

## **ORDINANCE NO. 840**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO CODE ENFORCEMENT, ELIMINATING THE ADMINISTRATIVE APPEAL OF ANY NOTICE OF VIOLATION WHICH COULD SUBJECT THE VIOLATOR TO CRIMINAL PROSECUTION AND RESULT IN THE IMPOSITION OF CRIMINAL PENALTIES; AMENDING SECTION 17.07.014 OF THE GIG HARBOR MUNICIPAL CODE.**

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WHEREAS, the City has adopted an enforcement procedure in chapter 17.07 of the Gig Harbor Municipal Code; and,

WHEREAS, the first stage of an enforcement action brought under chapter 17.07 GHMC is the City's issuance of a Notice of Violation; and,

WHEREAS, the City is not required to provide for administrative appeals of its code enforcement actions; and,

WHEREAS, certain zoning code violations subject the violator to criminal prosecution and the imposition of criminal penalties, as set forth in GHMC § 17.07.018; and,

WHEREAS, a process for an administrative appeal of a Notice of Violation which subjects the violator to civil penalties is necessary because a judicial review of the City's decision will be based on the administrative record, while a judicial review relating to a decision on a Notice of Violation which subjects the violator to criminal penalties is not based on the administrative record; and,

WHEREAS, the City Council desires to eliminate any administrative appeal of a Notice of Violation for violations described in GHMC §17.07.018, which subject the violator to criminal prosecution and the imposition of criminal penalties; and,

WHEREAS, the City Council also desires to clarify the fact that there is no additional administrative appeal beyond the appeal to the Hearing Examiner of a Notice of Violation for violations described in GHMC § 17.07.018; Now, therefore,

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

Section 1. Section 17.07.014 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**17.07.014 Review by hearing examiner.**

A. Notice of Violation (criminal penalties). There is no administrative appeal of a notice of violation issued pursuant to GHMC §17.07.006 for violations described in GHMC §17.07.018, which subject the violator to criminal prosecution and/or the imposition of criminal penalties.

B. Notice of Violation (civil penalties). Any person significantly affected by or interested in a notice of violation issued by the planning director pursuant to GHMC §17.07.006 for a violation of the codes in this Title which subject the violator to civil prosecution may obtain an appeal of the notice by requesting such appeal within fifteen (15) calendar days after service of the notice. When the last day of the period so computed is a Saturday, Sunday or federal or city holiday, the period shall run until 5:00 p.m. on the next business day. The request shall be in writing, and upon receipt of the appeal request, the building official shall forward the request to the office of the hearing examiner, pursuant to Chapter 17.10 GHMC.

~~B~~ C. At or after the appeal hearing, the hearing examiner may:

1. Sustain the notice of violation;
2. Withdraw the notice of violation;

3. Continue the review to a date certain for receipt of additional information;
4. Modify the notice of violation, which may include an extension of the compliance date.

~~E.D.~~ The hearing examiner shall issue a decision within ~~ten~~ (10) days of the date of the completion of the review and shall cause the same to be mailed by regular first class mail to the person(s) named on the notice of violation, mailed to the complainant, if possible, and filed with the department of records and elections of Pierce County.

~~D E.~~ The decision of the hearing examiner shall be final ~~and conclusive, and no further administrative appeal may be filed.~~ ~~In order to appeal the decision of the hearing examiner, a person with standing to appeal a decision imposing criminal penalties must appeal to the appropriate court with jurisdiction, and~~ In order to appeal the decision of the hearing examiner, a person with standing to appeal a ~~decision imposing civil penalties~~ must make application for a land use petition under Chapter 36.70C RCW within 21 days of the issuance of the examiner's decision. ~~The cost of transcription of all records ordered certified by the court for such review shall be borne by the appellant.~~

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 five (5) days after publication of the attached approved summary thereof consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor this 24th day of January, 2000.

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: 1/5/00  
PASSED BY THE CITY COUNCIL: 1/24/00  
PUBLISHED: 2/2/00  
EFFECTIVE DATE: 2/7/00  
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## **SUMMARY OF ORDINANCE NO. 840**

of the City of Gig Harbor, Washington

On January 24, 2000, the City Council of the City of Gig Harbor, Washington, approved Ordinance No. 840, 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 CODE ENFORCEMENT, ELIMINATING THE ADMINISTRATIVE APPEAL OF ANY NOTICE OF VIOLATION WHICH COULD SUBJECT THE VIOLATOR TO CRIMINAL PROSECUTION AND RESULT IN THE IMPOSITION OF CRIMINAL PENALTIES; AMENDING SECTION 17.07.014 OF THE GIG HARBOR MUNICIPAL CODE.

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

APPROVED by the City Council at their meeting of January 24, 2000.

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Molly M. Towslee, City Clerk