

ORDINANCE NO. 1138

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO SEWAGE DISPOSAL, ALLOWING THE INSTALLATION AND USE OF TEMPORARY ON-SITE SEWAGE STORAGE TANKS AS A TEMPORARY SEWAGE DISPOSAL ALTERNATIVE FOR NEW CONSTRUCTION WHICH HAS BEEN DENIED A SEWER CONCURRENCY CERTIFICATE AFTER July 1, 2007 THROUGH May 31, 2010, ONLY FOR THE PERIOD DURING THE CITY CONSTRUCTION OF PHASE I OF THE NECESSARY IMPROVEMENTS TO THE WASTE WATER TREATMENT PLANT, ESTABLISHING A REQUIREMENT FOR PROPERTY OWNERS WITH SUCH SYSTEMS TO PHYSICALLY CONNECT TO THE CITY'S SEWER SYSTEM WITHIN 90 DAYS OF THE DATE THE CITY ANNOUNCES THAT SEWER CONCURRENCY IS AVAILABLE, REQUIRING THAT NOTICE BE RECORDED AGAINST THE PROPERTY TO INFORM SUBSEQUENT PURCHASERS OF THEIR OBLIGATIONS UNDER THIS ORDINANCE, AND ADDING A NEW SECTION 13.28.105 TO THE GIG HARBOR MUNICIPAL CODE; REPEALING SECTION 13.28.260.

WHEREAS, the City has adopted a concurrency ordinance for water, sewer and transportation; and

WHEREAS, the City's concurrency ordinance allows for the administrative denial of any application for a water, sewer or concurrency certificate, if there is no available capacity; and

WHEREAS, the City's engineering consultants, the Cosmopolitan Engineering Group Inc., issued a memo dated June 8, 2007, on the status of the City's Waste Water Treatment Plant, stating that the WWTP is at its maximum capacity for the maximum month and peak day flows; and

WHEREAS, a Technical Memorandum was prepared, submitted and approved by the Department of Ecology (DOE) on September 23, 2007, which summarized the current WWTP deficiencies and provided an outline of the necessary plant improvements; and

WHEREAS, the lack of capacity prevents the City from approving and reserving sewer concurrency certificates for certain comprehensive plan amendments, project permit applications or utility extension agreements; and

WHEREAS, the City is currently working on the necessary improvements to the WWTP that will provide more operational capacity; and

WHEREAS, completion of the improvements that will provide additional capacity is scheduled for early 2010, but the City cannot predict the exact date that additional capacity will be available; and

WHEREAS, the Tacoma-Pierce County Health Department allows for on-site sewage storage tanks (holding tanks) in limited circumstances; and

WHEREAS, the City and the Tacoma-Pierce County Health Department will work collaboratively to review the installation and operation of each temporary septic storage tank; and

WHEREAS, the City Council desires to establish a temporary sewage disposal alternative that will allow processing and approval of project permit applications, until May 31, 2010, unless earlier repealed, coinciding with the City's wastewater treatment plant expansion continues and until the City announces that sewer capacity is available; and

WHEREAS, in order for the City to ensure proper long-term utilization of its wastewater treatment system, developers must agree to not only install a temporary system at their cost, but then to abandon the temporary system and connect to the City's sewer system when the City announces that sewer capacity is available; and

WHEREAS, in order to ensure that developers and/or property owners actually abandon the temporary systems, an ordinance needs to be adopted that will require imposition of penalties on those who do not connect to the sewer system when sewer capacity becomes available; and

WHEREAS, because there is potential for abuse and non-compliance with on-site sewage tanks, maintenance and operations requirements, as well as associated penalties for non-compliance must be imposed under this ordinance; and

WHEREAS, the City's SEPA Responsible Official issued a threshold determination of non-significance for this Ordinance on July 28, 2008; and

WHEREAS, the City Council held a public meeting and considered this Ordinance during its regular City Council meetings of July 14th, July 28th and September 8th; NOW, THEREFORE,

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

Section 1. Section 13.28.260 of the Gig Harbor Municipal Code is hereby repealed.

Section 2. A new Section 13.28.105 is hereby added to the Gig Harbor Municipal Code, which shall read as follows:

13.28.105 Temporary On-Site Sewage Storage Tanks.

A. Temporary on-site sewage storage tanks shall be limited to commercial non-food service use only. Owners of property zoned commercial may apply for a temporary on-site sewage storage tank under this Section, to be used only for commercial non-food service development.

B. Application for sewer concurrency required. In order to apply for a temporary on-site sewage storage tank under this chapter, the applicant must also have submitted a complete application for sewer concurrency under chapter 19.10 GHMC.

C. Complete application for temporary on-site sewage storage tanks. A complete application for a temporary on-site sewage storage tank consists of all of the following:

1. For all permit types: Sewer Hydraulics Report.

2. For all permit types: Preliminary Civil Plans in accordance with the Preliminary Civil Plan Checklist.

3. For Civil Plan Review: Civil Plans in accordance with the Civil Plan Checklist.

D. The applicant shall provide the City with a septic holding tank design approved by the Tacoma-Pierce County Health Department.

E. The proposed development shall be located within 300 feet of an existing City of Gig Harbor sewer main.

F. Issuance of a permit for a temporary on-site sewage storage tank shall be the responsibility of the Tacoma-Pierce County Health Department.

G. Installation and operational requirements for temporary on-site sewage storage tanks.

1. The temporary tanks must be installed and operational prior to issuance of the Certificate of Occupancy for the building being served. The developer/property owner will pay all costs relating to the installation of a temporary, on-site sewage storage tank.

2. In addition to the installation of an approved temporary on-site sewage storage tank, the property owner must also install a dry sewer connection to the City's sewer main. This sewer connection will be constructed to connect to the building and NOT to the tank(s). Final connection between the building and the dry sewer connection may only occur if a temporary valve is installed at the perimeter of the building to not allow sewer to flow to the City's sewer main. The valve would remain closed and a sewer test ball will be installed at the property line clean-out until such time the development receives sewer concurrency.

3. The developer must bond for, and/or record against the title to the property, notice to all subsequent owners of a beneficial interest in the property that the temporary sewage storage tank was installed pursuant to this ordinance, and that the owner of the property is required to have the tank decommissioned in a manner acceptable to the City and the Tacoma-Pierce County Health Department after its use. This notice will also state that the installation of a temporary on-site sewage storage tank was optional on the part of the developer/property owner, and that the City will not incur any costs relating to installation or decommissioning. In addition, the notice will state that when sewer capacity becomes available, the property owner will be required to hook up to the City's sewer system and, at that time, the property owner will be required to pay any difference in the connection fee in effect at the time they initially paid the connection fee and the connection fee in effect on the date they connect to the City's sewer system. Reference will be made to the penalties established in this ordinance for noncompliance.

4. The developer must comply with all Tacoma-Pierce County Health Department regulations.

5. The developer shall not generate more sewage than allowed by the Tacoma-Pierce County Health Department regulations without an approved variance from the Tacoma-Pierce County Health Department.

6. While the temporary sewage storage tank is operational, no discharge of the effluent may enter the City's sewer or stormwater system.

7. The tank shall be pumped at least once every two weeks, and the property owner shall provide a copy of the holding tank maintenance agreement to the city. The property owner shall bond for the cost of pumping of the tank as such costs are determined by the City Engineer. In addition, the property owner shall record against the title to

the property, the requirement to have the tank pumped out based on a schedule and NOT based on calls from an alarm.

8. The tank shall include working, external audible level alarms with a minimum of two levels (high level and extreme high level) as a back-up to the scheduled pumping.

9. The tank shall vent back to the building vents.

10. The tank shall have self-contained pumps for evacuating each tank to the transfer vehicle. Vacuum-type evacuation is prohibited.

11. The tank shall include a locking mechanism that can only be opened by either the pumping company or the City.

12. The tank shall be installed, tested, and accepted prior to issuance of either temporary or permanent certificate of occupancy.

13. Tank pumping records shall be logged on site and be available to the City during normal business hours for inspection. These records shall include receipt from the sewer system receiving the effluent.

14. A backup battery shall be provided for the alarm system for emergency situations where electricity at the development has been lost. When pumping is required during periods of power loss, vacuum-powered transfer vehicles would be allowed.

H. Fees. The applicant shall pay the applicable permit, processing, review, monitoring, and inspection fees which will be adopted by a separate resolution.

I. Notice. The notice recorded against the property incorporating the requirements of this Ordinance shall be in a form approved by the City Attorney and include all of the information set forth in Section 13.28.105(G)(3) & (G)(7) and 13.28.105(I) herein. This notice shall grant the City a right of entry onto the property in order to abate any problem relating to the temporary sewage tank, or to disconnect the temporary tank when the City provides notice to the property owner that sewage capacity is available to serve the property.

J. Penalties for Non-Compliance.

1. The property owner shall be required to pay the connection fee in place at the time the City notifies the property owner of the availability of sewer capacity, and to hook up to the City's sewer system.

If the property owner fails to connect to the City's sewer system within 90 days of the City's notice of sewer availability, the property owner shall be subject to a cumulative civil penalty in the amount of \$250 per day from the date of the notice until connection and payment of the fees. The penalty imposed by this section shall be collected by a civil action brought in the name of the City. The Public Works Director shall notify the City Attorney in writing of the name of any person subject to the penalty, and the City attorney shall, with the assistance of the Public Works Director and all appropriate staff persons, take appropriate action to collect the penalty.

2. In addition to the imposition of penalties, the City may abate any problem relating to the temporary sewage tank or to disconnect the temporary sewage tank when sewage capacity is available, by entering the property, and billing the property owner for all related costs. The notice recorded against the property shall provide for the property owner's consent to the City's imposition of a lien against the property for the City's costs relating to such correction and/or abatement, if the property owner does not correct the problem.

3. Failure to pump the storage tanks according to the schedule established in this Section shall result in a \$250 fine for every day past the scheduled pumping date. If the storage tanks have not been pumped ten days after the deadlines established in the schedule, the City may hire a company to enter the property and pump the tank(s), and the City will bill the property owner for any associated costs.

K. Sewer Connection Fees. Nothing in this Section eliminates the requirement for property owners receiving permits for on-site sewage storage tanks under the provisions of this Section to pay sewer utility connection fees once the City provides notice that sewer capacity is available in the City's sewer system.

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 8th 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: 07/10/08
PASSED BY THE CITY COUNCIL: 09/08/08
PUBLISHED: 09/17/08
EFFECTIVE DATE: 09/22/08
ORDINANCE NO: 1138