

ORDINANCE NO. 526

AN ORDINANCE OF THE GIG HARBOR CITY COUNCIL REVISING CHAPTERS 15.06, 15.08, 15.10, 15.12, AND 15.18, TO THE GIG HARBOR MUNICIPAL CODE FOR ENFORCEMENT OF BUILDING AND RELATED CODE VIOLATIONS AND ENACTING A NEW CHAPTER 15.02 CREATING A BUILDING ADVISORY BOARD.

WHEREAS, the Gig Harbor City Council has found that the adoption of a Civil Penalty System in Ordinance #488 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, and

WHEREAS, it is in the interest of the citizens of Gig Harbor and necessary and appropriate to protect the health, safety, and welfare of the citizens by revising the Civil Penalty System and the Uniform Building Codes as adopted in Ordinances #490, #491, #492 and #493; requiring the Hearing Examiner to act as the Gig Harbor Board of Appeals; and creating a Building Code Advisory Board,

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

Section 1. Section 13.28.270 of the Gig Harbor Municipal Code is hereby amended to read as follows:

13.28.270 Violation--Penalty. [Violation of any portion of this chapter is an infraction and subject to a penalty of five hundred dollars as provided in Section 1.16.010 D and for any costs incurred by the city relative to any violation and as otherwise provided in this chapter.] Any person, firm, or corporation which violates the provisions of this chapter shall incur a cumulative civil penalty in the amount of fifty dollars (\$50.00) per day from the date set for correction thereof, pursuant to Chapter 15.18 of the Gig Harbor Municipal Code until the violation is corrected.

Section 2. Section 15.12.060 5.(V) H(III) of the Gig Harbor Municipal Code is hereby amended to read as follows:

(III) In addition to the above, the Gig Harbor Fire Marshal and/or the Building Official shall issue cease and desist orders whenever any person, firm or corporation is taking any action which is in violation of this regulation. Such cease and

desist order shall not cause any interruption of domestic service provided by a water purveyor. Such order shall specify each violation and shall state that a hearing may be requested by the affected party by sending a written request for the hearing to the [Board of Appeals] Hearing Examiner/ Building Code Advisory Board within ten (10) days of receipt of the said order.

Section 3. Section 15.12.060 5(V) H(IV) of the Gig Harbor Municipal Code is hereby amended to read as follows:

(IV) [Any person who shall violate any of the provisions of the code hereby adopted or fail to comply with any order made thereunder, or who shall building in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order within the time fixed herein, shall severally for each and every violation and noncompliance, respectively, be guilty of an infraction, and subject to a penalty not to exceed THREE HUNDRED AND NO/100 DOLLARS (\$300.00) as provided in Gig Harbor Code 1.16.010(4). The imposition of a penalty for any such violation shall not excuse the violation or permit it to continue; and all such violations or defects within a reasonable time; and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.] Any person, firm, or corporation which violates the provisions of this chapter shall incur a cumulative civil penalty in the amount of fifty dollars (\$50.00) per day from the date set for correction thereof, pursuant to chapter 15.18 of the Gig Harbor Municipal Code until the violation is corrected.

Section 4. Section 15.12.060 5(V) H(V) of the Gig Harbor Municipal Code is hereby amended to read as follows:

15.12.060 5(V) H(V) Appeals - Hearing Examiner/ Building Code Advisory Board. Section 2.302 of the Uniform Fire Code is hereby amended to read as follows:

- A. Appeals of Civil Penalty Citation; and Appeals of Administrative Determinations of a non-technical standard or code shall be considered pursuant to the Hearing Examiner, Chapter 17.10 of the Gig Harbor Municipal Code.

- B. Appeals of Administrative Determination, where alternate materials or methods of construction are proposed, shall be considered pursuant to the Building Code Advisory Board, chapter 15.02 of the Gig Harbor Municipal Code.

Section 5. Section 15.18.010 of the Gig Harbor Municipal Code is hereby amended 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 or 15.28 of [this title] the Gig Harbor Municipal Code, 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 (\$50.00) 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 (\$100.00) dollars per violation.

Schedule B

Section 12.103(b), UFC (Overcrowding); and Section 25.114(c), UFC (Overcrowding) assessed at two hundred-fifty (\$250.00) dollars per violation.

Section 6. Section 15.18.030(F.) of the Gig Harbor Municipal Code is hereby amended to read as follows:

- F. A statement that the building official's and/or Fire Marshal's determination of violation may be appealed to the hearing examiner by filing with the [building department] department of community development 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 7. Section 15.18.050 of the Gig Harbor Municipal Code is hereby amended 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] department of community development 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.

Section 8. Section 15.18.070 of the Gig Harbor Municipal Code is hereby amended 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 and/or Fire Marshal 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 title]; and/or
 - 3. Pursue any other appropriate remedy at law or equity [under this title].
- 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.

- D. In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this title is a public nuisance and all remedies given by law for the prevention and abatement of nuisances shall apply thereto. Further, each day that such condition continues shall be regarded as a new and separate offense.

Section 9. Chapter 17.92 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.92.010 Penalties.

Any person, firm, or corporation [violating any of] which violates the provisions of this title shall [be guilty of a misdemeanor and shall be punishable by a fine not to exceed one hundred dollars for each offense] incur a cumulative civil penalty in the amount of fifty dollars (\$50.00) per day from the date set for correction thereof, pursuant to chapter 15.18 of the Gig Harbor Municipal Code until the violation is corrected.

Section 10. A new Chapter 15.02 of the Gig Harbor Municipal Code is hereby enacted to read as follows:

CHAPTER 15.02

BUILDING CODE ADVISORY BOARD

15.02.010 Building Code Advisory Board. There shall be and is hereby created a Building Code Advisory Board in order to:

- A. Consider appeals of administrative determination where alternate materials or methods of construction are proposed to those stated within Title 15 of the Gig Harbor Municipal Code;
- B. review new code standards and ordinance revisions within Title 15 of the Gig Harbor Municipal Code;
- C. make recommendations to the Gig Harbor City Council when new standards or revisions to Title 15 of the Gig Harbor Municipal Code are being considered for adoption; and
- D. provide reasonable interpretations of the building codes and Title 15 of the Gig Harbor Municipal Code as requested by the Gig Harbor Building Official/Fire Marshal.

The Building Code Advisory Board shall consist of three (3) members who are qualified by experience and training to pass upon matters of building construction and who are not employees of the jurisdiction. The board shall be comprised of one state-licensed contractor, one architect, and one engineer, all of whom must be residents of the Gig Harbor community, at least one of whom is a city resident. The Building Code Advisory Board shall be appointed by the mayor and approved by the city council and shall hold office for a four year term. The terms shall not run concurrently, and the first selected board member's terms shall run for two, three and four years respectively. The mayor may remove any board member at his pleasure and discretion. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the applicant with a duplicate copy to the building official.

Section 11. A new section 15.06.037 of the Gig Harbor Municipal Code is hereby enacted to read as follows:

15.06.037 Appeals - Hearing Examiner/Building Code Advisory Board.

Section 204 of the Uniform Building Code is hereby amended to read as follows:

- A. Appeals of Civil Penalty Citation; and Appeals of Administrative Determinations of a non-technical standard or code.
- B. Appeals of Administrative Determination, where alternate materials or methods of construction are proposed, shall be considered pursuant to the Building Code Advisory Board, chapter 15.02 of the Gig Harbor Municipal Code.

Section 12. A new section 15.06.055 of the Gig Harbor Municipal Code is hereby enacted to read as follows:

15.06.055 Penalties. Any person, firm, or corporation which violates the provisions of this chapter shall incur a cumulative civil penalty in the amount of fifty dollars (\$50.00) per day from the date set for correction thereof, pursuant to chapter 15.18 of the Gig Harbor Municipal Code until the violation is corrected.

Section 13. A new section 15.08.030 of the Gig Harbor Municipal Code is hereby enacted to read as follows:

15.08.030 Penalties. Any person, firm, or corporation which violates the provisions of this chapter shall incur a cumulative civil penalty in the amount of fifty dollars (\$50.00) per day from the date set for correction thereof, pursuant to chapter 15.18 of the Gig Harbor Municipal Code until the violation is corrected.

Section 14. A new section 15.10.035 of the Gig Harbor Municipal Code is hereby enacted to read as follows:

15.10.035 Penalties. Any person, firm, or corporation which violates the provisions of this chapter shall incur a cumulative civil penalty in the amount of fifty dollars (\$50.00) per day from the date set for correction thereof, pursuant to chapter 15.18 of the Gig Harbor Municipal Code until the violation is corrected.

Section 15. A new section 15.08.040 of the Gig Harbor Municipal Code is hereby enacted to read as follows:

15.08.040 Appeals - Hearing Examiner/Building Code Advisory Board. Section 20.14 of the Administration part of the Uniform Plumbing Code is hereby amended to read as follows:

- A. Appeals of Civil Penalty Citation; and Appeals of Administrative Determinations of a non-technical standard or code.
- B. Appeals of Administrative Determination, where alternate materials or methods of construction are propose, shall be considered pursuant to the Building Code Advisory Board, chapter 15.02 of the Gig Harbor Municipal Code.

Section 16. A new section 15.10.038 of the Gig Harbor Municipal Code is hereby enacted to read as follows:

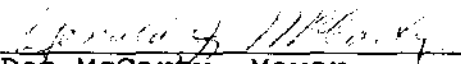
15.10.038 Appeals - Hearing Examiner/Building Code Advisory Board. Section 203 of the Uniform Mechanical Code is hereby amended to read as follows:

- A. Appeals of Civil Penalty Citation; and Appeals of Administrative Determinations of a non-technical standard or code.
- B. Appeals of Administrative Determination, where alternate materials or methods of construction are propose, shall be considered pursuant to the Building Code Advisory Board, chapter 15.02 of the Gig Harbor Municipal Code.


Section 17. Validity. That 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.

Section 18. This ordinance shall e and is hereby declared to be in full force and effect five (5) days after publication of the attached summary which is hereby approved.

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 7th day of December, 1987


Don McCarty, Mayor

ATTEST:


Michael R. Wilson
City Administrator/Clerk

Filed with city clerk: 10/16/87
Passed by city council: 12/7/87
Date published: 2/3/88
Date effective: 2/8/88

SUMMARY OF ORDINANCE NO. 526

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, REVISING CHAPTERS 15.06, 15.08, 15.10, 15.12 and 15.18 TO THE GIG HARBOR MUNICIPAL CODE FOR ENFORCEMENT OF BUILDING AND RELATED CODE VIOLATIONS AND ENACTING A NEW CHAPTER 15.02 CREATING A BUILDING ADVISORY BOARD.

On December 7, 1987, the City Council of the City of Gig Harbor passed Ordinance # 526, which provides as follows:

Section 1. Amends section 13.28.270 of the Gig Harbor Municipal Code: 13.28.270 Penalties for Violations of the Sewer Ordinance.

Section 2. Amends subsection 15.12.060 5.(V)H(III) of the Gig Harbor Municipal Code: 15.12.060 5.(V)H(III) Cease and Desist Order Appeal to Hearing Examiner.

Section 3. Amends subsection 15.12.060 5.(V)H(IV) of the Gig Harbor Municipal Code: 15.12.060 5.(V)H(IV) Penalties for Violations of the Uniform Fire Code.

Section 4. Amends subsection 15.12.060 5.(V)H(V) of the Gig Harbor Municipal Code: 15.12.060 5.(V)H(V) Appeals - Hearing Examiner/Building Code Advisory Board.

Section 5. Amends section 15.18.010 of the Gig Harbor Municipal Code: 15.18.010 Civil Penalty Incurred When.

Section 6. Amends subsection 15.18.030(F) of the Gig Harbor Municipal Code: 15.18.030(F) Appeal Statement in Citation.

Section 7. Amends section 15.18.050 of the Gig Harbor Municipal Code: 15.18.050 Appeal Procedure.

Section 8. Amends section 15.18.070 of the Gig Harbor Municipal Code: 15.18.070 Collection of Civil Penalty.

Section 9. Amends chapter 17.92 of the Gig Harbor Municipal Code: Chapter 17.92 Penalties for Violations of the Zoning Code.

Section 10. Enacts a new Chapter 15.02 of the Gig Harbor Municipal Code: Chapter 15.02 Building Code Advisory Board.

Section 11. Enacts a new section 15.06.037 of the Gig Harbor Municipal Code: 15.06.037 Appeals - Hearing Examiner/ Building Code Advisory Board.

Section 12. Enacts a new section 15.06.055 of the Gig Harbor Municipal Code: 15.06.055 Penalties for Violations of the Uniform Building Code.

Section 13. Enacts a new section 15.08.030 of the Gig Harbor Municipal Code: 15.08.030 Penalties for Violations of the Uniform Plumbing Code.

Section 14. Enacts a new section 15.10.035 of the Gig Harbor Municipal Code: 15.10.035 Penalties for Violations of the Uniform Mechanical Code.

Section 15. Enacts a new section 15.08.040 of the Gig Harbor Municipal Code: 15.08.040 Appeals - Hearing Examiner/Building Code Advisory Board.

Section 16. Enacts a new section 15.10.038 of the Gig Harbor Municipal Code: 15.10.038 Appeals - Hearing Examiner/Building Code Advisory Board.

Section 17. Validity.

Section 18. Approves this summary and sets an effective date for this ordinance of five (5) days from the date of the summary's publication.

The full text of this ordinance will be mailed without charge to anyone who submits a written request to the City Clerk of the City of Gig Harbor for a copy of the text.

Approved by the City Council at their meeting of December 7, 1987.



Michael R. Wilson
City Administrator/Clerk