

## **ORDINANCE NO. 752**

**AN ORDINANCE OF THE CITY OF GIG HARBOR, RELATING TO NEW DEFINITIONS FOR COMMERCIAL BUILDING OR STRUCTURE, AMENDING THE DEFINITION FOR DRIVE-IN RESTAURANT, RESTORING DEFINITIONS FOR LAND CLEARING AND TREES, ADDING A DEFINITION FOR CONTRACTOR'S YARD, CLARIFYING THE TERM "REMOVAL OF TREES" RESPECTIVE TO THE USE OF MACHINERY IN SECTION 17.94.050 AND ELIMINATING THE REQUIREMENT THAT STATE DEPARTMENT OF NATURAL RESOURCES PERSONNEL VERIFY THE EXTENT OF DISEASED TREES AND PERMITTING LOCAL EXPERTS TO MAKE THIS DETERMINATION; ADDING NEW SECTIONS 17.04.261, 17.04.245, 17.04.433, 17.04.805; AND AMENDING SECTIONS 17.04.285 AND 17.94.050 OF THE GIG HARBOR MUNICIPAL CODE.**

WHEREAS, Title 17 of the Gig Harbor Municipal Code was amended in January of 1996 and established floor area maximums for commercial buildings; and,

WHEREAS, chapter 17.04 of the Gig Harbor Municipal Code provides definitions for structure but does not define a commercial structure or building; and,

WHEREAS, the code definition of "drive-in" restaurant should be more definitive to include "drive-through" facilities; and,

WHEREAS, clarification of what constitutes a commercial structure and a "drive-in" restaurant would eliminate any ambiguity as to the application of performance standards for these types of structures and facilities; and,

WHEREAS, there is a need for a defintion for "contractor's yards"; and,

WHEREAS, the definitions for land clearing and tree was inadvertently eliminated from chapter 17.04 during the last code update and restoring these definitions provides clarity in the administration of chapter 17.94 (Land Clearing).

WHEREAS, the exemptions for land clearing under section 17.94.050 are in need of clarification as to the specific nature for the term "removal of trees" and to delete the requirement for Department of Natural Resources personnel to verify the nature and extent of diseased trees and to permit qualified local experts to make this determination.

**THE CITY COUNCIL OF THE CITY OF GIG HARBOR DO ORDAIN AS FOLLOWS:**

Section 1) A new section 17.04.261 is hereby added to the Gig Harbor Municipal Code: 17.04.261 Contractor's yard. Contractor's yard is an outdoor storage area used for the storage of equipment or machinery typically used in the construction trades industry.

Section 2) A new section 17.04.245 is hereby added to the Gig Harbor Municipal Code: 17.04.245 Commercial building/structure. Commercial building/structure refers to a type of structure or portion of a structure which is used primarily for wholesale or retail sale or trade of products not manufactured on the site. Professional services (17.04.680) and manufacturing (17.04.436) are excluded from this definition.

Section 3) A new section 17.04.433 is hereby added to the Gig Harbor Municipal Code: 17.04.433 Land clearing. Land clearing means the act of removing or destroying trees or groundcover from any undeveloped or partially developed land, public lands, or public right-of-way, except for those Forest practices covered under Chapter 76.09 RCW.

Section 4) A new section 17.04.805 is hereby added to the Gig Harbor Municipal Code: 17.04.805 Tree. A tree shall mean any living woody plant characterized by one main stem or trunk and many branches, and which has a minimum diameter of six (6) inches as measured 54 inches above the ground.

Section 5) Section 17.04.285 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.04.285 "Drive-in restaurant" means any eating food or beverage service establishment that contains the following characteristics:

- A. An outside drive-through service window; and or,
- B. The provision of services to patrons who are in automobiles on the premises of the eating establishment.

Section 6) Section 17.94.050 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.94.050 The following shall be exempt from the provisions of this chapter:

- A. Type III project permit applications as defined in GHMC Title 19, as now or hereafter amended; provided, that land clearing on such projects shall take place only after approval by the city and shall be in accordance with such approval;
- B. The installation and maintenance of fire hydrants, water meters, and pumping stations, and street furniture by the city or its contractors;
- C. Removal of trees and ground cover in emergency situations involving immediate danger to life or property or substantial fire hazards;
- D. Removal of diseased, dead or dying ground cover or trees upon written verification by

~~Department of Natural Resources a qualified arborist or landscape architect or landscape contractor which states that removal of the trees is essential for the protection of life, limb or property and which statement is filed with the code official;~~

E. Selective cutting or removal of trees or ground covers for purposes of general property and utility maintenance, landscaping or gardening; provided, that this exemption shall not apply to any land clearing which eliminates both trees and ground cover from 25 percent of the area of a lot or parcel of land; ~~provided further, that said exemption shall not apply to cutting or removal~~ which includes the use of a bulldozer, ~~skidder, backhoe~~ or similar mechanical equipment ~~for the purpose of cutting or removing of standing timber and the stacking or loading of trees or timber.~~ ~~and This~~ shall not be construed to eliminate the requirement of permits for land clearing for the purpose of developing the property with substantial permanent improvements such as roads, parking, driveways, utilities, or buildings.

**Section 7) 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 8) Effective Date.** This ordinance shall take effect and be in full force five (5) days after publication of an approved summary consisting of the title.

APPROVED:

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MAYOR GRETCHEN A. WILBERT

ATTEST/AUTHENTICATED:

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CITY ADMINISTRATOR, MARK HOPPEN

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY \_\_\_\_\_

FILED WITH THE CITY CLERK:	March 6, 1997
PASSED BY THE CITY COUNCIL:	March 24, 1997
PUBLISHED:	April 2, 1997
EFFECTIVE DATE:	April 7, 1997

## **SUMMARY OF ORDINANCE NO. 752**

of the City of Gig Harbor, Washington

On the March 24, 1997, the City Council of the City of Gig Harbor, passed Ordinance No. 752. A summary of the content of said ordinance, consisting of the title, provides as follows:

**AN ORDINANCE OF THE CITY OF GIG HARBOR, RELATING TO NEW DEFINITIONS FOR COMMERCIAL BUILDING OR STRUCTURE, AMENDING THE DEFINITION FOR DRIVE-IN RESTAURANT, RESTORING DEFINITIONS FOR LAND CLEARING AND TREES, ADDING A DEFINITION FOR CONTRACTOR'S YARD, CLARIFYING THE TERM "REMOVAL OF TREES" RESPECTIVE TO THE USE OF MACHINERY IN SECTION 17.94.050 AND ELIMINATING THE REQUIREMENT THAT STATE DEPARTMENT OF NATURAL RESOURCES PERSONNEL VERIFY THE EXTENT OF DISEASED TREES AND PERMITTING LOCAL EXPERTS TO MAKE THIS DETERMINATION; ADDING NEW SECTIONS 17.04.261, 17.04.245, 17.04.433, 17.04.805; AND AMENDING SECTIONS 17.04.285 AND 17.94.050 OF THE GIG HARBOR MUNICIPAL CODE.**

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

DATED this 25th day of March, 1997.

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CITY ADMINISTRATOR, MARK HOPPEN