



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

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

23 WHEREAS, while the Commission was able to spend considerable time on
24 this issue, it was unable to reach consensus on a final recommendation on the
25 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
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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
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17 WHEREAS, in the interim, requiring conditional use permits for new or
18 expanded facilities will better ensure that the review of any proposal includes
19 significant community outreach and the opportunity for local discretionary review
20 addressing applicable policies and standards, as well as potential impacts,
21 mitigation of those impacts, and compatibility issues, and extending the duration of
22 the interim regulations from six months to one year will better ensure there is
23 adequate time for the City Council, Planning Commission, City staff, and the
24 community to appropriately explore and address this issue, which is complicated
25 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 _____

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.

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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; public or private	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.

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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 Modifications or expansions to existing facilities that increase the inmate 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.

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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.

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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, 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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