

## **ORDINANCE NO. 817**

**AN ORDINANCE OF THE CITY OF GIG HARBOR, RELATING TO CONCURRENCY AND IMPACT FEES, SETTING FORTH THE DEFINITIONS TO BE USED FOR BOTH THE CITY'S CONCURRENCY ORDINANCE (CHAPTER 19.10 GHMC) AND THE TRANSPORTATION IMPACT FEE ORDINANCE (CHAPTER 19.12 GHMC) ADDING A NEW CHAPTER 19.14 TO THE GIG HARBOR MUNICIPAL CODE.**

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WHEREAS, the City is required by law to adopt a Concurrency Ordinance for transportation facilities; and

WHEREAS, the City is authorized by RCW 82.02.050 through 82.02.100 to impose impact fees on development activities by ordinance; and

WHEREAS, the City Council will consider Concurrency and Transportation Impact Fee Ordinances for adoption; and

WHEREAS, the definitions in this ordinance relate to the Concurrency and Transportation Impact Fee Ordinances;

NOW, THEREFORE, THE GIG HARBOR CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. A new chapter 19.14 shall be added to the Gig Harbor Municipal Code, to read as follows:

### **CONCURRENCY AND IMPACT FEE DEFINITIONS**

**Definitions.** The following words and terms shall have the following meanings for the purpose of chapter 19.10 GHMC, the Concurrency Ordinance, and chapter 19.\_\_\_\_ GHMC, the Transportation Impact Fee Ordinance, unless the context clearly appears otherwise. Terms otherwise not defined herein shall be given the meaning set forth in RCW 82-02-090, or given their usual and customary meaning,

1. "Act:" The Growth Management Act, Chapter 36.70A RCW, or as hereinafter amended.

2. "Adequate public facilities:" Facilities which have the capacity to serve development without decreasing levels of service below locally established minimums.

3. "Approving Authority: " The City employee, agency or official having authority to issue the approval or permit for the Development Activity involved.

4. "Annual Capacity Availability Report:" The report prepared each year to include available and reserved capacity for each public facility, and identifying those proposed and planned capital improvements for each public facility that will correct deficiencies or improve levels of service; a summary of development activity a summary of current levels of service and recommendations.

5. "Available public facilities." Facilities are in place, or a financial commitment has been made to provide the facilities, within six years.

6. "Capacity:" The ability of a public facility to accommodate users, expressed in an appropriate unit of measure, such as average daily trip ends within the LOS standards for the facility.

7. "Capacity, Available:" Capacity in excess of current demand ("Used Capacity") for a specific public facility which can be encumbered, reserved, or committed or the difference between capacity and current demand ("Used Capacity")

8. "Capacity, Reserved: " Capacity which has been reserved through use of the capacity reservation certificate process in chapter 19. 10 GHMC.

9. "Capacity, Encumbered:" A reduction in the available capacity resulting from issuance of a capacity reservation certificate or that portion of the available capacity.

10. "Capacity Evaluation:" The evaluation by the Director based on adopted LOS standards to ensure that public facilities and services needed to support development are available concurrent with the impacts of such development, as defined in chapter 19.10 or chapter 19.12 GHMC.

11. "Capacity Reservation Certificate:" means a determination made by the Director that (1) a proposed development activity or development phase will be concurrent with the applicable facilities at the time the CRC is issued: and (2) the Director has reserved road capacity for an application for a period that corresponds to the respective developmental permit.

12. "Capital Facilities:" The facilities or improvements included in a capital facilities plan.

13. "Capital Facilities Plan: " The capital facilities plan element of the City's comprehensive plan adopted pursuant to Chapter 36.70A RCW and RCW 36.70A.070, and any amendments to the plan.

14. "Change of Use:" For the purposes of this Title, any change, redevelopment or modification of use of an existing building or site, which meets the definition of "Development Activity" herein.

15. "City:" The City of Gig Harbor, Washington.
16. "Comprehensive land use plan" or "comprehensive plan:" A generalized coordinated land use policy statement of the City Council, adopted pursuant to Chapter 36.70A RCW.
17. "Concurrent with Development:" means that strategies or improvements are in place at the time of development or that a financial commitment is in place to complete the improvements or strategies within six (6) years. See RCW 36.70A.090(6).
18. "Council:" the City Council of the City of Gig Harbor.
19. "County:" Pierce County, Washington.
20. "Dedication:" Conveyance of land to the City for public facility purposes by deed, other instrument of conveyance or by dedication, on a duly filed and recorded plat or short plat.
21. "Demand management strategies:" Strategies aimed at changing travel behavior rather than at expanding or improving the transportation network to meet travel demand. Such strategies can include the promotion of work hour changes, ride-sharing options, parking policies and telecommuting.
22. "Department:" The Public Works Department of the City of Gig Harbor.
23. "Developer:" Any person or entity who makes application or receives a development permit or approval for any development activity as defined herein.
24. "Development Activity" or "Development:" Any construction or expansion of a building, structure, or use, any change in the use of a building or structure, or any changes in the use of the land that creates additional demand for public facilities (such as a change which results in an increase in the number of vehicle trips to and from the property, building or structure) and requires a development permit from the City.
25. "Development Agreement:" The agreements authorized in RCW 36.70B.210 and Concurrency Resolution Agreements, as described in chapter 19.10 of the Gig Harbor Municipal Code Sections.
26. "Development Permit" or "project permit:" Any land use permit required by the City for a project action, including but not limited to: building permits, subdivisions, short plats, binding site plans, planned unit developments, conditional use, shoreline substantial developments, site plan review, or site specific rezones, and, for purposes of the City's Concurrency Ordinance, shall include applications for amendments to the City's comprehensive plan which request an increase in the extent or density of development on the subject property.

27. "Director: " The Director of the Gig Harbor Public Works Department or his/her authorized designee.

28. "Existing Use:" Development which physically exists or for which the owner holds a valid building permit as of the effective date of this ordinance.

29. "Encumbered:" To reserve, set aside or otherwise earmark the impact fees in order to pay for commitments, contractual obligations or other liabilities incurred for public facilities.

30. "Fair Market Value:" The price in terms of money that a property will bring in a competitive and open market under all conditions of a fair sale, the buyer and seller each being prudently knowledgeable, and assuming the price is not affected by undue stimulus.

31. "Feepayer:" A person, corporation, partnership, an incorporated association, or department or bureau of any governmental entity, or any other similar entity, commencing a land development activity. "Feepayer" includes applicants for an impact fee credit.

32. "Financial commitment:" Those sources of public or private funds or combinations thereof that have been identified as sufficient to finance public facilities necessary to support development and that there is reasonable assurance that such funds will be timely put to that end.

33. "Growth-Related:" A Development Activity as defined herein that increases the level of service of a public facility.

34. "Impact Fee:" The amount of money determined necessary by the City and imposed upon new development activity as a condition of development approval or permitting to pay for public facilities needed to serve new growth and development, and that is reasonably related to the new development that creates the additional demand and need for public facilities proportionate to the development's share of the cost of the public facilities and that is used for facilities that reasonably benefit the new development. "Impact fee" does not include a reasonable permit or application fee.

35. "Impact Fee Account(s)" or "Account(s):" The account(s) established for each type of public facilities for which impact fees are collected. The Accounts shall be established pursuant to Section 8 of this title, and comply with the requirements of RCW 82.02.070.

36. "Impact Fee Schedule;" " The table of impact fees per unit of development, which is to be used by the Director in computing impact fees.

37. "Interest: " The interest rate earned by the City for the impact fee account, if not otherwise defined.

38. "Interlocal Agreement" or "Agreement:" The transportation impact fee interlocal agreement by and between the City and the County, and the transportation impact fee interlocal agreement by and between the City and the State concerning the collection and allocation of road

impact fees as authorized in Sections 4 and 5 herein, or any other interlocal agreement entered by and between the City and another municipality, public agency or governmental body to implement the provisions of this title.

39. "Level of Service" or "LOS:" An established minimum functional level of public facilities that must be provided per unit of demand or other appropriate measure of need.

40. "Owner:" The owner of record of real property, although when real property is being purchased under a real estate contract, the purchaser shall be considered the owner of the real property if the contract is recorded.

41. "Previous Use:" (a) The use existing on the site when a capacity evaluation is sought; or (b) The most recent use on the site, within the five (5) year period prior to the date of application.

42. "Project:" A System Improvement, selected by the Gig Harbor City Council for joint private and public funding pursuant to this ordinance and which appears on the Project List.

43. "Project Improvements: " Site improvements and facilities that are planned and designed to provide service for a particular development or users of the project, and are not system improvements. No improvement or facility included in a capital facilities plan approved by the Council shall be considered a project improvement.

44. "Project List:" The list of Projects described in the City's annual and 6-Year Capital Improvement Program and as developed pursuant to the City's impact fee ordinance.

45. "Proportionate Share: That portion of the cost of public facility improvements that are reasonably related to demands and needs of new development.

46. "Road:" A right-of-way which affords the principal means of access to abutting property, including an avenue, place, way, drive, lane, boulevard, highway, street, and other thoroughfare, except an alley.

47. "Road facilities:" Includes public facilities related to land transportation.

48. "Service Area:" A geographic area defined by the City or interlocal agreement, in which a defined set of public facilities provide service to development in the area.

49. "State: " The State of Washington.

50. "Subdivision: " All subdivisions as defined in Gig Harbor Municipal Code Title 16, and all short subdivisions as defined in Title 16, which are subject to SEPA Chapter 42.21C RCW and the Gig Harbor SEPA Ordinance, Title 18.

51. "System Improvements: " Public facilities that are included in Gig Harbor's capital facilities plan and are designed to provide service to areas within the City and community at large, in contrast to Project or On-site Improvements.

52. "Traffic Analysis Zone:" The minimum geographic unit used for traffic analysis.

53. "Transportation Primary Impact Area: " A geographically determined area that delineates the impacted area of a deficient roadway link.

54. "Transportation level of service standards:" As measure which describes the operational condition of the travel stream and acceptable adequacy requirement.

55. "Transportation Management Area:" A geographically determined area that contains compact urban development patterns where a dense roadway network and extensive mass transit services are in place. The performance of these areas shall be based on the percentage of lane miles meeting the adopted LOS standards as described in this Ordinance.

56. "Traffic Demand Model:" Describes the simulation through computer modeling of vehicle trip ends assigned on the roadway network.

57. "Trip Allocation Program:" The program established to meter trip ends to new development annually by Service Area and traffic analysis zone to ensure that the City is maintaining adopted LOS standards.

58. "Trip End: " A single or one-directional vehicle movement.

59. "Unit" or "Dwelling Unit:" A dwelling unit as defined in Gig Harbor Municipal Code Section 17.04.320.

**Section 2. Severability.** If any portion, sentence or clause of this ordinance is found by a court of competent jurisdiction to be invalid or unenforceable for any reason, such finding shall not affect the validity or enforceability of any other portion, sentence or clause

**Section 3. Effective Date.** This ordinance shall be in full force and effect five (5) days after its passage and publication of a summary, as required by law.

APPROVED:

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Mayor Gretchen A. Wilbert

AUTHENTICATED:

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Molly M. Towslee, City Clerk

APPROVED AS To FORM:

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Carol A. Morris, City Attorney

FILED WITH THE CITY CLERK: 5/5/99  
PASSED BY THE CITY COUNCIL: 5/24/99  
PUBLISHED: 6/2/99  
EFFECTIVE DATE: 6/7/99

**SUMMARY OF ORDINANCE NO. 817  
of the City of Gig Harbor, Washington**

On May 24, 1999, the City Council of the City of Gig Harbor, Washington, approved Ordinance No. 817, the summary of text of which is as follows:

**AN ORDINANCE OF THE CITY OF GIG HARBOR, RELATING TO CONCURRENCY AND IMPACT FEES, SETTING FORTH THE DEFINITIONS TO BE USED FOR BOTH THE CITY'S CONCURRENCY ORDINANCE (CHAPTER 19.10 GHMC) AND THE TRANSPORTATION IMPACT FEE ORDINANCE (CHAPTER 19.12 GHMC) ADDING A NEW CHAPTER 19.14 TO THE GIG HARBOR MUNICIPAL CODE.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GIG HARBOR:

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

APPROVED by the City Council at their regular meeting of May 24, 1999.

BY: \_\_\_\_\_  
Molly M. Towslee, City Clerk