

AGENDA
GIG HARBOR CITY COUNCIL STUDY SESSION
Thursday, October 26, 2023 - 3:00 PM
Virtual Meeting

This meeting may be accessed through Zoom at <https://zoom.us/j/93216056382> or by calling (253) 215-8782 and entering Meeting ID 932 1605 6382. This meeting may also be viewed live in the Executive Conference Room at the Civic Center. All participants will be engaging in the meeting via Zoom.

CALL TO ORDER/ROLL CALL

DISCUSSION ITEMS

1. **Introduction of Arts Commission Appointee**
Mayor Tracie Markley
2. **2024 Legislative Agenda**
City Administrator Katrina Knutson
3. **Harbor WildWatch Lease Renewal for Skansie House**
Parks Manager Jennifer Haro
4. **Code Compliance/Enforcement Program Revisions**
Community Development Director Carl de Simas

ADJOURN

PUBLIC COMMENT & DECORUM

Public comment will not be accepted at this study session.

AMERICANS WITH DISABILITIES (ADA) ACCOMMODATIONS

ADA accommodations can be provided upon request. Those requiring special accommodations should contact the city clerk at cityclerk@gjgharborwa.gov or (253) 853-7613 at least 24 hours prior to the meeting.



**City of Gig Harbor
City Council Agenda Bill**

Meeting Date: October 26, 2023

SUBJECT: 2024 Legislative Agenda

SUBMITTED BY: City Administrator Katrina Knutson

DEPARTMENT: Administration

PHONE: (253) 851-6127

SUGGESTED MOTION: N/A

BACKGROUND INFORMATION: A draft legislative agenda is being presented to council for discussion and direction to staff. This draft was prepared based on council's discussion at the September 28 study session.

A final version of the legislative agenda will be presented to council for approval at the November 27 city council meeting.

FISCAL CONSIDERATION: None.

ATTACHMENTS:

1. DRAFT 2024 Legislative Agenda

STRATEGIC PLAN PRIORITY: Maintain small town character and historic preservation while growing responsibly.



2024 State Legislative Agenda

Gig Harbor Sports Complex – Capital Budget Request

The City is in the final stages of completing the Gig Harbor Sports Complex. The Complex is a multi-phase project representing a partnership between the YMCA and other local organizations, the state, and the City. This facility will serve nearly 50,000 people in the surrounding 5-mile radius and was designed through a robust public outreach process to identify top community needs. The project has two components: construction of two lighted turf fields and installation of a new community park, which will include pickleball courts, bocce ball courts, a playground area, event lawn and sheltered performance stage, two covered picnic areas, and associated parking and restroom facilities. The City has secured full funding for the community park and associated improvements and will be going out to bid for construction of this portion of the project in December 2023.

The final stage of the project, construction of the lighted turf fields, requires more significant financial resources. Design and pre-construction are complete; however, **\$1.5 million** in additional capital funding is needed to complete construction of the project. The City is asking for the remaining \$1.5 million in the 2024 capital budget, allowing this multiphase project to be constructed and ready for use by the end of 2024. State contribution will be matched with YMCA and City funds to bring the project to completion.

HVAC Upgrades at City Hall – Capital Budget Request

The City of Gig Harbor is aligned with the state's goal to decarbonize publicly owned facilities and infrastructure; however, these improvements can be costly for small cities to finance. The City requests \$2.2 million in state Climate Commitment Act funding to install a new, energy efficient HVAC system at Gig Harbor City Hall.

Public Safety

Gig Harbor joins other Pierce County cities in asking the Legislature to provide tools for local jurisdictions to respond to public safety concerns affecting our residents:

- Property crime and vehicular theft– the City asks the Legislature to modify the vehicular pursuit statute to provide officers the discretion to pursue for property crimes and vehicular theft, which represent the preponderance of increased crime incidents within Gig Harbor.
- Parental/custodial consent for juvenile questioning– current law requires juveniles to be assigned an attorney before obtaining consent for law enforcement to search personal property or engage in questioning. This process creates additional barriers to due process as local jurisdictions struggle to hire and maintain public defenders. The City requests that the Legislature amend current statute to allow for a parent or guardian to provide consent of a juvenile in custody to be interviewed by law enforcement and provide consent to search property.

State Route 16 Congestion Relief – Transportation Budget Language

The City is incredibly grateful for the state investment made in the 2023 Legislative Session in the City's Wollochet Drive Safety Improvements, which encompasses several improvements to the on- and off-ramps and signals of the Wollochet Intersection along Highway 16. This project received \$1.68 million in the 23-25 biennium, which, matched with city funds, would fully fund construction. Though located along a state highway, the City will own and complete this project; however, funding was directed to the WSDOT Safety Improvements Program to administer the project in the 2023 Transportation Budget. With the support of WSDOT, Gig Harbor asks that this funding is moved to WSDOT Local Programs in the 2024 Supplemental Transportation budget, allowing the City to administer and complete these critical improvements.



**City of Gig Harbor
City Council Agenda Bill**

Meeting Date: October 26, 2023

SUBJECT: Harbor WildWatch Lease Renewal for Skansie House

SUBMITTED BY: Parks Manager Jennifer Haro

DEPARTMENT: Public Works

PHONE: 253-853-8253

SUGGESTED MOTION:

BACKGROUND INFORMATION: The lease for Harbor WildWatch ends on December 31, 2023. City staff has begun working with Harbor WildWatch to prepare to renew their existing lease. In renewing the lease, Harbor WildWatch has requested a couple of significant changes. These significant changes are summarized below.

Section 4 - Term. The most recent lease was for five years, and previous leases were for even shorter periods. Harbor WildWatch has requested a lease extension for 20 years, which would allow them to qualify for more grants and show potential donors and funding agencies stability for their programs.

Exhibit B - Visitor Information Center. The current lease requires Harbor WildWatch to operate the City's Visitor Information Center with a dedicated volunteer during open hours. Since the pandemic, Harbor WildWatch has had difficulty finding enough volunteers to staff the Information Center desk. With the recent transfer of tourism resources from the city to the Chamber of Commerce, it is not necessary to have two full-service visitor centers downtown. Harbor WildWatch has agreed to work with the Chamber to provide maps, brochures and other tourism-related items for distribution to visitors. Staff and volunteers will continue to provide information, but will direct more detailed inquiries to the Bogue Visitor Information Center.

Staff believes that even without Harbor WildWatch operating a visitor information center, they will continue to provide many benefits to the residents and visitors of Gig Harbor by drawing people downtown with their marine science center and public programming, such as guided walking tours in partnership with the Harbor History Museum, salmon tours, wetland tours, Pier into the Night, and Chum Fest.

FISCAL CONSIDERATION: None.

ATTACHMENTS:

1. Draft 2nd Amendment to Lease
2. Skansie House Lease Agreement with Harbor WildWatch

STRATEGIC PLAN PRIORITY: Ensure sustainable future for public services and facilities

**SECOND AMENDMENT
TO
LEASE AGREEMENT BETWEEN
THE CITY OF GIG HARBOR AND
HARBOR WILDWATCH**

THIS SECOND AMENDMENT to the Lease Agreement between the City of Gig Harbor and Harbor WildWatch entered into on November 28, 2017 is made and entered into as of the date signed below by and between the CITY OF GIG HARBOR, a Washington municipal corporation (the “City”), and the HARBOR WILDWATCH, a Washington nonprofit corporation (“HWW”), collectively referred to as the “parties.”

RECITALS

WHEREAS, the City currently leases to HWW the property located at 3207 Harborview Drive, Gig Harbor, Washington, which includes the building commonly known as the Skansie House. This lease is memorialized in the lease agreement dated November 27, 2017 (the “lease agreement”), which ends on December 31, 2023; and

WHEREAS, the City and HWW previously had lease agreements that extended from 2014 -2015, 2015 – 2018; and

WHEREAS, the City and HWW amended the lease agreement in 2020 to include an 8-foot by 10-foot storage area in the basement of the Skansie House (“First Amendment”); and

WHEREAS, the current lease expires on December 31, 2023 and HWW wishes to extend it for 20 years, in order to be better positioned to obtain grants that help their mission; and

WHEREAS, the City has contracted tourism related duties to the Gig Harbor Chamber of Commerce, which runs a visitor’s center out of their office at 3125 Judson Street seven days a week which eliminates the need for tourism services at Skansie House; and

WHEREAS, the HWW Marine Interpretive Center brings visitors to downtown Gig Harbor year-round for programs open and available to the public, fulfilling their mission and serving the Gig Harbor community and surrounding areas; and

WHEREAS, HWW has had issues getting enough volunteers to staff the visitor’s center desk outside of summer, and would like to eliminate the requirement in their existing lease to staff the visitor’s center, but would still stock visitor information and maps on the premises; and

WHEREAS, the Parks Commission considered this request at their August 2, 2023 meeting and unanimously approved; and

WHEREAS, this lease agreement together with the First Amendment shall be called the "HWW Lease:" and

NOW, THEREFORE, in consideration of the mutual promises below, the parties hereby amend the HWW Lease as follows:

AMENDMENTS

Subsection 4.1 is hereby amended to read:

4.1 The term of this lease shall terminate on December 31, 2043, unless terminated sooner pursuant to the terms and conditions of this lease. Nothing herein shall obligate the City to enter into any additional lease agreements or addenda with the Lessee.

Subsection 5.1 is hereby amended to read:

5.1 Lessee may use the leased premises for office and meeting space and the uses set forth in section 5.2, and for no other purposes without the prior written consent of the City. All such activities shall be conducted in compliance with all applicable regulations. In the event Lessee desires to conduct outdoor activities at the site, Lessee must comply with the City's general special event permit already in place for Skansie Brothers Park.

Exhibit B is hereby deleted.

A new Subsection 5.5 is hereby added:

5.5 Lessee shall provide the City with a written report and supporting documentation of the activities performed by HWW during the prior year by March 31 of each year based on the uses allowed in this lease. In the event the City determines that HWW does not perform as required by this lease, the City may institute the procedures set forth in Section 21 to demand remedy of the default and terminate the lease.

A new Subsection 5.6 is hereby added:

5.6 A building safety checklist will be completed yearly by HWW staff and submitted to the city by March 1 of each year. In addition, HWW staff will have a designated first aid representative on staff that is certified in CPR/First Aid and basic AED use.

EXCEPT AS MODIFIED BY THIS SECOND AMENDMENT TO LEASE AGREEMENT, ALL TERMS AND CONDITIONS OF THE HWW LEASE SHALL REMAIN IN FULL FORCE AND EFFECT.

IN WITNESS WHEREOF, the parties have executed this Amendment effective this _____ day of _____, 2023.

CITY OF GIG HARBOR

HARBOR WILDWATCH

By: _____
Mayor Tracie Markley

By: _____
Lindsey Stover,
Executive Director

APPROVED AS TO FORM:

City Attorney

**LEASE
AND
AGREEMENT FOR SERVICES
BETWEEN THE CITY OF GIG HARBOR
AND HARBOR WILDWATCH**

THIS LEASE AND AGREEMENT FOR SERVICES ("Lease") is made and entered into this 28 day of November, 2017 by and between CITY OF GIG HARBOR, a municipal corporation of the State of Washington (the "City" or "Lessor") and HARBOR WILDWATCH, a Washington non-profit corporation ("HWW" or "Lessee"). In consideration of the following mutual promises, the parties agree as follows:

WITNESSETH:

WHEREAS, the City owns the property located at 3207 Harborview Drive, Gig Harbor, WA (hereinafter referred to as the "Property") which includes the building commonly known as Skansie Brothers House (aka Skansie House), and is described as follows:

Section 08 Township 21 Range 02 Quarter 21 PARCEL A
DBLR 2004-06-02-5005 DESC AS FOLL COM AT NW COR
SEC 8 TH S 88 DEG 18 MIN 20 SEC E ALG NLY LI SD
SEC 1797.63 FT TO INTER OF ROSEDALE ST NW &
HARBORVIEW DR NW TH S 88 DEG 18 MIN 46 SEC E
35.31 FT TO ELY RW & POB TH N 30 DEG 08 MIN 34
SEC W 20.70 FT TH N 28 DEG 30 MIN 24 SEC W 12.52
FT TH N 37 DEG 22 MIN 14 SEC E 176.57 FT TH S 52
DEG 37 MIN 46 SEC E 60 FT TH S 37 DEG 22 MIN 14
SEC W 59.5 FT TO GOVT ML TH S 33 DEG 38 MIN 46
SEC E 108.49 FT TO MEANDER COR BET SECS 8 & 5
TH S 68 DEG 56 MIN 21 SEC E 149.27 FT TH S 34 DEG
03 MIN 39 SEC W 257.22 FT TH N 30 DEG 08 MIN 34
SEC W 313.96 FT TO POB TOG/W 2ND CL TDLDS
ABUTT COMB OF 2-020, 2-019, 02-21-05-3120 & 765000-
011-0 SEG 2005-1190BL 01-26-05BL

WHEREAS, the Skansie House was constructed by the Skansie Brothers who contributed to the early development of Gig Harbor through their influence on commercial fishing and boatbuilding; and

WHEREAS, HWW began leasing the Skansie Brother's House on June 20, 2014, to deliver environmental, educational and/or cultural programs to the residents and visitors of Gig Harbor and will continue to do so; and

WHEREAS, HWW will continue to perpetuate the cultural heritage of the nationally listed Skansie Brothers Park site; and

WHEREAS, HWW will continue to provide Visitor Information services to the general public under the direction of the City; and

WHEREAS, the benefits derived by the public from HWW's activities (as specifically detailed in Section 4 herein) are sufficient that the City is willing to lease the Leased Premises to the HWW for one dollar per year; and

WHEREAS, given the limitations on the use of the premises as generally described above and more specifically described below, the parties hereto agree as follows:

1. Leased Premises.

1.1 The City does hereby lease to HWW and HWW does hereby lease from the City the following described premises:

The main floor and second story of the Skansie House as shown on Exhibit A, attached hereto and incorporated herein by this reference (the "Leased Premises"). HWW may occupy the basement but must first obtain all Building Department requirements to allow occupancy and complete all work as required under those permits.

1.2 The City reserves the right to use the Visitor Information area of the Skansie House at no cost for special events in coordination and consideration of HWW's schedule of events and programming. The City shall provide two weeks advance notice of such use to HWW.

2. Inspection. Other than set forth to the contrary herein, the City makes no representation regarding the condition of the Leased Premises, improvements located on the Leased Premises, the suitability of the Leased Premises for Lessee's permitted use, or the existence of hazardous substances on the Leased Premises. Lessee has inspected the Leased Premises as it exists at the time of the signing of this document and accepts it "as is".

3. Rent.

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3.1 Rent. The City agrees to lease the Leased Premises to HWW for one dollar per year, in exchange for HWW's agreement to perform the activities specifically described in this Lease, on the deadlines set forth therein, as well as all other terms of this Lease. The rent shall be paid to Lessor at the following address: Finance Director, City of Gig Harbor, 3510 Grandview Street, Gig Harbor, WA 98335, or such other address as Lessor may designate from time to time in writing.

3.2 Leasehold Excise Taxes. In addition to rent and any and all other taxes and charges imposed under this Lease, Lessee shall, pursuant to Chapter 82.29A, remit to Lessor leasehold excise tax payments each month in advance on or before the first day of each month as prescribed by the Department of Revenue.

3.3 Services to be Provided. As additional consideration for this Lease, the Lessee agrees to provide the services set forth on Exhibit B, attached to and incorporated into this Lease by this reference.

4. Term.

4.1 The term of this Lease shall commence on January 1, 2018, and terminate on December 31, 2023, unless terminated sooner pursuant to the terms and conditions of this Lease. Nothing herein shall obligate the City to enter into any additional Lease Agreements or addenda with the Lessee.

4.2 Hold Over. If the Lessee remains in possession of the Leased Premises after termination, the occupancy shall not be an extension or renewal of the term. The occupancy shall be a month-to-month tenancy, on terms identical to the terms of this Lease, which hold-over occupancy may be terminated by either party on thirty (30) days' notice.

5. Use and Restrictions on Use.

5.1 Lessee may use the Leased Premises for office and meeting space, a visitor center and the uses set forth in section 5.2 below, and for no other purposes without the prior written consent of the City. All such activities shall be conducted in compliance with all applicable regulations. In the event Lessee desires to conduct outdoor activities at the site, Lessee must comply with the City's general special event permit already in place for Skansie Brothers Park.

5.2. HWW may use the Leased Premises to provide the following for public access and educational benefits:

- Displays and interpretation for environmental education.
- Indoor science workshops and mentor programs for children and adults.
- Public gallery of aquariums with local marine life.

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- Static learning stations featuring information on shellfish, salmon and marine debris.
- Laboratory with microscopes and touch-tanks.
- Public gatherings for educational and fund raising purposes.
- Retail sales of HWW mission-related goods and services.
- Storage of laboratory and educational supplies.

5.3 Because public parking is limited, HWW shall not permit its employees or volunteers to park within the public rights-of-way directly adjacent to Skansie Brothers Park along Harborview Drive.

5.4 Lessee acknowledges that the City has agreed to execute this Lease with HWW with the understanding that HWW is a non-profit organization, and HWW shall retain that status throughout the term of this Lease. The use of the Leased Premises by the Lessee shall not be of a religious or partisan political nature. Such use shall be made in a responsible and prudent manner continuously during the terms of the Lease. Lessee shall neither permit on the Leased Premises any act or storage that may be prohibited under standard forms of fire insurance policies, nor use the Leased Premises for any such purpose.

6. Conformance with Laws. The Lessee shall at all times comply with all conditions and terms of any permits, licenses, certificates, regulations, ordinances, statutes and other government rules and regulations regarding its use or occupancy of the Leased Premises. Lessee agrees that it will not perform any activity on the Leased Premises without obtaining the necessary permits from the agency(ies) with jurisdiction. Lessee agrees that the performance of such activities without the required permits may cause a breach of this Lease and render the Lessee liable in any resulting enforcement action, which may include penalties, costs or attorney's fees. The City makes no warranties concerning permit requirements. Lessee is solely responsible for determining permit requirements and conformance with such permits.

7. Use of Hazardous Substances. Lessee covenants and agrees that Hazardous Substances will not be used, stored, generated, processed, transported, handled, released or disposed of in, on, under or above the Leased Premises, except in accordance with applicable laws.

8. Assumption of Risk. The placement and storage of personal property on the Leased Premises by Lessee shall be the responsibility, and at the sole risk, of Lessee.

9. Restroom Facilities. The parties acknowledge that the Leased Premises has no public restroom facilities. However, existing restrooms located on the Park grounds will be available for use by the Lessee and the Lessee's program participants.

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10. Utilities and Phone. The City agrees to allow the lessee to use, at no additional charge, the existing water located in the Park. HWW will pay for natural gas to heat the building and electricity.

11. Liens. Lessee shall keep the Leased Premises free from any liens arising out of any work performed, materials furnished or obligations incurred by Lessee. Lessee shall not suffer or permit any lien to be filed against the Leased Premises or any part thereof or the Lessee's leasehold interest, by reason of work, labor, services or materials performed or supplied to Lessee or anyone holding the Leased Premises or any part thereof under the Lessee. If any such lien is filed against the Leased Premises, Lessee shall hold the Lessor harmless from any loss by reason of the lien and shall cause the same to be discharged of record within thirty (30) days after the date of filing of same.

12. Indemnification and Waiver.

12.1 In addition to the indemnification obligations in Section 8 herein, Lessee agrees to defend, indemnify, and hold harmless the Lessor, its officers, elected officials, employees and volunteers harmless from any and all claims, injuries, penalties, damages, losses or suits, including costs and reasonable attorney's fees, arising out of or in connection with the performance of this Lease or Lessee's enjoyment of the Leased Premises, except for injuries or damages caused solely by the negligence of the Lessor, its officers, officials, employees and volunteers. In the event of liability for injuries or damages which are the result of the concurrent negligence of the Lessee and Lessor, each party shall be responsible only to the extent of its own negligence.

12.2 In addition to the above, Lessee shall provide a waiver of right of subrogation releasing and relieving the Lessor from responsibility and waiving the entire claim or right of recovery for any loss or damages to the Leased Premises, any of Lessee's improvements placed on the Leased Premises, any personal property located anywhere on the Leased Premises, or any other loss sustained by the Lessee, including earlier termination of this Lease by destruction of the Leased Premises through natural causes or any other reason, and whether any such loss is insured or not and irrespective of the cause of such loss.

12.3 Lessee hereby agrees and acknowledges that any loss of Lessee's property, including personal property or any improvements made to the Leased Premises by the Lessee, is the responsibility of the Lessee. If, for any reason, the Lessee's personal property/improvements or the leased improvements on the Leased Premises are destroyed or otherwise become uninhabitable, Lessor shall not be obligated to make any payments to Lessee related to such loss.

12.4 It is further specifically and expressly understood that the indemnification provided herein and in Section 7 constitute Lessee's waiver of immunity under RCW

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Title 51, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this Section and Section 7 survive the expiration or termination of this Lease.

13. Insurance Purchased by Lessee. At its own expense, the Lessee shall procure and maintain during the term of this Lease, the insurance coverage and limits described in this Section. This insurance shall be issued by an insurance company or companies admitted and licensed by the Insurance Commissioner to do business in the State of Washington. Insurers must have a rating of A or better by "Best's Insurance Reports," or a comparable rating by another rating company acceptable to the City.

13.1 Commercial General Liability Insurance. The Lessee shall procure and maintain Commercial General Liability Insurance covering claims for bodily injury, personal injury, or property damage arising on the Property and/or arising out of the Lessee's operations. If necessary, commercial umbrella insurance covering claims for these risks shall be procured and maintained. Insurance must include liability coverage with limits not less than those specified below:

Description	
Each Occurrence	\$1,000,000
General Aggregate Limit	\$2,000,000

The City may impose changes in the limits of liability:

- (i) Upon a material change in the condition of the Leased Premises or any improvements;
- (ii) Upon any breach of the Sections in this Lease relating to Hazardous Substances;
- (iii) Upon a change in the Permitted Use.

New or modified insurance coverage shall be in place within thirty (30) days after changes in the limits of liability are required by the City.

13.2 Terms of Insurance. The policy required under Subsection A shall name the City of Gig Harbor as an additional insured. Furthermore, all policies of insurance described in this Section shall meet the following requirements:

13.2.1 Policies shall be written as primary policies not contributing with and not in excess of coverage that the City may carry;

13.2.2 Policies shall expressly provide that such insurance may not be canceled or non-renewed with respect to the City except upon forty-five (45) days prior written notice from the insurance company to the City;

13.2.3 To the extent of the City's insurable interest, property coverage shall expressly provide that all proceeds shall be paid jointly to the City and the Lessee;

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- 13.2.4 All liability policies must provide coverage on an occurrence basis; and
13.2.5 Liability policies shall not include exclusions for cross liability.

13.3 Proof of Insurance. The Lessee shall furnish evidence of insurance in the form of a Certificate of Insurance satisfactory to the City accompanied by a checklist of coverages provided by the City, executed by a duly authorized representative of each insurer showing compliance with the insurance requirements described in this Section, and, if requested, copies of policies to the City. The Certificate of Insurance shall reference the City of Gig Harbor and this Lease. Receipt of such certificates or policies by the City constitute approval by the City of the terms of such policies. The Lessee acknowledges that the coverage requirements set forth herein are the minimum limits of insurance the Lessee must purchase to enter into this Lease Agreement.

13.4 These limits may not be sufficient to cover all liability losses and related claim settlement expenses. Purchase of these limits of coverage does not relieve the Lessee from liability for losses and settlement expenses greater than these amounts.

14. Care of Leased Premises.

14.1 HWW must maintain the Leased Premises, normal wear and tear excepted. HWW shall not be responsible for any defects in the Leased Premises or non-conformance with any applicable code, statute, ordinance or regulation that pre-existed the completion of the restoration of the Leased Premises. Lessee shall at all times during the term of the Lease, maintain the Leased Premises to substantially comply with any applicable code, statute, ordinance or regulation governing its maintenance or operation, and make all repairs and arrangements necessary to put and keep the Leased Premises in good condition, except as noted in the following paragraph. Lessee shall undertake these responsibilities at its own cost and expense, and the Lessor shall not be called upon to pay for any repairs, alterations, additions or improvements to the Leased Premises. Lessee shall not permit any waste, damage or injury to the Leased Premises; use the Leased Premises for anything that will increase the rate of fire insurance; maintain anything on the Leased Premises that may be hazardous to life or limb; overload the floors; permit any objectionable noise or odor, if not in keeping with existing park activities and applicable state and local laws, to escape or to be emitted from the Leased Premises; permit anything to be done on the Leased Premises that may in any way tend to create a nuisance, or use or permit the Leased Premises to be used for lodging or sleeping purposes.

14.2 For HVAC/Heating maintenance, plumbing, electrical, pest control, roof maintenance, exterior painting, foundation, furnace maintenance and any general maintenance repairs, HWW shall pay the first \$1,000 of costs annually. In the event additional repairs are required, the City will pay such costs and all such work shall be at the discretion of the City and made in compliance with City purchasing requirements.

14.3 Janitorial Services. HWW shall be responsible for janitorial services for the Leased Premises.

15. Contractor's Bonds. At the City's option, Lessee shall require each contractor used by Lessee to perform any demolition or construction work in connection with any improvement, alteration, or addition made to the Leased Premises solely by HWW, to secure and maintain, at no cost to the City, a contract or performance bond, payable to Lessee and the City, in the full amount of the contract, conditioned that all the provisions of the contract shall be faithfully performed by the contractor, or the surety if so required, and indemnifying the Lessee and the City against any direct or indirect damages that shall be suffered or claimed for injuries to persons or property during the carrying out of the work of the contract, and conditioned as required by law for the payment of all laborers, mechanics, subcontractors and material-men, and all persons who shall supply such person or persons or subcontractors with provisions or supplies for the carrying on of such work.

16. Alterations. Prior to the Lessee's construction, alteration, replacement, removal or major repair of any improvements on the Leased Premises, the Lessee shall submit to the City plans and specifications which describe the proposed activity. Construction shall not commence until the City has approved those plans and specifications in writing. At the time the Lessee submits the proposed plans and specifications, the Lessee will declare if the Lessee intends for the improvements to remain at the Leased Premises at the conclusion of the Lease. If the Lessee makes such declaration, the City shall declare that the Lessee must remove the improvements upon the termination of the Lease at the Lessee's expense or that the improvements shall remain at the Leased Premises at no removal-expense to Lessee. Upon completion of construction, the Lessee shall promptly provide the City with as-built plans and specifications. Lessee agrees to comply with all laws, ordinances, rules and regulations of any proper public authority in the construction of any improvements or repair, and to save the Lessor harmless from damage, loss or expense. After notice of termination of this Lease, and upon Lessor's request or Lessor's approval, the Lessee shall remove such improvements and restore the Leased Premises to its original condition not later than the termination date, at Lessee's sole cost and expense. If the Lessee-Owned improvements remain on the Leased Premises or Property after the termination date without the City's consent, they will become the property of the City, but the City may remove them and the Lessee shall pay the cost of removal and disposal upon the City's demand.

17. Access. Lessee shall allow Lessor, its officials, employees and agents free access at all reasonable times to the Leased Premises in addition to the access required for environmental matters in Section 7.

18. Condemnation. In the event of the taking of the Leased Premises by condemnation or otherwise by any governmental, state or local authority, this Lease

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shall be deemed terminated as of the date the condemning authority elects to take possession. Lessee shall have no claim to, nor shall it be entitled to, any portion of any condemnation award for damages to the Leased Premises or relocation costs.

19. Fire and Other Casualty. In the event that the Leased Premises are destroyed or damaged by fire, earthquake, flood or other casualty not the fault of the Lessor, and any damage is to such an extent as to render the Leased Premises untenable by the Lessee in whole or substantial part, Lessor shall have the option to terminate this Lease immediately without any further liability or obligation to Lessee. The decision whether the Leased Premises are untenable shall be made by the Lessor, after discussion with Lessee on the feasibility of repair.

20. Signs. All signs or symbols placed on the Leased Premises by Lessee shall be in coordination with the Lessor and shall be subject to the prior approval of Lessor and conformance with City code. Lessor reserves the right to co-locate its signs and/or logos on the interior and exterior of the building. In the event Lessee shall place signs or symbols on the Leased Premises not acceptable to Lessor, Lessor may demand immediate removal of such signs or symbols and Lessee shall remove such signs or symbol within 24 hours of notice from Lessor. Any signs placed on the Leased Premises shall be removed on termination of this Lease and any resulting damage to the Leased Premises caused by such sign or symbol shall be repaired by Lessee.

21. Default and Termination.

21.1 In the event Lessee defaults in the performance of any of the terms, provisions, covenants and conditions to be kept, observed or performed by Lessee, and such default is not corrected within thirty (30) days after the receipt of notice thereof from Lessor, or such shorter period as may be reasonable under the circumstances; or if Lessee shall abandon, desert, vacate or otherwise leave the Leased Premises; then, in such event, Lessor, at its option, may terminate this Lease together with all of the estate, right, title and interest thereby granted to or vested in Lessee, by giving notice of such election at least twenty (20) days prior to the effective date thereof, and as of such effective date, this Lease and all of the estate, right, title and interest thereby granted to or vested in the Lessee shall then cease and terminate, and Lessor may re-enter the Leased Premises using such force as may be required.

21.2 Lessor shall not be in breach of any obligation to perform under this Lease unless Lessor fails to perform such obligation within a reasonable time, which time shall not extend more than thirty (30) days after written notice by the Lessee to Lessor specifying the particular obligation that Lessor has failed to perform; Provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for performance, then Lessor shall not be in breach if Lessor commences performance within the 30 day period, and thereafter diligently prosecutes the same to completion.

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22. No Relationship. In no event shall the City be construed or held to have become in any way or for any purpose a partner, associate, or joint venturer of Lessee or any party associated with Lessee in the conduct of Lessee's business or otherwise. This Lease does not make Lessee the agent or legal representative of the City for any purpose whatsoever.

23. Surrender of Leased Premises. Upon expiration or termination of this Lease, including any extensions thereof, Lessee shall quit and surrender the Leased Premises without notice, and in as good condition as received at commencement of the term, except for changes due to ordinary wear and tear, damage or destruction by fire or other casualty or circumstances uncontrollable by the Lessee.

24. Modification, Waiver. No waiver, alteration or modification of any of the provisions of this Lease shall be binding unless in writing and signed by a duly authorized representative of the parties.

25. Non-Waiver of Breach. The failure of either party to insist upon strict performance of any of the covenants and agreements contained in this Lease, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such covenant, agreement or option, or any other covenant, agreement or option.

26. Assignment and Subletting. The Lessee shall not, under any circumstances whatsoever, assign this Lease or sublet Leased Premises.

27. Disputes, Governing Law. Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Lease which cannot be resolved between the parties within a reasonable period of time, any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

28. Time is of the Essence. Time is of the essence as to each and every provision of this Lease.

29. Attorney's Fees. The prevailing party in any action or proceeding brought to enforce this Lease shall be entitled to recover its reasonable attorney's fees, costs and expenses in connection with such action or proceeding from the other party. In addition, the Lessee agrees to pay all of the Lessor's attorneys' fees and costs necessitated by the Lessee's failure to comply with any of the provisions of this Agreement, including but not limited to notices, legal fees and costs arising from third party actions against the Lessor arising from acts or omissions of the Lessee related to this Agreement. The rights and remedies of the City under this Lease are cumulative

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and in addition to all other rights and remedies afforded to the City by law or equity or otherwise.

30. Notices. Notices required to be in writing under this Lease shall be sent by registered or certified mail as follows:

Attn: Lindsey Stover
HWW Executive Director
3110 Judson Street #99
Gig Harbor, WA 98335
(253) 514-0187

Attn: City Administrator
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335
(253) 851-6127

31. Severability. If any section or provision of this Lease shall be held by a court of competent jurisdiction to be unenforceable, this Lease shall be construed as though such section or provision had not been included in it, and the remainder of the Lease shall be enforced as the expression of the parties' intentions. If any section or provision of this Lease is found to be subject to two constructions, one of which would render such section or provision invalid and one of which would render such section or provision valid, then the latter construction shall prevail.

32. Entire Agreement. The written provisions of this Lease shall supersede all prior verbal statements of any officer or representative of the Lessor, and such statements shall not be effective or be construed as entering into, forming a part of, or altering in any manner whatsoever, this Lease. The entire agreement between the parties with respect to the subject matter of this Lease is contained herein.

IN WITNESS WHEREOF, the parties have executed this instrument this 29
day of November, 2017.

CITY OF GIG HARBOR

HARBOR WILDWATCH

By: [Signature]
Its Mayor

By: [Signature]
Its: Executive Director

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that JILL GUERNSEY is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the Mayor of the City of Gig Harbor to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: Nov 29, 2017



STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

Molly Towslee

Printed: Molly Towslee
NOTARY PUBLIC in and for the State of
Washington, residing at: Gig Harbor
My Commission expires: 12/2/19

I certify that I know or have satisfactory evidence that Lindsay Storer is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the Exec Director of Harbor Wildwatch, a Washington non-profit corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 12/5/17



Shawna Wise

Printed: Shawna Wise
NOTARY PUBLIC in and for the State of
Washington, residing at: Gig Harbor
My Commission expires: 7-16-18

Exhibit A

Map of Leased Premises



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EXHIBIT B

SCOPE OF SERVICES

1. Operation of Visitor Information Center. HWW shall operate the City's Visitor Information Center.

2. Hours. HWW shall keep the Visitor Information Center open for no less than 980 hours over the term of this Lease and will maintain the following hours:

April 1 - September 30: Wednesday through Sunday from 10am to 4pm
October 1 - March 30: Thursday through Saturday from 10am to 4pm

HWW may choose to close the visitor center between December 22 and the day after Martin Luther King Day each year. HWW may choose to close the visitor center on nationally recognized holidays. Additional closure days can be agreed upon mutually on a case by case basis.

3. City Assistance. In order to facilitate HWW's operation of the Visitor Information Center, the City shall provide the following assistance:

- The City will provide visitor information materials. The Visitor information materials may be stored on premises.
- HWW, in partnership with the City, shall provide training and training materials to all VIC volunteers.
- The City will provide Visitor Information Center furnishings.
- The City will place Visitor Information Center signage near the entrance.

4. Reporting. HWW shall provide the City with an accounting of volunteer hours, visitor inquiries and number of referrals to local hotels on a monthly basis.

5. Record keeping. HWW shall provide the City with a written report and supporting documentation of the activities performed by HWW during the prior year by March 31 of each year. HWW shall review and reevaluate with the City HWW's performance of the activities described in this scope of services. In the event the City determines that HWW does not perform as required by this Lease, the City may institute the procedures set forth in Section 21 to demand remedy of the default and terminate the Lease.

6. Storage. If HWW meets the conditions in section 1 to occupy the basement for storage of HWW materials, the City and HWW will agree upon portion of the area for storage of City materials as well.

7. Safety. A Building Safety Checklist will be completed yearly by your staff and submitted to the city by March 1st of each year. In addition, Harbor WildWatch staff will have a designated first aid representative on staff that is certified in CPR/First Aid and understands basics of AED use.



**City of Gig Harbor
City Council Agenda Bill**

Meeting Date: October 26, 2023

SUBJECT: Code Compliance/Enforcement Program Revisions

SUBMITTED BY: Community Development Director Carl de Simas

DEPARTMENT: Administration

PHONE: (253) 853-7628

SUGGESTED MOTION: None.

BACKGROUND INFORMATION: At the upcoming city council study session on October 26, 2023, staff will lead a discussion regarding the city's current code compliance program coupled with some changes staff have created. Staff will provide council with detailed information regarding process, civil penalties (current and proposed), improvements to the program and ideas for outreach and education to our community. Our hope is that council will provide staff with some additional direction regarding items they would like further research on; or, if amenable, direction on regulations they would or would not like to see in the draft ordinance.

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. While this goal is common among most jurisdictions, decisions regarding policy priorities, procedures and resource allocation reflect visions unique to each community.

The purpose of this report is to discuss the changes created to further streamline the current process and approach to code compliance in Gig Harbor, look at a new civil penalty model as it relates to cost benefit, and discuss a new tool with compliance for the city called Voluntary Compliance Agreements.

If you will recall, council came together on March 16, 2023, to discuss code compliance. In that meeting we discussed the historical approach and how the program and hiring for the position came about.

At that meeting, council expressed a desire to see a more robust enforcement program that included civil penalties, assessed fees, and penalties tailored specifically to tree conservation.

As previously discussed in our meeting earlier this year, the Gig Harbor Municipal Codes authorizes the use of civil penalties and increased permit fees as a disincentive to violations, however the staff time and collaboration between city departments has tended to make these measures cumbersome and sometimes impractical.

With these changes, staff believe the compliance program can better achieve the goals and vision provided by council while balancing compliance vs. education.

Staff will present the newer proposed process. The ensuing discussion will include topics such as: the development of a new section/title in the Gig Harbor Municipal Code that has consolidated our code compliance process, making it easier to apply across all titles; voluntary compliance agreements, assessed fees, educational material and outreach ideas to better inform the public about the program.

Materials have been provided in your packet and are titled as follows:

- Updated Code Compliance Process Chart
- Consolidated Code Process Draft
- Code Compliance Client Assistance Memo

Lastly, the code compliance process chart shown is the newest iteration of the proposed process. This proposed process consolidates and more easily identifies the appropriate steps throughout a code compliance case. New ideas, outside of our current program include:

- Assessed Fees
- Stronger Civil Penalties
- Moving 19.16 to 2.60
- Expanded Applicability
- Clarified process and procedures.
- Client Assistance Memo

Not shown in the current draft, an additional track may be added specific to illegal tree removal. The process will be based upon recommendations that come from the Urban Forest Management Plan.

Staff will elaborate more on the above items and others at the study session.

Staff's hope is that the council will consider the material received and provide staff with approval to continue forward for ratification of our amended code sections, fees and use of voluntary compliance agreements.

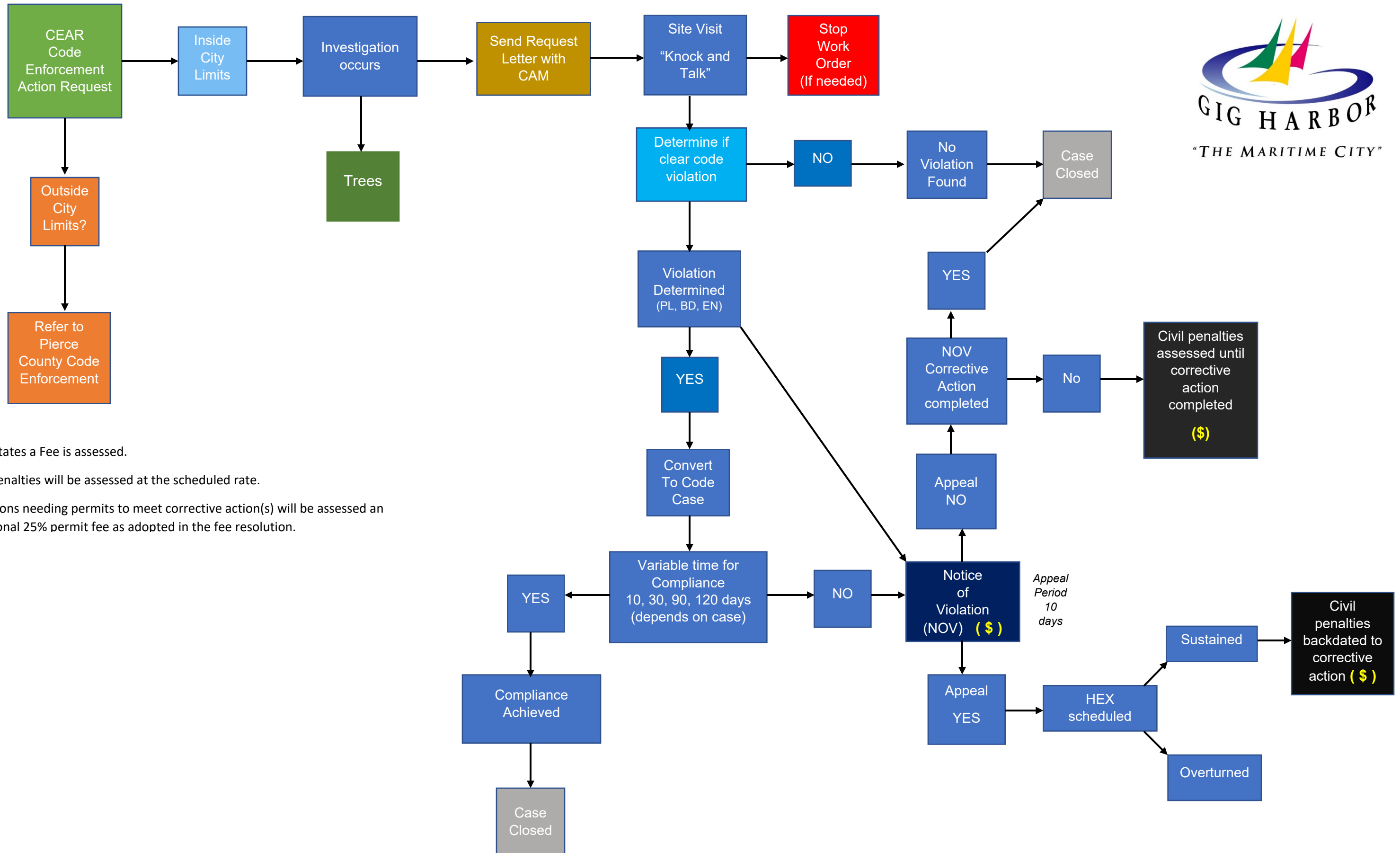
FISCAL CONSIDERATION: None.

ATTACHMENTS:

1. Code Compliance Process Chart
2. Code Compliance Response Priorities
3. DRAFT GHMC 2.60
4. DRAFT GHMC 8.04
5. DRAFT GHMC 8.10
6. DRAFT GHMC 12.17
7. DRAFT GHMC 15.24
8. DRAFT GHMC 18.10

- 9. Code Compliance CAM
- 10. Staff Memo Tree Enforcement

STRATEGIC PLAN PRIORITY: Maintain small town character and historic preservation while growing responsibly.



Code Compliance Response Priorities (Internal)

Response to life/safety violations will occur with or without a complaint. Life/safety violations are those that, in the opinion of the Code Compliance Officer, Building Official, or Director, could result in injury or create an unhealthy environment. Otherwise, violations will be responded to on a “complaint-only” basis. Violations may be addressed without a complaint at the discretion of the Code Compliance Officer if discovered during the investigation.

The Code Compliance Officer investigates complaints based on where they fall into three priority violation categories: high, medium, and low priority.

High Priority (1) – Immediate health and safety violations include:

- Dangerous/unstable structures.
- Illegal Tree Removal
- Unpermitted clear and grade.
- Unauthorized development in shorelines.
- Sight distance obstructions

Medium Priority (2) - Serious violation include:

- Abandoned property;
- Unpermitted ADU (Accessory Dwelling Unit);
- Hoarding;
- Junk vehicles;
- Litter and debris;
- Unpermitted construction work;
- Mechanical complaints (for example AC, water heater, furnace installations);
- Zoning issues;
- Occupancy limits.

Low Priority (3) - Minor violations include:

- Right-of-way issues (Signs, garbage cans, basketball hoops);
- Signs on private property;
- Construction hour violations;
- Lighting;
- Fences;
- Structures in setback;
- Chickens;
- Short-term rentals.

Glossary of Terms:

- **Abatement:** A process by which the City of Gig Harbor removes Nuisance conditions on a property. Abatement may be performed with a warrant if the Nuisance is on private property, or without a warrant if the nuisance is on public right-of-way or an imminent threat to life safety.
- **Appeal:** A request by the property owner to the CD Director or Hearing Examiner to re-evaluate any part of a Notice of Violation, Civil Penalty, or Voluntary Compliance Agreement.
- **Civil Penalties:** A fine issued by the City of Sammamish to the property owner because of non-compliance with property corrections.
- **Hearing Process:** The process in which the City pursues legal action to abate a property or remove a building in violation. The hearing is conducted by the Hearing Examiner who makes a decision about the course of resolution for the case.
- **Notice and Order:** Represents a determination that a civil code violation has occurred and that the person named therein is responsible for correcting the violation, as well as the other penalties and remedies specified in the Notice and Order. Notice and Orders can be issued at any time during the Code Compliance process. Typically, this step is taken after exhausting voluntary compliance efforts. Notice and Orders are subject to appeal and are recorded on title.
- **Notice of Violation:** Written communication to the property owner detailing code violations, the City process for pursuing compliance, and the property owner's rights.
- **Notice to Comply:** Provides a description of a violation, the code violated, a deadline to comply, and what a person must do to resolve the violation on a voluntary basis.
- **Public Record Request:** A public record is any record containing information relating to the conduct of government business, which is prepared, owned, used, or retained by an agency. This includes, but is not limited to, electronic media, paper, email, audio files and disks (CDs/DVDs). Public records may be obtained from the City by request.
- **Right-of-Way:** Includes the area of land, the right of possession of which is secured by the City for right-of-way purposes and includes the traveled portion of the public streets and alleys, as well as border area, which includes, but is not limited to, any sidewalks, driveway approaches, planting strips, traffic circles, parkways, or medians, or area between the sidewalk and the curb line.
- **Stop Work Order (SWO):** A written order specifying code violations and prohibiting any work or other activity at a particular site.
- **Voluntary Compliance Agreement (VCA):** A written contract between the person responsible for the violation and the City, under which such person agrees to abate the violation within a specified time and according to specified conditions.
- **Warrant:** The process in which a Superior Court Judge issues permission for the City to abate nuisance conditions on a property or demolish a building.

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.

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).

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).~~

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).

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 B 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).

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).

Code Compliance

Case investigation:

- o **Property research:** The Code Compliance Officer researches ownership, existing permits, existing code compliance cases, zoning, and licenses related to the property.
- o **Outreach to the property owner:** An initial notice is sent to the property owner informing them of the complaint. The notice includes directions to contact the city within five days to schedule a site inspection or discuss a compliance plan.
- o **A site visit** (either onsite with consent of the property owner or from public property/city right of way) is conducted.

Investigation results:

- o **Complaint unfounded:** If a complaint is deemed unfounded following our research and site visit, we will note that a violation was unfounded and close the inquiry.
- o **Violation confirmed:** If a violation is confirmed, a notice of violation is sent to the property owner. The notice of violation includes a description of the violation(s), the code(s) that was violated, the actions needed to resolve the violation(s), and compliance steps if the violation(s) is not corrected. The notice packet also includes information on appeals and supplemental documents if necessary related to the violation.

Compliance plan

- o If additional time is needed to correct a violation, the property owner can enter a compliance plan and the compliance process is put on hold as long as objectives are met. The type of violation and the extent of the issue are factored into deadlines included in the compliance plan.
- o The city may advise the property owner that they can resolve their code violation by applying for and receiving the necessary permits.

Non-Compliance:

If the property owner does not correct the violation, the city can:

- o Issue fines (civil penalties or civil infractions)
- o Record a certificate of non-compliance on the property's title, which could affect a future sale or refinancing.
- o Pursue abatement (property cleanup) if applicable to the violation.
- o In rare cases, issue criminal misdemeanor charges

Client Assistance Memos are not intended to replace the Gig Harbor Municipal Code. Should you have any questions regarding this information please call the Planner of the Day.



COMMUNITY DEVELOPMENT DEPARTMENT

Memorandum

October 20, 2023

To: Mayor and City Council

From: Community Development Department Staff

Subject: Urban Forest Enforcement

As you know, staff have been overhauling the city's existing code compliance program through the development of a new code section and amendments to associated enforcement sections throughout the municipal code. Concurrently, staff has also been developing strategies related to illegal and unpermitted tree removal in support of the city's goals to manage the urban forest more effectively and sustainably.

Back in 2019, the Planning Division conducted a survey of several Western Washington jurisdictions to compare and contrast their policies related to tree canopy protection. The findings of that survey were set forth in a memo dated May 29, 2019 (Exhibit A).

Since 2019, the city has developed a permit for tree removal and replacement. The permit allows city staff to assess trees proposed for removal and determine whether the location of the tree dictates further regulation. The city has also recently adopted its first Urban Forest Management Plan (UFMP). While the UFMP does not provide recommendations for enforcement, it does recommend that, in addition to an updated tree preservation ordinance, the city, "Outline clear and actionable repercussions for noncompliance."

Staff has already begun work on drafting a tree preservation ordinance to implement the goals and policies found in the UFMP. Specific enforcement, including fines and penalties for violating the ordinance, will be clearly outlined as part of that effort. Therefore, while enforcement of that code will be, at least partially the purview of the Code Compliance Officer, specific provisions for enforcement will be included in the forthcoming tree preservation ordinance. Until that ordinance is adopted, enforcement will be carried out in accordance with the provisions of the code compliance update currently under review.

At present, staff are recommending a tree enforcement structure similar to that of the City of Vancouver as presented on Page 4 of Exhibit A. They utilize

appraised values of the trees illegally removed as the basis for the cost of restoration. They also employ a “tree account” for banking any restoration costs over and above what could be planted on site and a variable fine schedule structured around the type and severity of the violation. Staff is seeking concurrence and/or recommendations from the city council on this direction.



Memo

Date: May 29, 2019
To: Katrina Knutson, Community Development Director
From: Carl de Simas, Senior Planner

Purpose: Survey how other jurisdictions are enforcing their tree protection codes.

Method: The jurisdictions for the survey were chosen at random based on internet research of the topic. These jurisdictions were found to impose civil penalty and remediation, which met the purpose statement for this research.

Summary: Overall, the survey found that there are a variety of civil penalty applications including monetary amounts based on: size, quantity or value. A few of the city's utilize a more benefit-based analysis through the use of the Council of Tree and Landscape Appraiser's Guide for Plant Appraisal (10th Edition released in 2018).

Also, the survey found that most jurisdictions do have a formal permitting process for the removal of trees where a development permit has not been submitted. As with the City of Gig Harbor, replacement of the illegally removed tree is also required, albeit utilizing differing rationales for the replacement. The table entitled "Survey by Jurisdiction" below and the subsequent narrative outline these findings.

The survey purposefully presents an array of options in order to provide the spectrum from liberally applied penalties to a more conservative application. In the opinion of this researcher, the appraised/assessed valuation, if a reliable method is found, would seem to be the fairest overall. However, from a permitting or work load standpoint, the per inch valuation or per violation method is straight forward.

Side Notes: In the course of the research, some web-based valuation tools were found primarily via the Municipal Research and Services Center (MRSC) website. Notable tools included:

- National Tree Benefit Calculator¹ - Apparently primarily focused on street trees, provides an understanding of the environmental and economic value trees provide on an annual basis (the City of Longview utilizes this calculator for its Urban Forestry Program²).
- i-Tree³ - A free suite of tools from the USDA Forest Service providing urban and rural forestry analysis and benefits assessment tools. One of those tools, i-Tree Design, provides a platform for assessing individual or multiple trees at the parcel level.

For either, it appears an accompanying tool would be needed to evaluate the average lifespan of the tree species removed to find an appropriate valuation.

Not included in this survey is the fact that most of the city's appeared to have a fund whereby the civil penalty, or the amount beyond what is needed to remediate, is placed for future city projects relative to trees. Many of the cities also deem the illegal activity a criminal act to some degree.

Survey by Jurisdiction

Jurisdiction	Permit?	Civil Penalty	Replacement?
Kenmore	Yes	\$2,000/inch DBH*	Case by Case
Lake Forest Park	Yes	Appraised Value**	Case by Case
Sammamish	Yes	\$1,500/inch DBH	Case by Case
Lacey	Yes	Appraised Value**	Yes
Mercer Island	Yes	3 x Appraised Value* + Permitting Costs	Yes
Redmond	Yes	Up to \$3,000/tree	Yes
Covington	Yes	Assessed Value**	Yes
Black Diamond	Yes	\$1,000/violation	Yes
Vancouver	Yes	\$50-\$1,000/tree + restoration costs	Yes
Camas	Yes	\$250-\$1,000/tree	Case by Case

*Diameter at Breast Height – commonly 54 inches above grade

**Council of Tree and Landscape Appraisers' Guide for Plant Appraisal (also referenced as International Society of Arboriculture Guide for Plant Appraisal)⁴

Narrative Support by Jurisdiction

The **City of Kenmore** imposes a civil penalty based on the breast height diameter of the illegally removed tree at \$2,000/inch. Kenmore also imposes criminal penalties.

The **City of Lake Forest Park** requires the violator replace the illegally removed trees and pay a penalty based on the appraised value of the tree. The appraised value is based on the current edition of the Council of Tree and Landscape Appraisers' Guide for Plant Appraisal. The City's

¹ <http://www.treebenefits.com/calculator/>

² <https://www.mylongview.com/271/Urban-Forestry-Program>

³ <https://www.itreetools.org/>

⁴ <https://pnwisa.org/2018/09/guide-for-plant-appraisal-10th-edition-by-council-of-tree-and-landscape-appraisers/>

replacement requirements are based on canopy coverage goals, presented as percentages, and relative to the zoning and lot size. They also have a permitting process for tree removal that is broken into two categories: Major Tree Permits and Minor Tree Permits.

The **City of Sammamish** has instituted an optional two-fold penalty process whereby code enforcement penalties may be assessed:

Code Enforcement Penalties:	
Infraction	up to \$500
Stop Work Order	up to \$500
Noncompliance:	
1 – 15 days	\$100 up to \$250 per day
16 – 31 days	\$250 up to \$500 per day
31+ days	\$500 up to \$1,000 per day (up to \$50,000 maximum)
Environmental Damage/Critical Areas Violations:	
Up to \$25,000 plus the cost of restoration	
Unlawful Tree Removal or Damage:	
\$1,500 per inch of diameter at breast height of tree removed or damaged	
\$25 fee per sign illegally placed on public property or in the City's right-of-way.	

City of Sammamish, SMC 23.100 Civil Penalties

As well, the illegal removal is considered a gross misdemeanor - the code suggests that the courts consider the imposition of a maximum fine of no more than \$5,000 per occurrence and imprisonment not to exceed one year.

The **City of Lacey** imposes both misdemeanor charges and mitigation of illegally removed trees. The mitigation is determined by the city's tree protection professional utilizing the current edition of the ISA Guide for Plant Appraisal. Lacey's code also contains measures to be taken when the evidence of illegal tree removal has been removed from the site. Also, it includes a detailed appeal process.

The **City of Mercer Island** imposes civil penalties up to three times the appraised value of the damaged or removed tree, plus the cost of remediation (includes permitting costs). The appraised value is based on the methodology specified by the Council of Landscape and Tree Appraisers, most current edition.

The **City of Redmond** imposes a \$3,000/tree civil penalty and requires remediation to include replacement at a specified ratio.

The **City of Covington** requires full site restoration of the damaged area, mitigation and repair of damaged trees. The City utilizes the recommendations of the International Society of Arboriculture to assess the environmental damage and place a value on its extent.

The **City of Black Diamond** requires the replacement of illegally removed trees at a specified ratio and a civil penalty of \$1,000/violation.

The **City of Vancouver**, WA, touts itself as “Tree City USA”. Violators are required to restore the damaged areas per an approved plan. The costs of restoration are based upon the appraised value of trees removed illegally and the value based on the latest edition of Guide for Plant Appraisal (International Society of Arboriculture, Council of Tree and Landscape Appraisers). Any amounts paid above the costs of restoration are placed in a city tree account. Furthermore, the city assesses a civil penalty in accordance with the following table:

Types of Tree, Vegetation, and Soil Conservation Ordinance Violations	Allowable Fines per Violation
Any violation of the requirement of this chapter or any violation of a permit issued hereunder.	Minimum \$500 per violation Maximum \$1,000 per violation
Removal of tree(s) shown to be removed on preliminarily-approved plans, but prior to final tree plan approval or issuance of a city tree removal permit	Minimum \$50 per tree Maximum \$100 per tree
Removal of tree(s) shown to be retained on preliminarily-approved plans, but prior to final tree, vegetation, and soil plan approval or issuance of a city tree removal permit or removal of tree(s) shown to be retained on final approved tree, vegetation, and soil plan	Minimum \$250 per tree Maximum \$750 per tree
Continued illegal removal of tree(s) following stop work order or receipt of other information from city that the tree removal activity is not permitted	\$1,000 per day
Removal of tree(s) without applying for or obtaining a city permit or approval	Minimum \$500 per tree Maximum \$1,000 per tree

City of Vancouver, Table 20.770.140-1, Civil Penalties for Violations

Lastly, the city may, as an alternative to civil penalties, criminally prosecute the violator(s).

The **City of Camas** bases its civil penalty for tree removal on the diameter of the tree at DBH. For example, a tree removed measuring between 2 inches and 6 inches DBH would incur a \$250 fine, while a tree greater than 37 inches DBH would incur a fine of \$1,000. If the tree is removed below DBH, the diameter would be calculated using the most current edition of the Guide for Plant Appraisal (International Society Arboriculture Council of Tree and Landscape Appraisers). The code exempts developed residential lots, meeting three specific criteria, from the landscape code provisions, including mitigation and replacement. However, if not meeting these prescribed exemptions, the property owner would need to meet the provisions therein described, to meet the required tree density for the site or development.