review, and issuance of a permit for construction of civil improvements not already required by Chapter 12.02 GHMC and Chapter 14.40 GHMC;
2. Provide for inspection and maintenance of civil construction activities to ensure an effective and functional water system, wastewater system, transportation system, and stormwater drainage system; and
3. Establish provisions for the recording of civil construction activities.

12.06.020 Definitions

For the purposes of this chapter, the definitions listed under this section shall be construed as specified in this section:

“Civil Construction Activity” means man-made action to install or create civil improvements.

“Civil Engineer” means a professional engineer licensed to practice in the state of Washington in civil engineering.

“Civil Improvement” means a man-made object or entity that benefits human-kind or mitigates the impact of human-kind, including, but not limited to, motorized and non-motorized ways of travel, street lighting, stormwater facilities, underground utilities, and overhead utilities, both public and private.

“Development” means any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, utilities, placement of manufactured home/mobile home, mining, dredging, clearing, filling, grading, paving, excavation, drilling operations, or the subdivision of property.

12.06.030 Authority

The Public Works Director (Director), or an assignee, shall have the authority to administer and enforce this Code. The Director shall also have the authority to develop and implement procedures to administer and enforce this Code. The Director may approve, conditionally approve, or deny an application for activities regulated by this Code.

12.06.040 Applicability

The provisions of this Code shall apply to all civil construction activities not regulated by Chapter 12.02 GHMC or Chapter 14.40 GHMC, both public and private, within the City and:

- 1) Performed within the City's right-of-way; or
- 2) On private property that may impact access to the City's right of way; or
- 3) On private property whose stormwater runoff may impact an adjacent property or water body; or
- 4) Modifies or connects a non-single family residential utility on private property that connects to a city-owned utility; or
- 5) On private property that creates a public street; or
- 6) On private property that creates or modifies a private street.

12.06.050 Exemptions; Emergencies

A. The following are exempt from the requirements of this Code:

1. Development that is undertaken by the Washington State Department of Transportation in state highway rights-of-way.
2. Road construction and/or maintenance activities undertaken by the Gig Harbor Public Works Department shall be exempt from the administrative requirements of this Code, but shall comply fully with the technical requirements contained herein.
3. A structure authorized by a valid Building Permit. This shall not exempt the placement of any civil improvements beyond the limits of the basement or footing excavations of structures.

B. Owners who perform emergency civil construction activities during or after periods of extreme weather conditions when done to protect life or property shall apply for a Civil Permit no later than one month after the period of extreme weather conditions has passed.

12.06.060 Variances

The Director may grant a variance from the provisions of this Code, provided that all criteria are met as adopted in Section 12.16.010 of the Gig Harbor Municipal Code.

12.06.070 Permit Requirements

The Director shall establish requirements for the submittal of Civil Permits, subject to the following criteria:

- A. Each applicant shall first file a written permit application on a form furnished by the City for that purpose.
- B. All site development activities shall comply with the standards, specifications and requirements contained in Titles 12, 13, and 14 of the Gig Harbor Municipal Code.
- C. Before accepting a permit application, the permit authority shall collect a permit fee. Such fee shall be determined according to the standard fee schedule approved by the city council by resolution.
- D. The Director shall establish a checklist demonstrating the information that shall be provided by the applicant for review of a Civil Permit.
- E. Time limitation on permit application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing and expired, unless such application has been pursued in good faith or a permit has been issued; except that the Director is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing with justifiable cause demonstrated.
- F. Time limitation on approved civil permit: A civil permit that has been approved more than 180 days before construction begins (i.e., a preconstruction meeting scheduled and inspection fees paid) shall be subject to an additional review prior to commencement of construction based on the hourly rate as established for third submittal.
- G. Time limitation on approved civil permit under construction: A civil permit that has been approved and construction related to the permit has begun (i.e., a preconstruction meeting has been held and inspection fees paid) shall expire 180 days after construction has begun unless such construction has been pursued in good faith; except that the Director is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing with justifiable cause demonstrated.

- H. Record drawings. The applicant shall provide to the City both a final record drawing and a final record survey of the proposed development, each in both mylar format and digital format. These drawings shall have the seal of a civil engineer and be provided after the City accepts the construction improvements shown on the civil plans but prior to any certificate of occupancy for any buildings or structures located on the site plan. The digital format of the drawings shall be in AutoCAD compatible file and include all improvements in the right of way and all stormwater, water, and sewer utilities. The horizontal datum shall be NAD 1983 HARN State Plane South FIPS 4602 feet, or as otherwise approved by the Director. The vertical datum shall be NGVD 29, or as otherwise approved by the Director.

12.06.080 When a Professional Civil Engineer is Required

Unless otherwise exempted by the Gig Harbor Municipal Code, Civil Permit applications shall require the submittal of documents prepared by a Civil Engineer.

12.06.090 Permit Modifications

Proposed modifications to an approved Civil Permit must be submitted to the Director and be reviewed for compliance with this Code. Substantial proposed modifications, as determined by the Director, shall require additional review fees and shall require re-issuance of the required permit. Minor proposed modifications may be accepted by the Director without requiring the re-issuance of the accepted permit or the payment of additional review fees.

12.06.100 Financial Guarantees

The owner shall submit financial guarantees as a guarantee of performing the work provided by an approved Civil Permit and as a guarantee of maintenance of the completed work. Financial guarantees may include bonds, cash set-asides, irrevocable lines of credit, or other types of guarantees accepted by the Director and approved by the city attorney. At no time shall the financial guarantee for a Civil Permit duplicate financial guarantees for the same scope of work. The financial guarantees for a Civil Permit shall be provided as follows:

- A. Performance Guarantee. Prior to the issuance of a Civil Permit the owner of the project shall submit a financial performance guarantee for all work related to the improvements proposed by the Civil Permit. The guarantee shall be in a form acceptable to the city attorney. The value of the financial performance guarantee shall be 125 percent of the project civil engineer's opinion of probable cost as approved by the Director.

- B. Maintenance Guarantee. Prior to release of a performance guarantee(s) the owner of the project shall submit a financial maintenance guarantee for a period of two years from the date of the release of the performance guarantee for all work related to the completed improvements. The guarantee shall be in a form acceptable to the city attorney. The value of the financial maintenance guarantee shall be 15 percent of the project civil engineer's opinion of probable cost as approved by the Director.

Section 7. Severability. If any one or more section, subsections, or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

Section 8. Effective Date. This ordinance shall take effect on and be in force as of January 1, 2010.

PASSED by the City Council and approved by the Mayor of the City of Gig Harbor this 10th day of August, 2009.

CITY OF GIG HARBOR

CHARLES L. HUNTER, MAYOR

ATTEST/AUTHENTICATED:

By: _____
MOLLY TOWSLEE, City Clerk

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: _____
ANGELA S. BELBECK

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL: 08/10/2009
PUBLISHED: 08/19/2009
EFFECTIVE DATE: 01/01/2010
ORDINANCE NUMBER: 1169