

**CITY OF GIG HARBOR,  
GIG HARBOR, WASHINGTON**

**ORDINANCE NO. 1392**

**AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON,  
ESTABLISHING THE GIG HARBOR TRANSPORTATION BENEFIT  
DISTRICT AND SPECIFYING THAT THE BOUNDARIES OF THE  
DISTRICT WILL COINCIDE WITH CITY BOUNDARIES; PROVIDING  
FOR SEVERABILITY; DECLARING AN EMERGENCY AND  
ESTABLISHING AN IMMEDIATE EFFECTIVE DATE.**

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WHEREAS, RCW 35.21.225 authorizes the legislative authority of a city to establish a transportation benefit district, for the purpose of acquiring, constructing, improving, providing, and funding transportation improvements within the district, subject to the provisions of Chapter 36.73 RCW; and

WHEREAS, Chapter 36.73 RCW defines transportation improvements to include projects contained in the transportation plan of a city, including the investment in new or existing arterials of regional significance and other transportation projects of regional or statewide significance; and

WHEREAS, the City of Gig Harbor has adopted a six-year Transportation Improvement Program, which is updated annually and sets out the City's transportation funding needs and priorities; and

WHEREAS, the City can most effectively complete the adopted Transportation Improvement Program if it works in conjunction with a transportation benefit district; and

WHEREAS, the City Council desires to form a transportation benefit district which includes the entire City of Gig Harbor as the boundaries currently exist or as they may exist following future annexations in order to construct capital improvement projects to improve traffic flow and ease congestion for motorized travel; and

WHEREAS, the City's transportation infrastructure is in need of immediate improvement and upgrade to relieve traffic congestion that has increased rapidly in the last several years, and immediate establishment of a transportation benefit district would allow a transportation benefit district to place a proposition for necessary funding on the November 2018 ballot; and

WHEREAS, the City provided notice of and conducted a public hearing on July 9, 2018, regarding the proposed establishment of a transportation benefit district in accordance with Chapter 36.73 RCW; and

WHEREAS, on July 9, 2018, the City Council held the public hearing and after

considering the staff presentation and public testimony determined than an emergency exists which necessitates that this ordinance be enacted immediately, with an affirmative vote of a majority plus one of the entire council, as authorized in RCW 35A.12.130; Now, therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DO  
ORDAIN AS FOLLOWS:

Section 1. Findings. The City Council finds as follows:

A. It is in the public interest to construct a transportation system with safe and efficient transportation infrastructure.

B. It is in the public interest to form a citywide Transportation Benefit District to provide funding for transportation improvements related to motorized vehicle travel to improve traffic flow and ease congestion, consistent with existing state, regional and local transportation plans, as provided in Chapter 36.73 RCW.

Section 2. Formation of a Transportation Benefit District. The City, pursuant to RCW 35.21.225 and Chapter 36.73 RCW, hereby establishes and creates a transportation benefit district to be known and referred to as the Gig Harbor Transportation Benefit District, subject to the following:

A. Establishment of the Gig Harbor Transportation Benefit District; General Authority. There is hereby created the Gig Harbor Transportation Benefit District with geographical boundaries comprised of the corporate limits of the City, as those boundaries now exist and as they may be adjusted in the future. The Gig Harbor Transportation Benefit District shall be a quasi-municipal corporation and an independent taxing "authority" within the meaning of Article VII, section 1 of the Washington State Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the Washington State Constitution. The Gig Harbor Transportation Benefit District shall constitute a body corporate and possess all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, to acquire, hold, and dispose of real and personal property, and to sue and be sued. Public works contract limits applicable to the City of Gig Harbor shall apply to the District.

B. Powers and Operations of the Gig Harbor Transportation Benefit District.

1. Except as limited by this ordinance, the Gig Harbor Transportation Benefit District shall possess all of the powers of a transportation benefit district authorized pursuant to Chapter 36.73 RCW, including without limitation, the power to impose a vehicle fee as allowed by RCW 82.80.140 and request voter approval of, and thereafter impose and collect, a sales and use tax in accordance with RCW 82.14.0455, and an excess vehicle fee as allowed by RCW 82.80.140. The District may impose an ad

valorum tax pursuant to RCW 36.73.060, contract for street and highway improvements, and for its operations, exercise the power of eminent domain in the same manner as authorized for the City, and accept and use gifts and grants. The District may not use Transportation Benefit District funds as a pledge or security for any bonds or other financing.

2. Consistent with RCW 36.73.020(4), the secretary/treasurer of the Gig Harbor Transportation Benefit District shall be the City Finance Director. As such, the Finance Director shall establish those funds and accounts on behalf of the Gig Harbor Transportation Benefit District as required and shall disburse funds and pay claims as approved by the governing board and prepare and maintain such accounts as appropriate and/or required by state or federal law.

3. The City Attorney will serve as legal advisor to the governing board, except where separate counsel is engaged by the Gig Harbor Transportation Benefit District.

4. Other City employees shall carry out the operations of the Gig Harbor Transportation Benefit District as agreed by the District and the City. Such employees and the contracts of the Gig Harbor Transportation Benefit District shall be overseen and administered by the Mayor and/or designee.

5. The Gig Harbor Transportation Benefit District may contract with the City for operations, services and materials, office space and equipment, and to undertake and/or fund transportation improvements undertaken jointly or by one entity or the other.

C. Governing Board.

1. Consistent with RCW 36.73.020(3), the governing board of the Gig Harbor Transportation Benefit District shall be the members of Gig Harbor City Council acting in an ex officio and independent capacity. The governing board shall have the authority to exercise the statutory powers set forth in Chapter 36.73 RCW and other applicable provisions of Washington State law except as limited by this ordinance. The governing board shall also include a Chair, who shall be the City's Mayor and whom shall have those duties, rights and obligations of a Mayor as set forth in RCW 35A.12.100.

2. To carry out the purposes of this ordinance, and subject to the provisions of Chapter 36.73 RCW, the governing board is authorized to impose the following taxes, fees, charges, and tolls:

- i. A sales and use tax in accordance with RCW 82.14.0455;
- ii. A vehicle fee in accordance with RCW 82.80.140;
- iii. A fee or charge in accordance with RCW 36.73.120; and
- iv. A property tax as provided in RCW 36.73.060.

3. As required by RCW 36.73.160(1), as the same may be amended from time to time, the governing board shall develop a material change policy to address

major plan changes that affect project delivery or the ability to finance the plan for funding and implementing of transportation improvements by the District.

D. Meetings. Meetings of the governing board shall be governed by the procedural rules applicable to meetings of the City Council, as those rules may be amended by the City Council from time to time. Board actions shall be taken by motion or resolution in the same manner and following the same procedure as for the adoption of City Council resolutions. Meetings of the governing board shall, whenever possible, take place on the same dates scheduled for City Council meetings; provided, that the Gig Harbor Transportation Benefit District meeting shall take place pursuant to its own agenda during a recess or otherwise outside of any regular business meeting or special meeting of the City Council. Board meetings shall comply with the state Open Public Meetings and Public Records Acts and the officials of the Gig Harbor Transportation Benefit District shall be subject to Chapter 42.23 RCW, Code of Ethics for Municipal Officers-Contract Interests; provided, that the fact that governing board members and officials and Council members and City officials are simultaneously employed by both entities shall not be deemed a conflict of interest where the Gig Harbor Transportation Benefit District and City are parties to contracts and/or agreements.

E. Transportation Improvements Funded.

1. Any fee or tax may only be imposed after approval by a majority of the voters in the District at an election to take place in November. In the event the subject matter is outside the scope of a ballot proposition because the power is vested in the governing board under RCW 36.73.065(4), the question of adopting the fee shall first be submitted to voters in the District as an advisory measure at a November election.

2. The funds generated by the Gig Harbor Transportation Benefit District are intended to be used for a variety of projects to improve traffic flow and ease congestion for vehicles. Such funds shall be used for construction projects described in the City of Gig Harbor's Transportation Improvement Program related to improvements for motorized travel. If a project includes improvements for both motorized and non-motorized travel, the funds may only be used toward the project element related to motorized travel. At no time shall funds generated by the Gig Harbor Transportation District be used to contract for maintenance of transportation infrastructure. The Gig Harbor Transportation Benefit District projects may be amended in accordance with the material change policy described in Section 2(C) of this ordinance and in accordance with the notice, hearing and other procedures described in chapter 36.73 RCW, including RCW 36.73.050(2)(b), as the same may be amended from time to time.

F. Annual Report to the Public. As required by RCW 36.73.160(2), as the same may be amended from time to time, the Gig Harbor Transportation Benefit District shall issue an annual report, indicating the status of transportation improvement costs, transportation improvement expenditures, revenues, and construction schedules, to the public and to newspapers of record in the district.

G. Dissolution of the Gig Harbor Transportation Benefit District. The Gig Harbor Transportation Benefit District shall be dissolved pursuant to the procedures set forth in chapter 36.73 RCW, when all indebtedness, if any, of the district has been retired and when all of the district's anticipated responsibilities have been satisfied.

Section 3. Severability; Construction. If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are found to be inconsistent with the provisions of the Gig Harbor Municipal Code, this ordinance is deemed to control. This ordinance shall be liberally construed to permit the accomplishment of the Gig Harbor Transportation Benefit District's purposes and objections.

Section 4. Authority to make necessary corrections. The City Clerk is authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 5. Declaration of Emergency. The Gig Harbor City Council hereby finds and declares that an emergency exists which necessitates that this ordinance become effective immediately in order to preserve the public health, safety and welfare.

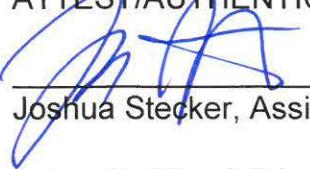
Section 6. Effective Date. This ordinance shall take effect and be in full force immediately in order to preserve the public health, safety and welfare.

PASSED by no less than a majority plus one of the entire City Council and APPROVED by the Mayor this 9th day of July, 2018.

CITY OF GIG HARBOR

  
\_\_\_\_\_  
Mayor Kit Kuhn

ATTEST/AUTHENTICATED:

  
\_\_\_\_\_  
Joshua Stecker, Assistant City Clerk

APPROVED AS TO FORM:  
Office of the City Attorney

  
\_\_\_\_\_  
Angela G. Summerfield

FILED WITH THE CITY CLERK: 06/27/18  
PASSED BY THE CITY COUNCIL: 07/09/18  
PUBLISHED: 07/12/18  
EFFECTIVE DATE: 07/09/18  
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