

ORDINANCE NO. 1009

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE RECOVERY OF COSTS FROM A CONVICTED PERSON RELATING TO AN EMERGENCY RESPONSE CAUSED BY THE PERSON'S INTOXICATION; ADOPTING RCW 38.52.430 BY REFERENCE, ALLOWING FOR THE RECOVERY OF SUCH COSTS FROM PERSONS WHO ARE CONVICTED OF VARIOUS CRIMES, ADOPTING STATE LAW BY REFERENCE RELATING TO DRIVING UNDER THE INFLUENCE (RCW 46.61.502); OPERATING AN AIRCRAFT WHILE UNDER THE INFLUENCE (RCW 47.68.220); OPERATING A VESSEL WHILE UNDER THE INFLUENCE (RCW 8.24.017); ADOPTING NEW GIG HARBOR CODE SECTIONS 9.04.040, 8.24.017, 9.04.040 AND 9.40.050; AMENDING GIG HARBOR CODE SECTION 10.04.010.

WHEREAS, a person whose intoxication causes an incident resulting in an appropriate emergency response, and who, in connection with the incident, has been found guilty of or has had their prosecution deferred for (1) driving while under the influence of intoxicating liquor/drug; (2) operating an aircraft under the influence of intoxicants/drugs; (3) use of a vessel while under the influence of alcohol/drugs; (4) vehicular homicide while under the influence of intoxicating liquor/drugs, is liable for the expense of an emergency response by the City to the incident (RCW 38.52.430); and

WHEREAS, the expense of the emergency response is a charge against the person liable for expenses under RCW 38.52.430; and

WHEREAS, RCW 9.95.210(2)(f) allows a court to require a person to make restitution to a public agency for the costs of an emergency response under RCW 38.52.430; and

WHEREAS, the City desires to adopt state law by reference to ensure proper collection of such costs; and

WHEREAS, the City desires to update its criminal code to ensure that the above mentioned crimes are also adopted by reference in order to be able to charge a violator with these crimes; Now, Therefore,

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

Section 1. A new Section 9.04.040 is hereby added to the Gig Harbor Municipal Code, which shall read as follows:

9.04.040. Emergency response caused by person's intoxication – Recovery of costs from convicted person. RCW 38.52.430 is hereby incorporated by reference as if fully set forth herein.

Section 2. A new Section 9.04.050 is hereby added to the Gig Harbor Municipal Code, which shall read as follows:

9.04.050. Operating aircraft recklessly or under the influence of intoxicants or drugs. RCW 47.68.220 is hereby incorporated by reference as if fully set forth herein.

Section 3. A new Section 8.24.017 is hereby added to the Gig Harbor Municipal Code, which shall read as follows:

8.24.017. Operation of a vessel in a reckless manner – Operation of a vessel under the influence of intoxicating liquor – Penalty. RCW 79A.60.040 is hereby incorporated by reference as if fully set forth herein.

Section 4. Section 10.04.010 of the Gig Harbor Municipal Code is hereby amended to add the following new statute, which is incorporated by reference:

10.04.010. Statutes adopted by reference. The following state statutes, including all future amendments, repeals, or additions thereto, are hereby adopted by reference as if set forth herein:

* * *

RCW 46.61.502. Driving under the influence.

Section 5. 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 6. Pursuant to RCW 35A.12.140, copies of all of the above statutes adopted by reference are attached hereto. These copies have been filed in the office of the city clerk prior to the adoption of this ordinance for examination by the public, as required by RCW 35A.12.140.

Section 7. Effective Date. This ordinance shall take effect and be in full force five (5) days after publication of a summary, consisting of the title.

PASSED by the Gig Harbor City Council and the Mayor of the City of Gig Harbor this 8th day of August, 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: 7/25/05

DATE PASSED: 8/8/05

DATE OF PUBLICATION: 8/17/05

EFFECTIVE DATE: 8/22/05