

ORDINANCE NO. 488

AN ORDINANCE of the Gig Harbor City Council adding a Civil Penalty Section to the Gig Harbor Municipal Code for enforcement of building and related code violations.

WHEREAS, the Gig Harbor City Council has found that the adoption of a Civil Penalty System for violations of Chapters 15.06, 15.08, 15.10 and 15.12 of the Gig Harbor Municipal Code and the Uniform Building, Plumbing, Mechanical and Fire Codes is necessary and appropriate in order to attain effective and prompt code enforcement.

WHEREAS, it is in the public interest of the citizens of Gig Harbor and necessary and appropriate to protect the health, safety, and welfare of said citizens by adopting a Civil Penalty System,

NOW, THEREFORE, the City Council of the City of Gig Harbor **DO ORDAIN** as follows:

Section 1. A new Section 15.18.010 of the Gig Harbor Municipal Code is hereby enacted to read as follows:

15.18.010 Cumulative civil penalty incurred when.

Any person, firm, or corporation which violates the provisions of Chapters 15.06, 15.08, 15.10 or 15.12 of this title, or violates the provisions of the Uniform Building Code, Uniform Mechanical Code, Uniform Plumbing Code, or Uniform Fire Code adopted by reference therein, shall incur a cumulative civil penalty in the amount of fifty (\$50) dollars per day from the date set for correction thereof, pursuant to this chapter, until the violation is corrected; except for the following violations where prior notice of correction is not required, violations shall be assessed pursuant to the following schedule:

Schedule A

Section 3.101, UFC (Unlawful Continuance of Hazard); Section 3.102, UFC (Failure to Comply with Order or Notice); Section 3.103, UFC (Unlawful Use with Tag Affixed); and Section 3.104, UFC (Unlawful Removal of Tag) assessed at one hundred (\$100) dollars per violation.

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Schedule B

Section 12.103(b), UFC (Overcrowding); and Section 25.114(c), UFC (Overcrowding) assessed at two hundred-fifty (\$250) dollars per violation.

Section 2. A new Section 15.18.020 of the Gig Harbor Municipal Code is hereby enacted to read as follows:

15.18.020 Notice of Violation -- Authority to issue.

Whenever the building official determines that a continuing violation of the chapters mentioned in Section 15.18.010 is occurring, the building official is authorized to issue a notice of violation directed to the person(s) permitting, committing or causing such violation.

Section 3. A new Section 15.18.030 of the Gig Harbor Municipal Code is hereby enacted to read as follows:

15.18.030 Notice of Violation -- Contents.

The notice of violation shall contain:

- A. The name and address of the person(s) to whom the notice of violation is directed;
- B. The street address when available or a legal description sufficient for identification of the building, structure, premises or land upon or within which the violation is occurring;
- C. A concise description of the nature of the violation;
- D. A statement of the action required to be taken as determined by the building official and a date for correction which shall be not less than three weeks from the date of service of the notice of violation unless the building official has determined the violation to be immediately hazardous;

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- E. A statement that a cumulative civil penalty in the amount of fifty (\$50) dollars per day shall be assessed against the person to whom the notice of violation is directed for each and every day following the date set for correction on which the violation continues; and
- F. A statement that the building official's determination of violation may be appealed to the Hearing Examiner by filing with the building department written notice of appeal within ten days of service of the notice of violation and that the per diem civil penalty shall not accrue during the pendency of such administrative appeal.

Section 4. A new Section 15.18.040 of the Gig Harbor Municipal Code is hereby enacted to read as follows:

15.18.040 Notice of Violation -- Service.

The notice of violation shall be served upon person(s) to whom it is directed either personally in the manner provided for personal service of notices of complaint in municipal court or by mailing a copy of the notice of violation by certified mail, postage prepaid, return receipt requested, to such person at his last known address. Proof of personal service shall be made at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring time, date and the manner by which service was made.

Section 5. A new Section 15.18.050 of the Gig Harbor Municipal Code is hereby enacted to read as follows:

15.18.050 Appeal procedure.

A notice of violation issued pursuant to this section constitutes a determination from which an administrative appeal may be taken by the filing of a notice of appeal with the building department within ten days of service of the notice of violation. Such appeals shall be heard by the Hearing Examiner. The cumulative civil penalty provided for in this chapter shall not accrue during the pendency of an administrative appeal.

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Section 6. A new section 15.18.060 of the Gig Harbor Municipal Code is hereby enacted to read as follows:

15.18.060 Date for correction of violation may be extended.

For good cause shown, the building official may extend the date for correction in the notice of violation; provided, that such an extension shall not affect or extend the time within which an administrative appeal must be commenced.

Section 7. A new Section 15.18.070 of the Gig Harbor Municipal Code is hereby enacted to read as follows:

15.18.070 Collection of civil penalty.

- A. The civil penalty constitutes a personal obligation of the person(s) to whom the notice of violation is directed. The City attorney on behalf of the city is authorized to collect the civil penalty by use of appropriate legal remedies, the seeking or granting of which shall neither stay nor terminate the accrual of additional per diem penalties so long as the violation continues.
- B. If after any order duly issued by the building official has become final, the person to whom such order is directed fails, neglects, or refuses to pay a civil penalty assessed under such order, the City Administrator may direct the City Attorney to:
 1. Institute any appropriate action to collect a civil penalty assessed under this title; and/or
 2. Abate the land use or health violation using the procedures of this chapter; and/or
 3. Pursue any other appropriate remedy at law or equity under this chapter.
- C. Enforcement of any notice and order of the building official issued pursuant to this chapter shall be stayed during the pendency of any appeal under this chapter except when the building official determines that the violation will cause immediate and irreparable harm and so states in the notice and order issued.

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Section 8. A new Section 15.18.080 of the Gig Harbor Municipal Code is hereby enacted to read as follows:

15.18.080 Compromise, settlement and disposition of suits.

The City Administrator and the city attorney are authorized to enter into negotiations with the parties or their legal representatives named in a lawsuit for the collection of civil penalties to negotiate a settlement, compromise or otherwise dispose of a lawsuit when to do so will be in the best interests of the city.

Section 9. A new Section 15.18.090 of the Gig Harbor Municipal Code is hereby enacted to read as follows:

15.18.090 Enforcement Process.

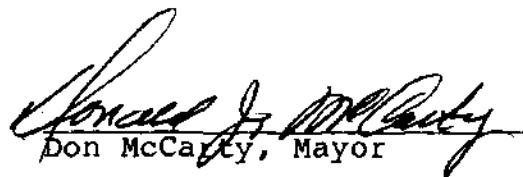
It is intended by the city council that the enforcement of this new chapter 15.18 be consistent with the Department Enforcement Process.

Section 11. Validity. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Gig Harbor City Council hereby declares that it would have passed this ordinance, and each subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

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Section 12. This ordinance shall be and is hereby declared to be in full force and effect five days after approval and official publication of this ordinance.

PASSED by the City Council of the City of Gig Harbor, Washington, and approved by its Mayor at a regular meeting of the council held on this 11th day of August, 1986.



Don McCarty, Mayor

ATTEST:

Michael R. Wilson
Michael R. Wilson
City Administrator/Clerk

Filed with city clerk: 7/24/86
Passed by city council: 8/11/86
Date published: 8/27/86
Date effective: 9/2/86