

AN ORDINANCE ADOPTING THE MODEL ORDINANCE FOR USE IN INTEGRATION OF SEPA GUIDELINES.

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

Section 1. Policies and authority. The Town of Gig Harbor hereby adopts by reference the policies of the State Environmental Policy Act as expressed in RCW 43.21C.010 and RCW 43.21C.020.

Section 2. Adoption by reference. The Town hereby adopts by reference the following sections or subsections of chapter 197-10 of the Washington Administrative Code (the "SEPA Guidelines" adopted by the state of Washington, council on environmental policy) and amended by the state of Washington, department of ecology

- WAC 197-10-040: Definitions.
- WAC 197-10-060: Scope of a proposal and its impacts.
- WAC 197-10-160: No presumption of significance for nonexempt actions.
- WAC 197-10-170: Categorical exemptions.
- WAC 197-10-175: Exemptions and nonexemptions applicable to specific state agencies.
- WAC 197-10-180: Exemptions for emergency actions.
- WAC 197-10-200: Lead agency--Responsibilities.
- WAC 197-10-203: Determination of lead agency--Procedures.
- WAC 197-10-205: Lead agency designation--Governmental proposals.
- WAC 197-10-210: Lead agency designation--Proposals involving both private and public construction.
- WAC 197-10-215: Lead agency designation--Private projects for which there is only one agency.
- WAC 197-10-220: Lead agency designation--Private projects, licenses from more than one agency when one is city/county.
- WAC 197-10-225: Lead agency designation--Private projects, license from more than one state agency.
- WAC 197-10-230: Lead agency designation--Specific proposals.
- WAC 197-10-235: Local agency transfer of lead agency status to a state agency.
- WAC 197-10-240: Agreements as to lead agency status.
- WAC 197-10-245: Agreements between agencies as to division of lead agency duties..
- WAC 197-10-260: Dispute as to lead agency determination--Resolution by CEP.
- WAC 197-10-270: Assumption of lead agency by another agency with jurisdiction.
- WAC 197-10-300: Threshold determination requirement.
- WAC 197-10-305: Recommended timing for threshold determination.
- WAC 197-10-310: Threshold determination procedures--Environmental checklist.
- WAC 197-10-320: Threshold determination procedures--Initial review of environmental checklist.
- WAC 197-10-330: Threshold determination procedures--Information in addition to checklist.
- WAC 197-10-340: Threshold determination procedures--Negative declarations.

WAC 197-10-831: Responsibilities of agencies. SEPA public information.
WAC 197-10-840: Application of agency guidelines to ongoing actions.
(Statutory Authority: RCW 43.21C.130)

Section 3. Additional definitions. In addition to those definitions contained within WAC 197-10-040, the following terms shall have the following meanings, unless the context indicates otherwise:

- (1) "Department" means any division, subdivision, or organizational unit of the Town of Gig Harbor established by ordinance, rule or order.
- (2) "SEPA Guidelines" means chapter 197 10 WAC adopted by the council on environmental policy and amended by the department of ecology.
- (3) "Town" means the Town of Gig Harbor.
- (4) "Mayor" means the mayor of the Town of Gig Harbor.

Section 4. Time limits applicable to the SEPA process. The following time limits (expressed in calendar days) shall apply to the processing of all private projects and to those governmental proposals submitted to the Town of Gig Harbor by other agencies.

(1) Threshold Determinations.

(a) Threshold determinations which can be made based upon review of the environmental checklist submitted by the applicant should be completed within fifteen (15) days of submission of an adequate application and the completed checklist.

(b) Threshold determinations requiring further information from the applicant or consultation with other agencies with jurisdiction should be completed within fifteen (15) days of receiving the requested information from the applicant or the consulted agency requests by the Town of Gig Harbor for such further information should be made within fifteen (15) days of the submission of an adequate application and completed checklist; when a request for further information is submitted to a consulted agency, the Town of Gig Harbor shall wait a maximum of thirty (30) days for the consulted agency to respond.

(c) Threshold determinations which require that further studies, including field investigations, be initiated by the Town of Gig Harbor should be completed within thirty (30) days of submission of an adequate application and completed checklist.

(d) The time limits set forth in this subsection shall not apply to withdrawals of affirmative and negative threshold determinations where such withdrawals are made in accordance with section _____ WAC 197.10.370 and WAC 197.10.375.

(e) When a threshold determination is expected to require more than fifteen (15) days to complete and a private applicant requests notification of the date when a threshold determination will be made, the lead agency shall transmit to the private applicant a written statement as to the expected date of decision.

Section 5. Environmentally sensitive areas.

(1) Environmentally sensitive areas shall be designated by resolution of the Town Council pursuant to the standards of WAC 197-10-177. Maps designating such areas, together with the exemptions from those listed in WAC 197-10-177(2) which are inapplicable in such area, shall be filed with the Town building department and shall have full force and effect of law as of the date of filing.

(2) Major actions which will be located wholly or partially within an environmentally sensitive area are to be treated no differently than other

WAC 197-10-345: Assumption of lead agency status by another agency with jurisdiction--Prerequisites, effect and form of notice.

WAC 197-10-350: Affirmative threshold determinations.

WAC 197-10-355: Form of Declaration of significance/nonsignificance.

WAC 197-10-360: Threshold determination criteria--Application of environmental checklist.

WAC 197-10-365: Environmental checklist.

WAC 197-10-370: Withdrawal of affirmative threshold determination.

WAC 197-10-375: Withdrawal of negative threshold determination.

WAC 197-10-390: Effect of threshold determination by lead agency.

WAC 197-10-400: Duty to begin preparation of a draft EIS.

WAC 197-10-410: Pre draft consultation procedures.

WAC 197-10-425: Organization and style of a draft EIS.

WAC 197-10-440: Contents of a draft EIS.

WAC 197-10-442: Special considerations regarding contents of an EIS.

WAC 197-10-444: List of elements of the environment.

WAC 197-10-450: Public awareness of availability of draft EIS.

WAC 197-10-455: Circulation of the draft EIS Review period.

WAC 197-10-460: Specific agencies to which draft EIS shall be sent.

WAC 197-10-465: Agencies possessing environmental expertise.

WAC 197-10-470: Costs to the public for reproduction of environmental documents.

WAC 197-10-480: Public hearing on a proposal
When required.

WAC 197-10-485: Notice of public hearing on environmental impact of the proposal.

WAC 197-10-490: Public hearing on the proposal--Use of environmental document.

WAC 197-10-495: Preparation of amended or new draft EIS.

WAC 197-10-500: Responsibilities of consulted agencies--Local agencies.

WAC 197-10-510: Responsibilities of consulted agencies--State agencies with jurisdiction.

WAC 197-10-520: Responsibilities of consulted agencies--State agencies with environmental expertise.

WAC 197-10-530: Responsibilities of consulted agencies--When pre-draft consultation has occurred.

WAC 197-10-535: Cost of performance of consulted agency responsibilities.

WAC 197-10-540: Limitations on responses to consultation.

WAC 197-10-545: Effect of no written comment.

WAC 197-10-550: Preparation of the final EIS--Time period allowed.

WAC 197-10-570: Preparation of final EIS. When no critical comments received on the draft EIS.

WAC 197-10-580: Preparation of the final EIS. Contents. When critical comments received on draft EIS.

WAC 197-10-600: Circulation of the final EIS.

WAC 197-10-650: Effect of an adequate final EIS prepared pursuant to NEPA.

WAC 197-10-652: Supplementation by a lead agency of an inadequate final NEPA EIS.

WAC 197-10-660: Use of a previously prepared EIS for a different proposed action.

WAC 197-10-690: Use of a lead agency's EIS by other acting agencies for the same proposal.

WAC 197-10-695: Draft and final supplements to a revised EIS.

WAC 197-10-700: No action for seven days after publication of the final EIS.

WAC 197-10-710: EIS combined with existing planning and review process

major actions under these guidelines. A threshold determination shall be made for all such actions, and an EIS shall not be automatically required for a proposal merely because it is proposed for location in an environmentally sensitive area.

(3) Certain exemptions do not apply on lands covered by water, and this remains true regardless of whether or not lands covered by water are major

Section 6. Use of exemptions.

(1) The applicability of the exemptions shall be determined by the responsible official. A determination by the responsible official that a proposal is exempt shall be final and not subject to administrative review.

(2) If a proposal includes a series of actions, physically or functionally related to each other, some of which are exempt and some of which are not, the proposal is not exempt.

(3) If the proposal includes a series of exempt actions which are physically or functionally related to each other, but which together may have a significant environmental impact, the proposal is not exempt.

(4) If it is determined that a proposal is exempt, none of the procedural requirements of these guidelines apply to the proposal. No environmental checklist shall be required for an exempt proposal.

(5) The responsible official who is determining whether or not a proposal is exempt shall ascertain the total scope of the proposal and the governmental licenses required. If a proposal includes a series of actions physically or functionally related to each other, some of which are exempt and some of which are not, the proposal is not exempt. For any such proposal, the lead agency shall be determined, even if the license application which triggers the responsible official's consideration is otherwise exempt. If the lead agency is the Town of Gig Harbor, then the responsible official shall be designated.

(6) If a proposal includes both exempt and nonexempt actions, exempt actions may be authorized with respect to the proposal prior to compliance with the procedural requirements of these guidelines subject to the following limitations:

(a) No major action (nonexempt action) shall be authorized.

(b) No action shall be authorized which will irrevocably commit the Town of Gig Harbor to approve or authorize a major action.

(c) The responsible official may withhold approval of an exempt action which would lead to modification of the physical environment, where such modifications would serve no purpose if later approval of a major action is not secured; and

(d) The responsible official may withhold approval of exempt actions which would lead to substantial financial expenditures by a private applicant which would serve no purpose if later approval of a major action is not secured.

Section 7. Lead agency determination and responsibilities.

(1) The responsible official within the Town of Gig Harbor receiving and initiating a proposal any portion of which involves a major action, shall determine the lead agency for that proposal pursuant to the criteria set forth in section WAC 197-10-205 through 197-10-270, using the procedure in WAC 197-10-203. This determination shall be made for each proposal involving a major action unless the lead agency has been previously determined, or the responsible official is aware that another agency is in the process of determining the lead agency.

(2) In those instances in which the Town of Gig Harbor is the lead agency, the responsible official of the Town of Gig Harbor shall supervise compliance with the threshold determination, and if an EIS is necessary, shall supervise preparation of the draft and final EIS.

(3) In those instances in which the Town of Gig Harbor is not the lead agency under the criteria of WAC 197-10-205 through 197-10-270, all departments of the Town of Gig Harbor subject to the limitations of WAC 197-10-390, 197-10-660, and 197-10-690 shall utilize and consider as appropriate either the declaration of nonsignificance or the final EIS of the lead agency in conjunction with the decisions of the Town of Gig Harbor on the proposal. In such instances, no Town of Gig Harbor department shall prepare or require preparation of a declaration of nonsignificance or EIS in addition to that prepared by the lead agency.

(4) In the event that the Town of Gig Harbor or any department thereof receives a lead agency determination made by another agency which does not appear to be in accord with the criteria of WAC 197-10-205 through 197-10-245 it may object thereto. Any such objection must be made and resolved within fifteen days of receipt of the determination or the Town of Gig Harbor must petition the department of ecology for a lead agency determination pursuant to WAC 197-10-260 within the fifteen day time period. Any such petition on behalf of the Town shall be initiated by the mayor of the Town of Gig Harbor.

(5) Departments of the Town of Gig Harbor are authorized to make agreements as to lead agency status pursuant to WAC 197-10-240 and 197-10-245; Provided, That any such agreement involving assumption of lead agency status by the Town of Gig Harbor will first be approved by the responsible official for the Town of Gig Harbor and that any department which will incur responsibilities as a result of any such agreement will approve the agreement.

(6) Any department making a lead agency determination for a private project shall require sufficient information from the applicant to ascertain which other agencies have jurisdiction over the proposal. (Statutory Authority: RCW 43.21C.130).

Section 8. Transfer of lead agency status to a state agency. For any proposal for a private project where the Town of Gig Harbor would be the lead agency and for which one or more state agencies have jurisdiction, the responsible official of the Town of Gig Harbor may elect to transfer the lead duties to that state agency with jurisdiction appearing first on the priority listing in WAC 197-10-225. In such event, the state agency so determined shall be the lead agency and the Town of Gig Harbor shall be an agency with jurisdiction. Transfer is accomplished by the responsible official of the Town of Gig Harbor transmitting a notice of the transfer together with any relevant information available on the proposal to the appropriate state agency with jurisdiction. The responsible official of the Town of Gig Harbor shall also give notice of the transfer to the private applicant and any other agencies with jurisdiction over the proposal. (Order DE 76-13 § 173-805-080, filed 6/8/76.)

Section 9. (1) Except as provided in WAC 197-10-300(2), a completed environmental checklist, or a copy thereof, substantially in the form provided in WAC 197-10-365 shall be filed at the same time as an application for a permit, license, certificate, or other entitlement for use not specifically exempted herein. This checklist shall be the basis for a determination by the Town of Gig Harbor as to lead agency status and if the Town of Gig Harbor

is determined to be the lead agency, then for the threshold determination.

(2) For all proposals for which the Town of Gig Harbor is the lead agency, the responsible official of the Town of Gig Harbor shall make the threshold determination pursuant to the criteria and procedures of WAC 10-300 through 197-10-365.

Section 10. Preparation of EIS (1) The draft and final EIS shall be prepared either by the responsible official or his designee or by a private applicant or a consultant retained by the private applicant. In the event the responsible official determines that the applicant will be required to prepare an EIS, the applicant shall be so notified immediately after completion of the threshold determination.

(2) In the event that an EIS is to be prepared by a private applicant or a consultant retained by the private applicant, the responsible official shall assure that the EIS is prepared in a responsible manner and with appropriate methodology. The responsible official shall direct the areas of research and examination to be undertaken, as well as the organization of the resulting document.

(3) In the event that the responsible official or his designee is preparing the EIS, the responsible official may require a private applicant to provide data and information which is not in the possession of the Town of Gig Harbor relevant to any or all areas to be covered by the EIS.

(4) No matter who participates in the preparation of an EIS, it must be approved by the responsible official prior to distribution.

(5) In all occasions of EIS preparation the applicant is encouraged to provide information to the responsible official.

Section 11. Additional elements to be covered in an EIS. The following additional elements are part of the environment for the purpose of EIS content, but do not add to the criteria for threshold determinations, or perform any other function or purpose under these rules:

- (1) Economy.
- (2) Cultural factors.
- (3) Sociological factors.

Section 12. Designation of official to perform consulted agency responsibilities for the Town of Gig Harbor.

(1) The following office shall be responsible for the preparation of written comments for the Town of Gig Harbor in response to a consultation request prior to a threshold determination, participation in predraft consultation, or reviewing a draft EIS: The office of mayor.

(2) The official designated in paragraph (1) hereof shall be responsible for compliance by the Town of Gig Harbor with WAC 197-10-500 through 197-10-540 wherever the Town of Gig Harbor is a consulted agency, and is hereby authorized to develop operating procedures which will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the Town of Gig Harbor.

Section 13. Designation of responsible official.

(1) For those proposals for which the Town of Gig Harbor is the lead agency, the responsible official shall be the mayor.

(2) The responsible official shall make the threshold determination, supervise preparation of any required EIS, and perform any other functions assigned to the "lead agency" or "responsible official" by those sections.

the SEPA guidelines which were adopted by reference in WAC 173-805-020 hereof, for all proposals for which the Town of Gig Harbor is the lead agency.

Section 14. Responsibility of agencies--SEPA public information. All documents required by the SEPA guidelines (chapter 197-10 WAC) shall be retained by the Town and made available in accordance with chapter 42.17 RCW. (Statutory Authority RCW 43.21C.130. 78 04 091(Order DE 78 6) § 173 805 121 filed 4/4/78.)

Section 15. Fees. The following fees shall be required for actions by the Town in accordance with the provisions of this ordinance:

(1) Threshold Determination: For every environmental assessment to be performed by the Town when the Town is the lead agency a fee of \$50.00 shall be required of the proponent of the proposal. This fee shall be collected prior to undertaking the threshold determination, and the time periods provided by this ordinance for making a threshold determination shall not begin to run until payment of the fee.

(2) Environmental Impact Statements.

(a) For all proposals requiring an EIS for which the Town is the lead agency and for which the responsible official determines that the EIS shall be prepared by employees of the Town, the Town shall charge and collect a reasonable fee from any applicant to cover costs incurred by the Town in the preparation of an EIS. If it is determined that an EIS is required, applicants shall be advised of projected costs of the statement prior to actual preparation and shall make a cash deposit with the Town to insure payment of such costs.

(b) The responsible official may determine that the Town will contract directly with a consultant for preparation of environmental documents for activities initiated by some persons or entity other than the Town and may bill such costs and expenses directly to the applicant. Such consultants shall be selected by mutual agreement of the Town and applicant after a call for proposals. Applicants shall be required to make a cash deposit to insure payment of such costs.

(c) The responsible official may determine that a private applicant or his agent will be responsible for the preparation of an EIS, in which case the fee for the EIS will be only the costs to the Town for action required to assure compliance with the requirements of WAC 197-10-420. A cash deposit shall be required of the applicant to insure payment of such costs.

(d) In the event that a proposal is modified so that an EIS is no longer required, the responsible official shall refund any costs collected under (a) and (b) of this subsection which were collected for costs not incurred.

(e) The fees for environmental assessments shall be deposited in the General Fund of the Town.

(3) No fee shall be collected by the Town for performing its duties as a consulted agency.

(4) The Town shall charge any person for copies of any document prepared pursuant to the requirements of this ordinance, and for mailing thereof, in a manner provided by Chapter 42.17 RCW.

Section 16. Notice/statute of limitations. (1) The Town, applicant for, or proponent of an action may public notice of action pursuant to RCW 43.21C.080 for any action.

(2) The form of the notice shall be as prescribed by the department of

ecology and/or substantially in the form and manner set forth in RCW 43 21C.080. The notice shall be published by the Town clerk.

Section 17. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance, or the application of the provision to other persons or circumstances, shall not be affected.

Section 18. This Ordinance shall take effect and be in force five (5) days from and after its passage, approval and publication, as provided by law.

PASSED THIS 13th DAY OF November, 19 78.

Steve M. Logue
Mayor, Town of Gig Harbor

ATTEST:

Donald J. Henry
Town Clerk, Town of Gig Harbor