

## ORDINANCE NO. 448

**AN ORDINANCE** relating to storm and surface water drainage, establishing a storm drainage utility and transferring all rights and interests now owned by the city and pertaining to storm drainage to the utility.

**WHEREAS**, pursuant to Section 35.A.80.010 and Chapter 35.67 of the revised Code of Washington, the City of Gig Harbor (City) has the authority to construct, condemn and purchase, acquire, add to, maintain, conduct and operate a system of storm drainage and surface water sewers; and

**WHEREAS**, pursuant to the Constitution of the State of Washington, Article 11, Section 11, cities have the power to enact regulations in the interest of the health, safety and welfare of its residents; and

**WHEREAS**, the City Council of the City of Gig Harbor (City Council) has expressed concern regarding the control and prevention of flooding, erosion, sedimentation and water quality degradation, and to preserve the streamways and wetlands of the area within the City limits and surrounding the City in their natural state and to pursue an overall drainage management plan designed to accomodate future urban growth and to correct existing drainage problems; and

**WHEREAS**, after review of the various presentations made to the City Council, the City Council finds specifically that land use and development affecting storm and surface water should be managed, regulated and controlled under the unified management of a storm and surface water public utility to reduce or control erosion, sedimentation, and particulate and other pollution of water, danger and damage to life and property, and to protect and encourage the use of natural and efficient man-made means to these ends and that a comprehensive storm and surface water drainage plan should be adopted for such purposes; and

**WHEREAS**, to research and correct these problems in a cost-effective manner, acceptable to the City, requires a source of revenue to pay for the associated costs,

**WHEREAS**, it is the desire of the City to incorporate into the proposed utility all major surface water courses the title to which is now held or in the future will be held by the City;

**NOW, THEREFORE**, the City Council of the City of Gig Harbor do hereby ordain:

### **Section 1. Definitions.**

The following words when used herein shall have the following meanings, unless the context clearly indicates otherwise:

A. The "Utility" shall mean the City of Gig Harbor, Washington Storm Drainage Utility, a utility which operates and maintains the storm or surface water drains, channels and facilities, outfalls for storm drainage and the rights and interests in property relating to the system.

### **Section 2. Creation of Storm Drainage Utility.**

A. There is hereby created and established a storm and surface water utility which shall be known as the "City of Gig Harbor, Washington, Storm Drainage Utility" (the "Utility"), for the purposes set forth in Section 2. B., below.

B. The City shall exercise, through the Utility where possible, all the lawful powers necessary and appropriate to the construction, condemnation and purchase, acquisition, addition to, maintenance, conduct and operation, management, regulation and control of the storm and surface water within the boundaries of the City, as necessary to protect the health, safety, and welfare of the citizens of the City; including, without limitation, all the

lawful powers to fix, alter, regulate and control the rates, charges and conditions for the use thereof, to purchase and condemn property on behalf of the Utility, to regulate actions taken with respect to public and private property which affect the flow of storm and surface water and the use of drainage facilities, and to adopt, alter, and amend a plan adopted as necessary to implement the policies of the City pertaining to storm and surface water drainage.

C. It is not the purpose of this ordinance to create a duty of the City or its Utility to insure or protect individual persons or property against water drainage.

**Section 3. Administrator of Utility.** The Director of Public Works or the official designated by the Mayor shall be administrator of the Utility and shall report directly to the Mayor.

**Section 4. Storm Drainage Utility Fund.**

A. There is hereby created a fund which shall be known as the "Storm Drainage Utility Fund". All revenues, assessments, and other charges collected by the Utility, or otherwise received for drainage purposes or attributable to the operation and maintenance of the Utility, and all loans to or grants or funds received for its construction, improvement and operation, shall be deposited in the Storm Drainage Utility Fund. All disbursements for costs of data collection, planning, designing, constructing, acquiring, maintaining, operating, and improving the drainage utility facilities, whether such facilities are natural, constructed or both, and administering the Utility shall be made from the Storm Drainage Utility Fund.

B. The City may create, at such time or times as it deems appropriate, any other funds necessary to the administration of the Storm Drainage Utility and may designate the revenues to be placed therein and the purpose or purposes of such funds which may be the same as one, some or all of the purposes designated in this section as the purposes of the Storm Drainage Utility Fund created herein, and such purposes shall then be transferred to such newly created fund.

**Section 5. Authority to Establish Rates and Charges.** The City shall establish by ordinance rate classifications, service charges, system development charges, inspection, and permitting fees, application, and connection fees and such other fees and charges necessary and sufficient in the opinion of the City Council to pay for the following:

- a. The costs associated with the development and adoption of a Storm Drainage Utility Plan.
- b. The costs, including debt service and related financing expenses, of the construction, and reconstruction of storm drainage facilities necessary and required for the handling of storm and surface waters within the service area, but not presently in existence;
- c. The operation, repair, maintenance, improvement, replacement and reconstruction of storm drainage facilities within the service area which presently exist;
- d. The purchase of a fee or lesser interest, including easements, in land which may be necessary for the storm and surface water drainage system in the service area including but not limited to land necessary for the installation and construction of storm drainage facilities, and all other facilities, including retention and detention facilities, which are reasonably required for proper and adequate handling of storm waters within the service area;
- e. The costs of monitoring, inspection, enforcement and administration of the Utility including but not limited to water quality surveillance, private maintenance inspection, construction inspection and other activities which are reasonably required for the proper and adequate implementation of the City's storm and surface water policies; and
- f. The construction and subsequent maintenance of those future facilities as required by the Utility.

The fees and charges to be paid and collected pursuant hereto shall not be used for general or other governmental or proprietary purposes of the City, except to pay for the equitable share of the costs of accounting, management and government thereof incurred on behalf of the Utility.

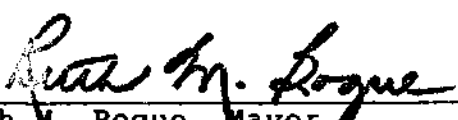
**Section 6. Limitation of Liability.** This ordinance, any drainage code to be adopted by the City Council to implement this ordinance, and any guidelines, rules, standards, specifications, requirements, regulations and procedures established pursuant to any section of such code are intended to provide the authority and processes to achieve cost-effective storm and surface water management in accordance with reasonable standards for such management in the Gig Harbor area as necessary to protect the health, safety, and welfare of the citizens and of the City. Such reasonable standards shall be recommended by the administrator and approved by the City Council. No City liability shall be inferred, implied, or interpreted by the adoption and application of this ordinance for damages to individual persons or properties which result from existing conditions or which occur subsequent to the date of this Ordinance. There shall be no liability associated with the Utility's approval of any privately constructed portion of the storm and surface water system and/or privately maintained portion of the storm and surface water system unless the City accepts the same as part of its publicly owned and/or maintained system and is negligent in its administration of such a system.

**Section 7. Severability.** If any portion of this ordinance as now or hereafter amended, or its application to any person or circumstances, is held invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole, or any section, provision or part thereof not adjudged to be invalid or unconstitutional, and its application to other persons or circumstances shall not be affected.


**Section 8. Codification.** There is hereby established a new title in the Gig Harbor Municipal Code which shall be Chapter 14.00, "Storm Drainage Utility - Creation and Purpose".

**Section 9. Effective Date.** This ordinance shall take effect and be in force five (5) days after its passage, approval and legal publication as required by law.

**PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR** this 23rd day of July, 1984.

  
Ruth M. Bogue, Mayor

**ATTEST:**

  
Jeff Snider,  
Administrator/Clerk