



City of Tacoma
Planning Commission

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January 17, 2018

Mayor and the City Council
City of Tacoma
747 Market Street, Suite 1200
Tacoma, WA 98402

RE: Proposed Correctional and Detention Facilities Permanent Regulations

Mayor Woodards and Members of the City Council:

On behalf of the Planning Commission, I am pleased to forward our recommendations regarding the **Proposed Correctional and Detention Facilities Permanent Regulations**, for your consideration for adoption before the current emergency interim regulations expire in March 2018. Enclosed is the *Planning Commission's Findings of Fact and Recommendations Report* that summarizes the proposal, the public review process, and the Commission's deliberations.

Since the Tacoma City Council enacted emergency interim zoning regulations in March 2017, the Planning Commission has engaged in multiple robust discussions on this topic even while the members of the Commission and the broader community grappled with the related challenges of how to most effectively plan for the future of the Port of Tacoma and how we, the residents of Tacoma, affect and are affected by the built environment.

Looking at a subject from multiple angles and perspectives is one of the core charges of the Planning Commission. Inspired by the *One Tacoma* Comprehensive Plan, the Commission approached the issue of Correctional and Detention Facilities "through an integrated and holistic consideration of environmental quality, economic vitality and social equity." (*One Tacoma*, "Introduction + Vision" Element, page 1-4)

This approach pushed the Commission to consider the difficult and polarizing subject of where should people be allowed to live and where should people be required to live. Very similar to the Commission's deliberations relating to interim regulations for the Port/Tideflats Manufacturing /Industrial Center (M/IC), the Commission does not believe it is appropriate to allow either temporary or permanent housing in the M/IC. The M/IC is an important, unique and finite-sized economic engine for Tacoma and the region. Housing inappropriately competes with industrial uses and many industrial uses create unavoidable impacts on human health and well-being. If a residential-like use is to be allowed in an industrial zone, the Commission concludes it should be allowed only in the M-1 (Light Industrial) zone.

In another echo of the Commission's work on the M/IC interim regulations, we spent a good amount of time thinking about, and learning lessons from, the past. With the M/IC, the Commission commented on how previous generations' poor planning allowed residential subdivisions to encroach on the Port. We feel the same about Correctional Facilities and Detention Facilities. The City should have done more to engage the community in the past. The Commission's recommendations, if adopted, will require early engagement in the future.

On January 17, the Planning Commission voted unanimously to recommend that the City Council adopt permanent regulations including the following key elements:

Definitions:

- Amend the municipal code to provide clear definitions that acknowledge and distinguish the demonstrated differences between "Correctional Facilities" and "Detention Facilities".

Residential Zoning:

- Prohibit the siting of Correctional Facilities and Detention Facilities in the R-4-L multi-family zoning district, where such facilities were allowed prior to enacting emergency interim regulations.
- Allow the siting of Correctional Facilities and Detention Facilities in the R-4 and R-5 multi-family zoning districts, subject to obtaining a Conditional Use Permit. This would restore the regulation in effect prior to enacting emergency interim regulations.

Industrial Zoning:

- Require a Conditional Use Permit to site Correctional Facilities and Detention Facilities in the M-1 industrial zoning district. These uses were allowed outright prior to enacting emergency interim regulations and have been prohibited in the interim.
- Prohibit the siting of Correctional Facilities and Detention Facilities in the M-2 and PMI industrial districts. These uses were allowed outright prior to enacting emergency interim regulations and allowed with a Conditional Use Permit in the interim.

Conditional Use Permits and Community Notice:

- New, modified and expanded facilities, in those districts where the facilities would be authorized, require Conditional Use Permits.
- Public notice would extend to properties within 1,000 feet.
- Applicants would be required to hold a re-application community meeting.

Thank you for the opportunity to work on this important topic. Please contact me if the Planning Commission can be of further service as you deliberate permanent regulations.

Sincerely,



STEPHEN WAMBACK
Chair, Planning Commission

Enclosure



Correctional Facilities and Detention Facilities Permanent Regulations (Revisions to TMC 13.05, 13.06 and 13.06A)

Planning Commission Findings of Fact and Recommendations Report

January 17, 2018

A. Subject:

The proposal is to replace emergency interim zoning regulations with permanent regulations pertaining to correctional and detention facilities (see **Exhibits 1 and 2**). The interim zoning regulations were enacted by the City Council on March 7, 2017, per Ordinance No. 28417 (see **Exhibit 3**), and subsequently modified on May 9, 2017, per Ordinance No. 28429 (see **Exhibit 4**).

B. Summary of the Proposed Permanent Regulations:

The Proposed Correctional and Detention Facilities Permanent Regulations would amend the Tacoma Municipal Code, Chapters 13.05, 13.06 and 13.06A, as follows:

Definitions:

- Amend the municipal code to provide clear definitions that acknowledge and distinguish the demonstrated differences between "Correctional Facilities" and "Detention Facilities".

Residential Zoning:

- Prohibit the siting of Correctional Facilities and Detention Facilities in the R-4-L multi-family zoning district, where such facilities were allowed prior to enacting emergency interim regulations.
- Allow the siting of Correctional Facilities and Detention Facilities in the R-4 and R-5 multi-family zoning districts, subject to obtaining a Conditional Use Permit. This would restore the regulation in effect prior to enacting emergency interim regulations.

Industrial Zoning:

- Require a Conditional Use Permit to site Correctional Facilities and Detention Facilities in the M-1 industrial zoning district. These uses were allowed outright prior to enacting emergency interim regulations and have been prohibited in the interim.
- Prohibit the siting of Correctional Facilities and Detention Facilities in the M-2 and PMI industrial districts. These uses were allowed outright prior to enacting emergency interim regulations and allowed with a Conditional Use Permit in the interim.

Conditional Use Permits and Community Notice:

- New, modified and expanded facilities, in those districts where the facilities would be authorized, require Conditional Use Permits.
- Public notice would extend to properties within 1,000 feet.
- Applicants would be required to hold a re-application community meeting.

The proposed amendments to the various sections of the Tacoma Municipal Code are shown in **Exhibit 1**, while **Exhibit 2** depicts the R-4, R-5 and M-1 zoning districts throughout the City where, under the proposed permanent regulations, correctional and detention facilities would be allowed with a conditional use permit.

C. Findings of Fact:

Part One – Legislative Intent:

The Planning Commission acknowledges and understands the following key recitals as set forth in Ordinances No. 28417 and No. 28429 that enunciate the City Council’s legislative intent and rationale for imposing the emergency interim regulations:

1. The Port/Tideflats area of Tacoma is regionally and locally designated as (a) an important Manufacturing/Industrial Center (“M/IC”), (b) a location with unique characteristics that should serve as a long-term and growing employment center with a focus on manufacturing and industrial uses, and (c) particularly within the Port Maritime & Industrial (“PMI”) District, an area where uses are intended to focus on shoreline-related uses and support services.
2. The PMI area is also subject to numerous unique environmental constraints, some related to its past and ongoing industrial activities, such as noise, safety, and contamination issues, and some related to its physical location within a floodplain and potential liquefaction and volcanic hazard zones.
3. Recent proposals and community discussion have highlighted that the City’s existing industrial zoning allows for a wide variety of uses, some of which may no longer be compatible with the policies for this area and others where correctional facilities are currently allowed, and the City as a whole, as well as the changing landscape around it. [Note: The words “existing” and “currently” used in this recital denote the conditions before the imposition of the interim regulations.]
4. The existing notification, outreach, and permitting process requirements for certain types of uses, such as correctional facilities, may not appropriately reflect the level of community interest in them and/or their potential scale of impact.
5. Recent changes in the national political climate have contributed to uncertainty as to the need for, and potential expansion of, correctional facilities in communities such as Tacoma.
6. The federal Department of Homeland Security is on record stating its desire to increase and secure additional detention facilities such as the privately owned and operated Northwest Detention Center (NWDC).
7. On March 7, 2017, pursuant to Ordinance No. 28417 (see **Exhibit 3**), the City Council enacted Interim Zoning Regulations (“Interim Regulations”) for correctional facilities on an emergency basis. The Interim Regulations amended Sections 13.06.100, 13.06.200, 13.06.300, 13.06.400, and 3.06.700 of the Tacoma Municipal Code, as follows: (1) modify the use definition of “correctional facility” to clearly differentiate between public and private correctional facilities; (2) prohibit the siting of private correctional facilities in all zoning districts; (3) remove public correctional facilities as a permitted use in multi-family and light-industrial zoning districts (i.e., R-4-L, R-4, R-5, and M-1); and (4) modify how public correctional facilities are permitted by requiring approval of a Conditional Use Permit in all districts in which they are allowed (currently, M-2 Heavy Industrial and PMI Port Maritime & Industrial).
8. The Interim Regulations were intended to allow time for the City to conduct appropriate research and community outreach; analyze potential impacts and applicable local, state and regional policies; and determine the appropriate permanent regulatory framework for correctional facilities in Tacoma.

9. As requested by the City Council, the Planning Commission reviewed the Interim Regulations and explored both regulatory and non-regulatory issues surrounding them.
10. The Commission had robust discussions that highlighted numerous concerns and diverse opinions about the Interim Regulations and these uses in general, including the relationship between the City's local land use regulatory authority and this politically-charged and largely national-level issue; the impact of the State's Growth Management Act and provisions relative to Essential Public Facilities; and, broader land use concerns about allowing non-typical "residential" uses in the Tideflats industrial area.
11. While the Commission was able to spend considerable time on the interim regulations, it was unable to reach consensus on a final recommendation on the Interim Regulations; however, the Commission forwarded its work to the City Council relating to observations, concerns, deliberations, and preliminary thoughts on this issue.
12. After additional review, discussion, and a public hearing on the emergency Interim Regulations on April 25, 2017, the City Council modified the Interim Regulations, per Ordinance No. 28429 (see **Exhibit 4**). The modifications amended the Interim Regulations as follows: (1) revised the regulations so they regulate public and private correctional facilities in the same manner; (2) revised permit modification standards to indicate that any modifications that would increase the inmate capacity of an existing facility shall be processed as a major modification; (3) modified the conditional use permit process standards to ensure substantial community engagement as part of any permit for significant modification of an existing correctional facility; and, (4) extended the duration of the Interim Regulations from six months to one year.
13. Requiring conditional use permits for new or expanded facilities will better ensure that the review of any proposal includes significant community outreach and the opportunity for local discretionary review addressing applicable policies and standards, as well as potential impacts, mitigation of those impacts, and compatibility issues, and extending the duration of the interim regulations from six months to one year was to better ensure that there is adequate time for the City Council, Planning Commission, City staff, and the community to appropriately explore and address this issue, which is complicated and controversial.

Part Two – Additional Facts, Observations, and Concerns:

In addition to the City Council's legislative intent, the Planning Commission has also identified the following factual information, observations, and concerns associated with the interim regulations:

14. There are three existing facilities that are affected by the regulations: the Northwest Detention Center (NWDC), the Pierce County Jail, and the Pierce County Juvenile Detention Center (Remann Hall).
15. The NWDC (see **Exhibit 5a**) is a privately-run federal immigration detention center that is located at 1623 East J Street in the Port/Tideflats area and in the PMI zoning district. The facility was opened in 2004 and expanded in 2008, and is currently permitted to accommodate up to 1,575 detainees. With the permanent regulations, this facility would no longer be a permitted or conditional use but would be a nonconforming use.
16. The Pierce County Jail (see **Exhibit 5b**), located at 910 Tacoma Avenue S., is a public correctional facility run by the Pierce County Sheriff's Department – Corrections Bureau. The jail is comprised of two facilities, i.e., the Main Jail that was built in 1985 and the New Jail that was built in 2003. It has an operational capacity for 1,700 inmates and currently employs

approximately 300 correctional staff. The jail is located in the Downtown Mixed-Use (DMU) zoning district, where “jails and correctional facilities” are a prohibited use (per TMC 13.06A.050). The jail was already a nonconforming use before the imposition of the interim regulations and is not significantly impacted by the interim regulations.

17. Remann Hall (see **Exhibit 5c**), located at 5501 6th Avenue, is a public correctional facility run by the Pierce County Juvenile Court. Located in the R2 – Single Family Dwelling District, the facility was already a nonconforming use before the imposition of the interim regulations and is not significantly impacted by the interim regulations.
18. As nonconforming uses, the NWDC, the Pierce County Jail, and the Remann Hall are not prevented as to, but are limited in, their ability to expand. Proposed expansions of nonconforming uses, subject to the City’s review and approval, generally shall not result in an increase in vehicular trips (more than 10%), parking spaces (more than 10%), noise, light or glare, outdoors storage of goods or materials, and hours of operation.
19. Under the proposed permanent regulations, a new or significantly expanded correctional or detention facility either in the M-1 (light industrial) zone or the R-4 and R-5 (multi-family) zone will require a conditional use permit.
20. The Planning Commission approached the issue of Correctional Facilities and Detention Facilities "through an integrated and holistic consideration of environmental quality, economic vitality and social equity." (*One Tacoma* Comprehensive Plan, Introduction and Vision Chapter, p. 1-4). Additionally, the following are some of the policies as set forth in the Public Facilities and Services Element of the *One Tacoma* Plan that will be applied to any conditional use application:

Policy PFS-1.3 Coordinate and cooperate with federal, state, regional, and local jurisdictions, private industry, businesses, and citizens in the planning, siting, design, and development of facilities serving and affecting the community. (p. 9-7)

Policy PFS-3.6 Active public involvement at the earliest point in the siting process shall be encouraged through timely notification, public meetings and hearings. (p. 9-10)

Policy PFS-3.7 Notify and coordinate with adjacent jurisdictions that are affected by the siting of an essential public facility. Equitable distribution of facilities for the populations they serve will be cooperatively established through inter-local agreements in order to ensure that all jurisdictions share the burden of providing essential public facilities. (p. 9-10)

Policy PFS-3.5 If Tacoma is selected as a site for a regional or statewide essential public facility, or is otherwise impacted by a regional or statewide facility’s development, expansion or operation, ensure that impacts on Tacoma are mitigated. (p. 9-10)

Policy PFS-3.4 Major essential public facilities that generate substantial travel-demand should be sited along or near major transportation and public transit corridors. (p. 9-10)

21. These policies are advanced by requiring a conditional use permit together with a pre-application community meeting.
22. The siting mandates of RCW 36.70A.200 and WAC365-196-550 provide an overarching structure and the controlling Comprehensive Plan goal is to “Collaborate with regional partners to site essential public facilities in an equitable and practical manner” (*One Tacoma*, Public Facilities and Services Element, Goal PFS-3, p. 9-9). Further, adding a conditional use permit review will advance the first part of Policy PFS-3.7, i.e., “Notify and coordinate with adjacent jurisdictions that are affected by the siting of an essential public facility.” Finally, the City Comprehensive Plan highlights that “Regional public facilities are designated by GMA as essential public

facilities. The City realizes that these facilities are often difficult to site, but they provide needed public services. Tacoma will coordinate with other jurisdictions in the region to site public facilities and will not exclude such facilities from its jurisdiction.” (*One Tacoma*, Public Facilities and Services Element, p. 9-6).

23. The Planning Commission recognizes that correctional and detention facilities are very different uses and, accordingly, provides a separate definition for each (rather than using the interim regulation approach of listing them together under the heading of “correctional facilities”):

Correctional Facility – A facility in which persons are held and housed primarily for the purposes of punishment, correction, or rehabilitation following conviction of a criminal offense.

Detention facility – A facility in which persons are held and housed in custody under process of law, pending the outcome of legal proceedings, but not for the purposes of punishment, correction, or rehabilitation following conviction of a criminal offense.

24. The City Attorney’s Office Letter to Planning Commission on Detention Facilities as Essential Public Facilities is attached as **Exhibit 6**.

Part Three – Planning Commission’s Review Process for Permanent Regulations:

25. The Planning Commission began the process of developing permanent regulations in November 2017 for the City Council’s consideration for adoption before the interim regulations expire on March 6, 2018.
26. At the December 6, 2017 meeting, the Commission authorized the distribution of the proposed permanent regulations for public review and set January 3, 2018 as the date for a public hearing. A Public Review Packet was compiled by staff for the public hearing. The packet is on file with the Planning and Development Services Department (PDS).
27. At the public hearing on January 3, 2018, the Commission received oral testimony from 12 citizens, and through closure of the public hearing record on January 5, 2018, the Commission received written comments submitted by 20 individuals or organizations. A compilation of the public comments received is on file with PDS.
28. At the meeting on January 17, 2018, the Commission reviewed public comments received, reviewed staff’s observations and responses to public comments, reviewed additional information, and formulated its recommendations to the City Council. The packet of information reviewed at the meeting is on file with PDS.
29. One of the key issues the Commission heard at the January 3rd public hearing and reviewed at the January 17th meeting was the concern that detention facilities be clearly differentiated from correctional facilities. The Commission reviewed the legal opinion on the subject from the City Attorney’s Office (see **Exhibit 6**).
30. The Commission is forwarding its recommendations to the City Council at this point in time with the intent to assist the Council in taking actions before the current interim regulations expire on March 6, 2018. The Council’s review timeline could be as follows:
- February 6 – Study session and public hearing
 - February 13 – First reading of adopting ordinance

- February 20 – Final reading of adopting ordinance
- March 4 – Adopted regulations become effective

D. Conclusions and Recommendations:

The Planning Commission acknowledges and understands the City Council's intent and objectives in enacting the interim regulations per Ordinances No. 28417 and No. 28429, which highlight community concerns about correctional and detention facilities generally as well as how they are currently regulated in the City's zoning code.

The Planning Commission has formulated its recommendations on the proposed correctional and detention facilities permanent regulations for the City Council's consideration for adoption upon the expiration of the interim regulations on March 6, 2018. The proposed regulations seek to achieve the following general objectives:

- Respond to changing circumstances, such as growth and development patterns, needs and desires of the community, and the City's capacity to provide adequate services. Specifically, after extensive public participation the City has adopted new Comprehensive Plan policies since the three correctional facilities (the Pierce County Jail, the Pierce County Juvenile Detention Center or Remann Hall, and the Northwest Detention Center) were opened.
- The Commission does not believe it is appropriate to allow either temporary or permanent housing in the designated Manufacturing/Industrial Center (M/IC). The M/IC is an important, unique and finite-sized economic engine for Tacoma and the region. Housing inappropriately competes with industrial uses and many industrial uses create unavoidable impacts on human health and well-being. If a residential-like use is to be allowed in an industrial zone, the Commission concludes it should be allowed only in the M-1 (light industrial) zone.
- Maintain or enhance compatibility with existing or planned land uses and the surrounding development pattern. Adding a conditional use permit requirement will allow these new policies to be properly considered in any new siting decisions.

The Planning Commission recommends that the City Council adopt the proposed amendments to the Tacoma Municipal Code, as set forth in **Exhibit 1**.

E. Exhibits:

1. Proposed Amendments to the Tacoma Municipal Code
2. Map of R-4, R-5 and M-1 Zoning Districts
3. Ordinance No. 28417, March 7, 2017
4. Ordinance No. 28429, May 9, 2017
5. Location and Parcel Maps:
 - a. Northwest Detention Center
 - b. Pierce County Jail
 - c. Pierce County Juvenile Detention Center (Remann Hall)
6. Letter from the City Attorney's Office to the Planning Commission, January 20, 2018, concerning Detention Facilities as Essential Public facilities



Correctional and Detention Facilities Permanent Regulations

DRAFT CODE AMENDMENTS

*As Recommended by the Planning Commission
January 17, 2018*

Note: These amendments show all of the proposed changes to pre-existing Land Use regulations (as they existed prior to the interim regulations). The sections included are only those portions of the code that are associated with these amendments. New text is blue underlined and text that has been deleted is shown as ~~red strikethrough~~.

These draft code amendments include modifications to the following sections of the Tacoma Municipal Code (TMC), Title 13 – Land Use Regulatory Code:

Chapter 13.05 – Land Use Procedures

13.05.020 – Notice Process

Chapter 13.06 – Zoning

13.06.100 – Residential Districts

13.06.200 – Commercial Districts

13.06.300 – Mixed-Use Center Districts

13.06.400 – Industrial Districts

13.06.640 – Conditional Use Permit

13.06.700 – Definitions and Illustrations

Chapter 13.06A – Downtown Tacoma

13.06A.050 – Additional Use Regulations

Chapter 13.05 – LAND USE PERMIT PROCEDURES

13.05.020 Notice process.

* * *

H. Notice and Comment Period for Specified Permit Applications. Table H specifies how to notify, the distance required, the comment period allowed, expiration of permits, and who has authority for the decision to be made on the application.

Table H – Notice, Comment and Expiration for Land Use Permits

Permit Type	Pre-application Meeting	Notice: Distance	Notice: Newspaper	Notice: Post Site	Comment Period	Decision	Hearing Required	City Council	Expiration of Permit
* * *									
Conditional use	Required	400 feet; 1000 feet for develop-ment sites over 1 acre in size	No	Yes	30 days ⁵	Director	No	No	5 years ⁴
Conditional use, correctional facilities (new or major modification)	Required	1,000 feet	Yes	Yes	30 days²	Hearing Examiner	Yes	No	5 years
Conditional use, detention facilities (new or major modification)	Required	1,000 feet	Yes	Yes	30 days²	Hearing Examiner	Yes	No	5 years
Conditional use, large-scale retail	Required	1,000 feet	Yes	Yes	30 days ²	Hearing Examiner	Yes	No	5 years
Conditional use, master plan	Required	1000 feet	Yes	Yes	30 days ²	Director	Yes	No	10 years
Conditional Use, Minor Modification	Optional	No	No	No	No	Director	No	No	5 years
Conditional Use, Major Modification	Required	400 feet; 1000 feet for public facility sites and master plans	No	Yes	14 days ⁵	Director	No	No	5 years
* * *									

INFORMATION IN THIS TABLE IS FOR REFERENCE PURPOSE ONLY.

* Programmatic Restoration Projects can request 5 year renewals to a maximum of 20 years total.

When an open record hearing is required, all other land use permit applications for a specific site or project shall be considered concurrently by the Hearing Examiner (refer to Section 13.05.040.E).

¹ Conditional use permits for wireless communication facilities, including towers, shall expire two years from the effective date of the Director’s decision and are not eligible for a one-year extension.

² Comment on land use permit proposal allowed from date of notice to hearing.

³ Must be recorded with the Pierce County Auditor within five years.

⁴ Special use permits for wireless communication facilities, including towers, are limited to two years from the effective date of the Director’s decision.

⁵ If a public meeting is held, the public comment period shall be extended 7 days beyond and including the date of the public meeting.

⁶ Refer to Section 13.05.070 for preliminary plat expiration dates.

⁷ Public Notification of Minor Variances may be sent at the discretion of the Director. There is no notice of application for Minor Variances.

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Chapter 13.06 – ZONING

13.06.100 Residential Districts.

* * *

5. District use table.

Uses	R-1	R-2	R-2SRD	HMR-SRD	R-3	R-4-L	R-4	R-5	Additional Regulations ¹
* * *									
Confidential Shelter	P	P	P	P	P	P	P	P	Subject to additional requirements contained in Section 13.06.535.
Continuing care retirement community	N	N	N	N	P	P	P	P	Subject to additional requirements contained in Section 13.06.535.
Correctional facility	N	N	N	N	N	CU N	CU	CU	Side yards shall be provided as specified in Section 13.06.602.
* * *									
Day care, family	P	P	P	P	P	P	P	P	Must be licensed by the State of Washington.
Day care center	CU	CU	CU	CU	CU	P/CU	P	P	Subject to additional requirements contained in Section 13.06.155. For R-4-L, day care centers with an enrollment limited to 50 or fewer children or adults are permitted, while day care centers for more than 50 children or adults may be allowed subject to the approval of a conditional use permit.
Detention facilities	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>CU</u>	<u>CU</u>	Side yards shall be provided as specified in Section 13.06.602.
* * *									

13.06.200 Commercial Districts.

* * *

5. District use table.

Uses	T	C-1	C-2 ¹	HM	PDB	Additional Regulations ^{2,3} (also see footnotes at bottom of table)
* * *						
Confidential shelter	P	P	P	P	P	See Section 13.06.535. Limit: 15 residents in T District.
Continuing care retirement community	P	P	P	P	P	See Section 13.06.535.
Correctional facility	N	N	N	N	N	
* * *						
Day care, family	P	P	P	P	P	
Day care center	P	P	P	P	P	Subject to regulations set forth in Section 13.06.155.
Detention facility	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	
* * *						

13.06.300 Mixed-Use Center Districts.

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3. District use table.

Uses	NCX	CCX	UCX	RCX ¹	CIX	HMX	URX	NRX	Additional Regulations ^{3,4,5} (also see footnotes at bottom of table)
* * *									
Confidential shelter	P	P	P	P	P	P	P	P	See Section 13.06.535. Prohibited at street level along frontage of designated core pedestrian streets in NCX. ² Not subject to minimum densities founding Section 13.06.300.E.
Continuing care retirement community	P	P	P	P	P	P	P	P	See Section 13.06.535. Prohibited at street level along frontage of designated core pedestrian streets in NCX. ²
Correctional facility	N	N	N	N	N	N	N	N	
* * *									
Day care, family	P	P	P	P	N	P	P	P	
Day care center	P	P	P	P	P	P	P	CU	Not subject to RCX residential requirement. ¹
Detention facility	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	
* * *									

13.06.400 Industrial Districts.

* * *

5. District use table.

Uses	M-1	M-2	PMI	Additional Regulations ¹
* * *				
Confidential shelter	P/N*	N	N	See Section 13.06.535. *Not permitted within the South Tacoma M/IC Overlay District.
Continuing care retirement community	P/N*	N	N	In M-1 districts, permitted only within residential or institutional buildings in existence on December 31, 2008, the effective date of adoption of this provision, or when located within a mixed-use building where a minimum of 1/3 of the building is devoted to industrial or commercial use. *Not permitted within the South Tacoma M/IC Overlay District. See Section 13.06.535.
Correctional facility	P CU	P N	P N	Modifications or expansions to existing facilities that increase the inmate/detainee capacity shall be processed as a major modification (see Section 13.05.080). A pre-application community meeting is also required (see Section 13.06.640.Q).
* * *				
Day care, family	P/N*	N	N	*Not permitted within the South Tacoma M/IC Overlay District.
Day care center	P	P	N	Subject to development standards contained in Section 13.06.155.
Detention facility	CU	N	N	Modifications or expansions to existing facilities that increase the inmate/detainee capacity shall be processed as a major modification (see Section 13.05.080). A pre-application community meeting is also required (see Section 13.06.640.Q).
* * *				

13.06.640 Conditional use permit.

A. Purpose. In many zones there are uses that may be compatible but because of their size, operating characteristics, potential off-site impacts and/or other similar reasons warrant special review on a case-by-case basis. The purpose of the conditional use permit review process is to determine if such a use is appropriate at the proposed location and, if appropriate, to identify any additional conditions of approval necessary to mitigate potential adverse impacts and ensure compatibility between the conditional use and other existing and allowed uses in the same zoning district and in the vicinity of the subject property. The zoning district use tables identify which uses require a conditional use permit (see Sections 13.06.100, -.200, -.300, and -.400). These uses may be authorized by the Director or Hearing Examiner in accordance with the procedures established in TMC 13.05 and the applicable criteria outlined below.

* * *

D. Criteria. A conditional use permit shall be subject to the following criteria:

1. There shall be a demonstrated need for the use within the community at large which shall not be contrary to the public interest.
2. The use shall be consistent with the goals and policies of the Comprehensive Plan, any adopted neighborhood or community plan, and applicable ordinances of the City of Tacoma.
3. For proposals that affect properties that are listed individually on the Tacoma Register of Historic Places, or are within historic special review or conservation districts, the use shall be compatible and consistent with applicable historic preservation standards, and goals, objectives and guidelines of the historic or conservation districts. Proposed actions or alterations inconsistent with historic standards or guidelines as determined by the Landmarks Commission are a basis for denial.
4. The use shall be located, planned, and developed in such a manner that it is not inconsistent with the health, safety, convenience, or general welfare of persons residing or working in the community. The following shall be considered in making a decision on a conditional property use:
 - a. The generation of noise, noxious or offensive emissions, light, glare, traffic, or other nuisances which may be injurious or to the detriment of a significant portion of the community.
 - b. Availability of public services which may be necessary or desirable for the support of the use. These may include, but shall not be limited to, availability of utilities, transportation systems (including vehicular, pedestrian, and public transportation systems), education, police and fire facilities, and social and health services.
 - c. The adequacy of landscaping, screening, yard setbacks, open spaces, or other development characteristics necessary to mitigate the impact of the use upon neighboring properties.
5. An application for a conditional use permit shall be processed in accordance with the provisions of Chapter 13.05.

* * *

[Q. Correctional or Detention Facilities. An application for a conditional use permit for correctional or detention facilities shall be processed in accordance with the provisions of Chapter 13.05, except with the following additional requirement:](#)

[Pre-application community meeting. Prior to submitting an application to the City for a conditional use permit for a correctional or detention facility, it is required that the applicant hold a public informational meeting with community members. The purpose of the meeting is to provide an early, open dialogue between the applicant and the neighborhood surrounding the proposed development. The meeting should acquaint the neighbors of the proposed development with the applicant and/or developers and provide for an exchange of information about the proposal and the community, including the characteristics of the proposed development and of the surrounding area and any particular issues or concerns of which the applicant should be made aware. The applicant shall provide written notification of the meeting, at least 30 calendar days prior to the meeting date, to the appropriate neighborhood council pursuant to TMC 1.45 and neighborhood business district pursuant to TMC 1.47, qualified neighborhood and community organizations, and to the owners of property located within 1,000 feet of the project site.](#)

* * *

13.06.700 Definitions and illustrations.

For the purposes of this chapter, certain words and terms are defined as follows: words used in the present tense include the future, words in the singular number include the plural, and words in the plural number include the singular; the word “building” includes the word “structure”; the word “shall” is mandatory and not directory. For words that are not defined in this chapter, or that do not incorporate a definition by reference, refer to a Webster’s Dictionary published within the last ten years.

* * *

13.06.700.C

* * *

Container, shipping/storage. A large, prefabricated box or container made of metal, wood, or similar material utilized for the shipping/storage and distribution of various products or commodities.

Continuing care retirement community. An age-restricted development that provides a continuum of accommodations and care, from independent living to long-term bed care. Due to the wide range of services provided, such facilities generally operate under multiple state-licensing programs.

Convalescent home. See “extended care facility.”

Cornice. Projection at the top of a wall; a term applied to construction where the roof and side walls meet.

Correctional facility. ~~A public facility for the incarceration of persons under warrant, awaiting trial on felony or misdemeanor charges, convicted but not yet sentenced, or serving a sentence upon conviction.~~ A facility in which persons are held and housed primarily for the purposes of punishment, correction, or rehabilitation following conviction of a criminal offense. This definition includes prerelease facilities, but does not include work release centers or juvenile community facilities.

* * *

13.06.700.D

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Deciduous: A plant that loses its leaves and remains leafless for some months of the year, usually in winter (temperate zones) or the dry season (tropical zones).

Decorative grille. An open framework of metal, wood, or other material arranged in a pattern that effectively obscures the views of parked cars located in an off-street parking structure from the public right-of-way.

Design (wireless communication facility). The appearance of wireless communication facilities, including such features as materials, colors, and shapes.

Detention facility. A facility in which persons are held and housed in custody under process of law, pending the outcome of legal proceedings, but not for the purposes of punishment, correction, or rehabilitation following conviction of a criminal offense.

* * *

13.06.700.P

* * *

Public service facilities. Facilities owned, operated, or occupied by a government agency that provide a governmental service to the public, such as public libraries, courthouses, post offices, community centers, and government offices. This general classification does not include other government facilities that are more specifically defined and regulated, such as correctional and detention facilities, parks, schools, public safety facilities, and utilities.

* * *

Chapter 13.06A
DOWNTOWN TACOMA

* * *

13.06A.050 Additional use regulations.

A. Use Categories.

1. Preferred. Preferred uses are expected to be the predominant use in each district.
2. Allowable. Named uses and any other uses, except those expressly prohibited, are allowed.
3. Prohibited. Prohibited uses are disallowed uses (no administrative variances).

B. The following uses are prohibited in all of the above districts, unless otherwise specifically allowed:

1. Adult retail and entertainment.
2. Heliports.
3. Work release facilities.
4. ~~Jails and e~~Correctional and detention facilities.
5. Billboards
6. Drive-throughs not located entirely within a building.

C. Special needs housing shall be allowed in all downtown districts in accordance with the provisions of Section 13.06.535.

D. Live/work and work/live uses shall be allowed in all downtown districts, subject to the requirements contained in Section 13.06.570.

E. Marijuana uses (marijuana producer, marijuana processor, marijuana researcher and marijuana retailer). Marijuana retailers shall be allowed in all downtown districts, subject to the additional requirements contained in Section 13.06.565. Marijuana producers, marijuana processors, and marijuana researchers shall be prohibited in all downtown districts.



ORDINANCE NO. 28417

1 BY REQUEST OF COUNCIL MEMBER CAMPBELL

2 AN INTERIM EMERGENCY ORDINANCE relating to land use regulations,
3 enacting interim zoning regulations; amending Chapter 13.06 of the
4 Tacoma Municipal Code (“TMC”) at Sections 13.06.100, 13.06.200,
5 13.06.300, 13.06.400, and 13.06.700, pertaining to the definition and siting
6 of public correctional facilities; establishing a work plan for review and
7 development of permanent regulations relating to siting public correctional
8 facilities, and setting April 25, 2017 as the date for a public hearing on the
9 subject matter hereof.

10 WHEREAS, pursuant to RCW 36.70A.390 and TMC 13.02.055, the City
11 Council has the authority to enact interim zoning ordinances on an emergency
12 basis, and

13 WHEREAS Section 2.12 of the Tacoma City Charter provides for the
14 emergency passage of ordinances when the Council declares that a public
15 emergency exists and states the facts constituting such an emergency, and

16 WHEREAS the Port/Tideflats area of Tacoma is regionally and locally
17 designated as (a) an important Manufacturing/Industrial Center (“M/IC”), (b) a
18 location with unique characteristics that should serve as a long-term and growing
19 employment center with a focus on manufacturing and industrial uses, and (c)
20 particularly within the Port Maritime & Industrial (“PMI”) District, an area where
21 uses are intended to focus on shoreline-related uses and support services, and

22 WHEREAS this area (the PMI) is also subject to numerous unique
23 environmental constraints, some related to its past and ongoing industrial activities,
24 such as noise, safety, and contamination issues, and some related to its physical
25

26



location within a floodplain and potential liquefaction and volcanic hazard zones,
1 and

2 WHEREAS recent proposals and community discussion have highlighted
3 that the City's existing industrial zoning allows for a wide variety of uses, some of
4 which may no longer be compatible with the policies for this area and others where
5 correctional facilities are currently allowed, and the City as a whole, as well as the
6 changing landscape around it, and
7

8 WHEREAS the existing notification, outreach, and permitting process
9 requirements for certain types of uses, such as correctional facilities, may not
10 appropriately reflect the level of community interest in them and/or their potential
11 scale of impact, and
12

13 WHEREAS the Northwest Detention Center ("NDC"), which is a privately
14 owned and operated federal immigration detention center, was opened in 2004
15 and expanded in 2008, and the facility, located at 1623 East J Street in the
16 Port/Tideflats area and in the PMI zoning district, is currently permitted to
17 accommodate up to 1,575 detainees, and
18

19 WHEREAS recent changes in the national political climate have contributed
20 to uncertainty as to the need for, and potential expansion of correctional facilities in
21 communities such as Tacoma, and
22

23 WHEREAS, the federal Department of Homeland Security is on record
24 stating its desire to increase and secure additional detention facilities such as the
25 privately owned and operated NDC, and
26



1 WHEREAS the use currently engaged in by the NDC has been referred to
2 as a “correctional facility,” however, the City’s existing correctional facility
3 designation is generally tailored to public correctional facilities and not private
4 facilities, and

5 WHEREAS the City’s existing regulations do not clearly distinguish between
6 public and private facilities, and also do little to ensure sufficient community
7 engagement and discretionary review of any proposals to site such facilities in this
8 heavy industrial area, or any other areas where correctional facilities are currently
9 allowed, and

10
11 WHEREAS the City desires to enact interim zoning regulations regarding
12 public and private correctional facilities, effective for a six-month period, or until the
13 City’s zoning regulations for such facilities are permanently updated, to allow time
14 for the City Council to conduct appropriate research, analyze potential impacts and
15 applicable local, state and regional policies, and determine the appropriate
16 permanent regulatory framework for correctional facilities in Tacoma, and to hold a
17 public hearing on the interim, emergency zoning ordinance within 60 days of the
18 enactment of the same, and

19
20 WHEREAS the proposed Interim regulations would, on an interim basis,
21 amend the City’s zoning code, Chapter 13.06 of the Tacoma Municipal Code, as
22 follows: (1) Modify the use definition of “correctional facilities” to clearly
23 differentiate between public and private facilities; (2) remove correctional facilities
24 as a permitted use in the City’s multi-family and light-industrial zoning districts; (3)
25 modify how public correctional facilities are permitted by requiring approval of a
26



1 Conditional Use Permit in all districts in which they are allowed; and (4) identify
2 private correctional facilities as an unpermitted use in all zoning districts, and

3 WHEREAS requiring conditional use permits for new or expanded facilities,
4 in the interim, will better ensure that the review of any proposal includes significant
5 community outreach and the opportunity for local discretionary review addressing
6 applicable policies and standards, as well as potential impacts and compatibility
7 issues associated with siting these types of facilities, and

8 WHEREAS the potential adverse impacts on the public health, public safety,
9 public property, and public peace justify the passage of an Interim emergency
10 ordinance; Now, Therefore,

11
12 BE IT ORDAINED BY THE CITY OF TACOMA:

13 Section 1. That Chapter 13.06 of the Tacoma Municipal Code ("TMC") is
14 hereby amended at Sections 13.06.100, 13.06.200, 13.06.300, 13.06.400, and
15 13.06.700, pertaining to the definition and siting of public (and private) correctional
16 facilities, as set forth in the attached Exhibit "A."

17
18 Section 2. Duration. That the Interim zoning regulations enacted by this
19 ordinance shall be in effect for six (6) months following the effective date of this
20 ordinance, and may be renewed as provided by law.

21
22 Section 3. Public Hearing Required. That, as required by RCW 36.70A.390
23 and TMC 13.02.055 B., a public hearing is hereby set for April 25, 2017, at
24 approximately 5:15 p.m., in the City Council Chambers on the First Floor of the
25 Tacoma Municipal Building, 747 Market Street, Tacoma, Washington, during which
26



the City Council will take public comment on the interim zoning regulations and will
1 adopt the necessary findings required by law.

2 Section 4. Work Plan. That a work plan shall be established for the review
3 and development of permanent regulations relating to siting public correctional
4 facilities.
5

6 Section 5. Emergency Declared - Immediate Effect. For the reasons set
7 forth above, and to promote the objectives stated above, the City Council finds that
8 a public emergency exists, necessitating that this ordinance take effect
9 immediately upon its passage by at least six (6) Tacoma City Council Members in
10 order to protect the public health, safety, property, and general welfare.
11

12 Passed _____
13

14 _____
15 Mayor

16 Attest:
17 _____
18 City Clerk

19 Approved as to form:
20 _____
21 Deputy City Attorney
22
23
24
25
26

EXHIBIT "A"

Chapter 13.06

ZONING

* * *

13.06.100 Residential Districts.

The 100 series will contain regulations for all residential classifications, including the following:

R-1	Single-Family Dwelling District
R-2	Single-Family Dwelling District
R-2SRD	Residential Special Review District
HMR-SRD	Historic Mixed Residential Special Review District
R-3	Two-Family Dwelling District
R-4	Multiple-Family Dwelling District
R-4-L	Low-Density Multiple-Family Dwelling District
R-5	Multiple-Family Dwelling District
PRD	Planned Residential Development District (see Section 13.06.140)

* * *

C. Land use requirements.

5. District use table. (see next page for table)

Tacoma Municipal Code

Uses	R-1	R-2	R-2SRD	HMR-SRD	R-3	R-4-L	R-4	R-5	Additional Regulations ¹
Accessory uses and buildings	P	P	P	P	P	P	P	P	Subject to additional requirements contained in Section 13.06.100.F
Adult family home	P	P	P	P	P	P	P	P	Subject to additional requirements contained in Section 13.06.535
Adult retail and entertainment	N	N	N	N	N	N	N	N	
Agricultural uses	CU	CU	CU	CU	CU	CU	CU	CU	Such uses shall not be located on a parcel of land containing less than 20,000 square feet of area. Buildings shall not be permitted in connection with such use, except greenhouses having total floor area not in excess of 600 square feet. Livestock is not allowed.
Airports	CU	CU	CU	CU	CU	CU	CU	CU	
Ambulance services	N	N	N	N	N	N	N	N	
Animal sales and service	N	N	N	N	N	N	N	N	
Assembly facility	N	N	N	N	N	CU	CU	CU	
Brewpub	N	N	N	N	N	N	N	N	
Building materials and services	N	N	N	N	N	N	N	N	
Business support services	N	N	N	N	N	N	N	N	
Carnival	N	N	N	N	N	N	N	N	Subject to additional requirements contained in Section 13.06.635.
Cemetery/internment services	N/CU	N/CU	N/CU	N/CU	N/CU	N/CU	N/CU	N/CU	New facilities are not permitted. Enlargement of facilities in existence prior to the effective date of this provision (May 27, 1975) may be approved in any zoning district subject to a conditional use permit. See Section 13.06.640.
Commercial parking facility	N	N	N	N	N	N	N	N	Subject to additional requirements contained in Section 13.06.510.
Commercial recreation and entertainment	N	N	N	N	N	N	N	N	
Communication facility	CU	CU	CU	CU	CU	CU	CU	CU	Antennas for such facilities are subject to the additional requirements contained in Section 13.06.545.

Uses	R-1	R-2	R-2SRD	HMR-SRD	R-3	R-4-L	R-4	R-5	Additional Regulations ¹
Confidential Shelter	P	P	P	P	P	P	P	P	Subject to additional requirements contained in Section 13.06.535.
Continuing care retirement community	N	N	N	N	P	P	P	P	Subject to additional requirements contained in Section 13.06.535.
Correctional facility, public or private	N	N	N	N	N	CUN	CUN	CUN	Side yards shall be provided as specified in Section 13.06.602.

* * *

13.06.200 Commercial Districts.

* * *

C. Land use requirements.

1. Applicability. The following tables compose the land use regulations for all districts of Section 13.06.200. All portions of Section 13.06.200 and applicable portions of Section 13.06.500 apply to all new development of any land use variety, including additions and remodels, in all districts in Section 13.06.200, unless explicit exceptions or modifications are noted. The requirements of Section 13.06.200.A through Section 13.06.200.C are not eligible for variance. When portions of this section are in conflict with other portions of Chapter 13.06, the more restrictive shall apply.

2. Pedestrian streets designated. Figure 7 of the Comprehensive Plan designates Corridors that are considered key streets for integrating land use and transportation and achieving the goals of the Urban Form and Design and Development Elements. These Corridors are herein referred to as “Pedestrian Streets.” The designation entails modified design requirements to improve building orientation, definition of the public realm, and pedestrian connectivity.

3. Use requirements. The following use table designates all permitted, limited, and prohibited uses in the districts listed. Use classifications not listed in this section or provided for in Section 13.06.500 are prohibited, unless permitted via Section 13.05.030.E. Certain street level use restrictions may apply; see Section 13.06.200.C.4 below.

[See next page for table.]

5. District use table.

Uses	T	C-1	C-2 ¹	PDB	Additional Regulations ^{2,3} (also see footnotes at bottom of table)
Adult family home	P	P	P	P	See definition for bed limit.
Adult retail and entertainment	N	N	N	N	Prohibited except as provided for in Section 13.06.525.
Agricultural uses	CU	CU	CU	CU	Such uses shall not be located on a parcel of land containing less than 20,000 square feet of area. Livestock is not allowed.
Airport	CU	CU	CU	CU	
Ambulance services	N	P	P	P	
Animal sales and service	N	P	P	N	Must be conducted entirely within an enclosed building. See Table 13.06.200.D for setback requirements specific to animal sales and service.
Assembly facility	CU	P	P	P	
Brewpub	N	N	P	N	2,400 barrel annual brewpub production maximum, equivalent volume wine limit.
Building materials and services	N	N	P	N	
Business support services	N	P	P	P	
Carnival	TU	TU	TU	TU	Subject to Section 13.06.635.
Cemetery/internment services	N	N	N	N	New facilities are not permitted. Enlargement of facilities in existence prior to the effective date of this provision (May 27, 1975) may be approved in any zoning district subject to a conditional use permit. See Section 13.06.640.
Commercial parking facility	P	P	P	P	
Commercial recreation and entertainment	N	N	P	P	
Communication facility	N	N	P	P	
Confidential shelter	P	P	P	P	See Section 13.06.535. Limit: 15 residents in T District.
Continuing care retirement community	P	P	P	P	See Section 13.06.535.
Correctional facility, public or private	N	N	N	N	

* * *

13.06.300 Mixed-Use Center Districts.

* * *

3. District use table.

Uses	NCX	CCX	UCX	RCX ¹	CIX	HMX	URX	NRX	Additional Regulations ^{3,4,5} (also see footnotes at bottom of table)
Adult family home	P	P	P	P	P	P	P	P	Subject to additional requirements contained in Section 13.06.535. See definition for bed limit. Prohibited at street level along designated pedestrian streets in NCX. ² Not subject to minimum densities found in Section 13.06.300.E.
Adult retail and entertainment	N	N	N	N	N	N	N	N	Prohibited, except as provided for in Section 13.06.525.
Agricultural uses	N	N	N	N	N	N	N	N	
Airport	CU	CU	CU	CU	CU	CU	CU	CU	
Ambulance services	N	CU	CU	N	P	P	N	N	
Animal sales and service	P	P	P	N	P	N	N	N	Except in the CIX District, must be conducted entirely within an enclosed structure. Must be set back 20 feet from any adjacent residential district or use.
Assembly facility	P	P	P	CU	P	N	N	N	Prohibited at street level along designated pedestrian streets in NCX. ²
Brewpub	P	P	P	P	P	N	N	N	Brewpubs located in NCX, CCX, UCX, and RCX shall be limited to producing, on-premises, a maximum of 2,400 barrels per year of beer, ale, or other malt beverages, as determined by the annual filings of barrelage tax reports to the Washington State Liquor Control Board. Equivalent volume winery limits apply.
Building materials and services	N	P	P	N	P	N	N	N	Prohibited at street level along frontage of designated core pedestrian streets. ²
Business support services	P	P	P	N	P	N	N	N	In NCX, all activities must occur within buildings; outdoor storage/repair is prohibited. Customer service offices must be located at building fronts on designated pedestrian streets in NCX.
Carnival	TU	TU	P	N	TU	TU	TU	N	Subject to Section 13.06.635.
Cemetery/ internment services	N	N	N	N	N	N	N	N	New facilities are not permitted. Enlargement of facilities in existence prior to the effective date of this provision (May 27, 1975) may be approved in any zoning district subject to a conditional use permit. See Section 13.06.640.
Commercial parking facility	P	P	P	N	P	P	N	N	Prohibited at street level along frontage of designated pedestrian streets in NCX and CCX Districts. ²

Uses	NCX	CCX	UCX	RCX ¹	CIX	HMX	URX	NRX	Additional Regulations ^{3,4,5} (also see footnotes at bottom of table)
Commercial recreation and entertainment	P	P	P	N	P	N	N	N	
Communication facility	CU	CU	P	N	P	N	N	N	Prohibited at street level along frontage of designated pedestrian streets in NCX and CCX Districts. ²
Confidential shelter	P	P	P	P	P	P	P	P	See Section 13.06.535. Prohibited at street level along frontage of designated core pedestrian streets in NCX. ² Not subject to minimum densities founding Section 13.06.300.E.
Continuing care retirement community	P	P	P	P	P	P	P	P	See Section 13.06.535. Prohibited at street level along frontage of designated core pedestrian streets in NCX. ²
Correctional facility, public or private	N	N	N	N	N	N	N	N	

* * *

13.06.400 Industrial Districts.

* * *

5. District use table.

Uses	M-1	M-2	PMI	Additional Regulations ¹
Adult family home	P/N*	N	N	In M-1 districts, permitted only within residential or institutional buildings in existence on December 31, 2008, the effective date of adoption of this provision, or when located within a mixed-use building where a minimum of 1/3 of the building is devoted to industrial or commercial use. *Not permitted within the South Tacoma M/IC Overlay District See Section 13.06.535.
Adult retail and entertainment	P	P	P	Subject to development standards contained in Section 13.06.525.
Agricultural uses	CU	CU	CU	Such uses shall not be located on a parcel of land containing less than 20,000 square feet of area.
Airport	CU	CU	CU	
Ambulance services	P	P	P	
Animal sales and service	P	P	N	
Assembly facility	P	P	N	
Brewpub	P	P	P	
Building material and services	P	P	P	
Business support services	P	P	P	
Carnival	P/TU*	N	N	*Temporary use only within the South Tacoma M/IC Overlay District
Cemetery/internment services	N	N	N	New facilities are not permitted. Enlargement of facilities in existence prior to the effective date of this provision (May 27, 1975) may be approved in any zoning district subject to a conditional use permit. See Section 13.06.640.
Commercial parking facility	P	P	P	
Commercial recreation and entertainment	P/CU*	P/CU*	N	*Within the South Tacoma M/IC Overlay District, a conditional use permit is required for facilities over 10,000 square feet of floor area in the M-2 district and over 15,000 square feet in the M-1 district.
Communication facility	P	P	P	
Confidential shelter	P/N*	N	N	See Section 13.06.535. *Not permitted within the South Tacoma M/IC Overlay District.
Continuing care retirement community	P/N*	N	N	In M-1 districts, permitted only within residential or institutional buildings in existence on December 31, 2008, the effective date of adoption of this provision, or when located within a mixed-use building where a minimum of 1/3 of the building is devoted to industrial or commercial use. *Not permitted within the South Tacoma M/IC Overlay District. See Section 13.06.535.
Correctional facility, public	P N	P CU	P CU	Correctional facility, private is not allowed in M-1, M-2 and PMI

* * *

13.06.700 Definitions and illustrations.

For the purposes of this chapter, certain words and terms are defined as follows: words used in the present tense include the future, words in the singular number include the plural, and words in the plural number include the singular; the word “building” includes the word “structure”; the word “shall” is mandatory and not directory. For words that are not defined in this chapter, or that do not incorporate a definition by reference, refer to a Webster’s Dictionary published within the last ten years.

* * *

13.06.700.C

Caliper: Diameter of a tree’s trunk or stem measured at a point 6 inches above finish grade if the resulting measurement is up to and including 4 inches. If the resulting measurement is more than 4 inches the point of measurement shall be relocated to 12 inches above finish grade.

Camouflaged (wireless communication facility). A wireless communication facility that is integrated with a building or the landscape in terms of design, colors, materials and height, so as to be disguised, hidden, concealed, masked, or screened from view.

Canopy (or marquee). An ornamental roof-like structure unenclosed on one or more sides and normally used for pedestrian protection and convenience and/or signage.

Car washing facility. A building or portion thereof containing facilities for washing automobiles, either manually or using a fully automatic washing process, requiring no personnel for the conduct of the operation except as is necessary for the collection of money and the maintenance of the facility.

Carnival. A temporary and often traveling establishment at which a combination of attractions or exhibitions, such as rides, shows, displays, eating concessions, and gaming booths, are provided for the purpose of amusement and entertainment.

Catering services. Preparation and delivery of food and beverages for off-site consumption without provision for on-site pickup or consumption.

Cell site. A tract or parcel or land that contains wireless communication facilities including any antenna, support structure, accessory buildings, and parking, and may include other uses associated with and ancillary to wireless communication facilities.

Cemetery and internment services. Property used for the interring of the dead. This property may include support facilities, such as funeral homes and/or chapels.

Clean construction/demolition/land-clearing (CDL) wastes. CDL wastes are solid wastes produced from construction, remodeling, demolition, or land-clearing operations that have been source separated so that the material is principally composed of asphalt, concrete, brick, or other forms of masonry; non-chemically treated wood (i.e., creosote, paint, preservatives); land-clearing wastes; or other materials approved by the Tacoma-Pierce County Health Department. Yard wastes (i.e., leaves, grass, prunings, and sod), plaster (sheet rock or plasterboard), or any materials other than wood that are likely to produce gases or a leachate during the decomposition process and asbestos wastes are specifically excluded from this definition of clean CDL wastes, unless otherwise approved by the Tacoma-Pierce County Health Department.

Climate-adapted Plant Species. Climate adapted plants include both native and non-native plant species which are able to thrive in the local climate and soil conditions of the City of Tacoma. The two most authoritative references on climate adaptation for plants are the USDA Plant Hardiness Zones and the Sunset Climate Zones.

Collocation. The use of a wireless communication facility or cell site by more than one wireless communication provider.

Commercial parking facility. Lots offering parking to the public, which are not designed for or directly associated with another use. This is distinguished from parking that is provided as part of and accessory to another use, which shall be considered part of the use it serves. This classification includes commuter parking facilities (park & rides), general public parking lots, and similar facilities.

Commercial recreation and entertainment. Private provision of participant or spectator recreation or entertainment. This classification includes uses such as privately operated sports stadiums and arenas, amusement parks, bingo parlors, bowling alleys, billiard parlors, poolrooms, dance halls, ice/roller skating rinks, miniature golf courses, golf driving ranges, archery ranges, scale-model courses, shooting galleries, tennis/racquetball courts, croquet courts, swim clubs, health/fitness clubs, and pinball arcades or electronic gaming centers having more than five coin-operated game machines. This use does not include public or quasi-public parks, recreation or open space, theaters or golf courses. Communication facilities. Broadcasting, recording, and other communication services accomplished through electronic or telephonic mechanisms, but excluding major

utilities. This classification includes radio, television, or recording studios; telephone switching centers; and telegraph offices. This classification does not include wireless communication facilities.

Comprehensive Plan. The official statement of the Tacoma City Council which sets forth its major policies concerning desirable future physical development.

Condominium. A multiple-family dwelling, and its accessory uses and grounds, in which each dwelling unit is individually owned, and all or any part of the dwelling structure, accessory uses, and grounds are owned cooperatively by the owners of said dwelling units, and maintenance functions are performed by required subscriptions from said owners.

Confidential shelter. Shelters for victims of domestic violence, as defined and regulated in RCW 70.123 and WAC 388-61A. Such facilities are characterized by a need for confidentiality.

Construction/demolition/land-clearing (CDL) waste recycling. CDL waste recycling is the storage, processing and/or sale of clean CDL wastes to recover usable products or to regenerate the material where the following activities are further defined:

1. Storage includes the holding of CDL wastes prior to processing and stockpiling of the recycled product and by-products.
2. Processing includes the sorting of clean CDL wastes and the mechanical reduction of these materials by means of an initial mechanical processing operation which results in a raw product to be shipped to secondary processors, but does not include composting.
3. Product sales, including retail and wholesale sales of recycled materials.

Container, shipping/storage. A large, prefabricated box or container made of metal, wood, or similar material utilized for the shipping/storage and distribution of various products or commodities.

Continuing care retirement community. An age-restricted development that provides a continuum of accommodations and care, from independent living to long-term bed care. Due to the wide range of services provided, such facilities generally operate under multiple state-licensing programs.

Convalescent home. See "extended care facility."

Cornice. Projection at the top of a wall; a term applied to construction where the roof and side walls meet.

Correctional facility, private. A privately owned facility under contract with a government agency to provide incarceration or detention services for the incarceration or detention of persons under warrant, awaiting trial on felony or misdemeanor charges, convicted but not yet sentenced, or serving a sentence upon conviction. This definition includes prerelease facilities, but does not include work release centers or juvenile community facilities.

Correctional facility, public. A publicly owned and operated facility for the incarceration of persons under state or local warrant, awaiting trial on state or local felony or misdemeanor charges, convicted of state or local charges, but not yet sentenced, or serving a state or local sentence upon conviction. This definition includes prerelease facilities, but does not include work release centers or juvenile community facilities, nor does it include privately owned, or privately operated facilities regardless of whether any such facility has a contract with any government agency.

* * *



ORDINANCE NO. 28429

1 BY REQUEST OF MAYOR STRICKLAND

2 AN INTERIM ORDINANCE relating to land use regulations; revising interim zoning
3 regulations; amending Chapter 13.05 of the Tacoma Municipal Code ("TMC")
4 at Section 13.05.020 and Chapter 13.06 at Sections 13.06.100, 13.06.200,
5 13.06.300, 13.06.400, 13.06.640, and 13.06.700, pertaining to the siting of
6 correctional facilities; and amending a work plan for review and development
7 of permanent regulations relating to siting correctional facilities.

8 WHEREAS, pursuant to RCW 36.70A.390 and TMC 13.02.055, the City
9 Council has the authority to enact interim zoning ordinances, and

10 WHEREAS, on March 7, 2017, pursuant to Ordinance No. 28417, the City
11 Council enacted Interim Zoning Regulations ("Interim Regulations") for correctional
12 facilities on an emergency basis, and

13 WHEREAS, as adopted, the Interim Regulations are effective for six
14 months, through September 6, 2017, or until the City's zoning regulations for
15 correctional facilities are permanently updated, and

16 WHEREAS the Interim Regulations amended Sections 13.06.100,
17 13.06.200, 13.06.300, 13.06.400, and 13.06.700 of the Tacoma Municipal Code,
18 as follows: (1) modify the use definition of "correctional facility" to clearly
19 differentiate between public and private correctional facilities; (2) prohibit the siting
20 of private correctional facilities in all zoning districts; (3) remove public correctional
21 facilities as a permitted use in multi-family and light-industrial zoning districts (i.e.,
22 R-4-L, R-4, R-5, and M-1); and (4) modify how public correctional facilities are
23 permitted by requiring approval of a Conditional Use Permit in all districts in which
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1 they are allowed (currently, M-2 Heavy Industrial and PMI Port Maritime &
2 Industrial), and

3 WHEREAS the Interim Regulations were intended to allow time for the City
4 to conduct appropriate research and community outreach; analyze potential
5 impacts and applicable local, state and regional policies; and determine the
6 appropriate permanent regulatory framework for correctional facilities in Tacoma,
7 and

8 WHEREAS, as requested by the City Council, the Planning Commission
9 reviewed the Interim Regulations and explored both regulatory and non-regulatory
10 issues surrounding them, and

11 WHEREAS the Commission had robust discussions that highlighted
12 numerous concerns and diverse opinions about the Interim Regulations and these
13 uses in general, including the relationship between the City's local land use
14 regulatory authority and this politically-charged and largely national-level issue; the
15 impact of the State's Growth Management Act and provisions relative to Essential
16 Public Facilities; broader land use concerns about allowing non-typical "residential"
17 uses in the Tideflats industrial area; the relationship and potential impact of this
18 project on other high-priority projects in the Commission's work program; and the
19 scope and limited time potentially available to consider permanent regulations, and

20 WHEREAS, while the Commission was able to spend considerable time on
21 this issue, it was unable to reach consensus on a final recommendation on the
22 Interim Regulations; however, the Commission forwarded its work to the City

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Council relating to observations, concerns, deliberations, and preliminary thoughts
1 on this issue, and

2 WHEREAS, after additional review, discussion, and a public hearing on the
3 emergency Interim Regulations on April 25, 2017, the City Council desires to
4 modify the Interim Regulations, and
5

6 WHEREAS the proposed modifications will amend the Interim Regulations
7 as follows: (1) revise the regulations so they regulate public and private
8 correctional facilities in the same manner; (2) revise permit modification standards
9 to indicate that any modifications that would increase the inmate capacity of an
10 existing facility shall be processed as a major modification; (3) modify the
11 conditional use permit process standards to ensure substantial community
12 engagement as part of any permit for significant modification of an existing
13 correctional facility; and (4) extend the duration of the Interim Regulations from
14 six months to one year, and
15

16 WHEREAS, in the interim, requiring conditional use permits for new or
17 expanded facilities will better ensure that the review of any proposal includes
18 significant community outreach and the opportunity for local discretionary review
19 addressing applicable policies and standards, as well as potential impacts,
20 mitigation of those impacts, and compatibility issues, and extending the duration of
21 the interim regulations from six months to one year will better ensure there is
22 adequate time for the City Council, Planning Commission, City staff, and the
23 community to appropriately explore and address this issue, which is complicated
24 and controversial; Now, Therefore,
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BE IT ORDAINED BY THE CITY OF TACOMA:

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Section 1. That Chapter 13.05 of the Tacoma Municipal Code ("TMC") is hereby amended at Section 13.05.020, as set forth in the attached Exhibit "A."

Section 2. That Chapter 13.06 of the TMC is hereby amended at Sections 13.06.100, 13.06.200, 13.06.300, 13.06.400, 13.06.640, and 13.06.700, as set forth in the attached Exhibit "B."

Section 3. Duration. That the Interim Zoning Regulations modified by this ordinance shall be extended to a one-year effective period, and may be renewed as provided by law.

Section 4. Work Plan. That the Planning Commission shall develop permanent regulations for City Council's consideration based on the issues, timeline, and approach outlined in this ordinance.

Passed MAY 09 2017



Mayor

Attest:



City Clerk

Approved as to form:



Deputy City Attorney

EXHIBIT "A"

Chapter 13.05

LAND USE PERMIT PROCEDURES

Note: These amendments show proposed changes to existing (interim) Land Use regulations. The sections included are only those portions of the code that are associated with these amendments. New text is underlined and text that has been deleted is shown as ~~strikethrough~~.

13.05.020 Notice process.

H. Notice and Comment Period for Specified Permit Applications. Table H specifies how to notify, the distance required, the comment period allowed, expiration of permits, and who has authority for the decision to be made on the application.

Table H – Notice, Comment and Expiration for Land Use Permits

Permit Type	Pre-application Meeting	Notice: Distance	Notice: Newspaper	Notice: Post Site	Comment Period	Decision	Hearing Required	City Council	Expiration of Permit
...									
Rezones	Required	400 feet; 1000 feet for public facility site	No; Yes for public facility site	Yes	21 days SEPA ²	Hearing Examiner	Yes	Yes	None
Shoreline/CUP/ variance	Required	400 feet	No	Yes	30 days ⁵	Director	No ¹	No	2 years/ maximum ⁶
Short plat (2-4 lots)	Required	No	No	No	No	Director	No	No	5 years ³
Short plat (5-9 lots)	Required	400 feet	No	Yes	14 days	Director	No ¹	No	5 years ⁶
Site approval	Optional	400 feet	No	Yes	30 days ⁵	Director	No	No	5 years
Conditional use	Required	400 feet; 1000 feet for development sites over 1 acre in size	No	Yes	30 days ⁵	Director	No	No	5 years ⁴
<u>Conditional use, correctional facility (new or major modification)</u>	<u>Required</u>	<u>1,000 feet</u>	<u>Yes</u>	<u>Yes</u>	<u>30 days²</u>	<u>Hearing Examiner</u>	<u>Yes</u>	<u>No</u>	<u>5 years</u>
Conditional use, large-scale retail	Required	1,000 feet	Yes	Yes	30 days ²	Hearing Examiner	Yes	No	5 years

Permit Type	Pre-application Meeting	Notice: Distance	Notice: Newspaper	Notice: Post Site	Comment Period	Decision	Hearing Required	City Council	Expiration of Permit
Conditional use, master plan	Required	1000 feet	Yes	Yes	30 days ²	Director	Yes	No	10 years
Conditional Use, Minor Modification	Optional	No	No	No	No	Director	No	No	5 years
Conditional Use, Major Modification	Required	400 feet; 1000 feet for public facility sites and master plans	No	Yes	14 days ⁵	Director	No	No	5 years
* * *									

INFORMATION IN THIS TABLE IS FOR REFERENCE PURPOSE ONLY.

* Programmatic Restoration Projects can request 5 year renewals to a maximum of 20 years total.

When an open record hearing is required, all other land use permit applications for a specific site or project shall be considered concurrently by the Hearing Examiner (refer to Section 13.05.040.E).

- ¹ Conditional use permits for wireless communication facilities, including towers, shall expire two years from the effective date of the Director's decision and are not eligible for a one-year extension.
- ² Comment on land use permit proposal allowed from date of notice to hearing.
- ³ Must be recorded with the Pierce County Auditor within five years.
- ⁴ Special use permits for wireless communication facilities, including towers, are limited to two years from the effective date of the Director's decision.
- ⁵ If a public meeting is held, the public comment period shall be extended 7 days beyond and including the date of the public meeting.
- ⁶ Refer to Section 13.05.070 for preliminary plat expiration dates.
- ⁷ Public Notification of Minor Variances may be sent at the discretion of the Director. There is no notice of application for Minor Variances.

* * *

EXHIBIT "B"

Chapter 13.06

ZONING

Note: These amendments show proposed changes to existing (interim) Land Use regulations. The sections included are only those portions of the code that are associated with these amendments. New text is underlined and text that has been deleted is shown as ~~strikethrough~~.

13.06.100 Residential Districts.

5. District use table. (see next page for table)

Uses	R-1	R-2	R-2SRD	HMR-SRD	R-3	R-4-L	R-4	R-5	Additional Regulations ¹

Communication facility	CU	CU	CU	CU	CU	CU	CU	CU	Antennas for such facilities are subject to the additional requirements contained in Section 13.06.545.
Confidential Shelter	P	P	P	P	P	P	P	P	Subject to additional requirements contained in Section 13.06.535.
Continuing care retirement community	N	N	N	N	P	P	P	P	Subject to additional requirements contained in Section 13.06.535.
Correctional facility; <u>public or private</u>	N	N	N	N	N	N	N	N	Side yards shall be provided as specified in Section 13.06.602.

13.06.200 Commercial Districts.

5. District use table.

Uses	T	C-1	C-2 ¹	PDB	Additional Regulations ^{2,3} (also see footnotes at bottom of table)

Communication facility	N	N	P	P	
Confidential shelter	P	P	P	P	See Section 13.06.535. Limit: 15 residents in T District.
Continuing care retirement community	P	P	P	P	See Section 13.06.535.
Correctional facility; public or private	N	N	N	N	

13.06.300 Mixed-Use Center Districts.

3. District use table.

Uses	NCX	CCX	UCX	RCX ¹	CIX	HMX	URX	NRX	Additional Regulations ^{3,4,5} (also see footnotes at bottom of table)

Communication facility	CU	CU	P	N	P	N	N	N	Prohibited at street level along frontage of designated pedestrian streets in NCX and CCX Districts. ²
Confidential shelter	P	P	P	P	P	P	P	P	See Section 13.06.535. Prohibited at street level along frontage of designated core pedestrian streets in NCX. ² Not subject to minimum densities founding Section 13.06.300.E.
Continuing care retirement community	P	P	P	P	P	P	P	P	See Section 13.06.535. Prohibited at street level along frontage of designated core pedestrian streets in NCX. ²
Correctional facility; public or private	N	N	N	N	N	N	N	N	

13.06.400 Industrial Districts.

5. District use table.

Uses	M-1	M-2	PMI	Additional Regulations ¹

Communication facility	P	P	P	
Confidential shelter	P/N*	N	N	See Section 13.06.535. *Not permitted within the South Tacoma M/IC Overlay District.
Continuing care retirement community	P/N*	N	N	In M-1 districts, permitted only within residential or institutional buildings in existence on December 31, 2008, the effective date of adoption of this provision, or when located within a mixed-use building where a minimum of 1/3 of the building is devoted to industrial or commercial use. *Not permitted within the South Tacoma M/IC Overlay District. See Section 13.06.535.
Correctional facility; public	N	CU	CU	Correctional facility, private is not allowed in M-1, M-2 and PMI <u>Modifications or expansions to existing facilities that increase the inmate capacity shall be processed as a major modification (see Section 13.05.080).</u> <u>A pre-application community meeting is also required (see Section 13.06.640.Q).</u>

13.06.640 Conditional use permit.

* * *

Q. An application for a conditional use permit for correctional facilities shall be processed in accordance with the provisions of Chapter 13.05, except with the following additional requirement:

Pre-application community meeting. Prior to submitting an application to the City for a conditional use permit for a correctional facility, it is required that the applicant hold a public informational meeting with community members. The purpose of the meeting is to provide an early, open dialogue between the applicant and the neighborhood surrounding the proposed development. The meeting should acquaint the neighbors of the proposed development with the applicant and/or developers and provide for an exchange of information about the proposal and the community, including the characteristics of the proposed development and of the surrounding area and any particular issues or concerns of which the applicant should be made aware. The applicant shall provide written notification of the meeting, at least 30 calendar days prior to the meeting date, to the appropriate neighborhood council pursuant to TMC 1.45 and neighborhood business district pursuant to TMC 1.47, qualified neighborhood and community organizations, and to the owners of property located within 1,000 feet of the project site.

* * *

13.06.700 Definitions and illustrations.

For the purposes of this chapter, certain words and terms are defined as follows: words used in the present tense include the future, words in the singular number include the plural, and words in the plural number include the singular; the word "building" includes the word "structure"; the word "shall" is mandatory and not directory. For words that are not defined in this chapter, or that do not incorporate a definition by reference, refer to a Webster's Dictionary published within the last ten years.

* * *

13.06.700.C

* * *

Container, shipping/storage. A large, prefabricated box or container made of metal, wood, or similar material utilized for the shipping/storage and distribution of various products or commodities.

Continuing care retirement community. An age-restricted development that provides a continuum of accommodations and care, from independent living to long-term bed care. Due to the wide range of services provided, such facilities generally operate under multiple state-licensing programs.

Convalescent home. See "extended care facility."

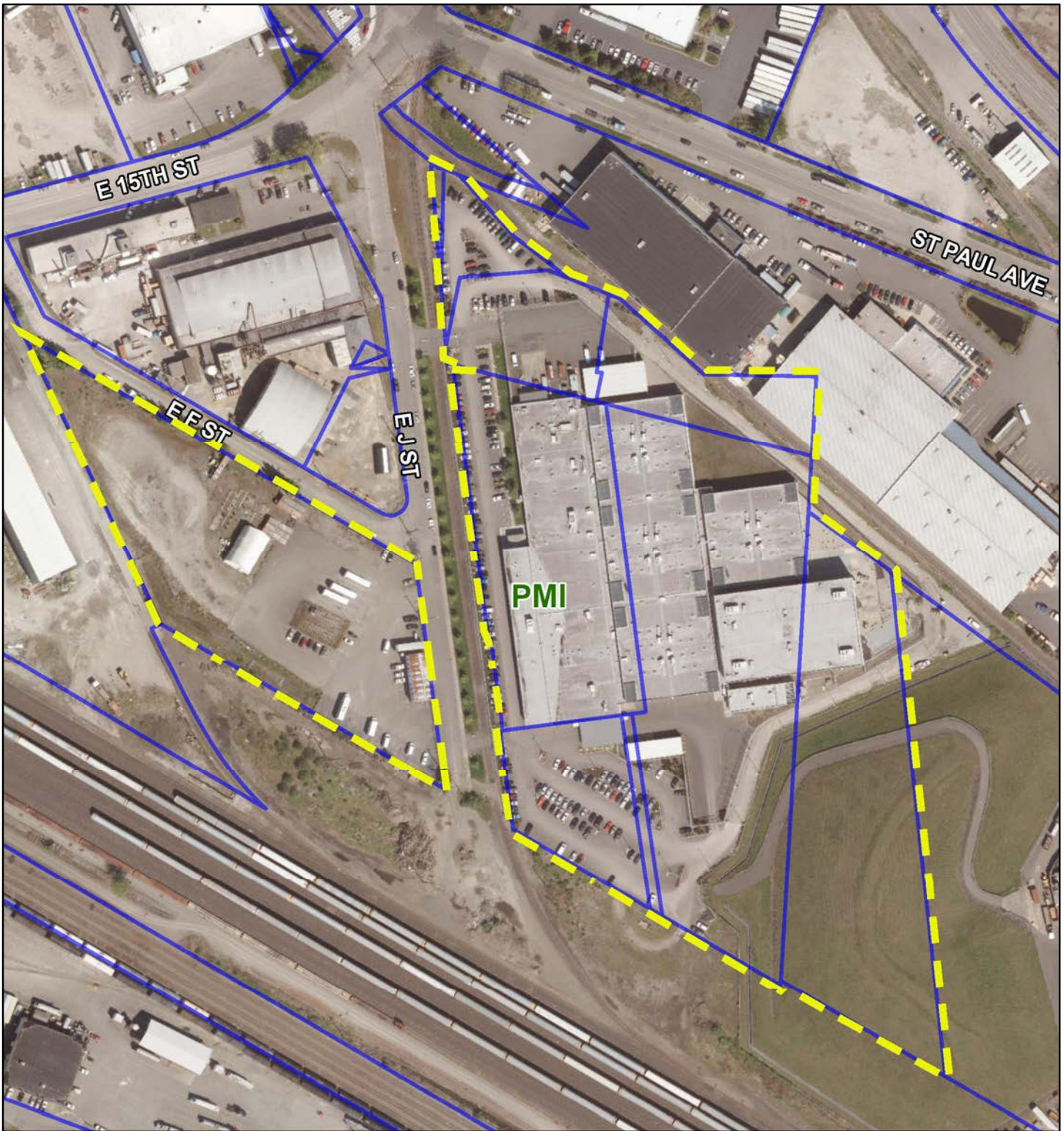
Cornice. Projection at the top of a wall; a term applied to construction where the roof and side walls meet.

~~Correctional facility, private. A privately owned facility under contract with a government agency to provide incarceration or detention services for the incarceration or detention of persons under warrant, awaiting trial on felony or misdemeanor charges, convicted but not yet sentenced, or serving a sentence upon conviction. This definition includes prerelease facilities, but does not include work release centers or juvenile community facilities.~~

Correctional facility, public. A publicly owned and operated facility or a privately owned facility operated under contract with a government agency for the incarceration or detention of persons under federal, state or local warrant, awaiting trial on federal, state or local felony or misdemeanor charges, convicted of federal, state or local charges, but not yet sentenced, or serving a federal, state or local sentence upon conviction. This definition includes prerelease facilities, but does not include work release centers or juvenile community facilities, ~~nor does it include privately owned, or privately operated facilities regardless of whether any such facility has a contract with any government agency.~~

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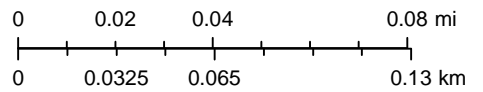
Northwest Detention Center Parcels



March 10, 2017

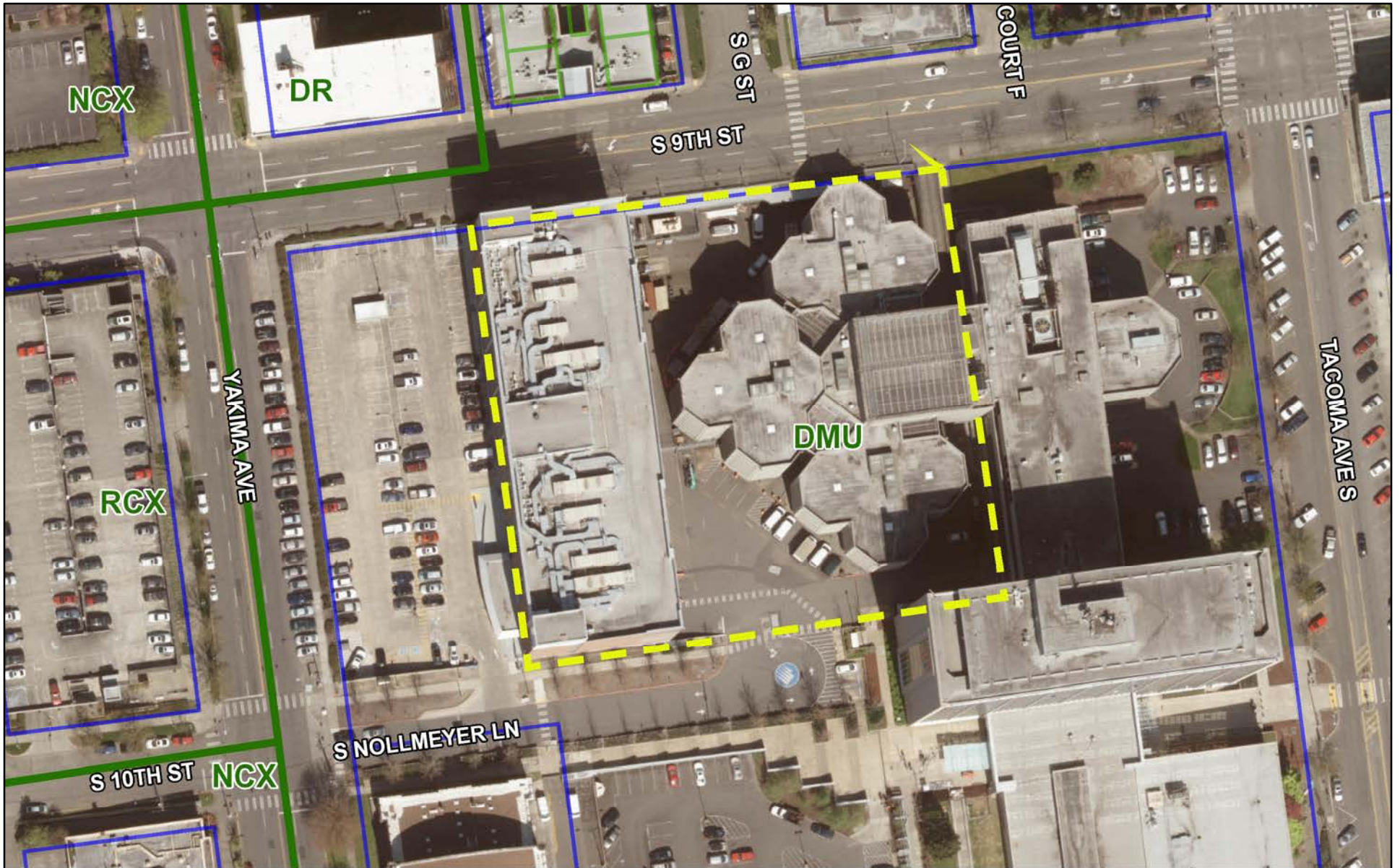
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|  | Tacoma City Boundary |  | Building Only |
|  | Street Names |  | Condominium |
|  | Zoning |  | Lease Hold |
| Parcels (All categories) | |  | Tax Purpose Only |
|  | Airspace Condominium |  | Undivided Interest |
|  | Base Parcel | | |

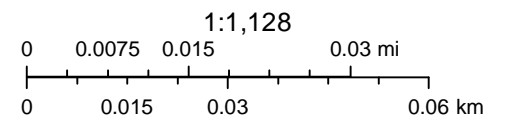


Tacoma IT-GIS
Tacoma Community & Economic Development Department

Pierce County Jail

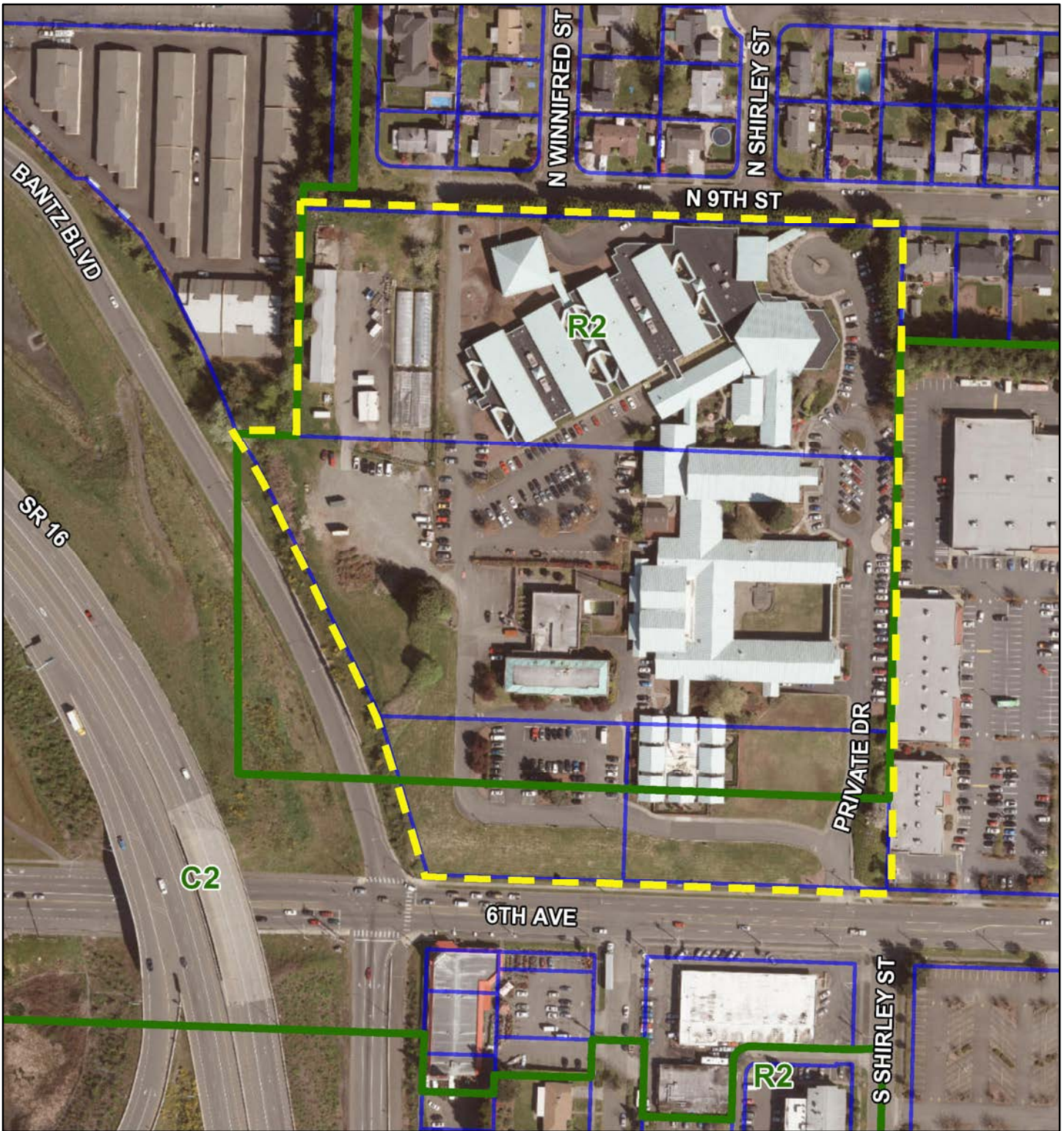


March 23, 2017



Tacoma IT-GIS
Tacoma Community & Economic Development Department

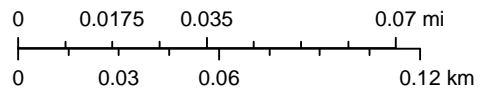
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March 10, 2017

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|  | Tacoma City Boundary |  | Building Only |
|  | Street Names |  | Condominium |
|  | Zoning |  | Lease Hold |
| Parcels (All categories) | |  | Tax Purpose Only |
|  | Airspace Condominium |  | Undivided Interest |
|  | Base Parcel | | |



Tacoma IT-GIS
Tacoma Community & Economic Development Department



City of Tacoma
Office of the City Attorney

January 10, 2018

Tacoma Planning Commission
Tacoma Municipal Building
747 Market Street #345
Tacoma, WA 98402

Re: Detention Facilities as Essential Public Facilities

Dear Chair Wamback and Commission,

As counsel to the City's Planning and Development Services Department, I was advised that the Commission had questioned whether the Northwest Detention Center is an "Essential Public Facility" under Washington State law. This question has arisen a number of times over the last decade. The City has historically referenced the Northwest Detention Center as within the category of an essential public facility, based on classifying it as within the zoning use of "correctional facility."

It is common in applying zoning to uses, to treat established zoning categories with some flexibility. Uses which have no specific listed category are sometimes placed within the most similar established category. In order to achieve the most precision the City could include both "correctional facility" and "detention facility" as use categories, but currently only lists correctional facility. The distinction may be meaningful because a more rigorous analysis of whether a "detention facility" is the same as "correctional facility" discloses a potential uncertainty.

The closest reference in State law on essential public facilities (RCW 36.70A.200 and WAC 365-196-550) to the Northwest Detention Center is "correctional facilities." However, such facilities are defined in other State law as ". . . primarily for the purposes of punishment, correction, or rehabilitation following conviction of a criminal offense." (RCW 9.94.049).

Because the primary purpose of the Northwest Detention Center is not "punishment, correction, or rehabilitation following conviction of a criminal offense", but rather temporary detention for processing, it may be argued that it is not a correctional facility, and hence not an essential public facility. The City is not advancing that argument, but I point it out for purposes of fully answering the question. A definitive answer would require either an amendment to State law, or a decision on the issue by a Washington State court of record.

I also note that even if detention centers are deemed an essential public facility, they are still subject to reasonable development regulation, including a Conditional Use process to mitigate impacts of new or expanded facilities.

Please contact me should you have any questions or concerns. I can be reached at (253) 591-5638. Thank you.

Sincerely,

Steve Victor
Deputy City Attorney

SV/ak