

ORDINANCE NO. 1139

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, ELIMINATING THE PROHIBITION ON THE OPERATION OF EXISTING PRIVATE CEMETERIES WITHIN THE CITY LIMITS, MAINTAINING THE PROHIBITION ON ANY NEW PRIVATE CEMETERIES WITHIN THE CORPORATE LIMITS, AMENDING GIG HARBOR MUNICIPAL CODE SECTION 2.36.010.

WHEREAS, the City of Gig Harbor is a code city, organized under Title 35A of the Revised Code of Washington; and

WHEREAS, a code city organized under Title 35A RCW has all of the powers of any city of any class, as set forth in Title 35 RCW (RCW 35A.21.160); and

WHEREAS, cities in Washington may “regulate the burial of the dead, and establish and regulate cemeteries within or without the corporate limits and to acquire land therefor by purchase or otherwise; to cause cemeteries to be removed beyond the limits of the corporation, and to prohibit their establishment within two miles of the boundaries thereof” (RCW 35.22.280(20)); and

WHEREAS, cities may also acquire land for cemetery purposes, and operate cemeteries and appoint cemetery boards, all as set forth in chapter 68.52 RCW; and

WHEREAS, Gig Harbor adopted chapter 2.36 RCW in 1965, prohibiting the operation of any cemeteries within City limits; and

WHEREAS, the City intends to annex property in Pierce County, which is partially improved with a private cemetery; and

WHEREAS, the City does not wish to impose penalties and abate an existing use, once it is located within City limits; and

WHEREAS, the City Council acknowledges that this 1965 code does not address the present-day activities on the existing cemetery property, nor does it include any definitions to address these activities, such as the operation of a crematorium, etc.; and

WHEREAS, the City Council acknowledges that the land use impacts of private cemeteries will be addressed through the subsequent Zoning Code

amendments to address the existing use, and that if any amendments to this ordinance are necessary, the amendments can be proposed at that time; and

WHEREAS, the City does not wish to encourage the location of any new private cemeteries within the City limits but does not wish to limit the City's authority to own, improve and operate a cemetery in the future; and

WHEREAS, the City's SEPA Responsible Official issued a threshold Determination of Nonsignificance for this Ordinance on August 27, 2008; and

WHEREAS, the City Council held a public hearing and considered this Ordinance during its regular City Council meeting of September 08, 2008; and

WHEREAS, the City Council considered this ordinance on second reading on September 22, 2008, and voted to adopt it; Now, Therefore,

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

Section 1. Section 2.36.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

2.36.010 Prohibited within corporate limits. It is unlawful for any person or persons to, in any way, operate a cemetery within the incorporated limits of the city. As an exception, it shall be lawful for any person or persons to operate existing private cemeteries annexed by the city and subsequently situated within the city limits.

Section 2. Severability. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, clause or phrase of this Ordinance.

Section 3. 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 City Council and approved by the Mayor of the City of Gig Harbor this 22nd day of September 2008.

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: _____
CAROL A. MORRIS

FILED WITH THE CITY CLERK: 09/03/08
PASSED BY THE CITY COUNCIL: 09/22/08
PUBLISHED: 10/01/08
EFFECTIVE DATE: 10/06/08
ORDINANCE NO: 1139