

ORDINANCE 1523

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO CODE ENFORCEMENT PROCEDURES; ENACTING A NEW CHAPTER 2.60, AMENDING CHAPTERS 8.04, 8.10, 12.17, 15.24, AND 18.10, AND REPEALING CHAPTER 19.16; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, at the July 14, 2022, city council study session, staff provided an overview of the code compliance program following the creation of a full-time code compliance officer position; and

WHEREAS, the City of Gig Harbor City Council at its March 16, 2023, study session identified the need for a more robust enforcement program; and

WHEREAS, staff conducted research of comparable jurisdictions to provide recommendations for improvements to the civil process, civil penalties, and operating procedures; and

WHEREAS, at the October 26, 2023, city council study session staff led a discussion regarding the city's existing code compliance program and provided recommendations for outreach and education in addition to recommended amendments to the municipal code; and

WHEREAS, Chapter 2.60 of the Gig Harbor Municipal code (GHMC) sets forth a consolidated code compliance process creating a standard approach which identifies the appropriate steps throughout a code compliance case; and

WHEREAS, the city recognizes that the goal of code compliance is the prevention, detection, investigation and enforcement of the violation of statutes or ordinances regulating public health, safety and welfare; and

WHEREAS, the city recognizes that new and/or revised processes and procedures for the code compliance program would support the council's strategic priority to maintain small town character and historic preservation while growing responsibly;

NOW THEREFORE, the City Council of the City of Gig Harbor, Washington, do ordain as follows:

Section 1. Chapter 2.60 of the Gig Harbor Municipal is hereby added to read as follows:

Chapter 2.60
Code Compliance

Sections:

- 2.60.010 Purpose.**
- 2.60.020 Applicability.**
- 2.60.030 Violation review criteria.**
- 2.60.040 Stop work order.**
- 2.60.050 Voluntary compliance and Correction.**
- 2.60.060 Investigation and notice of violation.**
- 2.60.070 Civil penalty.**
- 2.60.080 Notice of violation and civil penalty appeals.**
- 2.60.085 Collection of civil penalty.**
- 2.60.090 Abatement.**
- 2.60.100 Criminal penalty.**
- 2.60.110 Additional relief.**

2.60.010 Purpose

The purpose of this title is to establish an effective and efficient system to ensure compliance with the City's adopted codes relative to building, land use and development, streets and sidewalks, and public nuisance, and generally protect the health and safety of the public (GHMC Titles 8, 12, 14, 15, 16, 17, 18, and the shoreline master program). These regulations establish procedures and mechanisms to resolve violations, establish penalties for violations, provide an opportunity for a prompt hearing, decision, and appeal as to alleged code violations and provide for abatement when necessary.

2.60.020 Applicability.

This chapter establishes a civil method, where permitted under the law, to enforce violations of the chapters and titles of the code referenced in GHMC 2.60.010, provided an alternate civil method, other than abatement, is not specifically set forth in the code. Where the alternate civil method is abatement, both methods may apply.

A. The city administrator and/or his/her authorized representative (the "administrator") shall have the authority to enforce the land use codes of the city of Gig Harbor.

B. The code shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

C. It is the intent of this chapter to place the obligation of complying with its requirements upon the owner, lessee, occupier, or other person responsible for the condition of the land and buildings within the scope of this chapter.

D. No provision of or term used in this chapter is intended to impose upon the city, or any of its officers or employees, any duty that would subject them to damages in a civil action.

2.60.030 Violation review criteria.

The administrator will investigate and review each alleged violation or violation in accordance with the city policy. When enforcing code provisions, the administrator may, as practical and possible, seek to resolve violations without resorting to formal enforcement measures. Nothing herein shall be interpreted to require the administrator to follow a specific sequence or order of enforcement in circumstances when swifter response by the city may be reasonable or necessary. In addition, the administrator may consider a variety of factors when determining the appropriate enforcement sequence and response, including but not limited to:

- A. Severity, duration, and impact of the violation(s), including whether the violation has a probability of placing a person or persons in danger of death or bodily harm, causing significant environmental harm, or causing significant physical damage to the property of another;
- B. Compliance history, including any identical or similar violations or notice of violation at the same site or on a different site but caused by the same party;
- C. Economic benefit gained by the violation(s);
- D. Intent or negligence demonstrated by the person(s) responsible for the violation(s);
- E. Responsiveness in correcting the violation(s); and
- F. Other circumstances, including any mitigating factors.

2.60.040 Stop work order.

A. The administrator shall have the authority to issue a stop work order whenever any activity, work or development is being done in violation of the chapters and titles referenced in GHMC 2.60.010, or without a permit, required review or authorization or contrary to any permit, or authorization that may result in a violation. The stop work order shall be posted on the site of the violation containing the following information:

1. The street address or a description of the building, structure, premises, or land where the violation has occurred, in terms reasonably sufficient to identify its location;
2. A description of the potential violation and a reference to the provisions of the code that may have been violated;
3. A description of the action required to remedy the potential violation, including but not limited to corrections, repairs, demolition, removal, restoration, time period to comply, after which a notice of violation may be issued, or any other appropriate action as determined by the administrator;
4. The appropriate department and/or division investigating the case and the contact person.

B. With the exception of emergency work determined by the administrator to be necessary to prevent immediate threats to the public health, safety and welfare

or stabilize a site or prevent further property or environmental damage, it is unlawful for any work to be done after the posting or service of a stop work order until authorization to proceed is provided by the administrator.

C. Proof of posting shall be made by a written declaration under penalty of perjury executed by the person effecting the posting, declaring the time and date of posting, and the manner by which the posting was made.

2.60.050 Voluntary compliance and Correction

The administrator may pursue a reasonable attempt to secure voluntary compliance by contacting the owner or other person responsible for any violation of this code, explaining the violation and requesting compliance.

2.60.060 Notice of Violation.

A. If the administrator has a reasonable belief based on evidence that a violation exists, and the stop work order and/or voluntary compliance measures outlined in GHMC 2.60.040 and 2.60.050 either have already been sought and have been unsuccessful, or are determined not to be appropriate for the circumstances, the administrator may issue a notice of violation containing the following to the owner or, if different and readily identifiable, to the lessee, the person in control of the property where the violation has occurred, or the person committing the violation:

1. The street address or a description of the building, structure, premises, or land where the violation has occurred, in terms reasonably sufficient to identify its location;
2. A description of the violation and a reference to the provisions of the code that have been violated;
3. A description of the action required to remedy the violation, which may include corrections, repairs, demolition, removal, restoration, submittal of a work plan or any other appropriate action as determined by the administrator;
4. A statement that the required action must be taken or work plan submitted within the time period provided as set forth in the notice of violation, after which the city may impose monetary civil penalties and/or abate the violation in accordance with the applicable provisions of the relevant code section;
5. The appropriate department and/or division investigating the case and the contact person;
6. Unless subject to the provision of GHMC 2.60.050, a statement that the person to whom a notice of violation is directed may appeal the notice of violation to the hearing examiner, or his or her designee, including the deadline for filing such an appeal. Request for appeal must comply with requirements set forth in GHMC 2.60.080 and must be received by the city clerk's office no later than 10 days after the notice of violation has been served;
7. A statement that if the person to whom the notice of violation is issued fails to submit a written request for appeal within 10 working days of service, or fails to abate the violation, the city may assess civil penalties, as outlined

in GHMC 2.60.070, against the owner or, if different and readily identifiable, against the lessee, the person in control of the property where the violation has occurred, or the person committing the violation.

B. *Time to Comply.* When calculating a reasonable time for compliance, the administrator shall consider the following criteria:

1. The type and degree of violation cited in the notice;
2. The stated intent, if any, of a responsible party to take steps to comply;
3. The procedural requirements for obtaining a permit to carry out corrective action;
4. The complexity of the corrective action, including seasonal considerations;
5. Any other circumstances beyond the control of the responsible party; and
6. The responsible party may show as full or partial mitigation of liability:
 - a. That the violation is giving rise to the action caused by the willful act, or neglect, or abuse of another; or
 - b. That the correction of the violation was commenced promptly upon receipt of the notice, but that full compliance within the time specified was prevented by the inability to obtain necessary material or labor, inability to gain access to the subject structure, or other condition or circumstance beyond the control of the responsible party.

C. The notice of violation shall be served by any one or any combination of the following methods:

1. By certified mail to the last known address of the owner or, if different and readily identifiable, the lessee, the person in control of the property where the violation has occurred, or the person committing the violation as applicable;
or
2. By personal service upon the owner or, if different and readily identifiable, upon the lessee, the person in control of the property where the violation has occurred, or the person committing the violation as applicable; and
3. Additionally, the administrator may choose to post notice on the property.

D. The administrator may, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued inspection warrant, enter any building or premises subject to the consent or warrant to perform the duties imposed by this chapter.

F. If the violation has been properly corrected by the deadline imposed by the administrator, the case will be closed. If it has not, then civil penalties, abatement, or criminal penalties may be imposed against the person(s) named in the notice of violation as the party(ies) in violation, at the reasonable discretion of the administrator, in accordance with the provisions of this chapter.

2.60.070 Civil penalty.

A. Any person who fails to remedy a violation or take the corrective action described by the administrator in a notice of violation within the time period provided may be subject to monetary civil penalties. The civil penalty will be either:

1. Prepared and sent by first-class mail to the last known address(es) of the person(s) named in the notice of violation as the party(ies) in violation; or
 2. Personally served upon the person(s) named in the notice of violation as the party(ies) in violation; and
 3. The administrator may choose to post notice on the property.
- B. The civil penalty shall contain the following:
1. A statement indicating that the party(ies) in violation is being issued civil penalties for failing to properly or timely implement the corrective actions outlined by the city in the notice of violation, and that additional civil penalties may be issued until corrective actions are properly and timely implemented and the violation abated;
 2. The address of the site and specific details of the violation which is to be corrected;
 3. The appropriate department and/or division investigating the case and the contact person;
 4. The number of days in violation since the noted corrective action(s) deadline date in the notice of violation (in case of first civil penalty) or the most recently issued civil penalty on the same violation (in case of second or subsequent civil penalty) and amount of monetary penalty being assessed as a result;
 5. A statement that the person(s) to whom the civil penalty is issued may appeal it to the hearing examiner, or his or her designee, including the deadline for filing such an appeal. Request for appeal must comply with requirements set forth in GHMC 2.60.080 and must be received by the city clerk's office no later than 10 working days after the civil penalty has been served;
 6. A statement that if the person to whom the civil penalty is issued fails to submit a written request for appeal within 10 working days of service or fails to abate the violation, the city may continue to assess monetary penalties against the owner or, if different and readily identifiable, against the lessee, the person in control of the property where the violation has occurred, or the person committing the violation.
- C. Monetary Penalty. The monetary penalty for each violation per day or portion thereof shall be as follows:
1. First day of each violation: \$100.00;
 2. Second day of each violation: \$200.00;
 3. Third day of each violation: \$300.00;
 4. Fourth day of each violation: \$400.00;
 5. Each additional day of each violation beyond four days: \$500.00 per day.
1. Continued Duty to Correct. Payment of a monetary penalty pursuant to this chapter does not relieve the person to whom the notice of violation was issued of the duty to correct the violation.
- D. Daily penalties will continue to accumulate until the violation is corrected, but the accumulated amount, or part thereof, may only be assessed to party(ies) in violation by issuing and serving a civil penalty.

E. Any person to whom a civil penalty is issued and served may appeal it to the hearing examiner; provided, that any issue whatsoever, including but not limited to nature of violation, amount of penalty, corrective measures, abatement or payment made, that was previously appealed or could have been appealed earlier with the notice of violation or previously issued civil penalty on the same violation, but either was not properly/timely appealed or was sustained by the hearing examiner, shall not be subject to another appeal.

2.60.080 Notice of violation and civil penalty appeals.

A. A person to whom a notice of violation or civil penalty is issued and served may appeal the notice of violation or civil penalty by filing a written request for appeal with the city clerk no later than 10 working days after said notice of violation or civil penalty is served. Each request for appeal shall contain the required appeal fee, the address and telephone number of the person making the request and the name and address of any person who may represent him or her. Each request for appeal shall set out the basis for the appeal. Failure to submit specific grounds for appeal in writing in the request may result in the dismissal of the appeal by the hearing examiner prior to any hearing.

B. If an appeal is submitted, the hearing examiner, or his or her designee, will conduct a hearing at the next available hearing date for the hearing examiner after the city issues a notice of hearing. For good cause, the hearing examiner may, at his or her discretion, change a previously set hearing date.

C. If an appeal is submitted, the city shall mail a hearing notice giving the time, location, and date of the hearing by first-class mail to person(s) to whom the notice of violation or civil penalty was directed and any other parties identified in the appeal request.

D. The hearing examiner, or his or her designee, shall conduct a hearing on the violation or penalty. The administrator, as well as the person(s) to whom the notice of violation or civil penalty was directed, may participate as parties in the hearing and each party may call witnesses. The city shall have the burden of proof to establish, by a preponderance of the evidence, that the violation has occurred and that the required corrective action is reasonable, or that the civil penalty was appropriately assessed for noncompliance with this code.

E. The hearing examiner shall determine whether the city has established, by a preponderance of the evidence, that the violation has occurred and that the required corrective action is reasonable, or that the civil penalty was appropriately assessed and reasonable, and based on that determination shall issue a final order that affirms, modifies, or vacates the notice of violation or civil penalty being appealed. The city's hearing examiner rules shall apply. The hearing examiner's final order shall contain the following information:

1. The decision regarding the alleged violation including findings of facts and conclusion of law based thereon;
2. If applicable, a statement that the required corrective actions imposed by the city are affirmed, modified, or waived;
3. If applicable, any additional conditions imposed by the hearing examiner regarding the violation and any corrective action, and the date and time by

which the additional condition and/or correction must be met and/or completed; and

4. If applicable, a statement that any associated civil penalties are affirmed, modified, or waived.

F. If the appellant and/or any person(s) to whom the appealed notice of violation or civil penalty was directed fails to appear at the scheduled hearing, the hearing examiner shall proceed with the hearing and issue a final order based on the evidence submitted by the party(ies) in attendance.

G. The final order shall be prepared within 10 business days of the hearing and shall be served in person or by first-class mail on the appellant and any person(s) to whom the appealed notice of violation or civil penalty was directed.

H. A final order of the hearing examiner shall be considered the final administrative decision and may be appealed to a court of competent jurisdiction within 21 calendar days of its issuance or, if applicable, as provided in RCW 36.70C.040.

2.60.085 Collection of civil penalty.

A. The civil penalty constitutes an obligation of the person, firm, or corporation to whom the civil penalty is directed. The civil penalty assessed must be paid to the city within 30 calendar days from the date of service of the civil penalty or, if an appeal is filed, the time required in the hearing examiner's final order (30 days after issuance of order if no time requirement is specified). The civil penalty may also jointly and severally be assessed against the property where the violation occurred when permitted by law.

B. A civil penalty that is not paid within 30 days may be referred to a collection agency, officially approved by the city of Gig Harbor, for collection.

2.60.090 Abatement.

A. In the event that compliance is not achieved through the measures outlined in GHMC 2.60.040 through 2.60.080, or that said measures are not, at the reasonable discretion of the administrator, appropriate to remedy the violation, the city may declare the violation a public nuisance, and remove or correct the same through any lawful means of abatement that is determined to be proper by the city attorney.

B. Using any lawful means, the city may enter unsecured property and may remove or correct a violation which is subject to abatement with the consent of the owner and person in control of the premises. If the owner and person in control of the premises do not consent to entry, the city may seek such judicial process in Pierce County superior court as it deems necessary to effect the removal or correction of such condition.

2.60.100 Liens.

A. Generally. The city shall have a lien for any civil penalty imposed or for the cost of any abatement work done pursuant to this chapter, or both, against the real property on which the civil penalty was imposed or any of the abatement work was performed.

B. *Priority.* The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens, except for state and county taxes.

C. *Contents.* The claim of lien shall contain the following:

1. The authority for imposing a civil penalty or proceeding to abate the violation, or both;

2. A brief description of the civil penalty imposed or the abatement work done, or both, including the violations charged and the duration thereof, including the time the work is commenced and completed and the name of the persons or organizations performing the work;

3. A legal description of the property to be charged with the lien;

4. The name of the known or reputed owner, and, if not known, the fact shall be alleged;

5. The amount, including lawful and reasonable costs, for which the lien is claimed; and

6. Signed verification by the director or his/her authorized representative, under penalty of perjury under the laws of the state of Washington, that the declarant believes the claim is just.

D. *Recording.* The director shall cause a claim for lien to be filed for record in the Pierce County auditor's office within 90 days from the date the civil penalty is due or within 90 days from the date of completion of the abatement work performed pursuant to this chapter.

E. *Duration.* A lien created under this chapter shall be valid until the amount of money specified in the lien is paid in full.

F. *Foreclosure.* A lien created under this chapter may be foreclosed and enforced by a civil action in a court having jurisdiction. All persons who have legally filed claims or liens against the same property prior to commencement of the action shall be joined as parties, either as plaintiff or defendant. Dismissal of an action to foreclose a lien at the instance of a plaintiff shall not prejudice another party to the suit who claims a lien.

2.60.110 Criminal penalty.

In certain instances, where the aforementioned enforcement and penalty provisions outlined in this chapter do not result in compliance or are not appropriate for achieving compliance, the administrator may refer the matter to the police department for criminal investigation and prosecution. Unless a different criminal penalty is provided specifically for the violation, violations of chapters and titles of the code referenced in GHMC 2.60.020 shall constitute a gross misdemeanor as set forth in GHMC 1.16.010. Upon conviction and pursuant to a prosecution motion, the court shall also order immediate action to correct the condition constituting the violation and to maintain the corrected condition in compliance with this code.

In addition to any other sanction or remedial procedure the administrator may record a Certificate of Noncompliance on the parcel upon which the violation is located. Once the violation has been remedied, the administrator shall record a Certificate of Compliance. The property owner shall pay the cost of recording the

Certificates of Noncompliance and Compliance. Prior to recording a Certificate of Noncompliance, the administrator shall provide written notice of intent to record to the property owner. Notice shall be delivered as set forth in GHMC 2.60.060(C).

2.60.120 Additional relief.

Nothing in this chapter shall preclude the city from seeking any other relief as authorized in other provisions of this code, or by state or federal law or regulation. Enforcement of this chapter is supplemental to all other laws adopted by the city.

Section 2. Chapter 8.04 of the Gig Harbor Municipal Code is amended as follows:

**Chapter 8.04
PLANT NUISANCE**

Sections:

- 8.04.010 Duty to maintain trees or shrubs – Nuisance.**
- 8.04.020 Notice to trim or remove.**
- 8.04.030 Council hearing – Order.**
- 8.04.040 Nuisance abatement – Lien.**
- 8.04.050 Allowing noxious plants, overgrown vegetation, uncut weeds, etc.— Nuisance.**
- 8.04.060 Nuisance abatement order.**
- 8.04.070 Liability for costs of abatement.**
- 8.04.080 Penalty for violation.**
- 8.04.090 Enforcement**

8.04.010 Duty to maintain trees or shrubs – Nuisance.

All persons owning or maintaining shade or ornamental trees or shrubs upon or in front of the premises owned or occupied by them shall keep the same trimmed and in such condition so as not to interrupt a clear vision of both vehicles and foot traffic, or interfere with the wire, poles or fixtures maintained or owned by any department of the city, or permit the same to come in contact therewith or so obstruct or interfere with any lamp standard as to prevent the proper diffusion of light therefrom. Such owning or maintaining of trees or shrubs is declared to be a public nuisance. (Ord. 100 § 1, 1967).

8.04.020 Notice to trim or remove.

Whenever any such shade or ornamental trees or shrubs interrupt a clear vision of either vehicles or foot traffic or interfere with or come in contact with wires, poles or fixtures maintained or belonging to the city, the owner or occupant of the premises to which the same shall appertain may be notified in writing to trim or remove the same. Said notice shall be signed by the street superintendent of the city and such owner or occupant so notified shall within 10 days after the receipt

of such notice trim, prune or remove said trees and shrubs as required. Should the owner of such premises be unknown or a nonresident of Gig Harbor, or should personal service not be obtained upon the owner or occupant of such premises after reasonable diligence, such notice shall be posted in a conspicuous place upon said premises. (Ord. 100 § 2, 1967).

8.04.030 — Council hearing — Order.

~~If the owner or occupant aforesaid fails, neglects or refuses to trim or remove any such shade or ornamental trees or shrubs within 10 days after the receipt or posting of such notice as provided in GHMC 8.04.020, further notice may be served or posted as provided in GHMC 8.04.020 requiring such owner or occupant to appear before the city council of the city in the council chamber upon a day stated to show cause, if any there be, why such trees or shrubs should not be pruned, trimmed or removed in accordance with such notice, and at which time such owner or occupant shall be entitled to be represented by counsel and introduce evidence supporting his position relative thereto and if the council shall find that such trees or shrubs should be pruned, trimmed or removed and are a public nuisance it shall make a finding to that effect in its minutes. The city council of the city may thereupon order the pruning, trimming or removal of such trees or shrubs and the abatement of such nuisance in such manner as may to the council seem proper and reasonable, and either by the owner or by the city. The provisions of this section shall not be considered an exclusive procedure, but may be exercised either separately or in conjunction with any other remedy or procedure authorized by any other ordinance, law or statute. (Ord. 100 § 3, 1967).~~

8.04.040 Nuisance abatement – Lien.

~~If the nuisance is not abated or removed by the property owner within the time fixed by the city council pursuant to GHMC 8.04.030, Pursuant to 8.04.20 the city's street superintendent may abate the same, and he shall render a bill covering the cost to the city of such abatement, including the street superintendent's expense, and mail the bill to the property owner. If the property owner fails or refuses to pay the bill immediately, or if no bill is rendered because he cannot be found, the city clerk, in the name of the city, may file a lien therefor against the property, which lien shall be in the same form, filed with the same officer, and within the same time and manner and enforced and foreclosed as is provided by law for liens for labor and material. (Ord. 100 § 5, 1967).~~

8.04.050 Allowing noxious plants, overgrown vegetation, uncut weeds, etc.— Nuisance.

The following are declared to be a nuisance:-The maintaining, using, placing, depositing, causing, allowing, leaving or permitting to be or remain in or upon any private lot, building, structure or premises.-Overgrown, uncultivated, unkempt, or potentially hazardous vegetation of any type, including but not limited to shrubs, brush, weeds, blackberry vines and grasses over one (1) foot in height or length, or any noxious or toxic weed in accordance and identified by the Pierce County

Weed Control Board, including vegetation which may harbor rodents or transient activity, or encroach onto adjoining public right of way.

Regulated or managed features such as, but not limited to, critical areas and public or private stormwater facilities are exempt from this section.

~~The maintaining, using, placing, depositing, causing, allowing, leaving or permitting to be or remain in or upon any private lot, building, structure or premises or in or upon any street, avenue, alley, park, parkway or other public or private place in the city of any one or more of the following places, conditions, things or acts to the prejudice, danger or annoyance of others: Poison oak, poison ivy, deadly nightshade, or any noxious or toxic weed or uncultivated plant (whether growing or otherwise), weeds, tall grass, uncultivated shrubs or growth higher than two feet, or grass clippings, cut brush, cut weeds. (Ord. 132 § 1, 1970).~~

8.04.060 — Nuisance abatement order.

~~When judgment shall be rendered against any person, firm or corporation finding them guilty of creating, keeping or maintaining a nuisance, as herein provided, it shall be the duty of the court before whom the conviction is had, in addition to imposing the penalty or penalties herein provided, to order the defendant or defendants in such action to forthwith abate and remove such nuisance, and if the same is not done by such offender within 24 hours the same shall be abated and removed under the direction of the chief of police of the city or any other officer authorized by the order of said court, which said order of abatement shall be entered upon the docket of said court and made a part of the judgment in said action. (Ord. 132 § 2, 1970).~~

8.04.070 — Liability for costs of abatement.

~~Any person, firm or corporation found guilty of keeping or maintaining a nuisance, as herein provided, shall be liable for all costs and expenses of abating the same when said nuisance has been abated by any officer of the city which said costs and expenses shall be taxed as part of the costs of said prosecution against the party liable, to be recovered as other costs are recovered; provided, that in such cases the city shall be liable in the first instance to pay the same, and in all cases where the chief of police or other officer shall abate any such nuisance he shall keep an account of all expenses attending such abatement and in addition to other powers herein given to collect such costs and expenses, the city may bring suit for the same in any court of competent jurisdiction against the person, firm or corporation creating, keeping or maintaining the nuisance so abated. (Ord. 132 § 3, 1970).~~

8.04.080 — Penalty for violation.

~~Violation of any portion of this chapter is an infraction and subject to a penalty of \$500.00 as provided in GHMC [1.16.010\(D\)](#). (Ord. 460 § 3, 1985; Ord. 184 § 2, 1974; Ord. 132 § 4, 1970; Ord. 100 § 4, 1967).~~

8.04.090 Enforcement.

- A. The administrator shall have the authority to enforce this chapter. The administrator may call upon the building, fire, planning and community development or other appropriate city departments to assist in enforcement.
- B. This chapter shall be enforced for the benefit of the health, safety and welfare of the general public and not for the benefit of any particular person or class of persons.
- C. It is the intent of this chapter to place the obligation of complying with its requirements upon the person owning, leasing, renting, or occupying the property upon which a nuisance is located.
- D. If the administrator determines that a violation has occurred, the administrator shall use the enforcement process found in Chapter [2.60](#) GHMC.
- E. No provision of or any term used in this chapter is intended to impose any duty upon the city or any of its officers or employees which would subject them to damages in a civil action. (Ord. 1162 § 1, 2009).

Section 3. Chapter 8.10 of the Gig Harbor Municipal Code is amended as follows.

Chapter 8.10 PUBLIC NUISANCES

Sections:

- 8.10.010 Purpose and construction.**
- 8.10.020 Definitions.**
- 8.10.030 Duty to maintain real property.**
- 8.10.040 Prohibited conduct.**
- 8.10.050 Public nuisances declared.**
- 8.10.060 Abatement of public nuisance.**
- 8.10.070 Enforcement.**
- ~~**8.10.080 Investigation and notice of violation.**~~
- ~~**8.10.090 Time to comply.**~~
- ~~**8.10.100 Hearing.**~~
- ~~**8.10.110 Municipal court order.**~~
- ~~**8.10.120 Abatement — Costs.**~~
- ~~**8.10.130 Civil penalties.**~~
- 8.10.140 Additional relief.**
- ~~**8.10.150 Liens.**~~

8.10.010 Purpose and construction.

The purpose of this chapter is to define, regulate and provide for the abatement of public nuisances; reduce fire, safety and health hazards; preserve and enhance the attractiveness of the city's neighborhoods; and protect property values within the city. This chapter is an exercise of the police power and is necessary for the health, safety and welfare of the city and to preserve and protect the public peace. Therefore, the provisions of this chapter shall be liberally construed for the accomplishment of such purposes. This chapter shall

not apply to piers, docks, and net sheds along the shoreline. (Ord. 1162 § 1, 2009).

8.10.020 Definitions.

All terms used in this chapter shall have their common definition meaning. In addition to the common definition meaning, the terms used shall mean as follows:

“Abate” means to repair, replace, remove, destroy or otherwise remedy a condition that violates this chapter.

“Building materials” means lumber, plumbing materials, wallboard, sheet metal, plaster, brick, cement, asphalt, concrete block, roofing materials, cans of paint and similar materials.

“Dilapidated” means a building that is generally in a deteriorated condition and meets two or more of the following conditions:

1. Exterior wall(s) and/or siding having loose or rotting materials or showing holes or breaks.
2. One or more windows that are missing glass or are boarded.
3. Roof, stairs, porch, or building structure that is sagging, leaning, or in a state of collapse.
4. At least 25 percent of a roof with missing shingles (or other roofing materials).
5. Roof, wall, or any portion thereof with tarps, plastic sheeting, or other temporary materials intended to compensate for leakage; provided, that said materials are attached for more than six months.
6. Any building which is determined to be a dangerous building pursuant to the Uniform Code for the Abatement of Dangerous Buildings as adopted by reference in the Gig Harbor Municipal Code.

“Garbage” means waste food products, other organic waste products and packaging materials from food products.

“Junk” means discarded, broken or disabled items, including, but not limited to, furniture, appliances, toys, vehicle parts, building materials, tools, machinery parts or other items that are not in functioning condition.

“Person” means human beings of either sex as well as firms, partnerships, corporations, and all associations of human beings, whether acting by themselves or by a servant, agent or employee.

“Premises” means any building, lot, parcel, real estate, land or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.

“Public nuisance” means a thing, act, failure to act, occupation or use of property which (1) annoys, injures or endangers the comfort, repose, health or safety of the public; (2) unlawfully interferes with, obstructs, or renders dangerous for passage any stream, river, channel, public park, square, street, alley, highway or sidewalk; or (3) renders the public insecure in life or use of property. All of the conditions enumerated in GHMC 8.10.050 are “public nuisances.”

“Responsible party” means any person owning property, as shown on the real property records of Pierce County or on the last assessment roll for taxes, and

shall also mean any lessee, tenant or person having possession of the property. There may be more than one responsible party for a particular property.

"Trash" includes, but is not limited to, used, discarded, torn or broken paper; plastic; glass; cardboard; packaging materials; small pieces of scrap metal; wire; pipe; stone; plaster; cement; office supplies; cosmetics; bottles; cans; jars; or boxes. (Ord. 1162 § 1, 2009).

8.10.030 Duty to maintain real property.

Any person owning, leasing, renting, occupying or in charge of any real property in the city, including vacant lots, has a duty to maintain the property free from junk, trash, and any other nuisance as defined in this chapter, in order that such property shall not endanger the safety, health or welfare of the general public. (Ord. 1162 § 1, 2009).

8.10.040 Prohibited conduct.

It is a violation of this chapter for any person to permit, create, maintain or allow upon any premises, any of the acts or things declared to be public nuisances herein. (Ord. 1162 § 1, 2009).

8.10.050 Public nuisances declared.

Each of the following conditions, unless otherwise permitted by law, is declared to constitute a public nuisance, if such conditions are able to be viewed from the public right-of-way or adjacent public property:

- A. Any unfenced, uncovered, unguarded or abandoned pit, hole, excavation, well, septic tank, cesspool, or swimming pool into which a child or other person could fall. This paragraph does not pertain to residential and commercial decorative water features that are maintained and are in good working order.
- B. Attractive nuisances dangerous to children, including, but not limited to, abandoned, broken or neglected vehicles, boats, equipment and machinery; refrigerators, freezers or other insulated containers within which a child could suffocate; and abandoned, dilapidated or structurally unsound buildings.
- C. The existence or accumulation of any trash, litter or inorganic waste, including used, broken, torn or discarded paper, cardboard, plastic, rags, empty bottles, cans, glass, plaster, barrels, boxes, crates, packing cases, construction debris, styrofoam, hay, straw, packing materials, scrap metal, wire, pipe, crockery, and plaster not in covered and enclosed receptacles.
- D. The existence or accumulation of any junk, including broken, discarded, torn, or nonfunctional furniture, mattresses, bedding, appliances, toys, vehicle parts, or other articles of personal property.
- E. The existence or accumulation of building material, lumber, salvage materials, scrap iron, tin and other metal, wire, stone, cement or brick that are not associated with an active building permit, or are not neatly piled and screened from view from the public right-of-way or any adjacent public property.
- F. Any fence or structure which is sagging, leaning, fallen, or decayed, and is deemed a fire or safety hazard. Any building which is determined to be a

dangerous building pursuant to the Uniform Code for the Abatement of Dangerous Buildings as adopted by reference in the Gig Harbor Municipal Code.
G. Any vacant building or accessory structure which is in a dilapidated condition. (Ord. 1162 § 1, 2009).

8.10.060 Abatement of public nuisance.

The responsible person or persons for any premises on which a nuisance as defined in GHMC 8.10.050 is found shall abate such nuisance by removal, trimming, demolition, rehabilitation or repair. (Ord. 1162 § 1, 2009).

8.10.070 Enforcement.

A. The enforcement officer shall have the authority to enforce this chapter. The enforcement officer may call upon the building, fire, planning and community development or other appropriate city departments to assist in enforcement.

B. This chapter shall be enforced for the benefit of the health, safety and welfare of the general public and not for the benefit of any particular person or class of persons.

C. It is the intent of this chapter to place the obligation of complying with its requirements upon the person owning, leasing, renting, or occupying the property upon which a nuisance is located.

D. No provision of or any term used in this chapter is intended to impose any duty upon the city or any of its officers or employees which would subject them to damages in a civil action. (Ord. 1162 § 1, 2009).

E. If the administrator determines that a violation has occurred, the administrator shall use the enforcement process found in Chapter 2.60 GHMC.

~~8.10.080 Investigation and notice of violation.~~

~~A. *Investigation.* The enforcement officer shall investigate the premises which he/she reasonably believes does not comply with the standards and requirements of this chapter.~~

~~B. *Notice of Violation.* If, after investigation, the enforcement officer determines that the standards or requirements of this chapter have been violated, the enforcement officer shall serve a notice of violation upon the property owner, tenant, or other person responsible for the condition. The notice of violation shall contain the following information:~~

- ~~1. Name and address of the person(s) to whom the citation is issued;~~
- ~~2. The location of the subject property by address or other description sufficient for identification of the subject property;~~
- ~~3. A description of the public nuisance(s) present on the subject property;~~
- ~~4. A separate statement of each standard, code provision or requirement violated, and the reasons for which the city deems the condition of the property to constitute a public nuisance in violation of this chapter;~~
- ~~5. What corrective action, if any, is necessary to comply with the standards, code provisions or requirements;~~
- ~~6. A reasonable time for compliance;~~

- ~~7. A statement that if the person(s) to whom the notice of violation is issued fails to complete the corrective action by the date required, the city or its designee shall abate the public nuisance and will assess all costs of administration and abatement against the owner of the property upon which the public nuisance is located or otherwise attempt to collect such costs against the tenant or person(s) responsible for the violation;~~
- ~~8. A statement that the owner of the land on which the public nuisance is located may appear in person at the hearing and present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the public nuisance on the land, with his/her reasons for denial.~~
- ~~C. Service. The notice shall be served on the property owner and the tenant or other person responsible for the condition by personal service, registered mail, or certified mail with return receipt requested, addressed to the last known address of such person. If, after a reasonable search and reasonable efforts are made to obtain service, the whereabouts of the person(s) is unknown or service cannot be accomplished and the enforcement officer makes an affidavit to that effect, then service of the notice upon such person(s) may be made by:~~
- ~~1. Publishing the notice once each week for two consecutive weeks in the city's official newspaper; and~~
 - ~~2. Mailing a copy of the notice to each person named on the notice of violation by first class mail to the last known address as shown on the official Pierce County assessor's parcel data, or if unknown, to the address of the property involved in the proceedings.~~
- ~~D. Posting. A copy of the notice shall be posted at a conspicuous place on the property, unless posting the notice is not physically possible.~~
- ~~E. Amendment. A notice or order may be amended at any time in order to:~~
- ~~1. Correct clerical errors; or~~
 - ~~2. Cite additional authority for a stated violation.~~
- ~~F. Withdrawal. The city may choose to withdraw a notice of violation at any time without prejudice to the city's ability to reissue it if a certificate of compliance has not been obtained for the specific violations. (Ord. 1162 § 1, 2009).~~

8.10.090 — Time to comply.

- ~~A. Determination of Time. When calculating a reasonable time for compliance, the enforcement officer shall consider the following criteria:~~
- ~~1. The type and degree of violation cited in the notice;~~
 - ~~2. The stated intent, if any, of a responsible party to take steps to comply;~~
 - ~~3. The procedural requirements for obtaining a permit to carry out corrective action;~~
 - ~~4. The complexity of the corrective action, including seasonal considerations; and~~
 - ~~5. Any other circumstances beyond the control of the responsible party.~~
- ~~B. A copy of the notice may be recorded against the property with the Pierce County auditor. The enforcement officer may choose not to file a copy of the notice or order if the notice or order is directed only to a responsible person other than the owner of the property. (Ord. 1162 § 1, 2009).~~

8.10.100 — Hearing.

~~A. The property owner, tenant, or other person responsible for the violation may appeal the notice of violation by requesting such appeal of the notice, accompanied by the appropriate appeal fee, within 15 calendar days after service of the notice. When the last day of the period so computed is a Saturday, Sunday, or federal or city holiday, the period shall run until 5:00 p.m. on the next business day. The request shall be in writing, and upon receipt of the appeal request, the enforcement officer shall forward the request to the municipal court judge.~~

~~B. If a request for a hearing is received, a notice giving the time, location and date of the hearing shall be mailed, by certified mail, with a five-day return receipt requested, to the owner of the land as shown on the county assessor records and to the tenant or other person responsible for the violation.~~

~~C. The owner of the land on which the public nuisance is located may appear in person at the hearing or present a written statement for consideration, and deny responsibility for the presence of the nuisance, with the reasons for denial. If it is determined that the public nuisance was present on the property without the consent of the landowner and that the landowner has not acquiesced in its presence, then the cost of removal shall not be assessed against the landowner.~~

~~D. At or after the appeal hearing, the municipal court judge may:~~

- ~~1. Sustain the notice of violation and require that the public nuisance be abated at the request of the enforcement officer after a date certain;~~
 - ~~2. Withdraw the notice of violation;~~
 - ~~3. Continue the review to a date certain for receipt of additional information;~~
 - ~~4. Modify the notice of violation, which may include an extension of the compliance date, and/or determine that the owner of the property is not responsible for the costs of removal, pursuant to subsection C of this section.~~
- ~~(Ord. 1162 § 1, 2009).~~

8.10.110 — Municipal court order.

~~A. Unless mutually agreed to by the appellant and the court, the order of the court shall be served upon the person to whom it is directed, either personally or by mailing a copy of the order to such person at his/her last known address as determined by the enforcement officer within 15 calendar days following the conclusion of testimony and hearings and the closing of the record.~~

~~B. Proof of service shall be made by a written declaration by the person effecting the service, declaring the time and date of service and the manner by which service was made.~~

~~C. The municipal court, in affirming the enforcement officer's notice of violation and abatement, may assess administrative costs or costs related to the abatement of the public nuisance. The court may also order the refund of hearings fees to parties deemed not responsible for the violation.~~

~~D. If it is determined at the hearing that the public nuisance was present on the property without the consent of the landowner and that he or she has not subsequently acquiesced in its presence, then the municipal court's order shall~~

~~not assess costs of administration or removal of the public nuisance against the property upon which the public nuisance is located or otherwise attempt to collect the cost from the landowner. (Ord. 1162 § 1, 2009).~~

~~8.10.120 — Abatement — Costs.~~

~~A. Commencing 45 calendar days after service of the notice of violation and abatement, if no appeal has been filed, or 15 calendar days after the issuance of an order from the municipal court resulting in authority to remove, the enforcement officer shall supervise the abatement of the public nuisance.~~

~~B. The city's costs related to abatement of the public nuisance may be collected from the property owner unless the public nuisance existed on the property without the property owner's consent or acquiescence. If the city's costs cannot be collected from the property owner, the city may collect those costs from the tenant or other person responsible for the violation. (Ord. 1162 § 1, 2009).~~

~~8.10.130 — Civil penalties.~~

~~A. In addition to any other sanction or remedial procedure which may be available, any person, firm or corporation violating or failing to comply with any of the provisions of this chapter shall be subject to a cumulative civil penalty in the amount of \$100.00 per day for each violation from the date set for compliance until compliance with the order is achieved.~~

~~B. The penalty imposed by this section shall be collected by civil action brought in the name of the city. The enforcement officer shall notify the city attorney in writing of the name of any person subject to the penalty, and the city attorney shall, with the assistance of the enforcement officer, take appropriate action to collect the penalty. (Ord. 1162 § 1, 2009).~~

~~8.10.140 Additional relief.~~

~~The enforcement officer may seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of this chapter when civil penalties are inadequate to effect compliance. (Ord. 1162 § 1, 2009).~~

~~8.10.150 — Liens.~~

~~A. *Generally.* The city shall have a lien for any civil penalty imposed or for the cost of any abatement work done pursuant to this chapter, or both, against the real property on which the civil penalty was imposed or any of the abatement work was performed.~~

~~B. *Priority.* The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens, except for state and county taxes.~~

~~C. *Contents.* The claim of lien shall contain the following:~~

- ~~1. The authority for imposing a civil penalty or proceeding to abate the violation, or both;~~
- ~~2. A brief description of the civil penalty imposed or the abatement work done, or both, including the violations charged and the duration thereof;~~

~~including the time the work is commenced and completed and the name of the persons or organizations performing the work;~~
~~3. A legal description of the property to be charged with the lien;~~
~~4. The name of the known or reputed owner, and, if not known, the fact shall be alleged;~~
~~5. The amount, including lawful and reasonable costs, for which the lien is claimed; and~~
~~6. Signed verification by the director or his/her authorized representative, under penalty of perjury under the laws of the state of Washington, that the declarant believes the claim is just.~~

~~D. *Recording.* The director shall cause a claim for lien to be filed for record in the Pierce County auditor's office within 90 days from the date the civil penalty is due or within 90 days from the date of completion of the abatement work performed pursuant to this chapter.~~

~~E. *Duration.* A lien created under this chapter shall be valid until the amount of money specified in the lien is paid in full.~~

~~F. *Foreclosure.* A lien created under this chapter may be foreclosed and enforced by a civil action in a court having jurisdiction. All persons who have legally filed claims or liens against the same property prior to commencement of the action shall be joined as parties, either as plaintiff or defendant. Dismissal of an action to foreclose a lien at the instance of a plaintiff shall not prejudice another party to the suit who claims a lien. (Ord. 1162 § 1, 2009).~~

Section 4. Chapter 12.17 of the Gig Harbor Municipal Code is amended as follows.

Chapter 12.17 ENFORCEMENT

Sections:

12.17.002	Violations.
12.17.004	Enforcement. Compliance
12.17.006	Investigation and notice of violation.
12.17.008	Time to comply.
12.17.010	Stop work order.
12.17.012	Emergency order.
12.17.014	Criminal penalties.
12.17.016	Additional relief.

12.17.002 Violations.

- A. It is a violation of GHMC Titles [12](#), [13](#) and/or [14](#) for any person to initiate, maintain or cause to be initiated or maintained the use of any structure, land or property within the city of Gig Harbor without first obtaining the permits or authorizations required for the use by the aforementioned codes.
- B. It is a violation of GHMC Titles 12, 13 and/or 14 for any person to use, construct, locate, demolish or cause to be used, constructed, located, or

demolished any structure, land or property within the city of Gig Harbor in any manner that is not permitted by the terms of any permit or authorization issued pursuant to the aforementioned codes; provided, that the terms or conditions are explicitly stated on the permit or the approved plans.

- C. In addition to the above, it is a violation of GHMC Titles 12, 13 and/or 14 to:
1. Remove or deface any sign, notice, complaint or order required by or posted in accordance with the aforementioned codes;
 2. Misrepresent any material fact in any application, plans or other information submitted to obtain any building or construction authorization;
 3. Fail to comply with any of the requirements of or violate any of the provisions of GHMC Titles 12, 13 and/or 14. (Ord. 870 § 1, 2001).

12.17.004 Compliance

A. The public works director has the authority to enforce this chapter and GHMC Titles 12, 13 and/or 14. The public works director may call upon the police, fire, building, planning or other appropriate city departments to assist in enforcement. As used in this chapter, "public works director" shall also mean his or her duly authorized representative.

B. Upon presentation of proper credentials, the public works director or designee may, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued inspection warrant, enter at reasonable times any building, facility, street, premises or right-of-way subject to the consent or warrant, in order to perform the duties imposed by GHMC Titles 12, 13 and/or 14.

C. This chapter shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

D. It is the intent of this chapter to place the obligation of complying with its requirements upon the owner, occupier or other person responsible for the condition of the land and buildings within the scope of GHMC Titles 12, 13 and/or 14.

E. No provision of or any term used in this chapter is intended to impose any duty upon the city or any of its officers or employees which would subject them to damages in a civil action. (Ord. 870 § 1, 2001).

12.17.006 Compliance Process.

A. *Investigation.* The public works director shall investigate any structure, activity, facility, street or use which the public works director reasonably believes does not comply with the standards and requirements of GHMC Titles 12, 13 and/or 14.

B. *Voluntary Compliance.* If, after investigation, the public works director or designee determines that the standards or requirements of this title have been violated, the public works director or designee may pursue a reasonable attempt to secure voluntary compliance by contacting the owner or other person

responsible for any violation of this code, explaining the violation, and requesting compliance. This contact may be in person or in writing or both.

C. Code Compliance: If the public works director or designee has a reasonable belief based on evidence that a violation of any of the codes exists, and the stop work order and/or voluntary compliance measures either have already been sought and have been unsuccessful or are determined not to be appropriate for the circumstances, the public works director may seek compliance through the code compliance process as outlined in Chapter 2.60 GHMC.

~~F. Optional Notice to Others. The public works director may mail, or cause to be delivered to all residential and/or nonresidential rental units in the structure or post at a conspicuous place on the property, a notice which informs each recipient or resident about the notice of violation, stop work order or emergency order and the applicable requirements and procedures.~~

~~G. Amendment. A notice or order may be amended at any time in order to:~~

- ~~1. Correct clerical errors; or~~
- ~~2. Cite additional authority for a stated violation. (Ord. 870 § 1, 2001).~~

12.17.010 Stop work order.

~~Whenever a continuing violation of this code will materially impair the public works director's ability to secure compliance with this code, or when the continuing violation threatens the health or safety of the public or damage to public property, the public works director may issue a stop work order specifying the violation and prohibiting any work or other activity at the site. A failure to comply with a stop work order shall constitute a violation of this chapter. (Ord. 870 § 1, 2001).~~

A. The administrator shall have the authority to issue a stop work order whenever any activity, work or development is being done in violation of any of the land use codes, or without a permit, review or authorization required by the land use codes, or contrary to any permit, required review, or authorization that may result in violation of the land use codes. The Stop Work Order shall be posted and contain the information-pursuant to GHMC 2.60.040.

1. The street address or a description of the building, structure, premises, or land where the violation has occurred, in terms reasonably sufficient to identify its location;
2. A description of the potential violation and a reference to the provisions of the code that may have been violated;
3. A description of the action required to remedy the potential violation, including but not limited to corrections, repairs, demolition, removal, restoration, time period to comply, after which a notice of violation may be issued, or any other appropriate action as determined by the administrator;
4. The appropriate department and/or division investigating the case and the contact person.

B. With the exception of emergency work determined by the administrator to be necessary to prevent immediate threats to the public health, safety and welfare or stabilize a site or prevent further property or environmental damage, it is

unlawful for any work to be done after the posting or service of a stop work order until authorization to proceed is provided by the administrator.

C. Proof of posting shall be made by a written declaration under penalty of perjury executed by the person effecting the posting, declaring the time and date of posting, and the manner by which the posting was made. (Ord. 1226 § 1, 2011).

12.17.012 Emergency order.

Whenever any use or activity in violation of GHMC Titles 12, 13 and/or 14 threatens the health and safety of the occupants of the premises or any member of the public or damage to public property, the public works director may issue an emergency order directing that the use or activity be discontinued and the condition causing the threat to the public health and safety or public property be corrected. The emergency order shall specify the time for compliance and shall be posted in a conspicuous place on the property, if posting is physically possible. A failure to comply with an emergency order shall constitute a violation of this chapter.

Any condition described in the emergency order which is not corrected within the time specified is hereby declared to be a public nuisance and the public works director is authorized to abate such nuisance summarily by such means as may be available. The cost of such abatement shall be recovered from the owner or person responsible or both in the manner provided by law. (Ord. 870 § 1, 2001).

12.17.014 Criminal penalties.

A. Any person violating or failing to comply with any of the provisions of GHMC Titles 12, 13 and/or 14 and who has had a judgment entered against him or her pursuant to GHMC 12.17.016 or its predecessors within the past five years shall be subject to criminal prosecution and upon conviction of a subsequent violation shall be fined in a sum not exceeding \$5,000 or be imprisoned for a term not exceeding one year or be both fined and imprisoned. Each day of noncompliance with any of the provisions of GHMC Titles 12, 13 and/or 14 shall constitute a separate offense.

B. The above criminal penalty may also be imposed:

1. For any other violation of GHMC Titles 12, 13 and/or 14 for which corrective action is not possible; and
2. For any willful, intentional, or bad faith failure or refusal to comply with the standards or requirements of GHMC Titles 12, 13 and/or 14. (Ord. 870 § 1, 2001).

12.17.016 Additional relief.

The public works director may seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of GHMC Titles 12, 13 and/or 14 when civil or criminal penalties are inadequate to effect compliance. (Ord. 870 § 1, 2001).

Section 5. Chapter 15.24 of the Gig Harbor Municipal Code is amended as follows.

**Chapter 15.24
ENFORCEMENT**

Sections

15.24.010	Violations.
15.24.020	Enforcement.
15.24.030	Investigation and notice of violation. Code Compliance
15.24.040	Time to comply.
15.24.050	Stop work order.
15.24.060	Emergency order.
15.24.070	No administrative appeal of notices of violation.
15.24.080	Penalties.
15.24.090	Additional relief.

15.24.010 Violations.

- A. It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by any code adopted in this title, or cause same to be done, in conflict with or in violation of any of the provisions of this code.
- B. *Additional Violations.* In addition to the above, it is a violation of this title to:
1. Remove or deface any sign, notice, complaint or order required by or posted in accordance with this chapter;
 2. Misrepresent any material fact in any application, plans or other information submitted to obtain any building or construction authorization;
 3. Fail to comply with any of the requirements of this title, including any requirement of the city's codes and state codes adopted by reference herein. (Ord. 983 § 21, 2005).
 4. Expired permits shall constitute a violation subject to the enforcement provisions of Section 15.24.020 and Title 2.

15.24.020 Enforcement.

- A. The building official/fire marshal shall have the ability to enforce this chapter. The building official/fire marshal may call upon the police, fire, planning and community development or other appropriate city departments to assist in enforcement. As used in this chapter, "building official/fire marshal" shall also mean his or her duly authorized representative.
- B. Upon presentation of proper credentials, the building official/fire marshal may, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued inspection warrant, enter at reasonable times any building or premises subject to the consent or warrant, in order to perform the duties imposed by this title.

C. This chapter shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

D. It is the intent of this chapter to place the obligation of complying with its requirements upon the owner, occupier or other person responsible for the condition of the land and buildings within the scope of this title.

E. No provision of or any term used in this chapter is intended to impose any duty upon the city or any of its officers or employees which would subject them to damages in a civil action. (Ord. 983 § 21, 2005).

15.24.030 ~~Investigation and notice of violation.~~ Compliance Process

A. ~~Investigation.~~ The building official/fire marshal shall investigate any structure or use which the building official/fire marshal reasonably believes does not comply with the standards and requirements of this title.

B. ~~Notice of Violation.~~ Voluntary Compliance If, after investigation, the building official/fire marshal determines that the standards or requirements of this title have been violated, the building official/fire marshal shall ~~serve a notice of violation upon the owner, tenant or other person responsible for the condition.~~ The notice of violation shall contain the following information:

- ~~1. A separate statement of each standard, code provision or requirement violated;~~
- ~~2. What corrective action, if any, is necessary to comply with the standards, code provision or requirements;~~
- ~~3. A reasonable time for compliance;~~
- ~~4. A statement that if the violation is not already subject to criminal prosecution, any subsequent violations may result in criminal prosecution as provided in GHMC 15.24.080.~~

or designee may pursue a reasonable attempt to secure voluntary compliance by contacting the owner or other person responsible for any violation of this code, explaining the violation, and requesting compliance. This contact may be in person or in writing or both.

~~C. Service.~~ The notice shall be served on the owner, tenant or other person responsible for the condition by personal service, registered mail, or certified mail with return receipt requested, addressed to the last known address of such person. If, after a reasonable search and reasonable efforts are made to obtain service, the whereabouts of the person(s) is unknown or service cannot be accomplished and the building official/fire marshal makes an affidavit to that effect, then service of the notice upon such person(s) may be made by:

- ~~1. Publishing the notice once each week for two consecutive weeks in the city's official newspaper; and~~
- ~~2. Mailing a copy of the notice to each person named on the notice of violation by first class mail to the last known address as shown on the official Pierce County assessor's parcel data, or if unknown, to the address of the property involved in the proceedings.~~

~~D. Posting.~~ A copy of the notice shall be posted at a conspicuous place on the property, unless posting the notice is not physically possible.

~~E. *Other Actions May Be Taken.* Nothing in this section shall be deemed to limit or preclude any action or proceeding pursuant to GHMC 15.24.010, 15.24.020, 15.24.080 or 15.24.090.~~

~~F. *Optional Notice to Others.* The building official/fire marshal may mail, or cause to be delivered, to all residential and/or nonresidential rental units in the structure or post at a conspicuous place on the property, a notice which informs each recipient or resident about the notice of violation, stop work order or emergency order and the applicable requirements and procedures.~~

~~G. *Amendment.* A notice or order may be amended at any time in order to:~~

- ~~1. Correct clerical errors; or~~
- ~~2. Cite additional authority for a stated violation.~~

~~H. *Withdrawal.* The city may choose to withdraw a notice of violation at any time, without prejudice to the city's ability to reissue it, if a certificate of compliance has not been obtained for the specific violations. (Ord. 983 § 21, 2005).~~

C. Notice of Violation. If the building official / fire marshal or designee has a reasonable belief based on evidence that a violation of any of the building codes exists, and the stop work order and/or voluntary compliance measures either have already been sought and have been unsuccessful, or are determined not to be appropriate for the circumstances, the building official/ fire marshal may seek a compliance through the Code Compliance process as outlined in GHMC 2.60.

15.24.040 — Time to comply.

~~A. *Determination of Time.* When calculating a reasonable time for compliance, the building official shall consider the following criteria:~~

- ~~1. The type and degree of violation cited in the notice;~~
- ~~2. The stated intent, if any, of a responsible party to take steps to comply;~~
- ~~3. The procedural requirements for obtaining a permit to carry out corrective action;~~
- ~~4. The complexity of the corrective action, including seasonal considerations, construction requirements and the legal prerogatives of landlords and tenants; and~~
- ~~5. Any other circumstances beyond the control of the responsible party.~~

~~B. A copy of the notice shall be filed with the Pierce County auditor. The building official/fire marshal may choose not to file a copy of the notice or order if the notice or order is directed only to a responsible person other than the owner of the property. (Ord. 983 § 21, 2005).~~

15.24.050 Stop work order.

Whenever a continuing violation of this code will materially impair the building official/fire marshal's ability to secure compliance with this code, or when the continuing violation threatens the health or safety of the public, the building official/fire marshal may issue a stop work order specifying the violation and prohibiting any work or other activity at the site. A failure to comply with a stop work order shall constitute a violation of this chapter. The Stop Work Order shall

be posted and contain the information-pursuant to GHMC 2.60.040. (Ord. 983 § 21, 2005).

15.24.060 Emergency order.

Whenever any use or activity in violation of this title threatens the health and safety of the occupants of the premises or any member of the public, the building official/fire marshal may issue an emergency order directing that the use or activity be discontinued and the condition causing the threat to the public health and safety be corrected. The emergency order shall specify the time for compliance and shall be posted in a conspicuous place on the property, if posting is physically possible. A failure to comply with an emergency order shall constitute a violation of this chapter. Any condition described in the emergency order which is not corrected within the time specified is hereby declared to be a public nuisance and the building official/fire marshal is authorized to abate such nuisance summarily by such means as may be available. The cost of such abatement shall be recovered from the owner or person responsible or both in the manner provided by law. (Ord. 983 § 21, 2005).

15.24.070 No administrative appeal of notices of violation.

There is no administrative appeal of a notice of violation issued pursuant to this chapter. (Ord. 983 § 21, 2005).

A. Criminal Penalty. In addition to or as an alternative to any other penalty provided in this chapter or by law, any person, firm or corporation who violates any provision of this title shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of up to \$5,000 and/or imprisonment for a period of up to one year, or both such fine and imprisonment (as provided in RCW 35A.11.020).

B. Criminal Penalties for Violations of the IMC, IFGC, UPC and IFC. Any person, firm or corporation who violates any provision of the International Mechanical Code, International Fuel Gas Code, the Uniform Plumbing Code and the International Fire Code, as adopted in this title, is subject to the criminal penalties as set forth in subsection A of this section. (Ord. 983 § 21, 2005).

15.24.080 Penalties.

~~A. Civil Penalty.~~

~~1. In addition to any other sanction or remedial procedure which may be available, any person, firm or corporation violating or failing to comply with any of the provisions of this title shall be subject to a cumulative civil penalty in the amount of \$50.00 per day for each violation from the date set for compliance until compliance with the order is achieved.~~

~~2. The penalty imposed by this section shall be collected by civil action brought in the name of the city. The building official/fire marshal shall notify the city attorney in writing of the name of any person subject to the penalty, and the city attorney shall, with the assistance of the building official/fire marshal, take appropriate action to collect the penalty.~~

~~3. The violator may show as full or partial mitigation of liability:~~

- a. ~~That the violation giving rise to the action was caused by the willful act, or neglect, or abuse of another; or~~
- b. ~~That correction of the violation was commenced promptly upon receipt of the notice thereof, but that full compliance within the time specified was prevented by inability to obtain necessary materials or labor, inability to gain access to the subject structure, or other condition or circumstance beyond the control of the defendant.~~

~~B. *Criminal Penalty.* In addition to or as an alternative to any other penalty provided in this chapter or by law, any person, firm or corporation who violates any provision of this title shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of up to \$5,000 and/or imprisonment for a period of up to one year, or both such fine and imprisonment (as provided in RCW 35A.11.020).~~

~~C. *Criminal Penalties for Violations of the IMC, IFGC, UPC and IFC.* Any person, firm or corporation who violates any provision of the International Mechanical Code, International Fuel Gas Code, the Uniform Plumbing Code and the International Fire Code, as adopted in this title, is subject to the criminal penalties as set forth in subsection B of this section. (Ord. 983 § 21, 2005).~~

15.24.090 Additional relief.

The building official/fire marshal may seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of this title when criminal penalties are inadequate to effect compliance. (Ord. 983 § 21, 2005).

In addition to any other sanction or remedial procedure the administrator may record a Certificate of Noncompliance on the parcel upon which the violation is located. Once the violation has been remedied, the administrator shall record a Certificate of Compliance. The property owner shall pay the cost of recording the Certificates of Noncompliance and Compliance. Prior to recording a Certificate of Noncompliance, the administrator shall provide written notice of intent to record to the property owner. Notice shall be delivered as set forth in GHMC 2.60.060(C).

Section 6. Chapter 18.10.050 of the Gig Harbor Municipal code is amended as follows:

18.10.050 General provisions.

A. *Lands to Which This Chapter Applies.* This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city of Gig Harbor. GHMC 18.10.100 also applies to areas that include riparian buffer zone within the jurisdiction of the city of Gig Harbor.

B. *Basis for Establishing the Areas of Special Flood Hazard.* The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Pierce County, and Incorporated Areas," dated March 7, 2017, and any revisions thereto, with an accompanying Flood Insurance Rate Map (FIRM) dated March 7,

2017, and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. The flood insurance study and the FIRM are on file at the Gig Harbor Civic Center, 3510 Grandview St., Gig Harbor, WA 98335. The best available information for flood hazard area identification as outlined in GHMC 18.10.060 shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under GHMC 18.10.060.

C. *Penalties for Noncompliance.* No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter for failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall be enforced according to the procedures in Chapter 17.07 GHMC 2.60 GHMC.

D. *Abrogation and Greater Restrictions.* This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. *Interpretation.* In the interpretation and application of this chapter, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

F. *Warning and Disclaimer of Liability.* The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 1356 § 1, 2017; Ord. 1264 § 1, 2013; Ord. 1259 § 3, 2013; Ord. 1074 § 2, 2007).

Section 7. Section 19.16 of the Gig Harbor Municipal Code is hereby repealed.

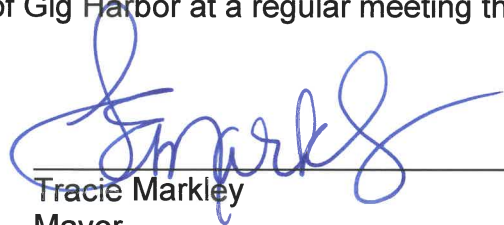
Section 8. Severability. If any section, sentence, clause, or phrase of this ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance.

Section 9. Correction of Errors. The city clerk and codifiers of the ordinance are authorized to make necessary corrections to this ordinance including, but not limited

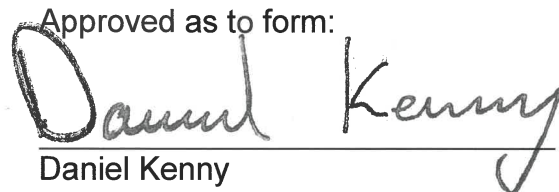
to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 10. Effective Date. This ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

ADOPTED by the Council of the City of Gig Harbor at a regular meeting thereof, held this 25th day of March, 2024.



Tracie Markley
Mayor

Approved as to form:


Daniel Kenny
City Attorney

Attest:


Joshua Stecker, CMC
City Clerk