

## **ORDINANCE NO. 902**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, AMENDING THE CITY'S IMPACT FEE ORDINANCE TO CHANGE THE DATE FOR CALCULATION OF THE AMOUNT OF THE FEE TO BE IMPOSED, CLARIFYING THE INAPPLICABILITY OF THE VESTING DOCTRINE TO IMPACT FEES CONSISTENT WITH WASHINGTON LAW, AMENDING GHMC SECTION 19.12.100 AND MAKING MINOR TYPOGRAPHICAL CORRECTIONS TO GHMC SECTION 19.12.110 TO CLARIFY THE FACT THAT THE IMPACT FEE WILL BE CALCULATED AT THE TIME OF BUILDING PERMIT ISSUANCE.**

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WHEREAS, the City's impact fee ordinance was adopted prior to the date that the Washington courts addressed the question whether such fees were subject to the vested rights doctrine, which allows developers to vest their applications to the land use control ordinances in place at the time complete building permit or preliminary plat applications are submitted; and

WHEREAS, the City desires to amend its impact fee ordinance to be consistent with the recent ruling by the Washington court that impact fees are not subject to the vesting doctrine; and

WHEREAS, Section 19.12.100 of the impact fee ordinance should also be amended to clarify the fact that the City will calculate and issue the impact fee at the time of building permit issuance; and

WHEREAS, the City SEPA Responsible Official has determined that this Ordinance is categorically exempt from SEPA, pursuant to WAC 197-11-800(20); and

WHEREAS, the City Community Development Director forwarded a copy of this Ordinance to the Washington State Office of Community Development on February 6, 2002 pursuant to RCW 36.70A.106; and

WHEREAS, the City Council held a public hearing and considered this Ordinance during its regular City Council meeting of February 11, 2002; and

WHEREAS, the City Council further considered this Ordinance during its regular City Council meeting of February 25, 2002; Now, Therefore,

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

Section 1. Section 19.12.100 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**19.12.100 Payment of Fees.**

A. All developers shall pay an impact fee in accordance with the provisions of this chapter, which shall be calculated by the City at the time that the applicable development building permit is ready for issuance.

~~1. Vested Permits. The fee paid shall be the amount in effect as of the date the city determines that the applicable development permit is complete, as long as at least one development permit for the project is of the type that vests under the city's ordinances or state law.~~

~~2. Non Vested Permits. If a developer submits an application for a development permit that does not vest under the city's ordinances or state law, then the fee paid shall be the amount in effect as of the date of permit issuance.~~

~~3. Plats. The amount of the impact fee shall be the amount established at the time the preliminary plat or short plat applications are determined to be complete by the city only if: (i) the approval of the preliminary plat has not expired; or (ii) at the very latest, the developer has submitted a complete building permit application for all construction in the plat within five years of the anniversary date of the shore plat or final plat.~~

B. The impact fee, as initially calculated for a development permit, shall be recalculated at the time of issuance if the development application is modified or conditioned in such a way as to alter park and transportation impacts for the development.

C. A developer may obtain a preliminary determination of the impact fee before submitting an application for a development permit by providing the director with the information needed for processing. However, because impact fees are not subject to the vested rights doctrine, the fee actually paid by the developer will be the impact fee in effect at the time of building permit issuance, regardless of any preliminary determination.

Section 2. Section 19.12.110 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**19.12.110 Time of payment of impact fees.**

A. Payment of any required impact fees, calculated as set forth in GHMC 19.12.100(A)(3) shall be made prior to the issuance of a building permit. ~~If the impact fee is not at final approval, this shall be noted by a covenant placed on the face of the recorded plat and included in the deed for each affected lot within the plat.~~

\* \* \*

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 Council and approved by the Mayor of the City of Gig Harbor this \_\_th day of \_\_\_\_, 2002.

CITY OF GIG HARBOR

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GRETCHEN WILBERT, 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: 2/6/02  
PASSED BY THE CITY COUNCIL: 2/25/02  
PUBLISHED: 3/6/02  
EFFECTIVE DATE: 3/11/02  
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**Appendix 'A'**  
**IMPACT FEE ANALYSIS FOR 1999**

Project Description	Year Scheduled	Estimated Total Project Cost	Total Grants / Other Participation						Impact Fee Analysis				Developer Participation	
			Placer County Participation	Federal Participation	% of Total Project Cost	State Grants (UATA/TIB/TA, Etc.)	% of Total Project Cost	Total Grants	City Participation	% of Total Project Cost	% added for Increase Capacity	Formula to determine Capacity	Developer Participation	% of Total Project Cost
1 EAST-WEST (BORGES) ROAD CONSTRUCTION (Ph. 1) - Swede Hill interchange (SR-16) to Peacock Hill Ave.	1999	\$2,950,000	\$824,000	\$0	0.0%	\$0	0.0%	\$824,000	\$503,000	17.1%	100%		\$1,523,000	51.6%
4 POINT FOSDICK DRIVE IMPROVEMENTS (Ph. 1) - 1,000-ft. South of Olympic Dr. to 44th Street	1999	\$667,000	\$0	\$0	0.0%	\$462,000	72.3%	\$462,000	\$56,000	8.2%	39%	(0.5x0.49)x0.667	\$130,065	19.5%
11 POINT FOSDICK DRIVE IMPROVEMENTS (Ph. 2) - 44th Street to City Limits	2001-2002	\$545,000	\$0	355,926	65.3%	\$0	0.0%	\$355,926	\$55,549	10.2%	49%	(0.5x0.49)x0.545	\$133,525	24.5%
12 OLYMPIC DRIVE/58th STREET IMPROVEMENTS - 950-ft. west of Point Fosdick Drive to 38th Avenue	2001-2002	\$1,341,000	\$0	875,774	65.3%	\$80,000	6.0%	\$955,774	\$56,581	4.2%	39%	(0.5x0.49)x1.34	\$328,545	24.5%
19 58th ST. / PT. FOSDICK DR. IMPROVEMENTS - Olympic Drive to Olympic Drive	2003-2004	\$1,182,000	\$0	771,935	65.3%	\$36,000	3.0%	\$807,935	\$84,475	7.1%	49%	(0.5x0.49)x1.182	\$289,590	24.5%
22 EAST-WEST (BORGES) ROAD CONSTR. (Ph. 2) - Swede Hill Interchange (SR-16) to W. of Woodridge	2003-2004	\$4,050,000	\$0	1,751,625	43.3%	\$150,000	3.7%	\$1,901,625	\$123,375	3.0%	100%	(0.5x1.0)x4.05	\$2,025,000	50.0%
23 CRESCENT VALLEY CONNECTOR - Peacock Hill Avenue to Crescent Valley Road	2003-2004	\$4,300,000	\$0	1,859,750	43.3%	\$0	0.0%	\$1,859,750	\$290,250	6.8%	100%	(0.5x1.0)x4.3	\$2,150,000	50.0%
25 NORTH-SOUTH CONNECTOR - East-West Road to Peacock Hill Avenue	2000-2001	\$150,000	\$0	0	0.0%	\$0	0.0%	\$0	\$75,000	50.0%	100%	(0.5x1.0)x0.15	\$75,000	50.0%
26 HUNT STREET CROSSING - Kimball Drive to 38th Ave.	2003-2004	\$11,800,000	\$0	5,103,500	43.3%	\$368,100	3.4%	\$5,501,600	\$398,400	3.4%	100%	(0.5x1.0)x11.8	\$5,800,000	50.0%
<b>TOTAL</b>		<b>\$26,985,000</b>	<b>\$824,000</b>	<b>\$30,718,509</b>	<b>72.3%</b>	<b>\$1,146,100</b>	<b>3.4%</b>	<b>\$12,688,609</b>	<b>\$1,641,731</b>	<b>12.5%</b>	<b>100%</b>		<b>\$12,554,725</b>	<b>50.0%</b>

**Appendix 'B'**  
**Transportation**  
**Impact Fee Rate Schedule**

**Impact Fee Rate Schedule**

ITE Code	ITE Land Use Category	Trip Rate (1)	% New Trips (2)	Peak Hour Factor (3)	Net New Trips Per Unit of Measure	Impact Fee Per Unit @ \$ 108.22 Per Trip
110	Light Industrial	3.49	100%	1.33	4.64 1,000 sq. ft.	\$ 0.50 per square foot
140	Manufacturing	1.93	100%	1.84	3.55 1,000 sq. ft.	0.38 per square foot
151	Mini-warehouse	1.30	100%	0.95	1.24 1,000 sq. ft.	0.13 per square foot
210	Single Family House	4.78	100%	1.00	4.78 dwelling	517.30 per dwelling unit
220	Apartment	3.24	100%	0.92	2.98 dwelling	322.50 per dwelling unit
230	Condominium	2.93	100%	0.89	2.61 dwelling	282.46 per dwelling unit
240	Mobile Home	2.41	100%	1.14	2.75 dwelling	297.61 per dwelling unit
250	Retirement Community	1.16	100%	0.90	1.04 dwelling	112.55 per dwelling unit
310	Hotel	4.35	100%	0.83	3.61 room	390.68 per room
320	Motel	5.10	100%	0.56	2.86 room	309.52 per room
420	Marina	1.48	100%	0.61	0.90 berth	97.40 per berth
430	Golf Course	4.17	100%	0.44	1.83 acre	198.05 per acre
444	Movie Theater	11.96	100%	1.88	22.48 1,000 sq. ft.	2.43 per square foot
492	Racquet Club	8.57	100%	0.98	8.40 1,000 sq. ft.	0.91 per square foot
530	High School	5.45	100%	1.68	9.16 1,000 sq. ft.	0.99 per square foot
560	Church	4.66	100%	0.73	3.40 1,000 sq. ft.	0.37 per square foot
610	Hospital	8.39	100%	0.59	4.95 1,000 sq. ft.	0.54 per square foot
620	Nursing Home	1.30	100%	0.62	0.81 bed	87.66 per bed
710	Office 10,000 Sq. Ft.	12.30	100%	1.31	16.11 1,000 sq. ft.	1.74 per square foot
710	Office 50,000 Sq. Ft.	8.29	100%	1.28	10.61 1,000 sq. ft.	1.15 per square foot
710	Office 100,000 Sq. Ft.	7.02	100%	1.26	8.85 1,000 sq. ft.	0.96 per square foot
720	Medical Office	17.09	100%	1.13	19.31 1,000 sq. ft.	2.09 per square foot
820	Retail 10,000 Sq. Ft.	83.80	49%	0.85	34.90 1,000 sq. ft.	3.78 per square foot
820	Retail 50,000 Sq. Ft.	45.83	48%	0.87	19.14 1,000 sq. ft.	2.07 per square foot
820	Retail 100,000 Sq. Ft.	35.34	74%	0.88	23.01 1,000 sq. ft.	2.49 per square foot
820	Retail 200,000 Sq. Ft.	27.25	74%	0.88	17.75 1,000 sq. ft.	1.92 per square foot
832	Restauraunt: sit-down	102.68	52%	0.72	38.44 1,000 sq. ft.	4.16 per square foot
833	Fast Food, No Drive-up	393.11	52%	0.51	104.25 1,000 sq. ft.	11.28 per square foot
844	Service Station	150.18	27%	0.48	19.46 pump	2,106.00 per pump
850	Supermarket	88.80	49%	0.82	35.68 1,000 sq. ft.	3.86 per square foot
851	Convenience Market - 24 Hr.	369.00	31%	0.69	78.93 1,000 sq. ft.	8.54 per square foot
860	Wholesale Warehousing	3.37	100%	0.29	0.98 1,000 sq. ft.	0.11 per square foot
911	Bank/Savings: Walk-in	70.31	30%	1.17	24.68 1,000 sq. ft.	2.67 per square foot
912	Bank/Savings: Drive-in	132.61	30%	1.56	62.06 1,000 sq. ft.	\$ 6.72 per square foot

(1) ITE Rate divided by 2.  
 (2) Eliminates pass-by trips.

(3) Adjustment factor to convert average daily trips to peak hour equivalent.

## **SUMMARY OF ORDINANCE NO. 902**

of the City of Gig Harbor, Washington

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On February 25, 2002, the City Council of the City of Gig Harbor, Washington, approved Ordinance No. 902 the main points of which are summarized by its title as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, AMENDING THE CITY'S IMPACT FEE ORDINANCE TO CHANGE THE DATE FOR CALCULATION OF THE AMOUNT OF THE FEE TO BE IMPOSED, CLARIFYING THE INAPPLICABILITY OF THE VESTED RIGHTS DOCTRINE TO IMPACT FEES CONSISTENT WITH WASHINGTON LAW, AMENDING GHMC SECTION 19.12.100 AND MAKING MINOR TYPOGRAPHICAL CORRECTIONS TO GHMC SECTION 19.12.110 TO CLARIFY THE FACT THAT THE IMPACT FEE WILL BE CALCULATED AT THE TIME OF BUILDING PERMIT ISSUANCE.

The full text of this Ordinance will be mailed upon request.

APPROVED by the City Council at their meeting of February 25, 2002.

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MOLLY TOWSLEE, CITY CLERK