

ORDINANCE NO. 1462

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE SHORELINE MASTER PROGRAM; PERMITTING PUBLIC ART ON PUBLICALLY OWNED PROPERTY AND RIGHT-OF-WAY WITHIN THE SHORELINE JURISDICTION OF THE CITY; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Shoreline Management Act (SMA) requires the City of Gig Harbor to develop and administer a Shoreline Master Program (SMP); and

WHEREAS, the SMP is adopted by reference within the City's adopted Comprehensive Plan; and

WHEREAS, the City's Public Works Department submitted an application to amend the SMP to include public art as a permitted use in certain shoreline environments, on publicly owned property and public right-of-way, within the City boundary; and

WHEREAS, under the Growth Management Act the City Council may only amend the Comprehensive Plan once per year except as otherwise provided in RCW 36.70A.130(2) which includes adoption or amendments to a shoreline master program under procedures set forth in 90.58 RCW; and

WHEREAS, at a public hearing on February 22, 2021, the City Council voted to initiate processing of the amendment in accordance with the criteria set forth in GHMC 19.09.130; and

WHEREAS, the application was forwarded to the City's Planning Commission for further processing; and

WHEREAS, the Washington State Department of Ecology (ECY) approves the adoption of and amendments to the SMP in accordance with 173-26 WAC; and

WHEREAS, City Staff chose to utilize the optional joint review process for amending shoreline master programs per WAC 173-26-104 whereby a joint public hearing is held on the proposed amendment; and

WHEREAS, the optional joint review process requires the City maintain a public web site including information relative to the proposed amendment and a link to the web site is shared with ECY not less than 14-days prior to the joint hearing; and

WHEREAS, City Staff submitted a Notice of Intent to Adopt to the Washington State Department of Commerce on March 24, 2021 in accordance with RCW 36.70A.106; and

WHEREAS, the City shared a link to the public web site with ECY on March 23, 2021; and

WHEREAS, the joint public hearing must be preceded by a joint 30-day public comment period; and

WHEREAS, the joint public comment period was noticed on April 6, 2021; and

WHEREAS, the Planning Commission studied the proposed amendment at regularly scheduled meetings on March 18, 2021, April 1, 2021, and April 15, 2021; and

WHEREAS, the City's SEPA Responsible Official issued a SEPA threshold determination of non-significance on April 14, 2021; and

WHEREAS, the Planning Commission studied the proposed amendment at a special meeting on April 29, 2021; and

WHEREAS, a joint public hearing was held May 6, 2021; and

WHEREAS, several written comments were received by City Staff and shared with the Planning Commission and ECY Staff; and

WHEREAS, one member of the public provided testimony at the joint public hearing; and

WHEREAS, the Planning Commission voted unanimously to send the proposed amendment back to City Council with a recommendation of approval; and

WHEREAS, City Staff, in accordance with WAC 173-26-104, responded to all public comment received within 30-days of the close of the joint public hearing; and

WHEREAS, City Staff submitted the proposed amendment and required supporting documentation to ECY for the initial determination of consistency review; and

WHEREAS, ECY provided the initial determination of consistency with two recommended edits on May 24, 2021; and

WHEREAS, the City Council considered the Ordinance at first reading and public hearing on June 14, 2021;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF GIG HARBOR,

WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. Revisions. The City of Gig Harbor Shoreline Master Program shall be amended as set forth in Exhibit "A".

Section 2. Adoption. The City Council hereby adopts the above referenced SMP revisions and finds the amended SMP consistent with the requirements of RCW 90.58 and WAC 173-26, as they apply to these amendments.

Section 3. Submission to Department of Ecology. The Community Development Director is hereby directed to submit the SMP and associated documents to the Department of Ecology for their review and approval. If/Once approved by the Department of Ecology no further action is necessary for compliance with RCW 90.58.

Section 4. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 5. Effective Date. This ordinance shall take effect and be in full force fourteen days after Department of Ecology final action as provided by RCW 90.58.090(7).

PASSED by the City Council and approved by the Mayor of the City of Gig Harbor, this 14th day of June, 2021.

CITY OF GIG HARBOR



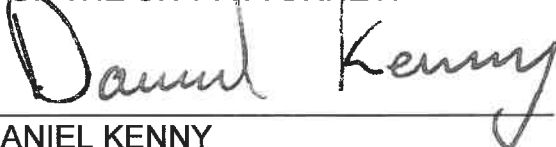
KIT KUHN, MAYOR

ATTEST/AUTHENTICATED:

By: 

JOSHUA STECKER, INTERIM CITY CLERK

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

By: 

DANIEL KENNY

FILED WITH THE CITY CLERK: 6/7/2021
PASSED BY THE CITY COUNCIL: 6/14/2021
PUBLISHED: 6/17/2021
EFFECTIVE DATE: 6/30/2021
ORDINANCE: 1462

Exhibit "A"

Ordinance No. 1462

1. Add a new definition for Public Art:

Chapter 2 Definitions

Public Art

"Public Art" means original works of visual art that have been approved through a public process with the specific intent to be displayed on publicly owned lots or in public right-of-way for the general public's enjoyment and education. These include but are not limited to sculptures, statues, interpretive displays, and memorials intended to reflect the City's historical or cultural significance to the community.

2. Add a new provision to improve clarity about the allowance for public art within critical area buffers.

6.2.5.3 Critical Area Buffer Activity Allowance

- 2) Public art, consistent with Section 7.22 and subsection 6.2.4, is allowed within the regulated vegetation conservation strip and the regulated critical area buffer provided the mitigation sequence has been followed and any remaining impacts have been mitigated to ensure there is no net loss of shoreline ecological functions. Encroachment into a Category I wetland buffer must be consistent with 6.2.5.13.2.

3. Add a new subsection to allow public art within the Vegetated Conservation Strip:

6.2.4.1 Regulations – Vegetation Conservation Strip

- 9) Public art consistent with Section 7.22 of this Program may be located in the required vegetation conservation strip or critical area buffer. ~~All provisions of Subsection 6.2.4.4 above shall apply to the installation of Public Art.~~ The area required for installation of the public art shall be applied to the maximum 15% clearing allowed for the marine vegetation conservation strip or critical area buffer as set forth in Subsection 6.2.4.4 above.

4. Add Public Art as a permitted use in wetland buffers areas:

6.2.5.13 Wetlands – Permitted Uses in Buffer Areas

2) Public art is permitted within the wetland buffer; provided, that the location of such public art will not degrade the functions and values of the wetland, and any impacts are mitigated through the requirements of Section 6.2.5. In the case of Category I wetlands, the minimum distance from the wetland edge is not less than 75 percent of the Category I buffer width established in Section 6.2.5.11. Public art subject to this provision is permitted only when consistent with Chapter 7.22.

5. Add Public Art to the permitted use table:

7.1.1 Permitted Use Tables

Shoreline Modification	Shoreline Environment Designations					
	Natural ²	Urban Conservancy	Low Intensity	City Waterfront	Historic Working Waterfront	Marine Deepwater ²
Public Art (Section 7.22) ⁷	X	P	P	P	P	X

¹ Any method involving vehicles upon the shoreline, whether for access or harvest, shall be prohibited within the Natural Environment

² Hydraulic harvest utilizing water jets should use low-pressure jets with an inside tip diameter of 5/8 inch or less. The jets shall be hand held and under the control of the operator and nozzle pressure should be limited to 100 psi, measured at the pump.

³ Refer to subsection 7.12.2 for limitations on commercial development within the Urban Conservancy and Low Intensity SED's

⁴ See section 7.16 for additional requirements that apply to historic net sheds

⁵ Uses not specifically permitted or conditionally permitted are prohibited.

⁶ See subsection 7.19.2.5 for allowable signs in the Marine Deepwater SED

⁷Public art is permitted only on City-owned lots or the public right-of-way.

6. Add new Section 7.22 Public Art:

7.22 Public Art

It is the goal of the City of Gig Harbor to encourage the public enjoyment and education of memorialized historic, cultural, and archeological significance to Gig Harbor's heritage by allowing the installation of public art on city-owned lots or the public right-of-way within certain shoreline environment designations.

7.22.1 Policies

A. Visual obstruction

Design and locate public art in such a manner that it minimizes visual obstruction of the shoreline and marine waters.

B. Location

Encourage the placement of public art located on or near the shoreline to facilitate the public's ability to reach and enjoy the water's edge and to view the water and the shoreline. Where appropriate, public art should be dispersed along the shoreline to support the public's recreational or beach access and aesthetic enjoyment of the shoreline.

C. No net loss

Installation of public art should ensure no net loss to shoreline ecological functions and processes.

D. Materials

Public art should select materials based on long-term durability, ease of maintenance, compatibility with local shore features and habitat, and aesthetic values.

E. Coordination

Coordinate proposals for the installation of public art with affected property owners and with the City of Gig Harbor Arts Commission to ensure it is consistent with the goals of this section and the overall goals of this Program.

F. Consistency with other plans

Public art shall be planned, designed, and implemented consistent with the goals established in the City's Comprehensive Plan and Parks, Recreation and Open Space Plan, as applicable.

7.22.2 Regulations

- 1) Public art shall be limited to a maximum impervious lot coverage of 200 square feet or 1% of the lot size, whichever is less. Public art shall otherwise conform dimensionally to the requirements of Table 7-3, Bulk Dimensional Standards Matrix.

and Table 6-1, Vegetation Conservation Strip Setbacks for Marine Shorelines, as applicable. Public art is prohibited waterward of the Ordinary High-Water Mark.

- 2) Proposals for the installment of public art that involve any clearing, grading, or impervious surface shall include a landscape plan. Native, self-sustaining vegetation shall be used as often as practicable. The removal of on-site native vegetation shall be limited to the minimum necessary for the development of selected viewpoints and shall be subject to Section 6.2.4 (Vegetation Conservation) of this Program.
- 3) Public art shall incorporate appropriate mitigation to minimize light and noise impacts on adjoining land uses, as applicable.
- 4) Public art may include associated amenities, including, but not limited to: pedestrian paths, benches, and interpretive signs.
- 5) Public art shall be subject to Section 6.2.2 (No Net Loss and Mitigation) of this Program.