



ORDINANCE NO. 28491

1 AN ORDINANCE relating to land use regulations; amending Title 13 of the
2 Tacoma Municipal Code by amending Sections 13.05.020, 13.06.100,
3 13.06.200, 13.06.300, 13.06.400, 13.06.640, 13.06.700, and 13.06A.050
4 thereof, to adopt correctional and detention facilities permanent
5 regulations, as recommended by the Planning Commission.

6 WHEREAS, on March 7, 2017, the City Council passed Ordinance
7 No. 28417, enacting emergency interim zoning regulations, pertaining to public and
8 private correctional facilities, for a period of six months, to expire on September 6,
9 2017, and

10 WHEREAS the interim regulations amended Sections 13.06.100, 13.06.200,
11 13.06.300, 13.06.400, and 13.06.700 of the Tacoma Municipal Code (“TMC”), and
12 were intended to (1) prohibit or require conditional use permits for new or
13 expanded correctional facilities in the interim; and (2) allow time for the City
14 Council and Planning Commission to conduct appropriate research; analyze
15 potential impacts and applicable local, state and regional policies; and determine
16 the appropriate permanent regulatory framework for public and private correctional
17 facilities in Tacoma, and

18 WHEREAS some of the significant issues, concerns, and challenges the
19 Planning Commission and City Council have faced during deliberation of the
20 interim and permanent regulations concerning correctional and detention facilities
21 include: (1) the legality and appropriateness of the City’s use of its land use
22 regulatory authority to potentially address this broad-reaching, politically charged,
23 and largely national-level issue; (2) the impact of the state’s Growth Management
24 Act and provisions relative to Essential Public Facilities; (3) broader land use
25 concerns about allowing non-typical “residential” uses in the areas zoned for
26 “traditional” multi-family dwellings; (4) broader land use concerns, and the



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inconsistency with the Comprehensive Plan policies, about allowing non-typical “residential” uses in the Tideflats industrial area that is considered not appropriate for temporary or permanent housing; and (5) the quality of life, health, safety, environmental, equity, and liability concerns of people living in areas not appropriate for human living, and

WHEREAS, following a public hearing conducted on April 25, 2017, the City Council passed Ordinance No. 28429 on May 9, 2017, retaining and modifying the interim regulations and extending the effective duration to one year, to expire on March 6, 2018, and

WHEREAS the Planning Commission has reviewed the interim regulations as modified on May 9, 2017; developed draft permanent regulations for City Council consideration for adoption upon expiration of the interim regulations; conducted a public hearing on January 3, 2018, to receive public comment on the draft regulations; and put forward its recommendation on January 17, 2018, as documented in the Commission’s Findings of Fact and Recommendations Report, and

WHEREAS the proposed correctional and detention facilities permanent regulations recommended by the Planning Commission would amend Sections 13.05.020, 13.06.100, 13.06.200, 13 .06.300, 13.06.400, 13.06.640, 13.06.700, and 13.06A.050 of the TMC, and would (1) modify the current definition of “correctional facility” and create a new and clearly distinct definition and use category for “detention facility”; (2) prohibit correctional and detention facilities in PMI (Port Maritime Industrial), M-2 (Heavy Industrial), and R-4L (Low Density Multi-family) zones; (3) allow correctional and detention facilities in the M-1 (Light



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Industrial), R-4 (Multi-family), and R-5 (Multi-family) zones; (4) require a Conditional Use Permit for new correctional and detention facilities (in zones where they are allowed) or significant modifications to existing ones; and (5) as part of the Conditional Use Permit process, require expanded public notice (to properties within 1,000 feet) and a pre-application community meeting, and

WHEREAS, on February 6, 2018, pursuant to TMC 13.02.045, the City Council conducted a public hearing on the proposed regulations, and

WHEREAS, based on the public hearing and City Council deliberation, the City Council developed additional amendments to Sections 13.06.100 and 13.06.400 which would (1) change the Commissions' recommendation and prohibit correctional and detention facilities in the R-4 (Multi-family) and R-5 (Multi-family) zones; (2) limit the availability of expansion for correctional and detention facilities by conditional use in the M-1 zone, to M-1 zones that were in place as of January 1, 2018; and (3) expand the notification requirements for correctional and detention facility expansion by CUP in the M-1 zones to 2500 feet, and

WHEREAS, in formulating the additional amendments, the City Council considered the testimony of residents and the weight of existing City, regional and state policies regarding the protection of scarce and dwindling port maritime industrial land from non-industrial uses, and

WHEREAS, when the proposed permanent regulations become effective, the interim regulations as set forth in Ordinance No. 28429 will be rescinded, and

WHEREAS the City Council finds it in the best interest of public health, safety and welfare to enact the proposed correctional and detention facilities



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permanent regulations, as recommended by the Planning Commission, and amended by the City Council; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. Legislative Findings. That the recitals set forth above, including the Findings of Fact and Recommendations of the Tacoma Planning Commission, are hereby adopted as the City Council's legislative findings.

Section 2. That Title 13 of the Tacoma Municipal Code is hereby amended by amending Sections 13.05.020, 13.06.100, 13.06.200, 13 .06.300, 13.06.400, 13.06.640, 13.06.700, and 13 .06A.050 thereof, as set forth in the attached Exhibit "A."

Section 3. Effective Date. That this Ordinance shall be effective ten days after its publication.

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney

EXHIBIT “A”

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 development 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	2,500 feet from the edge of the zone	Yes	Yes	30 days²	Hearing Examiner	Yes	No	5 years
Conditional use, detention facilities (new or major modification)	Required	2,500 feet from the edge of the zone	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.

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	CUN	CUN	CUN	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.
<u>Detention facilities</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>Side yards shall be provided as specified in Section 13.06.602.</u>

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.
<u>Detention facility</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	

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)

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
<u>Detention facility</u>	<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*	<u>PCU</u>	<u>PN</u>	<u>PN</u>	Modifications or expansions to existing facilities that increase the inmate/ <u>detainee</u> 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.
<u>Detention facility*</u>	<u>CU</u>	<u>N</u>	<u>N</u>	<u>Modifications or expansions to existing facilities that increase the inmate/detainee 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> <u>This CU is only available in the M-1 zones in place as of January 1, 2018.</u>
<u>*The notification distance for a project within the M-1 zone will be 2,500 feet from the boundaries of that zone.</u>				

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.

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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.

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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.

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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.

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13.06.700.C

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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.

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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.

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13.06.700.P

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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.

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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.

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