ORDINANCE NO. 827

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 ISSUED FOR A VIOLATION OF THE STATE BUILDING CODE AS ADOPTED BY THE CITY IN TITLE 15 GHMC (WHICH INCLUDES THE FIRE CODE AND PLUMBING CODE) AND WHICH SUBJECTS THE VIOLATOR TO CRIMINAL PROSECUTION; AMENDING SECTION 15.18.014 OF THE GIG HARBOR MUNICIPAL CODE.

WHEREAS, the State has required that the City adopt and enforce the state building code, which consists of the codes enumerated in RCW 19.27.031; and

WHEREAS, the City has adopted the codes set forth in RCW 19.27.031 by reference, together with certain local amendments, in Title 15 of the Gig Harbor Municipal Code; and

WHEREAS, violations of certain codes included in the state building code subject the violator to criminal prosecution; and

WHEREAS, the City has adopted an enforcement procedure in chapter 15.18 of the Gig Harbor Municipal Code; and

WHEREAS, the first stage of an enforcement action brought under chapter 15.18 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, the City Council desires to eliminate any administrative appeal of a Notice of Violation for violation of the codes included in Title 15 which subject the violator to criminal prosecution; 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 violation of the codes included in Title 15 which subject the violator to civil prosecution; Now, therefore,

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

Section 1. Section 15.18.014 of the Gig Harbor Municipal Code is hereby amended to read as follows:

15.18.014 Review by hearing examiner.

A. Notice of Violation (criminal penalties). There is no administrative appeal of a notice of violation issued pursuant to GHMC § 15.18.006 for a violation of the codes in this Title which subject the violator to criminal prosecution.

B. Notice of Violation (civil penalties). Any person significantly affected by or interested in a notice of violation issued by the building official pursuant to GHMC 15.18.006 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.

~~C.~~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 25 th day of October, 1999.

CITY OF GIG HARBOR

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: 10/6/99
PASSED BY THE CITY COUNCIL: 10/25/99
PUBLISHED: 11/03/99
EFFECTIVE DATE: 11/08/99