

## ORDINANCE NO. 950

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, ALLOWING CERTAIN STRUCTURES TO EXCEED THE HEIGHT RESTRICTIONS OF THE ZONING CODE AS LONG AS PERFORMANCE-BASED APPROVAL CRITERIA ARE SATISFIED, AND ESTABLISHING HEIGHT EXEMPTIONS, CONSISTENT WITH CURRENT PRACTICE, TO ALLOW STRUCTURES SUCH AS TRAFFIC LIGHTS, PUBLIC LIGHT STANDARDS AND FLAG POLES TO EXCEED THE HEIGHT REQUIREMENTS OF THE ZONING CODE; ADDING A NEW CHAPTER 17.67 AND AMENDING SUBSECTION 19.01.003(B) OF THE GIG HARBOR MUNICIPAL CODE.**

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WHEREAS, currently, all new structures within the City must meet the height requirements for the underlying zone, unless a variance is approved; and

WHEREAS, some structures must exceed the height requirements for effective performance and operation; and

WHEREAS, up to this point, some structures have been erected in the City, which exceed the height requirements of the underlying zone, in violation, without the appropriate variances; and

WHEREAS, a number of these structures would not be able to obtain the appropriate variances; and

WHEREAS, the City would like to exempt some of those structures from the height requirements of the Gig Harbor Municipal Code because they are common fixtures with expected and generally accepted height and design characteristics; and

WHEREAS, other structures requiring height in excess of the height requirements of the Gig Harbor Municipal Code for effective performance and operation can potentially cause adverse impacts, if not ameliorated; and

WHEREAS, the City would like to create a performance-based height exception process for these structures and establish criteria for approval to address and ameliorate adverse impacts and ensure compliance with City of Gig Harbor Design Manual requirements; and

WHEREAS, the City's SEPA Responsible Official has issued a declaration of Non-significance (DNS) for this ordinance on October 29, 2003; and

WHEREAS, the City sent a copy of this Ordinance to the Washington State Office of Community, Trade and Development on October 29, 2003; and

WHEREAS, the City Planning Commission held a public hearing on this Ordinance on December 18, 2003; and recommended approval to the City Council; and

WHEREAS, on January 12, 2004, the City Council considered this Ordinance during a regular meeting; Now, Therefore,

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

Section 1. A new chapter 17.67 is hereby added to the Gig Harbor Municipal Code, which shall read as follows:

**Chapter 17.67**  
**PERFORMANCE-BASED HEIGHT EXCEPTIONS AND HEIGHT EXEMPTIONS**

Sections:

- 17.67.010 Intent
- 17.67.020 Applicability – Performance-Based Height Exceptions
- 17.67.030 Applicability - Height Exemptions
- 17.67.040 Complete Application
- 17.67.050 Permit Type
- 17.67.060 Review Criteria
- 17.67.070 Special Review Criteria for Athletic Field Lighting
- 17.67.080 Time Limits

**17.67.010 Intent**

This chapter is intended to identify those structures to which height limits do not apply and to provide review procedures and criteria for those special situations where the height restrictions of this title may be relaxed. Performance-based height exceptions are intended to allow structures that require height in excess of height limits for effective performance and operation. Performance-based height exceptions are not intended to be used as a means of circumventing individually inconvenient height restrictions.

**17.67.020 Applicability – Performance-Based Height Exceptions**

- A. Approvals of performance-based height exceptions may be given to only the following structures:
  - 1. Elevated reservoirs, water tanks or standpipes under the jurisdiction of the city or another water district;
  - 2. Transmission line towers;
  - 3. Fire training towers;
  - 4. Athletic field lighting.
- B. Performance-based height exceptions are prohibited for the following:
  - 1. Communications facilities regulated by Chapter 17.61 GHMC;
  - 2. All new structures on parcels identified as prominent on the City of Gig Harbor Visually Sensitive Areas map;

3. All new structures within the view sheds of a significant vista, as identified on the City of Gig Harbor Visually Sensitive Areas map.

#### **17.67.030 Applicability - Height Exemptions**

The following structures are exempt from the height restrictions of this title:

- A. Traffic lights and signals;
- B. Light standards installed on street rights-of-way;
- C. Flagpoles that display flags of a political subdivision;
- D. Height exemption are prohibited for communications facility designed to look like any of the above, which are regulated under Chapter 17.61 GHMC Communication Facilities.

#### **17.67.040 Complete Application**

An application for a performance-based height exception shall contain seven (7) copies of the following information:

- A. The title and location of the proposed project, together with the names, addresses and telephone numbers of the recorded owners of the land and the applicant, and if applicable, the name, address and telephone number of any architect, planner, designer or engineer responsible for the preparation of the plan, and of any authorized representative of the applicant;
- B. A written description addressing the scope of the project, the use of the site, and the nature and height of the proposed structures.
- C. Color, type, model and specification of all proposed structures. Include the area of illumination and intensity of lighting in footcandles for athletic field lighting.
- D. A vicinity map showing site boundaries and existing roads and accesses within and bounding the site;
- E. Site plans drawn to a scale no smaller than one inch equals 30 feet showing location and size of uses, location of proposed and existing structures, critical areas and wetlands, buffer areas, proposed areas of disturbance or construction outside of the building and structure footprint, yards, open spaces and landscaped areas and any existing structures, easements and utilities;
- F. A written statement of justification for granting the exception pursuant to the requirements of GHMC 17.67.060, and GHMC 17.67.070, if applicable;
- G. A listing of the names and addresses of property owners of record within 300 feet of the project property, including preprinted labels bearing the names and addresses of the property owners of record within 300 feet of the project property;
- H. All application requirements of GHMC 19.02.002.

#### **17.67.050 Permit Type**

A performance-based height exception is a Type III permit.

**17.67.060 Review Criteria**

The applicant shall demonstrate that the following criteria for approval of the exception have been satisfied:

- A. The increased structure height is necessary for effective performance and operation and is the minimum necessary for the structure to function in its intended and permitted use; and
- B. Visual impacts beyond the site and within environmentally sensitive areas have been minimized by such measures as, but not limited to:
  - 1. Avoidance, to the extent possible, of shade or light cast into critical areas and wetlands where shade or light may impact the biological functions of critical areas and wetlands;
  - 2. Using color or material to blend the structure into the surrounding environment;
  - 3. Screening the structure with vegetation;
  - 4. Avoidance, to the extent possible, of light trespass onto adjacent properties.

**17.67.070 Special Review Criteria for Athletic Field Lighting**

In addition to the criteria specified in Section 17.67.060 GHMC, the applicant for an exception for athletic field lighting shall demonstrate that the following criteria for approval of the exception have been satisfied:

- A. Athletic field light fixtures to be installed are a “shoebox” style and downward-directional; and
- B. Both fixtures and poles are painted black, brown or dark green.

**17.67.080 Time Limits**

Any exception granted by the hearing examiner shall become null and void if not exercised within one year of the date of approval. Upon written request by the property owner, prior to the date of expiration the director may grant an extension of time up to but not exceeding one year. Any extension of time shall be based upon a finding that there has been no material change of circumstances applicable to the structure or property since the granting of the exception.

Section 2. GHMC 19.01.003 (B) is amended to read as follows:

**B. Decisions.**

TYPE I	TYPE II	TYPE III	TYPE III-A	TYPE IV	TYPE V
Permitted uses not requiring site plan review	Short plat	Plat vacations and alterations	Preliminary plats	Final plats	Comp. plan amendments
Boundary line adjustments	Sign permits	Site plan/major amendments to site plans	Preliminary PRD/PUD	Final PRD/PUD	Development regulations

Minor amendments to PUD/PRD	Design review	CUP, general variances, sign permit variances, and site specific rezones			Zoning text amendments ; area-wide zoning map amendments
Special use permits	Land clearing/grading	Shoreline substantial development, shoreline variance			Annexations
Temporary construction trailers	Revisions to shoreline management permits	Major amendments to PRD and PUD			
	Administrative variances	Amendment to height restriction area map			
	Administrative interpretations	Mobile/manufactured home park or subdivision			
	Home occupation permit	<u>Performance-based height exception</u>			
	Hardship variance, sign code				
	Modification to landscape plans				
	Minor amendment to PRD or PUD				

Section 3. 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 4. 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 on its date of introduction pursuant to Section 1.08.020(B) GHMC, after having receiving an affirmative vote of a majority plus one of the whole membership of the Council, and approved by the Mayor of the City of Gig Harbor this 12<sup>th</sup> day of January, 2004.

APPROVED:

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MAYOR, GRETCHEN WILBERT

ATTEST/AUTHENTICATED:

By: \_\_\_\_\_  
MOLLY TOWSLEE, CITY CLERK

FILED WITH THE CITY CLERK: 1/7/04  
PASSED BY THE CITY COUNCIL: 1/12/04  
DATE PUBLISHED: 1/21/04  
DATE EFFECTIVE: 1/26/04