

## ORDINANCE NO. 1027

### **AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO EXTENSIONS OF WATER AND SEWER OUTSIDE CITY LIMITS AND OUTSIDE THE CITY'S URBAN GROWTH AREA, AS NECESSARY TO PROTECT BASIC PUBLIC HEALTH, SAFETY, WELFARE AND THE ENVIRONMENT, AMENDING GIG HARBOR MUNICIPAL CODE SECTION 13.34.070.**

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WHEREAS, the Growth Management Act provides that it is "not appropriate" for cities to extend or expand "urban governmental services" into rural areas, "except in those limited circumstances shown to be necessary to protect basic public health and safety and the environment and when such services are financially supportable at rural densities and do not permit urban development" (RCW 36.70A.110(4)); and

WHEREAS, the City of Gig Harbor has incorporated this language into chapter 13.34 of the Gig Harbor Municipal Code, which allows such extensions for municipal corporations or quasi-municipal corporations (GHMC Section 13.34.070); and

WHEREAS, the City Council desires to amend the code to allow private individuals to take advantage of the benefits of GHMC Section 13.34.070, on condition of compliance with all requirements of RCW 36.70A.110(4)); and

WHEREAS, the SEPA Responsible Official issued a threshold decision of non-significance on November 3, 2005, which was not appealed; and

WHEREAS, a copy of this Ordinance was sent to the Washington State Department of Community Trade and Development on October 25, 2005, pursuant to RCW 36.70A.160; and

WHEREAS, the Washington State Department of Community Trade and Development provided comment on the draft Ordinance in a letter dated November 30, 2005 suggesting, in part, that the city distinguish between water service and sewer service to reflect the distinction contained in the GMA.

WHEREAS, the draft Ordinance was subsequently revised and resubmitted to the Washington State Department of Community Trade and Development for review on December 19, 2005

WHEREAS, the Gig Harbor City Council held a public hearing and considered this Ordinance at first reading on January 9, 2006; and

WHEREAS, the Gig Harbor City Council voted to approve this Ordinance during the second reading on January 23, 2006; Now, Therefore,

BE IT ORDAINED by the City Council of the City of Gig Harbor, Washington as follows:

Section 1. Section 13.34.070 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**13.34.070 Extensions for public health, safety or environmental reasons.**

A. Municipal corporations or quasi-municipal corporations such as water, sewer or fire districts may make application for expansion or extensions of water or sewer service to their property ~~outside the city urban growth area boundary~~ if, in addition to all other requirements of this title, the applicant can demonstrate all of the following:

1. the expansion or extension is necessary to protect basic public health, safety and /or the environment; and

2. the expansion or extension is financially supportable at rural densities; and

3. the expansion or extension does not permit urban development.

This showing may include, among other documentation, an emergency order issued by the Department of Ecology relative to any sewer extension request.

B. Owners of property located outside the city urban growth area boundary may make application for expansion or extension of water service to their property outside the city urban growth area boundary if, in addition to all other requirements of this title, the applicant can demonstrate all of the following:

1. the expansion or extension is necessary to protect basic public health, safety and the environment; and
2. the expansion or extension is financially supportable at rural densities; and
3. the expansion or extension of water service is into an area identified to be within the City's Water Service Area; and
4. the expansion or extension does not permit urban development.

B.C. The city council shall review the application and may, in its sole discretion, allow the extension or expansion of water service if the council finds:

1. That the requested service is necessary to protect basic public health and safety and the environment;
2. That the requested service is financially supportable at rural densities and does not permit urban development;
3. That the extension or expansion is consistent with the goals of the City's water and sewer comprehensive plans and all other applicable law, including, but not limited to, the Public Water System Coordination Act (Chapter 70.116 RCW), and the State Environmental Policy Act (Chapter 42.31C RCW).

D. The city council shall review the application and may, in its sole discretion, allow the extension or expansion of sewer service if the council finds:

1. That the City's NPDES permit will not be affected by the extension or expansion; and
2. That the extension or expansion is consistent with the goals of the City's sewer comprehensive plan and all other applicable law,

including, but not limited to, the State Environmental Policy Act (Chapter 42.31C RCW).

C E. The Council's approval of any extension or expansion under the criteria in subsection A and B of this section may be conditioned. Such conditions may include, but shall not be limited to, upon the following:

1. Restrictions may be placed on the hours that the City will accept sewage flow from the applicants.
2. Restrictions may be placed on the amount of sewage flow or water provided to the applicant.
3. ~~For extensions outside the city's urban growth boundary area,~~ The applicant shall have the responsibility to maintain and operate its own facilities.
4. ~~Any other conditions the council considers appropriate.~~

Section 2. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of this ordinance.

Section 3. Effective Date. This ordinance shall take effect and be in full force and effect five (5) days after its passage, approval and publication as required by law.

PASSED by the Council of the City of Gig Harbor, this 23rd day of January, 2006.

APPROVED:

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MAYOR, CHARLES L. HUNTER

ATTEST/AUTHENTICATED:

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CITY CLERK, MOLLY M. TOWSLEE

APPROVED AS TO FORM:

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CITY ATTORNEY, CAROL A. MORRIS

FILED WITH THE CITY CLERK: 1/4/06  
PASSED BY THE CITY COUNCIL: 1/23/06  
DATE PUBLISHED: 2/1/06  
DATE EFFECTIVE: 2/6/06  
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