

ORDINANCE NO. 1018

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO SHORELINE DEVELOPMENT, ELIMINATING THE LIMITATION ON THE RECONSTRUCTION OF NONCONFORMING SHORELINE DEVELOPMENT AFTER DAMAGE TO THE STRUCTURE NOT EXCEEDING SEVENTY-FIVE PERCENT OF THE REPLACEMENT COST OF THE STRUCTURE SO THAT THE PROPERTY OWNER MAY RECONSTRUCT NONCONFORMING SHORELINE DEVELOPMENT AFTER DAMAGE OF ANY EXTENT TO THE STRUCTURE, AMENDING SECTION 4.15(C) OF THE SHORELINE MASTER PROGRAM OF THE CITY OF GIG HARBOR, WASHINGTON.

WHEREAS, the City of Gig Harbor has adopted the Shoreline Master Program, which has not been codified in the Gig Harbor Municipal Code; and

WHEREAS, the City is required to periodically review its Shoreline Master Program and to make amendments deemed necessary to reflect changing local circumstances (WAC 183-26-090); and

WHEREAS, any amendments to the Shoreline Master Program must be consistent with RCW 90.58.080; and

WHEREAS, prior to submittal of an amendment to the Shoreline Master Program to the Washington State Department of Ecology (DOE), the City is required to solicit public and agency comment (WAC 173-16-100); and

WHEREAS, the City plans under the Growth Management Act, and local citizen strategies must be implemented through early and continuous public participation consistent with WAC 365-195-600; and

WHEREAS, the City has submitted a copy of this ordinance to the Washington State Department of Community Trade and Economic Development (CTED), signifying intent to adopt this ordinance, pursuant to RCW 36.70A.106; and

WHEREAS, the Gig Harbor SEPA Responsible Official has reviewed this Ordinance and determined that it is exempt from SEPA, pursuant to WAC 197-11-800(19); and

WHEREAS, the City has complied with the minimum requirements of public participation for adoption of this ordinance, pursuant to WAC 173-26-100, as follows:

1. A public hearing on the ordinance was conducted by the City Planning Commission on July 21, 2005 to solicit comments and local citizen involvement; and

2. Notice of the public hearing was provided as set forth in WAC 173-26-100(2); and

3. The City has solicited comments from appropriate state agencies through CTED about the proposal prior to local approval; and

WHEREAS, on August 30, 2005 the City submitted this ordinance to the Department of Ecology for review and formal action, as required by WAC 173-26-110; and

WHEREAS, on October 24, 2005, the City Council considered this ordinance during its regularly scheduled Council meeting;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Section 4.15 of the City's Shoreline Master Program is hereby amended to read as follows:

4.15 Nonconforming Development. Nonconforming development is a shoreline use or structure which was lawfully constructed or established ~~prior to the effective date of the Act or the Master Program, or amendments thereto~~, but which does not conform to present regulations or standards of the Master Program or policies of the Act. In such cases, the following standards shall apply:

A. Nonconforming development may be continued provided that it is not enlarged, intensified, increased or altered in any way which increases its nonconformity.

B. A nonconforming development which is moved any distance must be brought into conformance with the Master Program and the Act.

C. ~~If a nonconforming development is damaged to an extent not exceeding seventy-five (75) percent replacement cost of the original structure, it may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, so long as restoration is completed within one year of the date of damage, with the exception that, exempt single family nonconforming development may be one hundred (100) percent replaced if restoration is completed within three years of the date of damage.~~

If a nonconforming structure is damaged or destroyed by earthquake, fire, flooding, other act of nature, or other unintentional act, it may be reconstructed to not more than the dimensions existing immediately prior to the time such structure was damaged or destroyed if application for a development permit is submitted within twelve (12) months of the date of damage or destruction; however, the department may grant not more than two (2) one-year extensions based on good cause. The reconstruction shall comply with all applicable building codes in force at the time of reconstruction.

D. If a nonconforming use is discontinued in conjunction with the circumstances set forth in subsection C above, such use may be resumed upon completion of reconstruction.

E. If a nonconforming use is otherwise discontinued for twelve (12) months or for twelve (12) months during any two year period, any subsequent use shall be conforming; it shall not be necessary to show that the owner of the property intends to abandon such nonconforming use in order for the nonconforming rights to expire.

~~E-F. A nonconforming use shall not be changed to another nonconforming use, regardless of the conforming or nonconforming status of the building or structure in which it is housed. A structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit. A conditional use permit may be approved only upon a finding that:~~

1. No reasonable alternative conforming use is practical; and
2. The proposed use will be at least as consistent with the policies and provisions of the shoreline master program and as compatible with the uses in the area as the pre-existing use.
3. In addition, such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the shoreline master program and the Shoreline Management Act and to assure that the use will not become a nuisance or a hazard.

~~F-G. An undeveloped lot, tract, parcel, site or division which was established prior to the effective date of the act and the Master Program but which does not conform to the present lot size or density standards may be developed as long as such development conforms to all other requirements of the Master Program and Act.~~

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be 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, sentence, clause or phrase of this ordinance.

Section 3. Effective Date. This ordinance shall take effect and be in full force upon receipt of notice of final approval from the Department of Ecology.

PASSED by the Gig Harbor City Council and the Mayor of the City of Gig Harbor this 24th day of October, 2005.

CITY OF GIG HARBOR

GRETCHEN WILBERT, MAYOR

ATTEST/AUTHENTICATED:

By: _____
MOLLY TOWSLEE, CITY CLERK

APPROVED AS TO FORM:

By: _____
CAROL A. MORRIS, CITY ATTORNEY

FIRST READING: 10/10/05
DATE PASSED: 10/24/05
DATE OF PUBLICATION: 11/2/05
EFFECTIVE DATE: upon final approval by DOE