

## ORDINANCE NO. 1090

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO TRANSPORTATION CONCURRENCY, ALLOWING FOR THE TRANSFER OF RESERVED TRANSPORTATION CAPACITY FROM ONE PARCEL OF PROPERTY TO ANOTHER, AS LONG AS THE TRANSFER DERIVES FROM A “SENDING” PARCEL WITH AN ISSUED, VALID TRANSPORTATION CONCURRENCY RESERVATION CERTIFICATE, THE TRAFFIC FROM “RECEIVING” PARCEL WILL HAVE THE SAME TYPE OF IMPACT ON THE CITY TRANSPORTATION FACILITIES, AND THE NUMBER OF TRIPS TRANSFERRED FROM THE SENDING PARCEL TO THE RECEIVING PARCEL DO NOT EXCEED THE NUMBER OF PEAK PM TRIPS RESERVED IN THE SENDING PARCEL’S TRANSPORTATION CRC, AMENDING GIG HARBOR MUNICIPAL CODE SECTION 19.10.017, AND ESTABLISHING AUGUST 1ST, 2007 AS THE DATE THIS ORDINANCE SHALL AUTOMATICALLY TERMINATE WITH NO FURTHER ACTION BY THE COUNCIL.**

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WHEREAS, a number of developers have asked that the City allow transfers of capacity granted in a Concurrency Reservation Certificate from one property to another; and

WHEREAS, there are certain limited situations where it may be appropriate to allow the transfers of capacity granted in a Concurrency Reservation Certificate from one property to another; and

WHEREAS, the City has discussed the consequences associated with such transfers with its Traffic Consultant; and

WHEREAS, the consequences of such transfers can be analyzed via precise documentation, additional traffic forecasting and modeling and denial.

WHEREAS, the City’s SEPA responsible official determined that adoption of this Ordinance is categorically exempt under WAC 197-11-800(19) as an Ordinance related to procedures only; and

WHEREAS, the City Council held a public hearing and considered this Ordinance during its regular City Council meeting of May 14th 2007; and

WHEREAS, during the City Council's public hearing, the public testimony was documented by the City; Now, Therefore,

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

Section 1. Section 19.10.017 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**19.10.017 Transfer of Reserved capacity.**

A. Except as noted in subsection B. of this Section, and only in the case of transportation concurrency, reserved capacity trips shall not be sold or transferred to property not included in the legal description provided by the applicant in the application for a CRC. The applicant may, as part of a development permit application, designate the amount of capacity trips to be allocated to portions of the property, such as lots, blocks, parcels, or tracts included in the application. Capacity Trips may be reassigned or allocated within the boundaries of the original reservation certificate by application to the director. At no time may capacity or any certificate be sold or transferred to another party or entity to real property not described in the original application.

B. Transportation Trips may be transferred subject to the following limitations:

1. The donating property transferring the trips is called the "Sending Property." The property accepting the trips is called the "Receiving Property."

2. Whether the capacity is transferred with or without monetary payment is not relevant to the City's determination whether such sale or transfer meets the requirements of this section. In order to document the transfer of trips, the owner of the Sending Property must sign an affidavit stating that he/she grants the specific trips described in the affidavit to the owner of the Receiving Property. In the Receiving Property's application for concurrency, the applicant must ask the City to consider and analyze the traffic impacts of the proposed development on the Receiving Property along with the traffic impacts on the entire City's transportation system, together with the capacity transferred by the Sending Property. This may be done through a review of an existing CRC or an analysis of the available trips. Sending properties without a current CRC must have a pending development application on file at the City.

3. Once the City receives the affidavit and a complete application for concurrency from the owner of the Receiving Property, the City shall determine whether or not the CRC for the Sending Property is valid. Trips may not be transferred from CRC's

that are expired or where all trips have been “consumed” by the development on the sending property. The Sending Property may transfer trips from a CRC only once.

4. Trip or capacity transfers are limited to a net of twenty-five (25) peak PM trips to the Receiving Property.

5. The City will analyze the capacity intended to be transferred by the Sending Property to the Receiving Property in the CRC or as otherwise described within Section

**19.10.017(B)2 of the Gig Harbor Municipal Code**, and determine whether or not such transfer will have any negative effect or cause a greater impact on the City's transportation facilities. The City shall perform this test by using its transportation model and forecasting model and all other applicable traffic analysis tools, and the concurrency analysis required by this chapter. This will be performed in conjunction with the concurrency analysis described in this chapter for the development proposed on the Receiving Property, and the fees relating to traffic analyses shall be paid for by the applicant. **Nothing in this Section shall exempt the development from review under the State Environmental Policy Act.**

6. If the City determines that the proposed trip transfer would cause the level of service on some transportation facilities identified within the City's Comprehensive Plan to decline below the adopted intersection Level of Service Standard, or that a financial commitment (embodied in a development agreement) is not in place to complete the necessary improvements or strategies within six years of the proposed developments, the transfer shall be denied. The holder of an issued CRC does not “own” the trips identified in the CRC, and is not entitled to a decision allowing transfer to take place simply because the trips are included in a previously issued CRC.

7. There is no administrative appeal of the City's decision on trip transfers and the analysis fee shall not be refunded after a determination has been made.

**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 and Sunset Clause.** 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. This Ordinance shall automatically terminate and be of no further effect on August 1, 2007. No additional action by the Council shall be required for this Ordinance to terminate on such date.

PASSED by the City Council and approved by the Mayor of the City of Gig Harbor this 29<sup>th</sup> day of May, 2007.

CITY OF GIG HARBOR

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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: 05/09/07  
PASSED BY THE CITY COUNCIL: 05/29/07  
PUBLISHED: 06/06/07  
EFFECTIVE DATE: 06/11/07  
ORDINANCE NO:1090