



**To:** Planning Commission  
**From:** Ian Munce, AICP, Special Assistant to the Director  
**Subject:** **Proposed Correctional and Detention Facilities Permanent Regulations**  
**Meeting Date:** January 17, 2018  
**Memo Date:** January 11, 2018

**Action Requested:**

Review public comments received at the public hearing on January 3 and through the hearing record closure of January 5, consider appropriate modifications to the proposal, and make a recommendation to the City Council.

**Project Summary:**

The Proposed Correctional and Detention Facilities Permanent Regulations would amend several sections of the Tacoma Municipal Code that would:

- Prohibit correctional and detention facilities in multi-family and light industrial zoning districts (where they are currently allowed by zoning);
- Require a Conditional Use Permit for new correctional and detention facilities (in zones where they are allowed) or significant modifications to existing ones;
- 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
- Modify and expand the definition of “correctional facility” to “correctional and detention facilities”.

Currently, there are interim regulations in effect concerning correctional facilities that were originally enacted by the City Council on March 7, 2017, per Ordinance No. 28417, and subsequently modified on May 9, 2017, per Ordinance No. 28429. The proposed permanent regulations would be recommended to the Council for adoption before the interim regulations expire on March 6, 2018.

**Prior Actions:**

The Planning Commission began the process of developing permanent regulations in November 2017; authorized the distribution of a draft version of the proposed permanent regulations for public review on December 6, 2017; and conducted a public hearing on the proposal on January 3, 2018. The Commission received oral testimony from 12 citizens at the public hearing, and through the closure of the hearing record on January 5, 2018, received written comments from 20 individuals and organizations.

**Staff Contact:**

Ian Munce, AICP, Special Assistant to the Director, (253) 573-2478, [imunce@cityoftacoma.org](mailto:imunce@cityoftacoma.org).

**Attachments:**

1. Public Comments and Staff Responses Report (the report includes Exhibits A through F)
2. Planning Commission's Draft Letter and Recommendation and Draft Findings of Fact and Recommendations Report (the report includes Exhibits 1 through 5)

c: Peter Huffman, Director





# **Correctional and Detention Facilities Permanent Regulations**

## **(Revisions to TMC 13.06 Zoning)**

---

### **Public Comments and Staff Responses Report**

January 17, 2018

#### **I. Introduction:**

The Planning Commission conducted a public hearing on January 3, 2018, concerning the Proposed Correctional Facilities Permanent Regulations, and left the record open through January 5, 2018 to accept additional written comments.

This report summarizes staff's observations and responses to public comments received and addresses questions and inquiries made by the Planning Commission at the conclusion of the public hearing. This report also supplements the Staff Analysis Report of December 28, 2017 that was presented to the Planning Commission at the January 3<sup>rd</sup> public hearing.

#### **II. Public Comments:**

The oral and written testimony falls into three broad categories (see **Exhibit F** – Public Comments Received by the Planning Commission):

##### **1. Concern that detention facilities be differentiated from correctional facilities:**

**Staff Comment:** Oral Testimony received by the Planning Commission January 3, 2018 (1)-(5), (7), (10)-(12) and Written Testimony Received by the Planning Commission January 5, 2018 (1)-(5), (13), (15), (17)-(19). These concerns are addressed in Issues 2 and 3 below.

##### **2. Concern that residential type facilities are inappropriate in a heavy industrial area:**

**Staff Comment:** Oral Testimony received by the Planning Commission January 3, 2018 (6), (8), and (9) and Written Testimony Received by the Planning Commission January 5, 2018 (1)-(5), (9), (12), (14), (16), (17), and (20).

##### **3. Opposition to the permanent regulations and no further interim regulations:**

**Staff Comment:** GEO Group's additional concerns about the "essential public facilities" mandate is addressed in Issue 6 below.

#### **III. Planning Commission's Inquiries:**

At the conclusion of the January 3<sup>rd</sup> public hearing, the Planning Commission asked staff to supplement the Staff Analysis Report on six specific issues:

**1. The status of the GEO Group’s appeal to the Growth Management Hearings Board of the City of Tacoma Interim Emergency Ordinance No. 28417 (Case No. 17-3-0004):**

**Staff Comment:** This Petition for Review has been withdrawn by the GEO Group. See **Exhibit A** – Petition for Review, and **Exhibit B** – Order of Dismissal – Withdrawal.

**2. Details regarding the State Attorney General’s lawsuit against the GEO Group:**

**Staff Comment:** The state has two claims against GEO. First, the lawsuit accuses GEO of violating Washington’s minimum wage laws. These laws are broadly written but include some exemptions. For example, RCW 49.46.010(k) exempts the following from protections from Washington’s minimum wage laws: “Any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment or rehabilitative institution.” The Attorney General’s petition argues that there are no exceptions for private, for-profit facilities like the Northwest Detention Center (NWDC). In contrast with a jail or prison, which house people involved in the criminal justice system and are operated by state or local governments, detainees at NWDC are held in a private, for-profit facility pending civil immigration proceedings. Second, the AG also argues that GEO unjustly enriched itself, meaning it profited by its illegal actions exploiting its workers (see **Exhibit D** – Washington State Attorney General News Release entitled “AG Ferguson sues operator of the Northwest Detention Center for wage violations”, September 20, 2017). The lawsuit has few additional details (see **Exhibit C**).

**3. Possible definition clarification(s) to avoid overlap with the State Attorney General’s lawsuit against the GEO Group:**

**Staff Comment:** After further research, it is clear that “correctional facilities” and “detention facilities” are commonly recognized as distinct and separate types of facilities, in both state law (one example noted above) and in the industry. Therefore, it seems appropriate for the City’s definition to also reflect this distinction. To that end, the zoning category involved in this proceeding could be expanded from “Correctional Facilities” to “Correctional and Detention Facilities”. The text of the proposed definition already differentiates between these two categories. Additionally, the words “or administrative detention” could be added after “federal, state, or local warrant”.

**4. Improvements to the proposed permanent regulations to better reflect the Comprehensive Plan policies regarding Public Facilities:**

**Staff Comment:** The City Council in Ordinance No. 28417 selected the PMI (Port Maritime & Industrial) and M-2 (Heavy Industrial) zones for consideration as to siting correctional and detention facilities. However, the upcoming Tideflats Subarea Plan can further evaluate the land use issues raised by commentators. Further, the conditional use process proposed will provide the mechanism to directly apply current Comprehensive Plan policies to any new proposal and provide a mechanism to determine the appropriateness of a particular site within the PMI and M-2 zones.

**5. Next steps if the Planning Commission does not take action this month:**

**Staff Comment:** Standard practice would be for the record produced by the Planning Commission to go forward to the City Council's public hearing on permanent regulations. Failure to enact permanent regulations, or new interim regulation before March 6 this year would mean that the zoning that was in place before interim regulations would be in force.

**6. Legal analysis of the applicability of the Growth Management Act's "essential public facilities" mandate:**

**Staff Comment:** See Exhibit E – Letter from Deputy City Attorney to the Planning Commission, January 10, 2018, regarding Detention Facilities as Essential Public Facilities.

**IV. Exhibits:**

- A. Petition for Review, The GEO Group, Inc., vs. City of Tacoma, No. 17-3-0004, May 4, 2017
- B. Order of Dismissal – Withdrawal, The GEO Group, Inc., vs. City of Tacoma, No. 17-3-0004, May 25, 2017
- C. Complaint, State of Washington vs. The GEO Group, Inc., No. 17-2-11422-2, September 20, 2017
- D. Attorney General of Washington News Release: "AG Ferguson sues operator of the Northwest Detention Center for wage violations", September 20, 2017
- E. Letter from Deputy City Attorney to the Planning Commission regarding "Detention Facilities as Essential Public Facilities", January 10, 2018
- F. Public Comments Received by the Planning Commission, January 5, 2018



RECEIVED

MAY 04 2017

Environmental and Land Use  
Hearings Office

BEFORE THE CENTRAL PUGET SOUND  
GROWTH MANAGEMENT HEARINGS BOARD

THE GEO GROUP, INC., a Florida  
corporation,

Petitioner,

vs.

CITY OF TACOMA

Respondent.

NO. 17-3-0004

PETITION FOR REVIEW

**I. INTRODUCTION**

On March 7, 2017, the City of Tacoma adopted Interim Emergency Ordinance No. 28417 (the "Interim Ordinance"). A copy of the Interim Ordinance is attached hereto as **Exhibit A**. The Interim Ordinance imposes emergency interim zoning regulations that redefine the term "correctional facility" under the City's code to distinguish between public and private correctional facilities, expressly excluding federal correctional facilities from the new definition of public correctional facilities. In addition, the Interim Ordinance prohibits private correctional facilities in all zoning districts within the City of Tacoma, and public correctional facilities in all multi-family and light industrial zoning districts. Finally, the Interim Ordinance imposes additional permit requirements on public correctional facilities in remaining zoning districts.

1 Although there are two other public correctional facilities located in the City of Tacoma that  
2 would also be regulated by the Interim Ordinance, the City of Tacoma specifically named and  
3 described only the Northwest Detention Center (“NWDC”), which is owned and operated by  
4 Petitioner, The GEO Group, Inc., within the recitals to the Interim Ordinance. **Exhibit A** (Interim  
5 Ordinance). Indeed, the City specifically identified the NWDC because of the facility’s role in the  
6 implementation of federal immigration laws and policies.

7 As adopted, the Interim Ordinance renders the NWDC a legal nonconforming use within its  
8 current zoning district. By prohibiting both private and federal correctional facilities in all zoning  
9 districts within the City of Tacoma, and strictly limiting expansion of the NWDC as a legal  
10 nonconforming use, even on a temporary basis, the Interim Ordinance effectively precludes both  
11 the siting and reasonable expansion of essential public facilities in blatant violation of the Growth  
12 Management Act (“GMA”), RCW 36.70A.200, and its implementing regulations, WAC 365-196-  
13 550. Accordingly, Petitioner respectfully requests that the Central Puget Sound Growth  
14 Management Hearings Board (the “Hearings Board”) determine that the Interim Ordinance is non-  
15 compliant with the GMA and declare it invalid.<sup>1</sup>

## 16 **II. FACTUAL AND LEGAL BACKGROUND**

### 17 **A. Background**

#### 18 **1. The GEO Property and Siting Process for the Northwest Detention Center**

19 The GEO Group, Inc. (“GEO”) owns and operates the Northwest Detention Center  
20 (“NWDC”) on behalf of and pursuant to a contract with the United States Immigration and  
21 Customs Enforcement Service (“ICE”). In 2000, ICE needed larger deportation facilities within  
22 the King County region because the existing facility was operating above its capacity, raising  
23 serious safety issues for staff and detainees “due to overcrowding.” **Exhibit B**, at 1-2 (NWDC  
24

25 <sup>1</sup> Filing of this petition of review is without waiver of Petitioner GEO’s potential claims or causes of action against the City of  
26 Tacoma arising from enactment of the Interim Ordinance or defenses to application of the Interim Ordinance to the NWDC that  
are outside of the limited jurisdiction of the Growth Management Hearings Board pursuant to RCW 36.70A.280, including, but  
not limited to, absolute zoning immunity, federal preemption, and common law prohibitions on fabricated emergencies under  
*Jones v. Department of Health*, 170 Wn.2d 338, 242 P.3d 825 (2010) (en banc).



1 Environmental Impact Statement, Record of Decision, December 3, 2001). In March 2000, and  
2 in stark contrast to the action subject to this Petition for Review, the Tacoma City Council  
3 unanimously passed Resolution 34722 to publicly declare its support for GEO, a company  
4 known for its “excellent reputation,” to develop a facility on J Street for use by ICE for detention  
5 processing. **Exhibit C** (City of Tacoma Resolution No. 34722, March 28, 2000). In attracting  
6 ICE and the NWDC to Tacoma, the City identified specific facts about the region, including that  
7 the site was “relatively centrally located for the clients served” and that the City’s permitting was  
8 “quicker.” **Exhibit D** (City of Tacoma General Services Department Fact Sheet, April 18,  
9 2001). Based on the City’s and Port of Tacoma’s “overwhelming support” for the J Street  
10 location, ICE selected the J Street site for the new detention facility. **Exhibit B** (NWDC  
11 Environmental Impact Statement, Record of Decision, December 3, 2001) at 2; *see also* **Exhibit**  
12 **E** (Letter to the Immigration and Naturalization Service, March 8, 2001) (stating that the J Street  
13 location is the “only acceptable site” for the detention center).

14 The NWDC opened on April 23, 2004 on property located at 1623 E. J Street, Tacoma,  
15 Washington, 98421, identified as Pierce County Tax Parcel No. 0320044004 (the “NWDC Lot”).  
16 The NWDC Lot, owned by GEO, is located in the City of Tacoma’s Port Maritime & Industrial  
17 District (“PMI”) zoning district. In 2004, when the NWDC was constructed, the NWDC Lot was  
18 zoned “M-3 Heavy Industrial.” **Exhibit B** (NWDC Environmental Impact Statement, Record of  
19 Decision, December 3, 2001), at 3. In the M-3 zoning district, the City of Tacoma deemed the  
20 NWDC use to be a “correctional facility,” permitted outright. *Id.*

21 In 2008, GEO expanded the NWDC facility by 104,800 square feet to include a 26,000  
22 square foot housing unit for an additional 553 detainees, a 40-bed segregation housing unit, an  
23 administrative support building, a transportation building, and a maintenance building. **Exhibit**  
24 **F** at 2 (Memorandum to City Manager Eric Anderson, March 31, 2009). As expanded, the  
25 NWDC is permitted by the City of Tacoma for a maximum capacity of 1,575 detainees. **Exhibit**  
26 **A** (Interim Ordinance). In conjunction with the 2008 expansion, then City Attorney (and current

1 Acting City Manager) Elizabeth Pauli advised City officials that the NWDC was classified as an  
2 “essential public facility” under the GMA, and that the City could therefore not preclude siting of  
3 the facility in the City in its comprehensive plan or development regulations. **Exhibit F**  
4 (Memorandum to City Manager Eric Anderson, March 31, 2009).

5 GEO also owns adjacent property located at 1648 E. J Street (Pierce County Tax Parcel  
6 No. 0320044002) (the “Transportation Lot”), also within the PMI zoning district. The  
7 Transportation Lot contains an existing structure, and is currently used for parking and vehicle  
8 storage associated with the NWDC. GEO acquired the Transportation Lot to provide a buffer  
9 zone between the NWDC and parcels owned by other parties.

## 10 2. NWDC Facility Financing

11 Notably, in addition to actively recruiting the NWDC to the City of Tacoma at the time it  
12 was originally developed, local and state officials helped facilitate financing of the facility.  
13 Specifically, the Washington Economic Development Finance Authority (“WEDFA”), an  
14 independent agency within the executive branch of state government, solicited and issued  
15 \$57,415,000.00 in economic development revenue bonds to develop the NWDC in 2003.  
16 **Exhibit G** (Excerpts from WEDFA statement, 2011); *see also* RCW 43.163.005. The WEDFA  
17 issued another \$54,375,000.00 in economic development funds to finance the NWDC expansion  
18 in 2011. *Id.* The NWDC qualified for this financing program because it met both state and  
19 federal definitions of a project within a “designated enterprise zone.” **Exhibit H** (Letter from  
20 WEDFA to Governor’s Office, March 31, 2003). In 2003, one City Council Member wrote to  
21 the WEDFA to assure investors that Tacoma welcomed and was in support of the NWDC.  
22 **Exhibit I** (Letter from Council Member Phelps to WEDFA, January 9, 2003). Governor Gary  
23 Locke approved the bond package for initial development in 2003, and Governor Christine  
24 Gregoire approved a second bond package in 2011 for facility expansion. *See* **Exhibit H** (Letter  
25 from WEDFA to Governor’s Office, March 31, 2003).

## 26 **B. Interim Ordinance 28417 and Effects on the NWDC**

1                   1. The City's Adoption of Interim Emergency Ordinance No. 28417

2                   On March 7, 2017, the City adopted Interim Emergency Ordinance No. 28417 pursuant  
3 to RCW 36.70A.390 and Tacoma Municipal Code ("TMC") 13.02.055. **Exhibit A.** The Interim  
4 Ordinance imposed emergency interim zoning regulations that became effective immediately  
5 upon adoption, summarized as follows:

- 6                   • Amending the definition of "correctional facility" to differentiate between  
7 private and public correctional facilities, creating two separate definitions for  
8 each use and expressly excluding federal facilities from the "correction  
9 facility, public" definition.
- 10                  • Prohibiting "private" correctional facilities within *all* zoning districts within  
11 the City, including the PMI zoning district where NWDC is located.
- 12                  • Prohibiting "public" correctional facilities in all City multi-family and light-  
13 industrial zoning districts.
- 14                  • Modifying the permit process for "public" correctional facilities in remaining  
15 permitted zoning districts to require a Conditional Use Permit, as opposed to  
16 being permitted outright.

17 **Exhibit A** (Interim Ordinance). The required public hearing on the Interim Ordinance pursuant  
18 to RCW 36.70A.390 and TMC 13.02.055 was held on April 25, 2017. *Id.*

19                   2. Interim Ordinance Effect on the Siting of Correctional Facilities

20                   Prior to adopting the Interim Ordinance, the City defined "correctional facility" as  
21 follows:

22                   Correctional facility. A public facility for the incarceration of persons under  
23 warrant, awaiting trial on felony or misdemeanor charges, convicted but not yet  
24 sentenced, or serving a sentence upon conviction. This definition includes  
25 prerelease facilities, but does not include work release centers or juvenile  
26 community facilities.

27 TMC 13.06.700(C) (superseded). The "correctional facility" use was authorized with a  
28 Conditional Use Permit in certain residential districts and permitted outright in Light Industrial,  
29 Heavy Industrial, and PMI Districts. *See* TMC 13.06.100, .400 (superseded). Prior to the  
30 Interim Ordinance, the City of Tacoma treated the NWDC as a "correctional facility" use  
31 permitted outright in the PMI zoning district.

32                   The Interim Ordinance revised the City's existing "correctional facility" definition,  
33 amending the existing definition and creating a new class of "private" correctional facilities, as

1 follows:

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

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

16 **Exhibit A** (Interim Ordinance); TMC 13.06.700(C). The Interim Ordinance prohibits the newly  
17 defined use “correctional facility, private” in all zoning districts within the City, including the  
18 PMI zone where the NWDC is located. **Exhibit A** (Interim Ordinance); TMC 13.06.400(C)(5)  
19 (Industrial District Use Table). Further, the revised “correctional facility, public” definition  
20 includes only “state or local” modifiers, omitting “federal” facilities from the definition. **Exhibit**  
21 **A** (Interim Ordinance); TMC 13.06.700(C).

### 22 3. Effect of the Interim Ordinance on the NWDC

23 The Interim Ordinance renders the NWDC a legal “nonconforming use” under City code.  
24 TMC 13.06.700(N). As a legal nonconforming use, the NWDC is entitled—at least at the  
25 moment—to continue to operate, unchanged and without amortization, as long as the use is not  
26 abandoned for either 12 consecutive months or 18 months during any three-year period. TMC  
13.06.630(C)(1), (3). However, Petitioner notes that during the April 5, 2017 Planning  
Commission meeting, at least one Planning Commissioner expressed a desire to eliminate the  
NWDC altogether through the use of amortization as part of the development of permanent  
regulations. **Exhibit J** at 33:1-8 (Verbatim Transcript of City of Tacoma Planning Commission  
Proceedings, April 5, 2017). Regardless of whether the City adopts such an amortization

1 provision, GEO's ability to maintain, repair, expand, and modify the NWDC already presents  
2 substantial regulatory restrictions and additional City review designed to prevent increased  
3 nonconformity. *See* TMC 13.06.630(C)(2), (E). For example, the nonconforming use criteria  
4 would limit the maximum potential allowed aggregate future expansion of NWDC to not more  
5 than 10%, as measured by cumulative vehicle trips or parking space counts. TMC  
6 13.06.630(C)(2)(c)(2).

7 While changes in use or expansion that exceed specified code limitations can be  
8 approved with a Conditional Use Permit, the code also expressly provides that, "relief for  
9 nonconforming uses shall be narrowly construed, recognizing that nonconforming uses are  
10 disfavored by state law." TMC 13.06.630(A) and (E)(5). The additional review process that the  
11 NWDC will be subject to as a legal nonconforming use creates opportunities for the City to  
12 exercise its authority to deny future projects or to impose conditions and restrictions that may  
13 lead to administrative or judicial appeals, resulting in additional burden and delay. Further, the  
14 Interim Ordinance renders the NWDC a legal nonconforming use as defined in TMC  
15 13.06.700(N). Therefore, GEO's ability to expand the NWDC to include, for example, new  
16 facilities on the adjacent Transportation Lot, is strictly limited. *See* TMC 13.06.630. Prior to  
17 adoption of the Interim Ordinance, GEO was authorized under City codes to expand the NWDC,  
18 whether on the NWDC Lot or the Transportation Lot, as a matter of right. Given the City's  
19 Council's express intent in the Interim Ordinance to preclude the NWDC from expanding and  
20 the facility's current status as a politically disfavored use, it appears reasonable for the Petitioner  
21 to assume that City staff will strictly construe any and all code requirements in reviewing future  
22 applications pertaining to the NWDC.

### 23 **C. The City's Targeting of NWDC Operations to Preclude Expansion**

24 There is no question that the City expressly intended the Interim Ordinance to not only  
25 prohibit the NWDC from future expansion, but also to prevent the siting of any similar federal  
26 facilities associated with the implementation of federal immigration policy within the City of

1 Tacoma. To that end, in addition to naming the NWDC, the recitals in the Interim Ordinance  
2 include the following:

- 3 • That “recent changes in the national political climate have contributed to  
4 uncertainty as to the need for, and potential expansion of correctional facilities  
in communities such as Tacoma”; and
- 5 • That the federal Department of Homeland Security is “on record” stating its  
6 desire to increase additional detention facilities such as the “privately owned  
and operated [NWDC].”

7 **Exhibit A** (Interim Ordinance).

8 Following adoption of the Interim Ordinance, the City of Tacoma Planning Commission  
9 held two meetings, on April 5 and April 19, 2017, for the purpose of developing findings of fact  
10 and recommendations to the City Council regarding the Interim Ordinance, as required by TMC  
11 13.02.055. In addition, the City Council held a required public hearing on the Interim  
12 Ordinance on April 25, 2017. The materials and official discussion both at the two Planning  
13 Commission meetings and the later City Council public hearing further illustrate the City’s clear  
14 intent to use the Interim Ordinance to prevent the NWDC from future expansion based not upon  
15 local land use regulatory concerns, but instead because of local officials’ political objections to  
16 current implementation of federal immigration policy.

17 1. April 5, 2017 Planning Commission Meeting

18 During the April 5, 2017 Planning Commission meeting, a Planning Commissioner  
19 expressed concerns regarding the Interim Ordinance’s intentional preclusion of the siting of any  
20 federal correctional facilities within City limits. See **Exhibit J** at 39:4-40:1 (Verbatim  
21 Transcript of City of Tacoma Planning Commission Proceedings, April 5, 2017). At the same  
22 meeting, City staff briefing the Planning Commission confirmed the City Council’s specific  
23 intent to limit NWDC operations, stating, “given the current political climate and the federal  
24 government’s actions or intents [sic] with regard to immigration issues, the Council would like  
25 to prevent the expansion of the existing private facilities.” **Exhibit J** (Verbatim Transcript of  
26 City of Tacoma Planning Commission Proceedings, April 5, 2017) at 15. Finally, in a

1 memorandum to the Planning Commission, the Planning Services staff proposed additional  
2 findings of fact for the Planning Commission's review plainly directed towards NWDC and its  
3 ability to expand, including the following:

- 4 • That while there are three facilities affected by the interim regulations, only the  
5 Northwest Detention Center would be made a nonconforming use by the regulations;  
6 and
- 7 • That as a nonconforming use, the Center would be limited in its ability to expand,  
8 specifically no increase in vehicular strips (greater than 10%), parking spaces  
(greater than 10%), noise, light, or glare, outdoors storage of goods or materials, and  
9 hours of operation.

9 **Exhibit K** (Excerpts from Planning Services Division Memorandum of March 30, 2017).

10 2. April 19, 2017 Planning Commission Meeting

11 On April 18, 2017, the City Attorney sent a memorandum to the Planning Commission,  
12 providing guidance to the Commission that the City "does not see challenging any designation of  
13 the immigration detention facility in the tideflats as an 'essential public facility' under RCW  
14 36.70A.200 and WAC 365-196-550 as a viable course going forward," and that the siting and  
15 permitting of essential public facilities is best regulated and conditioned under WAC 365-196-  
16 550(6). **Exhibit L** (Memorandum from the Office of the City Attorney, April 18, 2017).

17 On April 19, 2017, the Planning Commission staff provided a revised set of draft findings  
18 of fact and recommendations for the Commission's consideration. **Exhibit M** (Excerpts from  
19 Planning Services Division Memorandum, April 13, 2017); **Exhibit N** (Planning Commission  
20 Staff Memorandum to Planning Commission, Revisions to the Draft Findings of Fact and  
21 Recommendations Report, April 19, 2017). The staff's draft findings of fact and  
22 recommendations were generally consistent with the Interim Ordinance's recitals, but suggested  
23 additional facts for Commission consideration, including clarification that the City Council's  
24 intent was clearly to "prohibit new and expanded private correctional facilities," and offering that  
25 the interim regulations should be modified to incorporate additional provisions to "prohibit[]  
26 planned expansion of private correctional facilities" or limiting expansion through a conditional  
use permit review process. **Exhibit M** (Excerpts from Planning Services Division

1 Memorandum, April 13, 2017) at 4, ¶18; **Exhibit N** (Planning Commission Staff Memorandum  
2 to Planning Commission, Revisions to the Draft Findings of Fact and Recommendations Report,  
3 April 19, 2017). Following a heated and lengthy discussion that once again focused largely on  
4 federal immigration policy, the Planning Commission failed reach the consensus necessary to  
5 approve a set of proposed findings and recommendations on the Interim Ordinance to send to the  
6 City Council. **Exhibit O**, at 2 (Letter from Planning Commission to City Council and Mayor,  
7 without attached Draft Findings, April 21, 2017); *see also Agendas and Minutes*, CITY OF  
8 TACOMA:PLANNINGCOMMISSION, [https://www.cityoftacoma.org/government/committees\\_boards](https://www.cityoftacoma.org/government/committees_boards_commissions/planning_commission/agendas_and_minutes/)  
9 [\\_commissions/planning\\_commission/agendas\\_and\\_minutes/](https://www.cityoftacoma.org/government/committees_boards_commissions/planning_commission/agendas_and_minutes/).<sup>2</sup>

10 Instead, on April 21, 2017, Planning Commission Chairperson Beale provided the City  
11 Council with a letter on behalf of the Planning Commission outlining a “3-phased action strategy  
12 as the path forward.” **Exhibit O** (Letter from Planning Commission to City Council and Mayor,  
13 without attached Draft Findings, April 21, 2017), at 1-2. Commissioner Beale’s letter reiterated  
14 concerns about correctional facilities in the community, including the “current national political  
15 environment and the uncertainty it has instigated,” and recommended that the Council  
16 immediately modify the interim regulations “to better align the code language with the Council’s  
17 intent to prohibit new private correctional facilities *and* the expansion of existing facilities.” *Id.*  
18 In explaining the reasoning behind the interim regulatory changes that prohibit the NWDC and  
19 private-run correctional facility expansion and development, the Commissioner Beale also wrote:

20 The Commission acknowledges and very much appreciates the Council’s intent  
21 and objectives in enacting the interim regulations, which highlight community  
22 concerns about correctional and detention facilities generally . . . The Commission  
23 also acknowledges the *sentiment of the community* regarding immigration, social  
24 justice and associated issues. *President Donald Trump’s xenophobic and racist*  
25 *rhetoric*, coupled with his stated desire to expand detention and deportation  
26 efforts, runs in direct conflict with the city’s adopted policy to be a welcoming,  
inclusive, equitable and socially just community. In my view, *the Commission is*  
*committed to opposing Trump’s immigration policies and addressing these issues*  
*in the immediate future is a priority.*

<sup>2</sup> As of the date of filing of this Petition, no minutes or transcript of the April 19, 2017 are available; however, an archived recording of the meeting is available at the noted link.



1 While the proposed interim regulations seek to reconcile the city's social justice  
2 policies with the land use code, there is a distinct split in the Commission's view  
3 about *the legality and appropriateness of the city's use of our land use regulatory*  
4 *authority to potentially address these types of broad-reaching, politically*  
*charged, and largely national-level issues.*

**Exhibit O**, at 1 (emphasis added).

5 Representatives of Petitioner GEO attended and participated in both Planning  
6 Commission meetings on April 5 and 19, 2017.

7 **3. April 25, 2017 Public Hearing**

8 The City Council held the required public hearing on the Interim Ordinance pursuant to  
9 RCW 36.70A.390 and TMC 13.02.055(B) on April 25, 2017. On April 24, 2017, Mr. Thomas  
10 D. Homan, Acting Director of ICE, sent a letter to City of Tacoma Mayor Marilyn Strickland,  
11 expressing ICE's "significant" concerns with restrictions of the Interim Ordinance as related to  
12 federal immigration enforcement and responding to City various concerns regarding the  
13 operation of the NWDC, including the humane treatment of and due process afforded to  
14 detainees. **Exhibit P** (Letter to Mayor Marilyn Strickland from ICE, April 24, 2017). Once  
15 again, City Council discussion focused on the desire to limit NWDC's capacity to expand due to  
16 the facility's role in the implementation of national immigration policy. *See Meeting of City*  
17 *Council on April 25, 2017, CITY OF TACOMA: CITY COUNCIL, [https://cityoftacoma.legistar.com](https://cityoftacoma.legistar.com/MeetingDetail.aspx?ID=524105&GUID=C55EB45D-A8B3-4C89-8A32-8AAFCFEFF667F&Search=)*  
18 */MeetingDetail.aspx?ID=524105&GUID=C55EB45D-A8B3-4C89-8A32-8AAFCFEFF667F&*  
19 *Search=.*<sup>3</sup>

20  
21 // //

22 **D. The GMA's Essential Public Facility Requirements**

23 The GMA defines "essential public facilities" as facilities that are "typically difficult to  
24 site," including specifically "state and local correctional facilities." RCW 36.70A.200(1). An  
25 "essential public facility" need not be publicly owned; rather, "the major component in the  
26

<sup>3</sup> As of the date of filing of this Petition, no minutes or transcript of the April 25, 2017 are available; however, archived video of the meeting is available at the noted link.

1 identification of an essential public facility is whether it provides or is necessary to provide a  
2 public service and whether it is difficult to site.” WAC 365-196-550(1)(b) and (f). The NWDC,  
3 which houses detention and related services and facilities associated with the implementation and  
4 enforcement of federal immigration laws, is “necessary to provide a public service” (WAC 365-  
5 196-550(1)(b)) and, indeed, operates under a contract with the federal government to provide  
6 such services on its behalf. Further, as the present controversy regarding the NWDC so readily  
7 illustrates, this type of facility is “generally perceived by the public to have...significant adverse  
8 impacts that make it difficult to site.” RCW 36.70A.200(1); WAC 365-196-550(2)(c). Thus, the  
9 NWDC falls squarely within both the GMA and WAC definitions of an “essential public  
10 facility.”

11 Under the GMA, the City of Tacoma must include a process for identifying and siting  
12 essential public facilities within its comprehensive plan and development regulations. RCW  
13 36.70A.200(1) and (2). Neither the comprehensive plan nor a development regulation can  
14 “preclude the siting of essential public facilities,” which includes regulations that may make  
15 siting “impracticable,” including “restrict zoning” or “imposition of unreasonable conditions or  
16 requirements.” *Id.* at (5); WAC 365-196-550(3). In addition, to the extent the NWDC can be  
17 considered a regionally sited essential public facility as a result of the ICE site selection process  
18 that led to its construction in Tacoma, the City has an additional, and mandatory, duty to  
19 accommodate it within City borders. WAC 365-196-550(3)(d); *see also King Cnty. v.*  
20 *Snohomish Cnty.*, CPSGMHB Case No. 04-3-0012, Order Finding Continuing Noncompliance  
21 and Continuing Invalidity and Notice of Second Compliance Hearing; Order of Dismissal (May  
22 26, 2004), at 8-9 (addressing the local jurisdiction’s duty to accommodate regionally sited  
23 essential public facilities).

24 Prior to adoption of the Interim Ordinance, the City’s Municipal Code did not have a  
25 process to site essential public facilities, which under the GMA definition of the term, includes  
26 correctional facilities. RCW 36.70A.200(2). In addition, the City’s current Comprehensive

1 Plan, "One Tacoma," which includes a Public Facilities and Services element, does not identify  
2 or provide for a siting process for essential public facilities. RCW 36.70A.200(1). However,  
3 prior to adoption of the Interim Ordinance, correctional facilities such as the NMDC were treated  
4 as outright permitted uses within various zoning districts throughout the City, whether  
5 specifically identified as an "essential public facility" or not, making the protections afforded by  
6 the "essential public facility" designation unnecessary for Petitioner to seek. Indeed, the City's  
7 own records indicate that the City believed the NWDC to be an "essential public facility" in  
8 conjunction with its expansion in 2009, whether it was described as such in City plans or  
9 development regulations at the time. *See Exhibit F* (Memorandum to City Manager Eric  
10 Anderson, March 31, 2009). With this action, Petitioner seeks review only of the Interim  
11 Ordinance, and not of the City's earlier adopted Comprehensive Plan.

### 12 **III. IDENTIFICATION OF PETITIONERS**

13 The GEO Group, Inc. dba GEO, Inc.  
14 One Park Place, Suite 700  
15 612 NW 53rd St.  
16 Boca Raton, FL 33487  
Telephone: 561-999-7360

### 17 **IV. IDENTIFICATION OF PETITIONERS' ATTORNEYS**

18 Heather L. Burgess  
19 Phillips Burgess PLLC  
20 724 Columbia Street NW, Suite 320  
21 Olympia, Washington 98501  
22 Telephone: 360-742-3500  
23 Facsimile: 360-742-3519  
24 Email: [hburgess@phillipsburgesslaw.com](mailto:hburgess@phillipsburgesslaw.com)  
25  
26

1 Joan K. Mell  
2 III Branches Law, PLLC  
3 1019 Regents Blvd., Suite 204  
4 Fircrest, Washington 98466  
5 Telephone: 253-566-2510  
6 Facsimile: 281-664-4643  
7 Email: [joan@3brancheslaw.com](mailto:joan@3brancheslaw.com)

8  
9  
10 **V. RESPONDENT**

11 City of Tacoma  
12 747 Market Street  
13 Tacoma, WA 98402

14  
15 **VI. CHALLENGED ACTION**

16 Petitioner challenges the City of Tacoma's Interim Ordinance 28417, attached at **Exhibit**  
17 **A**, which prohibits the siting of the all private and federal correctional facilities within City limits  
18 and renders the Petitioner's property, the NWDC, a legal nonconforming use.

19  
20 **VII. STATEMENT OF ISSUES**

21 **A.** Does the City's Interim Ordinance No. 28417, which redefines "correctional  
22 facility" under the City's code to differentiate between public and private facilities and prohibits  
23 private and federal correctional facilities in all zoning districts, wrongfully preclude the lawful  
24 siting and/or expansion of NWDC as an essential public facility in violation of RCW  
25 36.70A.200(2) and (5), and WAC 365-195-550(3)?

26 **B.** Does the City's Interim Ordinance No. 28417, which redefines "correctional  
facility" under the City's code to differentiate between public and private facilities and prohibits  
private and federal correctional facilities in all zoning districts, wrongfully fail to accommodate  
the siting and/or expansion of NWDC, which resulted from a federal site selection process, as an  
essential regionally sited public facility in violation of RCW 36.70A.200(2) and (5), and WAC  
365-195-550(3)?

**C.** Does the City's Interim Ordinance No. 28417, which renders the NWDC a legal  
nonconforming use, make the siting and/or expansion of the NWDC, an "essential public

1 facility” under the GMA, so “impracticable” as to effectively preclude the siting of “essential  
2 public facilities” in violation of RCW 36.70A.200(2) and (5), and WAC 365-195-550(3)?

### 3 IX. STANDING

4 Petitioner has standing to maintain this appeal pursuant to RCW 36.70A.280(2)(b)  
5 (participation standing) and (d) (standing pursuant to the Administrative Procedure Act, RCW  
6 34.05.530.

7 On April 5, 2017 and April 19, 2017, the City of Tacoma Planning Commission met for  
8 the purpose of formulating findings of fact and a recommendation to the City Council regarding  
9 the Interim Ordinance, as well as to develop a work plan for the development of permanent  
10 regulations, as required under TMC 13.02.055. Representatives of Petitioner GEO attended both  
11 Planning Commission meetings and the City Council’s April 25, 2017 public hearing on the  
12 Interim Ordinance, and provided public comment on the agenda item pertaining to the Interim  
13 Ordinance at each of these meetings. These activities are sufficient to provide for participation  
14 standing pursuant to RCW 36.70A.280(2)(b).

15 Petitioner GEO is a Florida corporation licensed to do business in the state of Washington  
16 that owns the property where the NWDC is located and operates the NWDC on behalf of and  
17 pursuant to a contract with the United States Immigration and Customs Enforcement Service.  
18 Petitioner is aggrieved and adversely affected by the City’s adoption of the Interim Ordinance  
19 because the Interim Ordinance recitals directly name and target the NWDC; and, further, as a  
20 private correctional facility, the Interim Ordinance renders the NWDC a legal nonconforming  
21 use, strictly limiting and burdening its present ability to expand, thereby causing Petitioner GEO  
22 immediate, continuing and lasting harm, and potentially interfering with its contractual  
23 obligations to the federal government to provide a necessary public service. Petitioner GEO  
24 therefore has standing pursuant to RCW 36.70A.280(2)(d).

### 25 X. RELIEF SOUGHT

26 Petitioner asks the Hearings Board to find as follows:

1 1. That the NWDC is an "essential public facility" as defined under the GMA, RCW  
2 36.70A.200(1), and implementing regulations, WAC 395-196-550(1);

3 2. That the NWDC, which was sited in the City of Tacoma following a federal site selection  
4 process, is a regionally sited "essential public facility" as defined under the GMA, RCW  
5 36.70A.200(1), and implementing regulations, WAC 365-195-550(3);

6 3. That the City of Tacoma's Interim Ordinance No. 28417 adopts regulations that facially  
7 and effectively preclude the siting and/or expansion of "essential public facilities," including the  
8 NWDC, and fail to accommodate the NWDC as a regionally sited "essential public facility,";

9 4. That the City of Tacoma's Interim Ordinance No. 28417, by defining NWDC as a private  
10 correctional facility and prohibiting private and federal correctional facilities within all zoning  
11 districts, precludes the siting and/or expansion of essential public facilities in violation of the  
12 GMA, RCW 36.70A.200 and WAC 395-196-500(3);

13 5. That the City of Tacoma's Interim Ordinance No. 28417, which makes the NWDC a  
14 legal nonconforming use within the PMI District, has the effect of making the siting and/or  
15 expansion of the NWDC, an "essential public facility" impracticable, in violation of the GMA,  
16 RCW 36.70A.200 and WAC 395-196-500(3);

17 And, based on these findings, that the Hearings Board:

18 6. Issue an order of non-compliance directing the City to immediately repeal the interim  
19 regulations enacted pursuant to Interim Ordinance No. 28417; and

20 7. Issue a declaration of invalidity pursuant to RCW 36.70A.302 due to the City's direct and  
21 blatant non-compliance with the GMA's prohibition against preclusion of siting of "essential  
22 public facilities."

## 23 XI. VERIFICATION

24 The undersigned attorneys have read this Petition for Review and believe the contents to  
25 be true and accurate.  
26

1 DATED this 4th day of May, 2017.

2 PHILLIPS BURGESS PLLC

3  
4 By: 

5 Heather L. Burgess, WSBA #28477  
6 Attorneys for Petitioner

7 III BRANCHES LAW LLC

8  
9 By: 

10 Jean K. Mell, WSBA #21319  
11 Attorneys for Petitioner  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26





BEFORE THE GROWTH MANAGEMENT HEARINGS BOARD  
CENTRAL PUGET SOUND REGION  
STATE OF WASHINGTON

THE GEO GROUP, INC.,

Petitioner,

v.

CITY OF TACOMA,

Respondent.

Case No. 17-3-0004

**ORDER OF DISMISSAL- WITHDRAWAL**

This matter comes before the Board on Request for Mandatory Dismissal Without Prejudice filed by Petitioner The Geo Group, Inc. on May 24, 2017. The Petitioner withdraws their Petition for Review and requests dismissal of the case.

**ORDER**

Based on the foregoing and pursuant to WAC 242-03-720(1)(a), the Board enters an order of dismissal and this case is closed. Entry of this Order of Dismissal is not to be interpreted as approval by the Board of the terms of any settlement agreement, nor any agreement to enforce the terms of such settlement agreement.

DATED this 25th day of May, 2017.

\_\_\_\_\_  
Deb Eddy, Board Member

\_\_\_\_\_  
Cheryl Pflug, Board Member

\_\_\_\_\_  
William Roehl, Board Member

September 20 2017 9:34 AM

KEVIN STOCK  
COUNTY CLERK  
NO: 17-2-11422-2

1  
2  
3  
4  
5  
6  
7  
8 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON**  
9 **FOR PIERCE COUNTY**

10 STATE OF WASHINGTON,

11 Plaintiff,

12 v.

13 THE GEO GROUP, INC.,

14 Defendant.

NO.

COMPLAINT

15 **I. INTRODUCTION**

16 **1.1** The State of Washington files this action against Defendant The GEO Group, Inc.  
17 ("Defendant" or "GEO") to enforce Washington's minimum wage laws and to remedy the unjust  
18 enrichment that results from Defendant's long standing failure to adequately pay immigration  
19 detainees for their work at the privately owned and operated Northwest Detention Center  
20 ("NWDC").

21 **1.2** The enforcement of minimum wage laws is of vital and imminent concern to the  
22 people of Washington as the minimum wage laws protect Washington workers and create  
23 employment opportunities.

24 **1.3** Each year Washington sets an hourly minimum wage, and employees protected by  
25 Washington's minimum wage laws must be paid at least the set hourly minimum wage.  
26

1       **1.4** Defendant pays detainees \$1 per day for work they perform at NWDC. This is a  
2 violation of Washington's minimum wage laws, and the practice of paying detainee workers \$1  
3 per day has unjustly enriched Defendant.

4       PLAINTIFF, the State of Washington, for its causes of action against Defendant GEO,  
5 alleges as follows:

6                               **II. JURISDICTION AND VENUE**

7       **2.1** The Attorney General is authorized to commence this action pursuant to RCW  
8 43.10.030(1).

9       **2.2** Subject matter jurisdiction is proper in this Court pursuant to RCW 2.08.010,  
10 RCW 7.24.010, and RCW 7.24.020 because this is an action alleging state law violations and  
11 seeking declaratory and injunctive relief.

12       **2.3** Jurisdiction and venue are proper in this Court pursuant to RCW 4.12.020 and  
13 RCW 4.12.025 because work performed by detainees occurs at NWDC, which is located in Pierce  
14 County, and because this matter arises from Defendant's business practices and transactions at  
15 NWDC.

16                               **III. PARTIES**

17                               **PLAINTIFF STATE OF WASHINGTON**

18       **3.1** The Attorney General is the chief legal adviser to the State of Washington. The  
19 Attorney General's powers and duties include bringing enforcement actions to ensure compliance  
20 with Washington laws.

21       **3.2** The Washington State Department of Labor and Industries is a state agency  
22 dedicated to the safety, health, and security of Washington's 2.5 million workers. The Department  
23 of Labor and Industries enacts rules and operates enforcement programs that help ensure  
24 compliance with the State's wage laws.

**3.3** Washington has a quasi-sovereign interest in protecting the health, safety, and well-being of its residents which includes protecting its residents from harms to their own and Washington's economic health.

**3.4** Washington's interest in preventing and remedying injuries to the public's health, safety, and well-being extends to all of Washington's residents, including individuals who suffer indirect injuries and members of the general public.

**3.5** The enforcement of minimum wage laws is of preeminent concern to the people of Washington. The Legislature enacted minimum wage laws to protect Washington workers and safeguard “the immediate and future health, safety and welfare of the people of the state.” RCW 49.46.005(1).

**3.6** Washington set the below minimum wages for 2005-2017:

January 1, 2017	\$11.00	January 1, 2010	\$8.55
January 1, 2016	\$9.47	January 1, 2009	\$8.55
January 1, 2015	\$9.47	January 1, 2008	\$8.07
January 1, 2014	\$9.32	January 1, 2007	\$7.93
January 1, 2013	\$9.19	January 1, 2006	\$7.63
January 1, 2012	\$9.04	January 1, 2005	\$7.35
January 1, 2011	\$8.67		

See <http://www.lni.wa.gov/WorkplaceRights/Wages/Minimum/History/default.asp> (last visited September 18, 2017).

**DEFENDANT**

**3.7** Defendant GEO is a for-profit business operating in Washington.

**3.8** Since 2005, Defendant GEO has owned and operated NWDC, which is located at 1623 E. J Street, Tacoma, Washington.

**3.9** NWDC is a private immigration detention center that has the capacity to house approximately 1,575 individuals.

1       **3.10** Defendant GEO contracts with U.S. Immigration and Customs Enforcement  
2 (“ICE”) for the detention of adult civil detainees, who are awaiting resolution of their immigration  
3 matters. GEO has contracted with ICE to provide this service at NWDC since 2005.

4       **3.11** GEO’s contract with ICE requires GEO to comply with state and local laws and  
5 codes when it operates NWDC.

#### 6                                   **IV. ALLEGATIONS**

7       **4.1** Defendant relies upon detainee labor to operate NWDC.

8       **4.2** Detainees perform a wide range of work at NWDC including preparing, cooking,  
9 and serving food to the detainee population; operating NWDC’s laundry service; cleaning living  
10 areas and bathrooms; and regularly painting walls and buffing floors.

11       **4.3** ICE’s 2011 Performance Based National Detention Standards require Defendant  
12 to pay detainees at least \$1 per day for their labor.

13       **4.4** For most work detainees perform at NWDC, Defendant pays detainees \$1 per day  
14 for their labor regardless of the number of hours worked.

15       **4.5** For some work detainees perform at NWDC, Defendants do not pay detainees \$1  
16 per day, and instead “pay” detainees in snack food such as chicken, potato chips, soda, and/or  
17 candy.

18       **4.6** Detainees are “employees” protected by Washington’s minimum wage laws.

19       **4.7** Defendant is an “employer” for purposes of Washington’s minimum wage laws.

20       **4.8** Defendant does not pay detainee workers the state minimum wage for work they  
21 perform at NWDC.

22       **4.9** Since 2005, GEO receives and has received the benefit of having necessary  
23 work done at NWDC without bearing the financial burden of paying the minimum wage to  
24 those who perform such work.  
25  
26

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6

**5.1** Plaintiff realleges and incorporates by reference herein all the allegations of paragraphs 1.1 through 4.9.

**5.3** Detainees work for Defendant and perform many of the functions necessary to keep NWDC operational including preparing and serving food to detainees, cleaning common areas, and operating the laundry.

**5.4** Defendant pays detainees \$1 per day for work performed at NWDC.

**5.5** The current hourly minimum wage in Washington is \$11.00 per hour.

**5.6** Defendant violates RCW 49.46.020 when it pays detainees who work at NWDC \$1 per day instead of the hourly minimum wage.

**(Unjust Enrichment)**

**6.2** Defendant operates NWDC as a for-profit business.

### 6.3 Defendant utilizes detainee labor to operate NWDC.

**6.4** Defendant does not pay adequate compensation to detainees for their work.

**6.5** Defendant benefits by retaining the difference between the \$1 per day that it pays detainees and the fair wage that it should pay for work performed at NWDC.

**6.6** It is unjust for the Defendant to retain the benefit gained from its practice of failing to pay adequate compensation to detainees for the work they perform at NWDC.



1 **VII. PRAYER FOR RELIEF**

2 Wherefore, the State of Washington prays that the Court:

3 **7.1** Declare that detainees who work at NWDC are “employees” as defined by RCW  
4 49.46.010(3);

5 **7.2** Declare that Defendant is an “employer” of detainee workers at NWDC as defined  
6 by RCW 49.46.010(4);

7 **7.3** Declare that Defendant and must comply with RCW 49.46.020 for work  
8 performed by detainees at NWDC;

9 **7.4** Enjoin Defendant from paying detainees less than the minimum wage for work  
10 performed at NWDC;

11 **7.5** Find and declare that Defendant has been unjustly enriched by its practice of  
12 failing to adequately pay detainee workers for their labor at NWDC;

13 **7.6** Order Defendant to disgorge the amount by which it has been unjustly enriched;

14 **7.7** An award of reasonable attorneys’ fees and costs that the State incurs in  
15 connection with this action; and

16 **7.8** Award such additional relief as the interests of justice may require.

17 DATED this 20<sup>th</sup> day of September 2017

18 ROBERT W. FERGUSON  
19 Attorney General

20 

21 LA ROND BAKER, WSBA No. 43610  
22 MARSHA CHIEN, WSBA No. 47020  
23 Assistant Attorneys General  
24 Office of the Attorney General  
25 800 Fifth Avenue, Suite 2000  
26 Seattle, WA 98104  
(206) 464-7744  
LaRondB@atg.wa.gov  
MarshaC@atg.wa.gov







Published on *Washington State* (<http://www.atg.wa.gov>)

[Home](#) > AG Ferguson sues operator of the Northwest Detention Center for wage violations

## AG Ferguson sues operator of the Northwest Detention Center for wage violations

**FOR IMMEDIATE RELEASE:**

Sep 20 2017

*Multi-billion dollar company pays detainees in snacks or \$1 per day for labor*

**TACOMA** — Attorney General Bob Ferguson today announced a lawsuit against The GEO Group, Inc. (GEO), the second-largest private prison provider in the country, for not paying its workers the minimum wage, netting the company millions in ill-gotten profits. The state's lawsuit asks the court to order the company to give up these profits.

GEO uses immigration detainee labor to perform virtually all non-security functions at Tacoma's Northwest Detention Center (NWDC), the only private detention facility in the state. Since at least 2005, GEO has paid thousands of detainee workers \$1 per day or, in some instances, snacks and extra food for labor that is necessary to keep NWDC operational. Washington's minimum wage is \$11 per hour.

"A multi-billion dollar corporation is trying to get away with paying its workers \$1 per day," Ferguson said. "That shouldn't happen in America, and I will not tolerate it happening in Washington. For-profit companies cannot exploit Washington workers."

"The bottom line is that a fair wage should be paid for a day of work," said Joel Sacks, director of the state Department of Labor and Industries, which regulates wage standards in Washington state

The lawsuit, filed today in Pierce County Superior Court, is believed to be the first of its kind brought by a state Attorney General. The state has two claims against GEO.

First, the lawsuit accuses GEO of violating Washington's minimum wage laws. These laws are broadly written and meant to protect as many workers as possible. RCW 49.46.010(k) exempts the following from protections from Washington's minimum wage laws: "Any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment or rehabilitative institution."

There are no exceptions for private, for-profit facilities like NWDC. In contrast with a jail or prison, which house people involved in the criminal justice system and are operated by state or local governments, detainees at NWDC are held in a private, for-profit facility pending civil immigration proceedings.

Second, Ferguson also argues that GEO unjustly enriched itself, meaning it profited by its illegal actions exploiting its workers.

NWDC has the capacity to house up to 1,575 immigrant detainees. Detainees perform most of the work necessary to run the facility except guarding detainees. This includes preparing and serving food, running the laundry services, performing facility maintenance, and cleaning common areas and restrooms. Detainees report that the general practice is that guards ask for detainee “volunteers” for work. If no one volunteers for certain work, guards will sometimes pick detainees to perform the work.

AGO investigators heard many stories from detainees about their concerns regarding work at NWDC. Detainees described working through the night buffing floors and painting walls in exchange for chips and candy. Detainees told investigators that if an officer asks a detainee to work on a special project later than the planned end of the shift, detainees are allowed to stop working but may not receive any pay for their work.

Detainees also reported that for some work, GEO does not provide appropriate working gear and that has caused detainees physical pain and discomfort. Detainees’ concerns about being paid \$1 per day or being paid in snack food is one of several concerns that detainees raised during multiple hunger strikes in the past year.

### **Northwest Detention Center and GEO Group**

Located on Tacoma's Tidelands, Northwest Detention Center is the fourth-largest immigration detention center in the country. People are held at the facility while undergoing immigration proceedings, potentially facing deportation.

GEO has operated the facility for Immigrations and Customs Enforcement (ICE) since 2005. The Florida-based company has been in partnership with ICE since the 1980s, and in 2015, ICE renewed GEO's contract for NWDC through 2025. At the time the contract was renewed, GEO projected NWDC would bring in \$57 million in revenue every year at full capacity.

NWDC is one of 141 correctional and detention facilities operated by the company, which saw revenues exceeding \$2 billion in 2016.

GEO has faced a variety of lawsuits, including a class action suit by current and former detainees at a Colorado facility alleging forced labor.

NWDC has faced its own controversies, including multiple hunger strikes by detainees over living conditions, access to medical care, and other problems at the facility. As many as 750 detainees reportedly participated in one hunger strike earlier this year.

### **Relief and next steps**

Ferguson's lawsuit asks the court to order GEO to comply with Washington's minimum wage laws. The lawsuit also asks the court to order GEO to pay the state its costs and fees from bringing the lawsuit, and to give up the profits it made by underpaying its employees over many years. The exact amount will be determined as the lawsuit progresses, but is expected to be in the millions.

If the court grants this request, the Attorney General's Office will likely ask the court to place any monetary award into a constructive trust or cy pres fund. This fund would be dedicated to supporting people detained in NWDC, as well as job seekers in the community surrounding the detention center who may have lost employment opportunities because of GEO's practices.

The defendant will have 20 days from the date they are served to respond to the state's complaint.

Assistant Attorneys General La Rond Baker and Marsha Chien are leading the case for the Attorney General's Office.

A Spanish language version of this release is available [here](#).

-30-

*The Office of the Attorney General is the chief legal office for the state of Washington with attorneys and staff in 27 divisions across the state providing legal services to roughly 200 state agencies, boards and commissions. Visit [www.atg.wa.gov](http://www.atg.wa.gov) to learn more.*

**Contacts:**

Brionna Aho, Interim Communications Director, (360) 753-2727; [brionna.aho@atg.wa.gov](mailto:brionna.aho@atg.wa.gov)

**Northwest Detention Center Press Conference**







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

# Correctional Facilities Regulations

---

## Proposed Amendments to the Tacoma Municipal Code



### Public Comments

Received by  
the Planning Commission

January 5, 2018

City of Tacoma  
Planning & Development Services Department  
Planning Services Division  
747 Market Street, Room 345  
Tacoma, WA 98402-3793  
(253) 591-5030  
[www.cityoftacoma.org/planning](http://www.cityoftacoma.org/planning)

# Table of Contents

## A. Oral Testimony Received at the Planning Commission Public Hearing, January 3, 2018 (Listed in the order of sign-up for testifying)

No.	Name	Page
1	Eric Paulsen	<b>3</b>
2	Rebecca Stith, Tacoma Human Rights Commission	<b>3</b>
3	Nancy Farrell	<b>3</b>
4	Maru Mora Villalpando, NWDC Resistance	<b>3</b>
5	Megan Ybarra, University of Washington Geography Department	<b>3</b>
6	Richard Lovering	<b>4</b>
7	Chris Paredes	<b>4</b>
8	Deirdre Wilson, Port of Tacoma	<b>4</b>
9	Kathy Lawhon	<b>4</b>
10	Liesl Santkuyl	<b>4</b>
11	Norma Ramirez	<b>4</b>
12	Leah Montange, Coalition of Antiracist Whites	<b>4</b>

## B. Written Comments Received through Closure of Public Hearing Record, January 5, 2018 (Listed in alphabetical order of last names)

No.	Name	Page
1	Laura Aguilera-Flemming	<b>5</b>
2	Ali Basye	<b>6</b>
3	Joseph Colombo	<b>7</b>
4	Michele Costello	<b>8</b>
5	Natalie Entrekin, Northwest Detention Center Resistance (NWDCR)	<b>9</b>
6	Nancy Farrell	<b>10</b>
7	Mike Honey	<b>11</b>
8	Rhoda Karusaitis	<b>12</b>
9	Linsey	<b>13</b>
10	Alex Macdonald	<b>14</b>
11	Joan Mell, Local Counsel, The GEO Group, Inc.	<b>15</b>
12	Northwest Detention Center Resistance (NWDCR) – Carly Brook, Angélica Cházaro, Maru Mora Villalpando, Wendy Pantoja, Naomi Strand and Megan Ybarra	<b>121</b>
13	Northwest Detention Center Resistance (NWDCR) – Petitions	<b>123</b>
14	Sarah Parillo	<b>145</b>
15	Annie Phillips	<b>146</b>
16	Kim Raymoure	<b>147</b>
17	Karen Sjöström	<b>148</b>
18	Jurjen Smies	<b>149</b>
19	Mary Susan Walker	<b>150</b>
20	Deirdre Wilson, Port of Tacoma/Northwest Seaport Alliance	<b>151</b>



# Proposed Correctional Facilities Permanent Regulations Planning Commission Public Hearing, January 3, 2018

## Oral Testimony Received

(Note: The following notes are summarized based on the audio recording of the meeting/public hearing on January 3, 2018 and are included in the draft minutes of the meeting that are subject to approval by the Planning Commission.)

- 1) Eric Paulsen:  
Mr. Paulsen commented that he would like to see them address the distinction between correctional facilities and detention centers, noting that correctional facilities were for people who had committed crimes while detention centers were for housing immigrants who were in violation of administrative code. He commented that the Northwest Detention Center had an abominable human rights record and they had been under constant investigation for human rights abuses. He commented that as a resident he felt they should not allow any more growth of their facility and that there were ways that were far more effective to deal with immigration issues than locking people up. He commented that having a for-profit detention center or correctional facility anywhere in Tacoma was against the values of most Tacomans.
- 2) Rebecca Stith, Tacoma Human Rights Commission:  
Ms. Stith commented that correctional facilities would typically be a facility where people have been adjudicated as felons. She expressed concern that the proposal could impact a class action minimum wage suit. She recommended that they define 'correctional facility' expansively in the permanent regulations and recommended phrasing for detainees being administratively detained. She commented that federal law indicated that ICE could only make contracts with state or local entities to house administrative detainees and had a contract with GEO Group which was a private, for-profit company.
- 3) Nancy Farrell:  
Ms. Farrell commented that she was not sure that the Commission was aware of the human rights violations occurring and the facility owned by GEO Group. She commented that most of the detainees had done nothing wrong. She commented that it was against justice and GEO was making lots of money and did not deserve to have another building because they would fill it up. She commented that the affected children were growing up without one or both of their parents.
- 4) Maru Mora Villalpando, NWDC Resistance:  
Ms. Villalpando commented that the NWDC Resistance would be submitting a letter and 600 signatures asking them to not define the Northwest Detention Center as a correctional facility. She reported that in the past year there had been nine hunger strikes at the detention center to bring attention to the inhumane conditions there and that the State Attorney General had filed suit over people being paid only 1\$ per day for work. She asked that they not help GEO Group avoid their responsibility for paying the minimum wage for current and past detainees. She commented that Tacoma had become synonymous with detention across the nation.
- 5) Megan Ybarra, University of Washington Geography Department:  
Ms. Ybarra commented that an undergraduate student from UW had been detained at the Northwest Detention Center since September 2017 and she was present in solidarity with him, other immigrants, and their families. She commented that her concern with the definition of correctional facilities was because of the ways the interim regulations had changed over time. She reviewed that GEO Group had filed a complaint with the Central Puget Sound Growth Management Hearings Board and it was unclear how that complaint would affect the interim regulations. She noted that since the interim regulations were in place the State Attorney General had filed a suit stating that the Northwest Detention Center was not a correctional facility and was in violation of the minimum wage law. She commented that it was important that they distinguish between detention centers and correctional facilities. She commented that the only zones appropriate for residential facilities were zoned residential and people should not be forced to live in a potentially dangerous area against their will.

- 6) Richard Lovering:  
Mr. Lovering commented that the Northwest Detention Center was evil and that they were practicing slavery. As a consequence it was a terrible blot on the reputation of Tacoma and they should do anything that could be done to get them out of town. He commented that they shouldn't associate them with prisons, where there is an association with due process. He commented that with the DACA program being shut down there was the prospect of having UW students that were dreamers being detained and dumped in the facility. He commented that with the LNG plant nearby the people who lived there were living next to an enormous bomb.
- 7) Chris Paredes:  
Mr. Paredes commented that he disagreed with analysis stating that the definition of correctional facility included detention centers. He commented that in the previous year a student with DACA had been deported and that the Northwest Detention Center had many people who had not committed any crimes and should not be detained there. He asked that they further consider how the area isn't very safe or walkable for people visiting the facility.
- 8) Deirdre Wilson, Port of Tacoma:  
Ms. Wilson commented that the proposal to restrict the use to the M2 and PMI zoning was concerning as the facility was in no way related to the port maritime industry and was not an industrial use. She commented that it was concerning to see the City proposing a new permit type and notice requirements specific to one use, adding unnecessary complexity to the code.
- 9) Kathy Lawhon:  
Ms. Lawhon asked the Commission not to prohibit correctional facilities from multifamily zoning districts as all people had a right to life in safe, healthy places. She commented that residential facilities should be sited in places that were zoned residential. She noted that concerns about privately owned facilities denying access to state officials for soil and air sampling to ensure that residential health would not be affected. She discussed concerns about toxic soils in the Tideflats. She reported that GEO Group was among the major contributors to the presidential campaign of Donald Trump. She urged the Commission to do everything possible to shut the Northwest Detention Center down.
- 10) Leisl Santkuyl:  
Ms. Santkuyl commented that they should not let the Northwest Detention Center be defined as a correctional facility, which could allow them to continue to pay below minimum wage for detained workers. She commented that correctional facilities are for those in the criminal justice system and not for immigration proceedings. She asked that they remain vigilant to not allow growth or expansion of the Northwest Detention Center facility as it discourages immigrants from fully participating as active residents and citizens of Tacoma. She expressed concern about letting the code get too complicated for the average citizen to understand it.
- 11) Norma Ramirez:  
Ms. Ramirez commented that while she appreciated the proposal to prohibit new private correctional facilities and the expansion of existing facilities, the Northwest Detention Center was not a correctional facility and defining it as such could impact the State's minimum wage lawsuit against GEO Group. She asked that they wait until after the lawsuit is determined by the courts before making a recommendation.
- 12) Leah Montange, Coalition of Antiracist Whites:  
Ms. Montange expressed support for the spirit of the proposal to make private correctional facilities an unpermitted use. She asked that they reconsider allowing public correctional facilities in industrial areas due to the environmental hazards present. She commented that she was concerned about how they were defining correctional facilities, asking that they not define immigration centers as correctional facilities. She reviewed the definition of correctional facilities in the draft code amendment, expressing concern that the definition exempted the Northwest Detention Center from proposed regulations. She urged them to consider the importance of not defining a detention center as a correctional facility so that it would not affect the ongoing wage lawsuit.

## Wung, Lihuang

---

**From:** Laura Aguilera-Flemming <laura.af.19@gmail.com>  
**Sent:** Wednesday, January 03, 2018 3:51 PM  
**To:** Planning  
**Subject:** Fair Wages for Detainees at the NW Detention Center

Hello,

Along with so many others, I want to ask the Tacoma Planning Commission to omit zoning practices that allow for correctional facilities to be housed in areas that are zoned industrial and may expose residents to light, noise, and other forms of pollution. This is of particular concern for facilities that are privately owned and operated, as they can deny city, county, and state authorities access to test the soil, water and air vapors to ensure that they will not negatively affect resident health.

I know that GEO Group filed a complaint before the Central Puget Sound Growth Management Hearings Board (No. 17-3-0004) and intimated that it might sue the City of Tacoma. I've already had to restructure my IRA to ensure I'm not accidentally supporting GEO Group in my mutual funds. I urge the Tacoma Planning Commission not to give in to these intimidation tactics.

Please do not change Tacoma's municipal code to help a multinational private prison company avoid paying minimum wage. The Planning Commission exists to benefit everyone residing in Tacoma, including those held at the NW Detention Center, and fair wages for all workers will benefit our entire community in the long run.

Thank you so much for your time and service,  
Laura Aguilera-Flemming

## Wung, Lihuang

---

**From:** Ali Basye <alibasye@gmail.com>  
**Sent:** Thursday, January 04, 2018 7:46 AM  
**To:** Planning  
**Subject:** immigrant detainee conditions

Hello,

The Tacoma Planning Commission should omit zoning practices that allow for correctional facilities to be housed in areas that are zoned industrial and may expose residents to pollution. This is of particular concern for facilities that are privately owned and operated, as they can deny city, county, and state authorities access to test the soil, water and air vapors to ensure that they will not negatively affect resident health.

Also, please do not change Tacoma's municipal code to help a multinational private prison company like GEO Group to avoid paying minimum wage. The Planning Commission exists to benefit everyone residing in Tacoma, including those held at the NW Detention Center, and fair wages for all workers will benefit our entire community in the long run.

Thank you for your time and service,  
Ali Basye  
Seattle, WA

--

Ali Basye  
206.293.5506  
[alibasye@gmail.com](mailto:alibasye@gmail.com)

## Wung, Lihuang

---

**From:** Joseph Colombo <joe\_colombo@hotmail.com>  
**Sent:** Thursday, January 04, 2018 12:06 PM  
**To:** Planning  
**Subject:** Please do not derail the State Attorney General's lawsuit to protect worker rights

The State of Washington is suing GEO Group (1) for failing to pay state minimum wage since 2005 because it pays workers only \$1 per day and sometimes only pays workers in extra food, and (2) for "unjust enrichment," meaning it profited by its illegal actions. The crux of this lawsuit is that the Northwest Detention Center (NWDC) is not exempted from paying minimum wage laws, as it would have been if it were a state, county, or municipal correctional facility under RCW 49.46.010(k). After the state filed its lawsuit, the Tacoma Planning Commission added a new change to the regulations, expanding 13.06.700.C to explicitly include both private and public detention centers in the definition of "correctional facilities."

We call on the Planning Commission not to derail the State Attorney General's lawsuit to protect worker rights and ensure economic development. As such, we ask that the Planning Commission take out language that redefines detention centers. This language only serves to benefit GEO Group's claims that it should be allowed to pay workers in snacks or \$1 per day. Rejecting the proposed changes to the municipal code will help ensure that GEO Group follows minimum wage laws for all workers, whether they are detained or from the greater Tacoma community.

Along with so many others, I want to ask the Tacoma Planning Commission to omit zoning practices that allow for correctional facilities to be housed in areas that are zoned industrial and may expose residents to light, noise, and other forms of pollution. This is of particular concern for facilities that are privately owned and operated, as they can deny city, county, and state authorities access to test the soil, water and air vapors to ensure that they will not negatively affect resident health.

I know that GEO Group filed a complaint before the Central Puget Sound Growth Management Hearings Board (No. 17-3-0004) and intimated that it might sue the City of Tacoma. I urge the Tacoma Planning Commission not to give in to these intimidation tactics. Please do not change Tacoma's municipal code to help a multinational private prison company avoid paying minimum wage. The Planning Commission exists to benefit everyone residing in Tacoma, including those held at the NW Detention Center, and fair wages for all workers will benefit our entire community in the long run.

Thank you so much for your time and service,

Sincerely,

Joseph Colombo  
Puyallup, WA

## Wung, Lihuang

---

**From:** Michele Costello <micheleacostello@gmail.com>  
**Sent:** Wednesday, January 03, 2018 4:01 PM  
**To:** Planning  
**Subject:** NW Detention Center

Tacoma Planning Commission,

I want to ask that you not support zoning practices that allow for correctional facilities to be housed in industrially-zoned areas. This practice may expose residents to light, noise, and other forms of pollution. This is of particular concern for facilities that are privately owned and operated, as they can deny city, county, and state authorities access to test the soil, water and air vapors to ensure that they will not negatively affect resident health.

GEO Group filed a complaint before the Central Puget Sound Growth Management Hearings Board (No. 17-3-0004) and intimated that it might sue the City of Tacoma. Please do not change Tacoma's municipal code to help a multinational private prison company avoid paying minimum wage. The Planning Commission exists to benefit everyone residing in Tacoma, including those held at the NW Detention Center, and fair wages for all workers will benefit our entire community in the long run. Thank you so much for your time and service,

Michele Costello

## Wung, Lihuang

---

**From:** Natalie Entrekin <natalie.c.entrekin@gmail.com>  
**Sent:** Wednesday, January 03, 2018 9:13 PM  
**To:** Planning  
**Subject:** Tacoma Planning Committee January 3rd Meeting

Dear Planning Commission Members,

I write to you as an individual who stands in solidarity with people held in the Northwest Detention Center (NWDC), their families, and those at risk of immigration detention. I applaud the Planning Commission's recent suggestion to increase notification and discussion in the Tacoma community before any permits are issued to expand correctional facilities. However, I write out of deep concern that the proposed permanent regulations on correctional facilities further harm our communities, while only benefitting the GEO Group's financial interests. In particular, the regulations are out of step with the state Attorney General's office Civil Rights Unit's efforts to ensure that GEO Group pays state minimum wage to all workers, both detained and regular employees.

Following years of protests led by detained immigrants to bring light to their conditions, on September 20, 2017, Washington State Attorney General Bob Ferguson announced a lawsuit against the GEO Group. The State of Washington is suing GEO Group (1) for failing to pay state minimum wage since 2005 because it pays workers only \$1 per day and sometimes only pays workers in extra food, and (2) for "unjust enrichment," meaning it profited by its illegal actions. The crux of this lawsuit is that the Northwest Detention Center (NWDC) is not exempted from paying minimum wage laws, as it would have been if it were a state, county, or municipal correctional facility under RCW 49.46.010(k). After the state filed its lawsuit, the Tacoma Planning Commission added a new change to the regulations, expanding 13.06.700.C to explicitly include both private and public detention centers in the definition of "correctional facilities." As Attorney General Ferguson noted in his press conference on September 20th, immigration detention centers are not correctional facilities as immigrants are awaiting administrative proceedings – not the criminal justice process. Changing the Tacoma Municipal Code to make immigrant detention centers into "correctional facilities" will help GEO Group avoid paying minimum wage to workers. I call on the Planning Commission not to derail the State Attorney General's lawsuit to protect worker rights and ensure economic development. As such, I demand that the Planning Commission take out language that redefines detention centers. This language only serves to benefit GEO Group's claims that it should be allowed to pay workers in snacks or \$1 per day. Rejecting the proposed changes to the municipal code will help ensure that GEO Group follows minimum wage laws for all workers, whether they are detained or from the greater Tacoma community.

The Planning Commission is also considering a proposal to prohibit correctional facilities from multi-family and light industrial zoning districts. While the NWDC is not a correctional facility, NWDC Resistance recognizes that all people have a right to live in safe, healthy places, including those who are being imprisoned in correctional facilities. Residential facilities should be sited in places that are zoned residential. I call on Tacoma Planning Commission to omit zoning practices that allow for correctional facilities to be housed in areas that are zoned industrial and may expose residents to light, noise, and other forms of pollution. This is of particular concern for facilities that are privately owned and operated, as they can deny city, county, and state authorities access to test the soil, water and air vapors to ensure that they will not negatively affect resident health.

I know that GEO Group filed a complaint before the Central Puget Sound Growth Management Hearings Board (No. 17-3-0004) and intimated that it might sue the City of Tacoma. I urge the Tacoma Planning Commission not to give in to these intimidation tactics. Please do not change Tacoma's municipal code to help a multinational private prison company avoid paying minimum wage. The Planning Commission exists to benefit everyone residing in Tacoma, including those held at the NW Detention Center, and fair wages for all workers will benefit our entire community in the long run.

Sincerely,

Natalie Entrekin,

On behalf of the Northwest Detention Center Resistance (NWDCR)

## Wung, Lihuang

---

**From:** Nancy Lee Farrell <nfarrellwa@gmail.com>  
**Sent:** Thursday, December 28, 2017 8:50 AM  
**To:** Planning  
**Subject:** Fwd: The Northwest Detention Center

----- Forwarded message -----

From: **Nancy Lee Farrell** <[nfarrellwa@gmail.com](mailto:nfarrellwa@gmail.com)>  
Date: Thu, Dec 28, 2017 at 8:47 AM  
Subject: The Northwest Detention Center  
To: [imunce@cityoftacoma.org](mailto:imunce@cityoftacoma.org), [planning@cityoftacoma.org](mailto:planning@cityoftacoma.org), Nancy Lee Farrell <[nfarrellwa@gmail.com](mailto:nfarrellwa@gmail.com)>

For about nine years, there have been groups of us who vigil at the Northwest Detention Center for the visitors who come to see the detainees at the Northwest Detention Center. We hear their stories.

All is not well. We have heard stories of inadequate food, sparse medical, dental, and psychological help, inflated commissary prices, \$1.00 a day for work done by detainees, expensive telephone and skype, hunger strikers put in solitary confinement, inadequate judicial proceedings, bail that is exorbitant for families of detainees.

The most serious is incarceration of people who have done nothing wrong, and instant threat of break-up of families by imprisonment and deportation..

We urge the commission to be aware of the reality of the Northwest Detention Center.

Nancy Farrell, 4005 N. 24th St., Tacoma, WA 98406  
Phone: [253-952-0571](tel:253-952-0571)



## **Wung, Lihuang**

---

**From:** Mike Honey <mhoney@uw.edu>  
**Sent:** Saturday, December 16, 2017 9:19 AM  
**To:** Planning  
**Subject:** Detention center

Like many others, I am deeply disturbed by the detention center. Our Attorney General is suing them for coerced Labor at one dollar a day. This profiteering enterprise is a disgrace. Michael Honey

Sent from my iPhone

## Wung, Lihuang

---

**From:** Munce, Ian  
**Sent:** Tuesday, January 02, 2018 9:12 AM  
**To:** Wung, Lihuang  
**Subject:** FW: Tacoma Detention Center

For the record

---

**From:** rhoda karusaitis [<mailto:karusaitis@yahoo.com>]  
**Sent:** Sunday, December 31, 2017 2:47 PM  
**To:** Munce, Ian  
**Subject:** Tacoma Detention Center

Ladies and gentlemen:

For the past 4 1/2 years I have been regularly taken part, in association with the Vashon Island Unitarian Fellowship, in the second Saturday vigil at the Geo-operated Tacoma detention facility. We provide refreshments to the family members who come to visit their family members and friends. We see many, many children who come to see their detained parents and relatives; women and children who have had their beloved provider scooped up and put in a cell. At best they can look through a window, not feel a warm hug. These detained people, if they are able to stay to fight their deportation, may be struggling with under-treated medical problems, charged exorbitant fees for phone calls or for extra food when they are left hungry, etc., etc.. We really do very little to relieve the suffering these families endure through our country's inadequate immigration program, but the people really seem to appreciate our friendly gestures and open ears. It is that appreciation that encourages us to continue to come month after month. We believe that we help show the more compassionate, humane nature of our beloved country.

Sincerely,  
Rhoda Karusaitis

## Wung, Lihuang

---

**From:** Linsey <uncouthheathen@gmail.com>  
**Sent:** Thursday, January 04, 2018 3:00 PM  
**To:** Planning  
**Subject:** Immigrant Tolerance and Equality

"The State of Washington is suing GEO Group (1) for failing to pay state minimum wage since 2005 because it pays workers only \$1 per day and sometimes only pays workers in extra food, and (2) for "unjust enrichment," meaning it profited by its illegal actions. The crux of this lawsuit is that the Northwest Detention Center (NWDC) is not exempted from paying minimum wage laws, as it would have been if it were a state, county, or municipal correctional facility under RCW 49.46.010(k). After the state filed its lawsuit, the Tacoma Planning Commission added a new change to the regulations, expanding 13.06.700.C to explicitly include both private and public detention centers in the definition of "correctional facilities."

We call on the Planning Commission not to derail the State Attorney General's lawsuit to protect worker rights and ensure economic development. As such, we ask that the Planning Commission take out language that redefines detention centers. This language only serves to benefit GEO Group's claims that it should be allowed to pay workers in snacks or \$1 per day. Rejecting the proposed changes to the municipal code will help ensure that GEO Group follows minimum wage laws for all workers, whether they are detained or from the greater Tacoma community.

Along with so many others, I want to ask the Tacoma Planning Commission to omit zoning practices that allow for correctional facilities to be housed in areas that are zoned industrial and may expose residents to light, noise, and other forms of pollution. This is of particular concern for facilities that are privately owned and operated, as they can deny city, county, and state authorities access to test the soil, water and air vapors to ensure that they will not negatively affect resident health.

I know that GEO Group filed a complaint before the Central Puget Sound Growth Management Hearings Board (No. 17-3-0004) and intimated that it might sue the City of Tacoma. I urge the Tacoma Planning Commission not to give in to these intimidation tactics. Please do not change Tacoma's municipal code to help a multinational private prison company avoid paying minimum wage. The Planning Commission exists to benefit everyone residing in Tacoma, including those held at the NW Detention Center, and fair wages for all workers will benefit our entire community in the long run.

Thank you so much for your time and service,"

## Wung, Lihuang

---

**From:** Alex Macdonald <AlexofSkye@comcast.net>  
**Sent:** Friday, December 22, 2017 9:38 PM  
**To:** Planning  
**Subject:** Correctional Facilities

Dear members of the planning commission, Thank you for inviting comments. I would agree that having this forum is appropriate if not outright vital.  
I'll be brief.

1) Allowing a private prison — or whatever euphemism one prefers — to exist is contrary to the spirit of this great nation. Every one of you should know that. We don't support, let alone institutionalize, profiting from the mistakes and difficulties of others. It's immoral.

2) As it is necessary that I stated item one, and seeing that you and others seem blind to it, I'll add that if you continue to allow this then AT LEAST:

\* Require standards within this prison matching the Warsaw Treaty's regarding prisoners. That may require some homework on your part, or you may assign it to assistants, but it must never be said that the city of Tacoma was aware that people were being mistreated and then allowed it to continue.

\* See that the prisoners — or, again, whatever euphemism you prefer to use — are paid the legal minimum wage for whatever work they are given. If you choose to allow this Geo group to make their profit, then have the taxpaying citizens of Tacoma give it to them, not the prisoners. Again, this is a clear issue of morality.

I am hoping that you will “do the right thing” regarding the NW Detention Center.  
Alex Macdonald, University Place

Sent from my iPhone

# THREE BRANCHES LAW, PLLC

January 5, 2018

VIA E-Mail: [svictor@ci.tacoma.wa.us](mailto:svictor@ci.tacoma.wa.us)

City of Tacoma Planning Commission  
c/o Assistant City Attorney Steve Victor  
City of Tacoma  
Tacoma Municipal Building N. Room 16  
733 Market Street  
Tacoma, WA 98402

RE: Proposed Correctional Facilities Permanent Regulations  
GEO Comments for Public Hearing dated Wed. 01/03/18

Dear Chair Wamback, Vice Chair Peterson, and Members of the Planning Commission:

The GEO Group, Inc., (“GEO”) opposes adoption as permanent regulations the interim regulations promulgated under Ordinance 28417 on March 7, 2017 and as later amended by Ordinance No. 28429 on May 9, 2017. In short, GEO objects because the proposed permanent regulations target the Northwest Detention Center for heightened land use controls solely because it is a federal Department of Homeland Security - Immigration and Customs Enforcement (“ICE”) immigration processing center, and not for any legitimate zoning or environmental concerns that have arisen since the City first approved the facility as an “essential public facility” at its present location in 2000 and its later expansion in 2008. In addition to qualifying as an “essential public facility” entitled to special siting considerations and protections under Washington’s Growth Management Act (*see* RCW 36.70A.200), GEO maintains, that federal facilities like the NWDC operate under federal standards and federal authorities, which are in any event immune from local jurisdictional controls such as the proposed regulations. GEO has appeared through counsel throughout the legislative process to include the interim and permanent regulatory process, and further incorporates into this response its past oral and written testimonies. GEO urges the Planning Commission to recommend that the Council reject adoption of the proposed interim correctional facilities regulations as permanent regulations, and that the Council instead let the interim regulations expire without further extensions.

Materials attached for the Commission’s further consideration in support of GEOs request include the following:

- April 24, 2017 Letter from Thomas Homan, ICE Acting Director
- April 18, 2017 Memo from the City Attorney’s Office to the Planning Commission

- March 31, 2009 Pauli Memo to Anderson regarding NWDC as an “essential public facility”
- July 22, 2008 Pauli E-mail to Anderson regarding NWDC as an “essential public facility”
- June 2017 TNT article cautioning against unintended consequences
- Statistical data showing effective advocacy for immigrants at the NWDC
- January 3, 2018 hearing testimony
- Public Records Responsive to GEO’s Public Records Request evidencing the partisan political motivations behind the measure.

The testimony before the Commission uniformly supports the fact that some individuals and groups purporting to advocate for immigrants are using this land use process as a platform to oppose Federal immigrant detention practices and policies. At the January 3, 2018 public hearing, only one witness outside of these advocacy groups appeared – a representative who spoke from the perspective of a fellow tideflats landowner from the Port of Tacoma. Notably, the Port agrees that crafting land use controls to target a particular use for political reasons both sets bad precedent for the City and represents an improper use of local land use authority.

At the same hearing, multiple immigrant advocates testified in opposition to the measure because they link the measure to a similarly politically motivated action by Attorney General Ferguson against GEO under the Minimum Wage Act. The advocates fear the City would be assisting GEO’s defense by treating the NWDC as a “correctional facility,” citing language from the measure and from the hearing notification. Their testimony highlights an underlying flaw of the measure since its inception; to wit, the City sought to regulate “correctional facilities”, apparently so the proposed legislation would not appear to be targeting GEO’s facility, but that strategy has now backfired with unintended consequences.

The precipitating ordinance expressly stated the measure was not related to corrections at all, but rather a political purpose specific to a national shift in immigration policy, as follows: “WHEREAS 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”. The original ordinance and its later amendment never had anything to do with land use problems related to correctional facilities, which begs the question of why this proposal is before the City’s Planning Commission at all. For example, no one was complaining about the non-conforming uses of the Pierce County Jail or Remann Hall. Rather, all discussion regarding the proposed legislation has focused almost exclusively on GEO’s facility.

In short, these measures have always been about immigration detention. The City’s suggestion that it could use its local land use powers to limit Federal immigrant detention created unjustified expectations about the scope of the City’s authority. For

these reasons, the Planning Commission may consider clarifying language to try and distinguish the NWDC from “correctional facilities” in the City’s land use codes, but GEO asserts that any such modifications only further support GEO’s contention that Tacoma is, in fact, using its local land use authority to try and influence federal immigration policy, and not for legitimate land use purposes. Tacoma simply does not have the power to ban, or alternatively, limit immigration detention through local land use controls.

At the hearing, one participant also inquired about GEO’s past petition to the Growth Management Hearings Board. That petition concerned the initial Ordinance ( i.e., Ordinance No. 28417), which was adopted prior to the later amendments in Ordinance 28429. This later Ordinance modified the measure from an outright ban on certain land uses to conditional use permitting criteria for these uses. Following those amendments, the petition was dismissed. Any challenge to the later Ordinance would occur only after the City Council decides whether to adopt the interim measures as permanent regulations.

Finally, GEO concurs with Chair Wamback’s point of inquiry about whether Tacoma intends to continue treating the NWDC as an “essential public facility.” As evidenced by the attached communications from then City Attorney Elizabeth Pauli, Tacoma has always treated the NWDC as an “essential public facility.” The City based its amended Ordinance 28429 on legal advice that the NWDC has always considered and courts will likely continue to consider the NWDC an “essential public facility.”

GEO has sought clarification from the City that it intends to continue treating the NWDC as an “essential public facility” when implementing the Ordinance, but the City has refused to provide this requested clarification, even going so far as to deny as improper GEO’s application for code interpretation expressly seeking such a formal opinion submitted after adoption of the interim regulations. Thus, GEO joins with Chair Wamback in his request that the City clarify, in writing, whether it intends to continue treating the NWDC as an “essential public facility” as would be consistent with the Growth Management Act, controlling law and past practice.

To the extent the City chooses not to publish its position, GEO objects and restates its request independently from Chair Wamback that Tacoma decide whether it will treat the NWDC as an “essential public facility” and provide appropriate further clarifying cross-references or definitions addressing that issue in any final permanent regulations forwarded to the City Council for consideration.

The NWDC has operated in Tacoma for more than 13 years under both Democrat and Republican Presidential Administrations and has a longstanding record providing high quality, culturally responsive services in a safe, secure, and humane environment that meets the needs of the residents in the custody and care of federal immigration

authorities. Special heightened local regulatory controls over an immigration processing center in Tacoma will not stop or change federal immigration policies, and in fact such a disruption could hurt the very residents in the care of federal immigration authorities. In the absence of a special purpose facility, individuals going through the immigration review process would likely be transferred to local jails, which do not meet the federal government's national standards and are often located out-of-state. GEO is proud of its longstanding commitment to the Tacoma community where GEO contributes to the local tax base, employs area residents, and gives back through donations to local scholarships and charitable organizations.

Your time and consideration in review of the above information are appreciated.

Very truly yours,

III Branches Law, PLLC



Joan K. Mell

Local Counsel

The GEO Group, Inc.

cc: [LWUNG@ci.tacoma.wa.us](mailto:LWUNG@ci.tacoma.wa.us); [imunce@ci.tacoma.wa.us](mailto:imunce@ci.tacoma.wa.us);  
[BBOUDET@ci.tacoma.wa.us](mailto:BBOUDET@ci.tacoma.wa.us)

Client



# APPENDIX A



**U.S. Immigration  
and Customs  
Enforcement**

April 24, 2017

Mayor Marilyn Strickland  
Tacoma Municipal Building  
747 Market Street  
Tacoma, WA 98402

Dear Mayor Strickland:

I write to express the significant concerns of U.S. Immigration and Customs Enforcement (ICE) regarding Ordinance 28417, which amends Chapter 13.06 of the Tacoma Municipal Code (TMC) to ban the use of privately owned detention facilities. This action is clearly intended to prevent the operation of ICE's Northwest Detention Center (NWDC), a federal civil immigration detention facility continuously operated in Tacoma by the GEO Group, Inc. (GEO) since 2005.

At the outset, it appears that some misperceptions are animating Tacoma's changes to its zoning laws. In a February 24, 2017 letter you sent to GEO, you express "concern[] about the possible detention of individuals in violation of due process rights, the violation of the status of Deferred Action for Childhood Arrivals recipients and other established and relied upon Federal Immigration enforcement priorities." ICE wishes to go on record with the Tacoma City Council to make clear that neither GEO nor ICE violate the due process rights of immigration detainees housed at NWDC.

ICE manages a nationwide immigration detention system that makes use of a range of different facility types, including some which are owned by the Federal Government, some which are owned by state or local governments that have entered into Intergovernmental Service Agreements with ICE, and some which are privately owned and operated but under ICE's oversight and legal authority. Regardless of detention facility type, the detention authority at issue arises under federal immigration law, including 8 U.S.C. §§ 1225(b), 1226, and 1231. Sworn ICE officers make all arrest and custody decisions, and these decisions are subject to review by federal courts and immigration judges. Moreover, U.S. immigration law affords aliens subject to detention a substantial amount of process, including multiple avenues of relief from removal, the right to counsel in immigration court (at no expense to the government), the right to an interpreter in removal proceedings before an independent immigration judge, and the opportunity to appeal removal orders from an immigration court to the Board of Immigration Appeals and a federal circuit court of appeals. ICE detention facilities are closely regulated and monitored. The NWDC is subject to ICE's 2011 Performance-Based Detention Standards, which provide conditions tailored to the civil purpose of immigration detention while maintaining a safe and secure detention environment for staff and detainees. These facilities, which are

regularly inspected for compliance, provide medical and mental health screening and services, access to legal services and religious opportunities, recreation and visitation opportunities, a process for reporting complaints, and procedures to ensure access for detainees with limited English proficiency.

It is also important to underscore that immigration enforcement and the establishment of immigration enforcement priorities is within the purview of the Federal Government. Your February 24, 2017 letter to GEO demonstrates that Ordinance 28417 is rooted in the belief that the City of Tacoma has a role to play in assessing whether detention at NWDC somehow violates aliens' legal rights. While ICE certainly respects the City of Tacoma's role in our federated system of government, Tacoma's efforts to alter immigration detention decisions under the guise of a change in zoning policy manifests a lack of appreciation – or understanding – for ICE's role.

Additionally, Ordinance 28417 does not recognize the advantages of the NWDC and the benefits that can be gained from its expansion. The existence of the NWDC is in many ways beneficial to the detainees. The availability of a local detention facility means many detainees will be located near their families, counsel, and support networks. Likewise, expansion of the facility can benefit the detainees, as it can allow for additional space for enhanced medical and dental service areas, dining and dormitory spaces, attorney-client meeting rooms, immigration courtrooms and judges' chambers.

ICE would appreciate the opportunity to meet with you in advance of next week's Tacoma City Council meeting on April 25, to engage with city planning officials, and to speak before the Tacoma City Council, in an effort to answer questions and provide accurate information regarding ICE's mission and NWDC operations. We would also be pleased to host a visit by you and your fellow councilmembers to NWDC, so that we can demonstrate first-hand the superb work done by our personnel and contractors to ensure fair and humane treatment of aliens who are subject to detention under federal immigration law. If your office could contact Timothy S. Robbins, ICE's Acting Chief of Staff, at [Timothy.S.Robbins@ice.dhs.gov](mailto:Timothy.S.Robbins@ice.dhs.gov), we can work with you on making the necessary arrangements. I would also be grateful if you could circulate this letter to the members of the Tacoma City Council, for their awareness. Thank you for your attention to this matter, and ICE looks forward to working with you to advance our shared goals of promoting public safety and the rule of law.

Sincerely,



Thomas D. Homan  
Acting Director

# APPENDIX B



**TO:** Tacoma Planning Commission

**FROM:** The Office of the City Attorney

**SUBJECT:** Siting of Essential Public Facilities & City Ordinance 28417

**DATE:** April 18, 2017

The Tacoma City Council recently passed emergency, interim development regulations (City Ordinance No. 28417) regarding the "siting [of] public correctional facilities." TMC 13.02.055 requires that the Planning Commission make findings of fact and recommendations for the City Council's consideration before any emergency, interim development regulations can be finalized. By this Memo, the City Attorney's Office is providing the Planning Commission with the following information and guidance:

1. After additional review, the City does not see challenging any designation of the immigration detention facility in the tideflats as an "essential public facility" under RCW 36.70A.200 and WAC 365-196-550 as a viable course going forward;
2. The City understands that essential public facilities must be accounted for in the City's Comprehensive Plan, and cannot be prohibited by the Comprehensive Plan and/or the City development regulations (WAC 365-196-550 (3) and (6));
3. The siting and permitting of essential public facilities can, however, be regulated and conditioned in order to mitigate potential impacts of the essential public facility (WAC 365-196-550 (6)); and
4. WAC 365-196-550 provides the best guidance, particularly at subsection (6), for the mitigation of potential impacts.

# APPENDIX C



City of Tacoma  
City Manager

**To:** Eric Anderson, City Manager

**From:** Matt Peelen, Management Assistant

**Subject:** PSHSED Committee's Interest in the NW Detention Center

**Date:** March 31, 2009

During their March 26<sup>th</sup> meeting, the Public Safety, Human Services and Education Committee expressed interest in additional information on the Northwest Detention Center. During this discussion the committee identified several issues that they would like to explore:

- 
- The jurisdiction of the city in regards to oversight of the Northwest Detention Center.
  - Questions related to the siting and permitting of the Detention Center
  - Any impacts on City departments and services resulting from the Detention Center
  - Questions related to demographics of the Detention Center population

Over time the City has collected various reports and e-mails on the NW Detention Center, many of which address the concerns raised by the Committee. This packet of information was provided to me by Celia Holderman and is attached to this memorandum. I have attempted to classify this information in such a way that it can quickly and efficiently answer the Committee's questions.

*What is the City's jurisdiction in oversight of the NW Detention Center?*

According to Elizabeth Pauli, this facility is considered by the state Growth Management Act to be an "essential public facility." The Act provides that no local comprehensive plan or development regulation may preclude the siting of essential public facilities. For more information please see Attachment A.

*What are the impacts on City departments and services from the NW Detention Center?*

In a May 27<sup>th</sup> memorandum (Attachment D) to Nicole Persaud with MACTEC Engineering regarding impacts on City Service due to NW Detention Center expansion, the Police Department identifies concerns with protests as their only issue with the NW Detention Center to date. The police department goes on to express concerns at the potentiality of the Washington State Department of Corrections and other parties using

space within the Detention Center, which could result in an impact to human service funding.

Sigrun Freeman of the Northwest Leadership Foundation, a group which provides social services to the detainees, identifies in Attachment E a need for service to the population granted a release from the facility as they make their way into the general population. She provides no quantitative data. No other impacts are identified.

*How was the NW Detention Center sited and what is the City's role in permitting a facility of this nature?*

The NW Detention Center opened in Tacoma in the spring of 2004. A memorandum provided by A. Neil Clark, the Field Office Director of the Seattle Detention and Removal to the Public Safety, Human Services, and Education Committee in September of 2007 is included as Attachment B. The memorandum provides an overview of both the federal program run by the Office of Detention and Removal and the GEO Group, whom own and operate the facility.

---

*Are there any permitting concerns?*

As described above and in Attachment A, the City can not prohibit the siting of essential public facilities such as the NW Detention Center. However, the Growth Management Act does not preclude analysis of state environmental requirements, nor the imposition of reasonable mitigation requirements.

*What consideration has the City made in regards to their recent proposal to expand the NW Detention Center?*

In Attachment C, Charlie Solverson describes the permitting process for the expansion of the NW Detention Center. The expansion project is identified as 104,800 square feet of new construction including 26,000 square feet of a general population housing unit and a 40 bed segregation unit. Permit requirements are identified as a Building Permit, a Grading Permit, and a SEPA addendum.

*What are the demographics of the NW Detention Center?*

In Attachment B, the countries of origin are identified as being primarily from Central American and East Asian Countries. There is no information on gender or age provided. The average duration of stay for detainees at the Northwest Detention Center is identified as 27 days. In Attachment E, provided by Sigrun Freeman of the Northwest Leadership Foundation, she identifies 9,441 detainees booked into the facility, and 9,258 as booked out in 2007.



**Holderman, Celia**

Attachment A

**From:** Holderman, Celia  
**Sent:** Thursday, May 22, 2008 11:09 AM  
**To:** Anderson, Julie; Baarsma, Bill; Fey, Jake; Ladenburg, Connie; Lonergan, Mike; Manthou, Spiro; Strickland, Marilyn; Talbert, Rick; Walker, Lauren  
**Cc:** Anderson, Eric; Pauli, Elizabeth  
**Subject:** Response to CM Anderson's request regarding the Immigration Customs Enforcement Detention Center and Council's authority limitations

Council Members:

Since we don't have a Weekly Report going out today, please see the response below from City Attorney Elizabeth Pauli regarding Council Member Anderson's request for a reminder on the limitations of the Council's authority in regard to "allowing" the Immigration Customs Enforcement detention facility to operate within the City of Tacoma.

Celia

~~PS: Although we won't have Council notebooks going out today, we will still be sending your mail packets home close to 5:00 today.~~

---

**From:** Pauli, Elizabeth  
**Sent:** Thursday, May 22, 2008 10:32 AM  
**To:** Anderson, Eric  
**Cc:** Holderman, Celia  
**Subject:** I.C.E. Facility

At the City Council Meeting of May 6th, Councilmember Anderson asked that the Council be provided with a reminder of the limitations on the authority of the Council in regard to "allowing" the Immigration Customs Enforcement detention facility to operate within the City of Tacoma.

This facility is considered by the state Growth Management Act, to be an "essential public facility." Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities, state and local correctional facilities, solid waste handling facilities, and in-patient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities. RCW 36.70A.200(1).

The Act provides that no local comprehensive plan or development regulation may preclude the siting of essential public facilities. RCW 36.70A.200(5). This prohibition also applies to the expansion or improvement of an essential public facility, but does not preclude analysis of state environmental requirements, nor the imposition of reasonable mitigation requirements. City of Des Moines v. Puget Sound Reg'l. Council, 108 Wn. App. 836 (1999).

Please feel free to contact me if there are any additional questions.

Elizabeth A. Pauli  
City Attorney

E.

# APPENDIX D

**DeGrosse, Cindy**

---

**From:** Anderson, Julie  
**Sent:** Monday, July 28, 2008 9:05 PM  
**To:** DeGrosse, Cindy  
**Subject:** Fw: ICE Facility

Please include this in you PUBLIC RECORDS REQUEST.

Julie

---

**From:** Pauli, Elizabeth  
**To:** Anderson, Julie  
**Sent:** Tue Jul 22 15:37:20 2008  
**Subject:** ICE Facility  
Council Member Anderson,

You have asked about the City of Tacoma's jurisdiction over the Northwest Detention Center which is located within Tacoma City limits, at 1623 East J Street. This facility is considered an essential public facility, and therefore, while citing can be limited, City zoning code and land use regulations cannot prevent such as facility from being cited within the City. The center is operated by Correction Services Corporation, dba NW Detention Center (the parent corporation is the GEO Group). They have a business license with the City and are subject to City regulation relating to business licensees. The facility is subject to an annual company inspection by the Fire Department as well as technical inspections that would occur at least annually.

Please let me know if you have additional questions.

Elizabeth A. Pauli  
City Attorney

# APPENDIX E

# Matt Driscoll: Closing the Northwest Detention Center now is not realistic. Or right.

BY MATT DRISCOLL

*mdriscoll@thenewstribune.com*

Shut it down.

That was the sentiment expressed by many who attended an April public hearing to discuss Tacoma's interim regulations for correctional facilities, which was a not-so-subtle attempt to block any expansion of the privately owned and operated Northwest Detention Center.

They and others think the giant immigration facility on the Tideflats is inhumane and has become a symbol of President Trump's draconian immigration policy.

They're not wrong.

But while shuttering the facility — a pipe dream at this point — or limiting its expansion might sooth the city's burdened psyche, it's not a realistic answer. Or the right one.

Why?

Because such a move alone would have unfortunate, unintended consequences for immigrants entangled in the system, according to a local coalition that includes prominent immigration scholars and immigration-justice advocates.

In weighing what steps the city should take in handling the detention center, one of the main questions that must be answered before getting to the larger issues is a straightforward one, said Robin Jacobson, an associate professor of politics and government at the University of Puget Sound.

“

**DO WE REALLY CARE ABOUT THE REAL LIVES OF THE PEOPLE WE'RE IMPACTING?**

Robin Jacobson, University of Puget Sound associate professor of politics and government

“Do we really care about the *real* lives of the people we’re impacting?” said Jacobson, an expert on immigration politics and policy.

Closing the detention center, or even limiting its expansion, would hurt immigrants more than it would help them, she argued.

She pointed to a network of advocates and service providers that have stepped up or blossomed in Tacoma in the decade-plus since the facility opened.

All, in one way or another, work to protect the rights and fair treatment of immigrants. They also provide what amounts to informal oversight through civic engagement and vigilance. Such a network simply doesn’t exist everywhere.

Jacobson rightly points out that unless the federal policies that make facilities like the the Northwest Detention Center possible are simultaneously dismantled, Tacoma ridding itself of the facility would have little impact.

At best, it would only serve to insulate us from the problem.

Because without that change in federal policy, immigrants not housed at the Tacoma facility would be housed elsewhere.

That might be in city and county jails, as the Trump administration works to ramp up the number of people being detained and deported. Or, it could be places like Lumpkin, Georgia, sometimes referred to as the “black hole of the immigration system,” where the number of people detained exceeds the population of the town itself.

“It would be a lot better to not attempt to close down this facility, unless we’re moving toward closing all detention facilities,” Jacobson said.

Jacobson acknowledges that closing or restricting the Northwest Detention Center might make us “feel better, like we’re not complicit.”

“To chant ‘Shut it down!’ feels good, but then people get to go back to their lives afterward and think they’ve chalked up a victory,” she said. “But it isn’t really a victory.”

Instead, Jacobson says, we must “keep our eye on the prize.” She means we all have a stake in an unjust federal immigration system and our efforts to fix it should have an impact on that level.

That reality continues to be true, even as the city council recently settled on less-restrictive interim regulations for private and public prisons than the ones that were discussed (and favored by many citizens) back during that optimistic April public hearing.

## OUR COMPLICITY DOESN'T COME FROM (THE NWDC) BEING CLOSE TO US.

Robin Jacobson, University of Puget Sound associate professor of politics and government

---

So if closing or limiting the detention center's expansion isn't the answer for Tacoma's conflict of conscience, what might be?

Jacobson offered two concrete and realistic local steps we could take to push back.

First, find a way to ensure people locked up at the detention center have adequate access to legal representation, something many of them now lack.

In New York, the city has launched an effort to provide lawyers to poor immigrants facing deportation. A similar effort here could have a big impact, she said.

If they had greater access to legal help, immigrants locked up on the Tideflats could “get out quicker” and would be less likely to “get lost in the system,” Jacobson said.

She acknowledged that Tacoma isn't as big as New York and certainly doesn't have the same resources, but she said partnering with cities like Seattle or even the state could work.

Jacobson also argues that while Tacoma has settled for its designation as a “Welcoming City,” leaders should have the political will to go farther. She describes Tacoma's “Welcoming City” status as one largely concerned with “PR and economic growth,” and not much more.

Instead, declaring Tacoma a full-blown sanctuary city — meaning Tacoma would formally put on the books policies that would help “shut off the valve that brings people into the detention regime in the first place,” in Jacobson's words — would be more than just talk.

Doing both would be immigration victories for which Tacoma actually could be proud.

*Matt Driscoll: 253-597-8657, [mdriscoll@thenewstribune.com](mailto:mdriscoll@thenewstribune.com), [@mattsdriscoll](https://twitter.com/mattsdriscoll)*

---



## Athletes Who Now Own Sports Franchises

SportsChatter

## These 10 Houseboats Will Float You Away

HomesChatter



10 Prospects Seek To Reach MLB Just Like Their Famous Fathers

SportsChatter

These Stars Stood Beside Their Pals As A Best Man

CelebChatter

---

 **COMMENTS** 



SUBSCRIPTIONS

**Digital Subscriptions**

**Subscriber Services**

**e-Edition**

**Home Delivery**

**Vacation Hold**

**Newsletters**

SITE INFORMATION

**Customer Service**

**About Us**

**Contact Us**

**Photo Store**

**RSS Feeds**

**Contests**

SOCIAL, MOBILE & MORE

**Mobile**

**Facebook**

**Twitter**

**YouTube**

**Google+**

**Submit a Photo**

ADVERTISING

**Information**

**Place a Classified**

**Local Deals**

**Shopping**

**Place an Obituary**

**Today's Circulars**

**Special Sections**

**MORE**

**Copyright**

**Privacy Policy**

**Terms of Service**

# APPENDIX F

**NWIRP + J + 9 = 35%**

*NW Immigration Rights Project + NW Detention Center + 9th Circuit = Protection*  
(1623 E. "J" Street)

Right Lawyers + Right Location + Right Court = Right Decision

**Removal Prevention Rate NWDC: 35%**

Removal Prevention Rates Other Circuits (5th TX, 10th CO, 11th FL)

Oakdale, LA - 17.5%  
Houston, TX - 21%  
Miami, FL - 31.8%  
Lumpkin, TX - 13.1%

Removal Prevention Rates Other Facility Locations In 9th Circuit

Adelanto, CA 26.2%  
Eloy, AZ 19.4%  
Florence, AZ 28.9%

**Asylum Grant Rate NWDC: 28%**

Asylum Grant Rates Other Circuits (5th TX, 10th CO, 11th FL)

Oakdale, LA - 4.4%  
El Paso, TX - 2.2%  
Houston, TX - 7.9%  
Miami, FL - 22%  
Aurora, CO - 13.7%

Asylum Grant Rates Other Facility Locations In 9th Circuit

Adelanto, CA 13.3%  
Eloy, AZ 6.8%  
Florence, AZ 8.8%

# APPENDIX G

CITY OF TACOMA PLANNING COMMISSION  
EXCERPT OF VERBATIM REPORT OF PROCEEDINGS  
1/3/18

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



1 CHAIR WAMBACK: All right. I will call to  
2 order the Planning Commission's public hearing on the  
3 topic of proposed correctional facilities permanent  
4 regulations.

5 I would like to welcome everybody to our hearing.  
6 For the benefit of the commission and the public here,  
7 I'll remind everybody that this public hearing is being  
8 recorded. Those who wish to testify should sign up in  
9 the back of the room. There is a table where you  
10 entered for sign-up for anybody who wishes to testify  
11 tonight, and background information related to this  
12 hearing is available there.

13 The public hearing procedures are as follows:  
14 First, Ian Munce from city staff will provide a briefing  
15 about the subject of Proposed Correctional Facility  
16 Permit Regulations.

17 After the staff presentation, I will open the call  
18 for oral testimony. We'll be going off the list that I  
19 just mentioned. Each speaker will have up to three  
20 minutes to make their comments. Testimony should be  
21 brief and it's not necessary to repeat testimony  
22 previously given by others. In short, we don't keep  
23 score of how many people say what on each side.

24 After the oral testimony, the public record will  
25 remain open and the Planning Commission will continue to

1 receive comments through Friday, January 5th, at 5 p.m.

2 At a future meeting, the Planning Commission will  
3 consider all oral and written testimony and we'll be  
4 forwarding a recommendation to the City Council. The  
5 City Council, in turn, may conduct a study session, hold  
6 a public hearing, and make a decision on the  
7 regulations.

8 Before I call on staff, I'll remind everybody that  
9 this is a public hearing. It is an opportunity for  
10 people in our community to offer testimony. It's not a  
11 discussion session. We're not providing -- this is not  
12 a question-and answer forum. And there will be no  
13 deliberation among myself or my four colleagues who are  
14 volunteers sitting on the Planning Commission. So we're  
15 not going to be discussing anything tonight.

16 With that, Mr. Munce.

17 MR. MUNCE: Mr. Chairman, members of the  
18 commission, members of the audience, the first thing I  
19 want to highlight is that the heading of this project is  
20 "Permanent Correctional Facilities." Commission members  
21 have raised the actual definition and it extends to  
22 "Correctional Facilities and Detention Facilities." I  
23 believe you'll hear some testimony about the need to  
24 perhaps clarify that further. So the definition is  
25 where we start, "correctional facilities" and "detention

1 facilities," we may need to treat the wording on that.

2 The fundamental question that the City has asked you  
3 to address and the public to comment on is which  
4 zones -- because we don't do neighborhoods -- which  
5 zones in the city is it appropriate to site correction  
6 and detention facilities. The current proposal -- the  
7 current language allows as an outright permitted use  
8 both those types of facilities in high-density  
9 residential areas, unlike manufacturing areas, as well  
10 as heavy industrial and port/maritime industrial. That  
11 last category is pretty much the Tideflats.

12 And so the first question is -- and you've -- a  
13 comment -- a proposal out there for public comment,  
14 which zones are appropriate. And the second one is what  
15 process is appropriate. Right now, if you meet the  
16 standard building and site requirements, you can build  
17 in certain zones as a matter of right.

18 The proposal for public comment is to change that  
19 and make it a conditional use. And my shorthand  
20 definition of a conditional use is this proposal might  
21 work in this location but not that location. It might  
22 work in this location with three conditions, it might  
23 work in that condition with five -- that location with  
24 five conditions. So the proposal is to limit the area  
25 where these two types of facilities can be located, and

1 to make sure that a conditional use process is followed  
2 that would go through a public notice process. Your  
3 proposal has a requirement for a presubmission meeting,  
4 community meeting, and this proposal also extends notice  
5 requirements to a thousand feet. So much wider  
6 involvement, conditional use opportunity for people to  
7 comment on whether this is right location and what the  
8 conditions should be.

9 And as the commission highlighted at your last  
10 meeting, there are a number of new comprehensive plan  
11 policies that you and others have put in place that will  
12 guide that conditional use process review. I've  
13 detailed those in my staff report. And without using  
14 the conditional use process those policies would not --  
15 as commission members are aware -- would not apply. So  
16 we have some new policies; conditional use allows those  
17 to be considered. So now the locations and expanding  
18 the public review and process is an essential part of  
19 this proposal.

20 Finally, in closing, I just want to highlight the  
21 process. It started with the City Council. Interim  
22 regulations came to the Planning Commission, you  
23 developed a good record and series of options for the  
24 council. The council then adopted some new interim  
25 regulations that are currently in place. And now we

1 have a proposal for permanent regulations that's up for  
2 public comment. After this hearing, the planning  
3 commission will deliberate as to what you ought to  
4 recommend to the City Council, and then they will take  
5 the issue up and there will be further opportunity for  
6 public comment.

7 So if it's appropriate, I would be happy to take  
8 questions now. Or I'm assuming at your next meeting  
9 you'll deliberate and we can address some questions, but  
10 I'm interested in hearing public comment. We've got  
11 several comments already that are in your package.

12 CHAIR WAMBACK: Great. Thank you,  
13 Mr. Munce.

14 So I have the first sign-up sheet. This is the  
15 first, and there is another one back there still. So  
16 there is still time to sign up. And I'll call off the  
17 first three names on the sheet. And if you signed up  
18 and you thought you were just signing up to get  
19 information and you don't want to speak, you don't have  
20 to come up to the microphone. We're not going to force  
21 you.

22 But the first three names I have on the list are  
23 Eric Paulson (phonetic), Rebecca Stith, and  
24 Nancy Farrell (phonetic). Eric Paulson. All right.

25 MR. PAULSON: Happy New Year, everybody.

1 UNIDENTIFIED MALE: Happy New Year.

2 MR. PAULSON: All right. So I want to  
3 apologize because I found out about this on a relatively  
4 short notice. But in reading through some of the  
5 language and listening to some of the things from  
6 Mr. Munce, there are some clarifications that I would  
7 like to see. I guess I should probably identify myself  
8 in a second.

9 But I would like to see -- there is a distinction  
10 between a correctional facility and a detention center.  
11 The Northwest Detention Center happens to fulfill both  
12 of those capacities, but I don't think they are equal.  
13 I think that when we have -- a correctional facility,  
14 that's typically for incarcerated people who have  
15 committed actual crimes, whereas a detention center is  
16 for housing immigrants that are in violation of  
17 administrative code. So I would like to see that  
18 addressed in future language of these drafts.

19 And then I kind of want to give you a little --  
20 maybe a little personal -- my name is Eric. I'm a  
21 social worker. I went to school here at UW Tacoma and  
22 UW Seattle. And I've done a little bit of stuff in the  
23 background at the Northwest Detention Center. And I  
24 will say their human rights record is an abomination as  
25 a for-profit correction facility and detention center.

1 They have been, like, constantly investigated for human  
2 rights abuses. And if we're going to talk about  
3 expanding their right to possibly make this place bigger  
4 or hold more inmates, I would say, is resonant of the  
5 City of Tacoma that we should reject that and not allow  
6 any more growth. But that's going to be left up to you.

7 I would say that there are -- there are ways that  
8 are far more effective to deal with the immigration  
9 issue. We don't have to lock them up. It's very  
10 expensive. It's around \$165 a day to keep them at the  
11 Northwest Detention Center. We pay them a retainer  
12 every year of about 44 million, regardless of whether or  
13 not they have people in them or not. And I think that  
14 the idea of having a for-profit detention center or  
15 correctional facility anywhere else in Tacoma is against  
16 the values of most Tacomans and is not something we  
17 should even consider.

18 These facilities, they break up families, they put  
19 unnecessary strain on these immigrants. And like I  
20 said, there are other less expensive ways to do it. So  
21 anyway, I would like to give the balance of my time to  
22 Rebecca Stith. She has a far better grasp on the  
23 intricacies you guys are discussing, but thank you for  
24 your time.

25 CHAIR WAMBACK: Thank you. So there is no

1 procedure for giving the balance of time. But Rebecca  
2 Stith is next on the agenda.

3 MS. STITH: I'll try to talk really  
4 quickly, four minutes and three.

5 My name is Rebecca Stith. I'm a resident of Tacoma.  
6 I'm a commissioner on the Human Rights Commission here.  
7 I'm also a civil rights attorney of almost 30 years.  
8 I'm not an immigration attorney, but I did talk with  
9 Tim Warden-Hertz at the Northwest Immigrant Rights  
10 Project about what I'm going to say tonight. And I do  
11 have, obviously, a lot of experience interpreting  
12 regulations and laws in the course of my career.

13 Correctional facility, which is what I'm going to  
14 focus on. Typically, it would mean a facility where  
15 people have been adjudicated as felons. Sometimes a  
16 more expansive definition would include jails where  
17 people are awaiting trial on charges or serving  
18 misdemeanor sentences.

19 I know there is some concern in the community that  
20 you've used the word "correctional" in the interim reg  
21 and may carry it forward to a permanent reg that you  
22 recommend to the City Council that somehow this would  
23 undermine the attorney general's class action suit.

24 There is also a private class action minimum wage  
25 suit that's pending. I'm less concerned about that, as



1 long as you define the word "correctional" expansively,  
2 which I believe there was an attempt to do in the  
3 interim reg. The interim reg added the words "or  
4 detention." And the only possible phrase following that  
5 that would include detainees at the immigration  
6 facility, which is the Northwest Detention Center, would  
7 be federal, state, or local warrant. However, there are  
8 detainees there who are not under warrant. And the  
9 history of that language really means criminal warrants.

10 So even in those instances where an immigration  
11 warrant has been issued, a smart attorney could argue  
12 that that's not including detainees at the Northwest  
13 Detention Center. So if your intent is to include  
14 detainees at the Northwest Detention Center, as your  
15 able staff person mentioned, tweaking the language might  
16 be in order. And one suggestion I would make is that  
17 you say -- at that phrase "incarceration or detention of  
18 persons under federal, state, or local warrant, or  
19 administrative detention." Because they are  
20 administratively held. They are not held under criminal  
21 law. And, believe me, I would argue against the current  
22 wording if I were on the other side. Thank you. Is  
23 that the end?

24 CHAIR WAMBACK: Pardon?

25 MS. STITH: I just heard a banging.

1 CHAIR WAMBACK: No. No. No.

2 MS. STITH: Sorry.

3 CHAIR WAMBACK: You still have a minute  
4 and 30 seconds.

5 MS. STITH: Okay. I've pretty much made  
6 the point.

7 And as to -- I know there is some other concerns.  
8 The gentleman before me stated there is federal law that  
9 indicates that ICE can only make contracts with state or  
10 local entities to house administrative detainees under  
11 immigration law. And obviously it has a contract,  
12 GEO Group, which is a private for-profit company in a  
13 facility that it owns. And that statute, if you want to  
14 have the city attorney look it up, is 8 U.S. Code  
15 1103(a)(11)(A)(B). ICE only has authority under federal  
16 law to make contracts with state or local entities. So  
17 this hasn't been pursued anywhere in litigation across  
18 the country, but I thought I would bring it to your  
19 attention since I have this opportunity. Thank you.

20 CHAIR WAMBACK: Thank you. So next on  
21 your list Nancy Farrell, followed by Mamauro Vielpando  
22 (phonetic). Nancy.

23 MS. FARRELL: Thank you.

24 CHAIR WAMBACK: You're welcome.

25 MS. FARRELL: I've included a letter or it

1 was included that I had written. I am not sure the  
2 commission really knows what human rights violations are  
3 occurring at this GEO-owned prison. And that the  
4 detainees who have done nothing wrong -- most of them  
5 have done nothing wrong in their lives, other than the  
6 stupid things we have done are being arrested for having  
7 a taillight out. This is so against justice. And GEO  
8 is making money hand over fist. And they don't deserve  
9 to have another building because they will fill it up.

10 And it is the children. I am a retired teacher, so  
11 I am affected very much by the children. These children  
12 are growing up without a father usually -- occasionally  
13 it's the mother, occasionally it's both. What are these  
14 children going to do without a father? They are going  
15 to become in gangs because they are going to find  
16 affection somewhere.

17 So I would just ask the Planning Commission to  
18 consider the human rights violations that were occurring  
19 less than a mile from here. Listen to the stories,  
20 familiarize yourselves before making this decision.  
21 Thank you.

22 CHAIR WAMBACK: Thank you. And  
23 Mamauro Vielpando, and then Megan Ybarra and  
24 Richard Lovering. And I'll remind everybody that the  
25 Planning Commission will only be making a recommendation

1 to the City Council. The actual final decision is --  
2 all we are is an advisory body so the decision isn't  
3 ours to make. And if you read through the packet, one  
4 thing when this matter came before the Planning  
5 Commission, we were, depending on how you look at it,  
6 either unable or unwilling to make a recommendation to  
7 the City Council earlier this year. So we're not the  
8 decision-makers.

9 MS. VIELPANDO: But you're influencing the  
10 decision.

11 And yeah, so my name is Mamauro Vielpando. I'm here  
12 on behalf of the Northwest Detention Center Resistance.  
13 We are a grass-roots group volunteer that have been  
14 fighting against Northwest Detention Center. And we  
15 will be submitting to you a letter and close to 600  
16 signatures asking you to recommend not to define NWDC as  
17 a correctional facility.

18 Just last year we had nine hunger strikes at the  
19 detention center. Nine. That is not counting the  
20 others that we have had since our participation with  
21 people detained since 2014.

22 Due to that number of hundreds of people going on  
23 hunger strikes to demand the public to find out, to pay  
24 attention to the inhumane conditions they are facing as  
25 people that are going through the deportation

1 proceeding, the attorney general, Bob Ferguson, decided  
2 to file a lawsuit in regards to the dollar-a-day work  
3 program. And as you heard before, changing the  
4 denomination of the detention center as a correctional  
5 facility will impact this lawsuit.

6 we've heard these demands from people detained again  
7 and again where they are working while being in a  
8 detention, supposedly many times because people don't  
9 have a Social Security number. You know, they get  
10 caught and then the government, it's okay with them  
11 working for a dollar a day for a private corporation.

12 Now, the attorney general is emphasizing that this  
13 is a business. GEO is a business and therefore should  
14 pay the minimum wage of \$11 per hour. If these lawsuits  
15 go through, we will have, if not hundreds, maybe  
16 hundreds of thousands of people that will benefit and  
17 they could actually argue their own cases for wage  
18 theft. Because they were detained, they worked for a  
19 dollar a day, they were victims of wage theft. So we're  
20 asking you to not help GEO avoid their responsibility of  
21 paying this minimum wage for current and past and future  
22 detainees.

23 But if this has nothing to do with a lawsuit, why  
24 now? why having this decision now? why not wait for  
25 that process? So just to end, for the lawsuit process

1 to end, so then later make a decision on that if that's  
2 what you think should happen.

3 And most importantly, we heard again and again where  
4 people call us from the detention center, or relatives,  
5 they always say, "I'm detained in Tacoma." They never  
6 say, "I'm detained in NWDC." Tacoma has become a  
7 synonym of detention across the nation. And I recommend  
8 for you not to help GEO anymore, not to make more money,  
9 and to stop changing Tacoma and to stop becoming the  
10 synonym of detention. Thank you.

11 CHAIR WAMBACK: Megan Ybarra,  
12 Richard Lovering, and Chris Herditz (phonetic).

13 MS. YBARRA: My name is Megan Ybarra and  
14 I'm actually a professor at UW Seattle. As some of you  
15 might know, I currently have an undergraduate student  
16 from UW Seattle who has been detained in the Northwest  
17 Detention Center since mid-September. He's one of over  
18 one thousand people there. And so I'm here today  
19 because of my solidarity with him, other detained  
20 immigrants, and their families.

21 My concern about the need to clarify the definition  
22 of correctional facilities has to do with the ways in  
23 which the interim regulations have changed over time.  
24 And honestly, I'm a little bit confused about this. My  
25 understanding at first was that City Council asked to

1 halt expansions of all detention and correctional  
2 facilities until a more transparent public process was  
3 put in place.

4 I know that last summer GEO Group filed a complaint  
5 before the central Puget Sound Growth Management  
6 Hearings Board and sort of said that they would hold the  
7 opportunity to sue later, later sort of withdrew that  
8 complaint, and it's not clear to me whether and to what  
9 extent that complaint affects the interim regulations,  
10 and I would really appreciate the opportunity to learn  
11 more about that.

12 And this is because GEO alleged, with significant  
13 documentation, that the City of Tacoma used to offer the  
14 detention center preferential treatment and is concerned  
15 that the current regulation process will hinder their  
16 business.

17 Also since the initial interim hearing -- or the  
18 interim regulation was in place, the attorney general  
19 filed a lawsuit that states that the Northwest Detention  
20 Center is not a correctional facility and is in  
21 violation of minimum wage law.

22 Given this, I request that the Planning Commission  
23 be careful in recommending regulations that do not allow  
24 for a declaration of immigrant detention centers as,  
25 quote-unquote "correctional facilities." If the intent

1 is to increase public scrutiny and transparency, the  
2 regulation must distinguish between immigrant detention  
3 centers and correctional facilities, perhaps even  
4 calling for greater opportunities for checking  
5 environmental and health standards in privately run  
6 facilities on private property, as they are not  
7 currently allowed.

8 In terms of the zoning component, it is my firm  
9 belief that the only zones that are appropriate for  
10 residential facilities are those that are zoned  
11 residential. Any site that is hazardous, port maritime,  
12 or high industrial is not conducive to human health and  
13 people should not be forced to live there against their  
14 will.

15 As Vice Chair Petersen has noted in previous  
16 comments, this regulation process is an opportunity to  
17 strengthen the City of Tacoma's commitment to  
18 environmental justice and health equity. To the  
19 contrary, some of the versions of the proposed  
20 regulations that I've seen would seem to zone  
21 residential facilities into places that would expose  
22 people to greater light, noise, and potentially  
23 significant environmental harm. I hope that the  
24 Planning Commission will take that into account very  
25 seriously. Thank you.



1 CHAIR WAMBACK: Thank you. Okay.

2 Richard Lovering.

3 MR. LOVERING: Hi. I'm a Tacoma resident.  
4 I made, with my friend Andrew, a short documentary about  
5 the detention center called "Imprisoned For Profit."

6 I think it's evil. It is evil. And I pardon  
7 anybody who might take offense at the term, but what  
8 they are practicing out there is slavery. And so as a  
9 consequence, it is a terrible blot on the escutcheon of  
10 Tacoma. Period.

11 And anything that can be done to get them out of  
12 town -- I mean, I would like to make detention centers  
13 disappear in the United States -- but anything that can  
14 be done to get them out of town -- and don't associate  
15 them, please, with prisons where essentially you have a  
16 notion of due process because they have no due process.

17 You now, with the DACA program being shut down, have  
18 the prospect of having UWT students, who are Dreamers,  
19 being essentially rounded up by Trump's storm troopers  
20 and dumped into this facility with no sentence, no due  
21 process, no prospect for getting out, no right to a  
22 lawyer. Essentially any help that they can get is due  
23 to the people of good will, like the previous speaker  
24 and others who take an interest. This is a terrible,  
25 terrible thing. And I would advise you, if you can, to

1 make all prospects for it to be smaller, not larger.

2 I think that this has kind of snuck up on us and now  
3 it is conflated with the LNG plant. So these people  
4 who, through no fault of their own, are there, now have  
5 the prospect of having this enormous bomb next to them,  
6 and they will be burned to a crisp. The protocols there  
7 for evacuation in the event of anything, earthquake or  
8 flood or volcanic eruption or accident is "shelter in  
9 place." The employees go; the prisoners stay there.  
10 And that is like a small nuclear device. If it went,  
11 those people would be toasted. So please keep this in  
12 mind. Thank you.

13 CHAIR WAMBACK: Thank you. Chris Veretis  
14 (phonetic), Deirdre Wilson, and Kathy Lawhorn  
15 (phonetic).

16 MS. VERETIS: Hi. Good afternoon. I'm a  
17 Tacoma resident and I would like to start off by  
18 respectfully disagreeing with the options analysis where  
19 it states that the correctional facility definition  
20 captures detention centers. I think a lot of speakers  
21 before me have made that point.

22 I also wanted to go on and point out that last year  
23 there was actually a youth that had DACA and so  
24 shouldn't have been deported that was deported. So not  
25 only are people at the center people that haven't

1 necessarily committed crimes, but they are people that  
2 should have, in some cases, permission to stay, and at  
3 other cases at other detention centers there have been  
4 American citizens who have been detained. So I don't  
5 think it at all is compatible with a correctional  
6 facility.

7 So I think, like the gentleman that works for the  
8 (inaudible) says, it's important to change the language  
9 to reflect what you mean. So say what you mean and mean  
10 what you say.

11 I'm also not sure I understand the urgency of the  
12 issue. From reading over the regulations, it seems that  
13 the interim regulations are in place until March. And  
14 I'm still not clear whether we have received any  
15 feedback from the Puyallup Nation.

16 One other point I would like to see considered  
17 further is, is the area safe? I know that there are a  
18 lot of community groups that come to provide services to  
19 people leaving the facility or people visiting the  
20 facility. But it doesn't seem very walkable. It  
21 doesn't seem very well-lit. And I think if we're going  
22 to look at a facility being in that location, they  
23 should be making sure that it's a safe area,  
24 neighborhood, whatever you want to call it. Thank you.

25 CHAIR WAMBACK: Thank you.

1 Deirdre Wilson, followed by Kathy Lawhorn,  
2 John Washington.

3 MS. WILSON: Good evening. I'm  
4 Deirdre Wilson. I'm here speaking on behalf of the Port  
5 of Tacoma. And I just have a couple of observations and  
6 points to make.

7 The proposal to have this use restricted to M, to  
8 M-PMI is concerning. Port maritime industrial policies  
9 and the City's own comp plan discourage nonindustrial  
10 uses from locating in the PMI zoning classification.  
11 And although correctional facilities are an essential  
12 public facility, they are in no way related to the port  
13 maritime industry. The recent process of adopting  
14 interim regulations for the Tideflats concluded that  
15 nonindustrial uses should be restricted from encroaching  
16 upon limited industrial lands.

17 And then one final note, I have a history of working  
18 on consolidation of regulations with Pierce County for  
19 several years. And it's concerning to me to see the  
20 City proposing a new permit type specific to one use and  
21 notice requirements again specific to one use. That  
22 adds complexity to the code that I think is unnecessary.  
23 Thank you.

24 CHAIR WAMBACK: Thank you. Kathy, then  
25 John Washington and then we'll be going on the second

1 list at that point.

2 MS. LAWHORN: My name is Kathy Lawhorn, I  
3 live on the Hilltop.

4 I ask the commission not to prohibit correctional  
5 facilities for multifamily zoning districts. All people  
6 have a right to live in safe, healthy places.

7 Residential facilities should be sited in places that  
8 are zoned residential. By "residential," I refer to  
9 prisons, juvenile detention centers, and any group  
10 housing.

11 Zoning group housing out will expose residents to  
12 light, noise, and other forms of pollution. This is a  
13 particular concern for facilities that are privately  
14 owned and operated, as we have seen with recent public  
15 outcry and protests over the proposed LNG facility.  
16 This is because companies operating on private property  
17 have in some cases denied city, county, state, and  
18 federal authorities access to samples in order to test  
19 soil, water, and air vapors to ensure that resident  
20 health will not be negatively affected.

21 This thing about toxic soils is really important  
22 because I hope you guys know there is a huge mound  
23 immediately adjacent -- if you're facing the entrance of  
24 the facility to the right -- that's a toxic dump. It's  
25 supposed to be flat down there; it's tide flats, but

1       it's a huge pile of toxic God-knows-what. Yes. So  
2       toxic is a problem. These are human beings.

3               GEO Group, by the way, as been hinted to before,  
4       were major distributors to Donald Trump, to his  
5       campaign, to his inaugural slush fund, most of which has  
6       not been accounted for and was not needed where he  
7       raised so much money there.

8               This is a scar on our community. It's outrageous.  
9       I don't know how it came to be here. And the racism  
10      that was involved in that decision, it just boggles my  
11      mind. And I ask this commission and this city to do  
12      everything possible to shut this thing down. This is  
13      Trump on steroids.

14              And the LNG facility, by the way, if it should blow,  
15      and there is so many entirely plausible scenarios --  
16      8 million gallons of LNG, by the way, is the equivalent  
17      of 50 Hiroshima bombs in energy. That's from a chemical  
18      engineer who can do math and I cannot.

19              So not only would it kill those people, they would  
20      be helpless and unable to save themselves in a matter of  
21      minutes. It's on two earthquake faults, right? The  
22      LNG, which is maybe a mile across. If you drive, it's  
23      two miles. It's on two earthquake faults. It's in a  
24      tsunami zone. It's in the line of the lahar. It's a  
25      perfect target because it could kill tens of thousands

1 of people in a matter of minutes.

2 Please, please do whatever you can to get rid of  
3 this damn thing. Thank you.

4 CHAIR WAMBACK: Thank you. So next I have  
5 John Washington and Liesl Santkuyll and Norma Ramirez.  
6 John Washington. No? Last call for John. Okay, Liesl.  
7 And I apologize --

8 MS. SANTKUYL: You did pretty well. Good  
9 evening.

10 CHAIR WAMBACK: Good evening.

11 MS. SANTKUYL: Thank you for letting me  
12 speak tonight. My name Liesl Santkuyll, and I'm a  
13 long-term resident and citizen of Tacoma. And I am a  
14 member of Latinx Unidos of the South Sound, which has  
15 been working in the last year-and-a-half on town halls  
16 and getting the voice of the Latino community into the  
17 city understanding what is going on for our community.  
18 And I am an immigrant as well.

19 Although I am very grateful to the council members  
20 that enacted emergency interim zoning regulations  
21 pertaining to correctional facilities so that it would  
22 make it more difficult for the detention center right  
23 under Tacoma Tideflats to expand, I am concerned that we  
24 may need to look at the changing definition to make the  
25 detention center defined as a correctional facility.

1           Please don't change the municipal code to say that  
2           the detention centers are only correctional facilities.  
3           This may allow GEO Group to avoid paying state minimum  
4           wage to detain immigrant workers.

5           In September 2017, the Washington state attorney  
6           general filed a lawsuit against GEO for failing to pay  
7           minimum wage, and GEO currently claims it does not need  
8           to pay workers minimum wage because it is a detention  
9           center and -- it's a detention center, it is a  
10          correctional facility.

11          I agree with our state AG that correctional  
12          facilities are for those going through the criminal  
13          justice system and not administrative immigrant  
14          proceedings.

15          If Tacoma permanently changes this municipal code,  
16          GEO can use this change as evidence it should get to  
17          continue to pay people \$1 a day or less.

18          I know that you want to help our immigrants and that  
19          most of what is in this proposal is spot-on to help  
20          prevent an escalation of growth at the detention center  
21          facility. Please remain vigilant and firm that we do  
22          not allow growth at the facility or an expansion of the  
23          detention center. You know that it discourages our own  
24          immigrant residents from fully participating as active  
25          residents and citizens of Tacoma. This type of policy



1 work is right on track, but please be very careful not  
2 to play into GEO's plan. Please keep regulation to  
3 check growth while making sure not to define the  
4 detention center as a correctional facility.

5 Thank you for considering the fear this detention  
6 center places on all our immigrant families, the  
7 distrust it engenders, the way it tears our families  
8 apart for long months and even years at a time. I know  
9 you want to help our families feel welcome and want to  
10 build trust. Just be careful about what the policy  
11 implications will be if it is called a correctional  
12 facility.

13 As I look at the zoning regulations and the changes  
14 that have been made -- and it is confusing -- I do think  
15 that you are on the right track with continuing remove  
16 public correctional facilities as a permitted use in  
17 multifamily and light industrial zoning districts. So I  
18 like that.

19 Continuing to modify how public correctional  
20 facilities are permitted by requiring approval of  
21 conditional use permit concerns me as well. And I worry  
22 about getting too specific and not having a code that is  
23 so complicated that the average citizen doesn't  
24 understand it.

25 Thank you for your work in this area. I really

1 appreciate it. Thank you.

2 CHAIR WAMBACK: Thank you. Norma Ramirez  
3 and Leah Montagne.

4 MS. RAMIREZ: Hello. I'm Norma Ramirez.  
5 I'm a retired Tacoma schoolteacher. I worked with  
6 English-as-a-second-language kids, and I continue to  
7 work with immigrant families as a volunteer.

8 I appreciate the Planning Commission's  
9 recommendation to prohibit new private correctional  
10 facilities and the expansion of existing correctional  
11 facilities. However, the Northwest Detention Center is  
12 not a correctional facility. To define it as a  
13 correctional facility could potentially impact the state  
14 of Washington's wage lawsuit against GEO.

15 I would like to know how, exactly, rezoning the  
16 Northwest Detention Center as a correctional facility  
17 would benefit citizens of Tacoma and the people who are  
18 inside the detention center.

19 Please wait to recommend to rezone the Northwest  
20 Detention Center until after the state's lawsuit against  
21 GEO is resolved by the courts. Thank you.

22 CHAIR WAMBACK: Thank you. Leah.

23 And as Leah approaches the microphone, she is the  
24 last person who is signed up on the list. If there is  
25 anybody else -- is there a third list back there,

1 Mr. Wung? He's checking on the list. If you haven't  
2 signed up and -- if you haven't spoken already and you  
3 still want to speak, there is one more list back there  
4 that no one has signed up for. So...

5 MS. MONTAGNE: All right. Hello. I'm  
6 Leah Montagne. I'm speaking on behalf of the Coalition  
7 of Anti-Racist Whites. It's a Puget Sound but mainly  
8 Seattle-based organization. It's a racial justice  
9 organization that organizes white people around racial  
10 justice causes. Funnily enough, it doesn't often lead  
11 us into Planning Commission meetings.

12 I'm also an alumni of the University of Washington  
13 Tacoma. I got a master's degree there in 2015, and went  
14 on to continue my graduate studies, and now I'm studying  
15 borders and interior immigration enforcement. So I'm  
16 also speaking with that kind of background.

17 Thank you for the opportunity to provide comment at  
18 this public hearing. In many ways, I applaud the spirit  
19 of this draft code amendment. I do applaud the City's  
20 decision to make private correctional facilities an  
21 unpermitted use in all zoning areas, if I understand  
22 that correctly.

23 I urge you to reconsider allowing public  
24 correctional facilities in industrial areas, though.  
25 There are, as others have mentioned, environmental

1 hazards associated with having residential facilities,  
2 such as correctional facilities, located in industrial  
3 districts.

4 But my main concern today, along with others, is the  
5 way that the draft code amendments are defining  
6 correctional facility. And I would urge the  
7 Planning Commission and all other relevant government  
8 bodies in Tacoma to tune in to this. I'm actually here  
9 to urge you to not define immigration detention  
10 centers -- whether public or private, that's not the  
11 relevant distinction here -- as correctional facilities.

12 The draft code amendment says that, "A correctional  
13 facility is a publicly owned and operated facility or a  
14 privately owned facility operated under contract with a  
15 government agency for the incarceration or detention of  
16 persons under federal, state, or local warrant awaiting  
17 trial on federal, state, or local felony or misdemeanor  
18 charges, convicted of federal, state, or local charges,  
19 but not yet sentenced, or serving a federal, state, or  
20 local sentence upon conviction. This definition  
21 includes prerelease facilities," and et cetera.

22 Now from Ordinance 28417, I'm to understand that the  
23 correctional facility regulations are being amended  
24 because of concerns about the immigration detention  
25 facility in Tacoma. And by my read, that detention

1 facility actually isn't covered in these correctional  
2 facility regulations that you've presented to us at all  
3 by this definition.

4 And so it does need to be revised. And as you do  
5 revise it, I do strongly urge you to take into account  
6 the importance of this definition defining a detention  
7 center not as a correctional facility for Attorney  
8 General Bob Ferguson's wage lawsuit.

9 So we do want to protect labor laws here in  
10 Washington state and in Tacoma and that means holding  
11 off on defining detention centers as correctional  
12 facilities.

13 The time is up. I had more to say. I'm going to  
14 submit this in written comments, though.

15 CHAIR WAMBACK: Thank you. All right. So  
16 nobody else has signed up. Going once. I don't see  
17 anyone running to the sign-in table.

18 All right. So with that I am going to -- I need to  
19 get to my script here. I'm going to close the public  
20 hearing, reminding everybody that there still is an  
21 opportunity to submit written comments to the City by  
22 Friday, January 5th at 5 p.m. So I want to thank  
23 everybody for their time.

24 As we mentioned at the beginning, the Planning  
25 Commission is not going to be deliberating on this topic

1 today. However, I would like to extend the opportunity  
2 to the planning commissioners -- so since staff is going  
3 to be coming back with a synopsis of -- we'll have all  
4 the public comments, we'll have a transcript -- not a  
5 transcript -- we'll have notes from this, we'll have  
6 written things submitted. Staff will be possibly making  
7 changes.

8 But I want to ask the planning commissioners if they  
9 have anything that, based upon what they heard today,  
10 they would like the staff to be working on before this  
11 comes back to us?

12 So I have a list.

13 UNIDENTIFIED MALE: You came prepared.

14 CHAIR WAMBACK: I came prepared. And most  
15 of these are actually based upon what we heard tonight.  
16 Before I will be comfortable scheduling this for a  
17 Planning Commission vote, I would like to have a full  
18 detailed legal analysis from the City determining  
19 whether any action is going to cause any prejudice in  
20 any pending lawsuits relating to the people in this  
21 facility, the lawsuits pending by the state attorney  
22 general, or any other pending lawsuits. So I need to  
23 have written documentation from the City that we're not  
24 stepping into it.

25 I would like to have information -- we heard about a

1 potential challenge before the Growth Management  
2 Hearings Board. We need a written analysis from the  
3 City on that before the Planning Commission can take an  
4 action.

5 In the staff memo there were sections on page 3 of  
6 the memo -- not page 3 of the memo -- yeah, page 3,  
7 under "Policy Framework," under Sections B and C, there  
8 are statements that it's, "It is less clear as to how  
9 simply adding additional public participation  
10 requirements," et cetera, et cetera, et cetera. And  
11 then, "It is less clear as to how" -- actually, the same  
12 thing is repeated under Section C.

13 And these are -- staff is calling our attention to  
14 that in the current proposal on the table doesn't  
15 actually support the comprehensive plan. I would  
16 appreciate seeing a staff recommendation as to language  
17 that would support the comprehensive plan. If the  
18 implication is that what we have on the table isn't  
19 supportive, staff has an obligation to provide us with  
20 something that is supportive.

21 On page 4 of the staff memo, under "Options  
22 Analysis," discussing essential public facility, there  
23 is a broad spectrum of opinion as to how this category  
24 can and should be applied to essential facility  
25 requests. I would like to -- I think the Planning

1 Commission needs to see all the various options laid out  
2 before it, including any legal analysis and the name and  
3 credentials of city attorneys that have weighed in on  
4 whether this private facility is an essential public  
5 facility or not because I think that's a question that  
6 wasn't answered previously for the commission.

7 I think we need to know what happens if the  
8 regulations lapse, what regulations go -- if we don't  
9 act before, and the City Council doesn't act before  
10 March 8th, what happens? And then I think the Planning  
11 Commission, based upon what we heard tonight, would  
12 appreciate seeing alternative definitions, including a  
13 splitting of the definition between -- a definition for  
14 correctional facility and a definition for a detention  
15 facility.

16 Now, I don't know what the Planning Commission is  
17 going to do with all of that, but I do think, based upon  
18 the issues that have been raised and thinking back to  
19 our inability to make a decision or make a  
20 recommendation on this previously, I think these pieces  
21 would fill in the gap on that. Recognizing that we have  
22 different staff working on that now. You weren't  
23 working on this earlier, I know that.

24 So now that I've gone through my laundry list, any  
25 other things? Other commissioners, things jump out for



1       you that you would like to see before we take this  
2       matter up again?

3           All right. So I'll remind everybody that you have  
4       until Friday, January 5th, to submit your written  
5       comments to the City. And on behalf of the Planning  
6       Commission we very much appreciate you being here  
7       tonight and we look forward to seeing what you submit in  
8       writing. So thank you.

9           (Conclusion of requested testimony.)

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C E R T I F I C A T E

I, Laura Gjuka, a Certified Court Reporter in  
and for the State of Washington, residing at  
University Place, Washington, authorized to administer  
oaths and affirmations pursuant to RCW 5.28.010, do  
hereby certify;

That the foregoing Verbatim Report of Proceedings  
was taken stenographically before me and transcribed  
under my direction; that the transcript is a full, true  
and complete transcript of the proceedings, including  
all questions, objections, motions and exceptions;

That I am not a relative, employee, attorney or  
counsel of any party to this action or relative or  
employee of any such attorney or counsel, and that I am  
not financially interested in the said action or the  
outcome thereof;

That upon completion of signature, if required, the  
original transcript will be securely sealed and the same  
served upon the appropriate party.

IN WITNESS HEREOF, I have hereunto set my hand this  
5th day of January, 2018.

\_\_\_\_\_  
Laura Gjuka, CCR No. 2057

## Appendix H

---

**From:** Fosbre, Bill (Legal)  
**Sent:** Friday, February 17, 2017 4:08 PM  
**To:** Pauli, Elizabeth (Legal)  
**Subject:** A federal judge declined Friday to release “Dreamer” Daniel Ramirez Medina

**A federal judge declined Friday to release “Dreamer” Daniel Ramirez Medina, picked up in Des Moines last week. His lawyers and the government have given vastly differing accounts of who he is and the details surrounding his arrest and detention.**

## Share story

---



By

[Nina Shapiro](#)

*Seattle Times staff reporter*

Lawyers for detained “Dreamer” Daniel Ramirez Medina went to court Friday [seeking his immediate release](#) and calling his arrest in a Des Moines apartment unconstitutional. A federal magistrate ruled he wasn’t empowered to free Ramirez without giving an immigration judge a “first crack.”

But in a case that he said had far-reaching implications about federal policy regarding Dreamers, Chief Magistrate Judge James Donohue took the unusual step of requiring that a bond hearing in immigration court be held within a week.

U.S. District Court does not usually exercise authority over the immigration court system.

Lawyers and supporters of Ramirez said they were disappointed the 23-year-old would not be freed, but took heart in the call for an expedited schedule.

Mark Rosenbaum, a Los Angeles attorney helping to represent Ramirez, also noted that the magistrate said that if immigration court does not hold a hearing within a week, Ramirez’s attorneys could come back to his courtroom.

The magistrate also set a briefing schedule to consider whether the federal court has jurisdiction to consider the merits of the case. The government has argued that it doesn’t, and that Ramirez’s removal proceedings belong only in immigration court.

After the hearing on the courthouse steps, where people demonstrated support for Ramirez and spilled into the street, his lawyers talked to reporters.

“Daniel is just like me,” said Luis Cortes Romero, a Kent-based attorney who is himself a Dreamer.

In another development, Ramirez’s attorneys on Thursday evening said a note from Ramirez, who is being held at the Northwest Detention Center, was altered to make it look like he was admitting gang membership.

Rosenbaum said the alleged note tampering was “one of the most serious examples of government misconduct” he has seen in 40 years of practice.

Rose Richeson, a spokeswoman for U.S. Immigration and Customs Enforcement (ICE) has not responded to the allegation.

The accusation about the note is the latest controversy in a case marked by contradictions and speculation over what it may reveal about President Donald Trump’s immigration policies.

In the past couple of days, the federal government and attorneys for Ramirez, as well as the young man himself, have given vastly different versions of who he is and what he said under questioning.

## **The note, the tattoo**

Briefs submitted by both sides Thursday fleshed out their varying accounts of what happened since agents took Ramirez into custody. Ramirez, the father of a 3-year-old, was brought illegally to this country when he was 7 and later given authorization to live and work here under President Barack Obama’s Deferred Action for Childhood Arrivals (DACA) program. ICE agents arrested him Feb. 10, accusing him of being a gang member, which would void his DACA status.

In the brief submitted by Ramirez’s lawyers late Thursday, and in a subsequent conference call with news reporters, Ramirez’s lawyers said the young man submitted the note to detention officials to get out of a gang unit he had been placed in.

According to the lawyers, Ramirez’s note, as written began: “I came in and the officers said I have gang affiliation ... so I wear an orange uniform.”

The first part of the note was erased, according to his lawyers, who provided a copy with their brief of what they said was the tampered note. It began, “I have gang affiliation ...”

Altered or not, the note still ended with him repeating that he was not affiliated with gangs.

According to the government brief, ICE agents arrested Ramirez in a Des Moines apartment around 8:30 a.m. last Friday. They were targeting not the 23-year-old but his father, who had previously been deported eight times, convicted of narcotics trafficking and sentenced to roughly a year in prison in this state, the government said.

While there, the agents found Ramirez sleeping on the living-room floor, according to the government brief. Asked by an agent if he had ever been arrested, Ramirez said “yes,” the brief said.

At that point, the agent arrested him.

It was later, while being interviewed at an ICE holding facility, that agents asked Ramirez if he had been involved in any gang activity.

“No, not no more,” said Ramirez, according to the brief.

The agent pressed on with that line of questioning in relation to what an agent’s report called a “gang tattoo.” That tattoo on his left arm read [“La Paz BCS.”](#)

At that point, the agent’s report said, Ramirez added that he “used to hang out with the Sureno’s in California,” fled that state to escape gangs, yet “still hangs out with the Paizas in Washington state.”

The agent concluded that Ramirez no longer qualified for the DACA program due to gang association and he was taken to the detention center.

## **“You cannot take me”**

A declaration by Ramirez, filed with his lawyers’ brief, differs in details big and small from the government’s account. It said he was sleeping on a couch, not the floor in the apartment when agents found him, and he was handcuffed immediately after saying he was born in Mexico. The cuffs stayed on, Ramirez said, after he told them “I have a work permit. You cannot take me.”

Then, they started asking him about gang affiliation.

“It felt like forever,” he said in the declaration. “I felt an intense amount of pressure, like if I did not give them something, they would not stop. So, I told them that I did nothing more than hang out with a few people who may have been Sureños, but that since I became an adult I have not spoken with any of those people.”

He said they zeroed in on his tattoo, which they assumed was related to gangs, but he said actually signified the place of his birth: La Paz, the capital city of Baja California Sur, abbreviated by the initials “BCS” on the tattoo.

Rosenbaum, in the conference call, called the gang accusation racist and an attempt to cover up a mistaken arrest.

“He has picked the fruit that all of us eat,” added the L.A.-based Rosenbaum, noting that Ramirez was a farmworker in California before moving here about a month ago. In his declaration, the Dreamer said he was looking for a way to provide for his son, perhaps working in auto repair.

As yet, nobody knows whether the case signifies anything about Trump’s plans for Dreamers.

Trump promised to end the program during the campaign, and when he was elected, [many Dreamers feared](#) the president would seek to deport them.

In a [news conference Thursday](#), Trump called DACA “a very, very difficult subject for me ... It’s one of the most difficult subjects I have because you have these incredible kids.”

His administration continues to approve new applications and renew existing DACA permits, said Cortes Romero.

“As far as we know, there hasn’t been a situation like this,” said Cortes Romero, adding he was inclined to believe it was “just a one-time circumstance.”

Jorge Barón, executive director of the Northwest Immigrant Rights Project, isn’t so sure. “I do think this kind of situation would not have happened under Obama,” he said.

He said he worried that an [under-scrutinized executive order](#) issued by Trump during his first week in office sent a signal to immigration officers to step up their enforcement efforts — and gave them broad discretion about whom to target. That order, which contained more-widely publicized provisions aimed at [punishing “sanctuary cities”](#) like Seattle, outlined new priorities for immigration enforcement.

They included deporting undocumented immigrants charged with any criminal offense, whether they were convicted or not. What’s more, the order also licenses immigration officers to remove anyone who, in their judgment, poses a risk to public safety or national security.

“That could be anything,” said Barón, saying such broad leeway invites abuse.

The Department of Homeland Security has not linked Ramirez’s arrest to Trump’s order, however. In a statement, it pointed to longstanding guidelines in the DACA program saying that participation can be terminated at any time for those found to be a threat. Reasons include criminal activity and gang membership.

Since 2012, the statement said, 1,500 Dreamers have had their permits revoked for such reasons.

Nina Shapiro: 206-464-3303 or [nshapiro@seattletimes.com](mailto:nshapiro@seattletimes.com). On Twitter [@NinaShapiro](https://twitter.com/NinaShapiro)

**Bill Fosbre**  
**Acting City Attorney**  
**City of Tacoma**  
**PO BOX 11007**  
**3628 S. 35<sup>th</sup> St.**  
**Tacoma, WA 98411**  
**(253) 591-5632 (Tacoma Municipla Building on Monday, Tuesday, Thursday, Friday)**  
**(253) 502-8218 (TPU building on Wednesday)**  
**FAX (253) 502-8672**  
**[Bill.Fosbre@CityofTacoma.org](mailto:Bill.Fosbre@CityofTacoma.org)**

**From:** Fosbre, Bill (Legal)  
**Sent:** Friday, February 17, 2017 4:31 PM  
**To:** Pauli, Elizabeth (Legal)  
**Subject:** RE: A federal judge declined Friday to release "Dreamer" Daniel Ramirez Medina

**The White House**  
Office of the Press Secretary  
For Immediate Release

January 25, 2017

## **Executive Order: Enhancing Public Safety in the Interior of the United States**

### EXECUTIVE ORDER

- - - - -

#### ENHANCING PUBLIC SAFETY IN THE INTERIOR OF THE UNITED STATES

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Immigration and Nationality Act (INA) (8 U.S.C. 1101 et seq.), and in order to ensure the public safety of the American people in communities across the United States as well as to ensure that our Nation's immigration laws are faithfully executed, I hereby declare the policy of the executive branch to be, and order, as follows:

Section 1. Purpose. Interior enforcement of our Nation's immigration laws is critically important to the national security and public safety of the United States. Many aliens who illegally enter the United States and those who overstay or otherwise violate the terms of their visas present a significant threat to national security and public safety. This is particularly so for aliens who engage in criminal conduct in the United States.

Sanctuary jurisdictions across the United States willfully violate Federal law in an attempt to shield aliens from removal from the United States. These jurisdictions have caused immeasurable harm to the American people and to the very fabric of our Republic.

Tens of thousands of removable aliens have been released into communities across the country, solely because their home countries refuse to accept their repatriation. Many of these aliens are criminals who have served time in our Federal, State, and local jails. The presence of such individuals in the United States, and the practices of foreign nations that refuse the repatriation of their nationals, are contrary to the national interest.

Although Federal immigration law provides a framework for Federal-State partnerships in enforcing our immigration laws to ensure the removal of aliens who have no right to be in the United States, the Federal Government has failed to discharge this basic sovereign responsibility. We cannot faithfully execute the immigration laws of the United States if we exempt classes or categories of removable aliens from potential enforcement. The purpose of this order is to direct executive departments and agencies



(agencies) to employ all lawful means to enforce the immigration laws of the United States.

Sec. 2. Policy. It is the policy of the executive branch to:

- (a) Ensure the faithful execution of the immigration laws of the United States, including the INA, against all removable aliens, consistent with Article II, Section 3 of the United States Constitution and section 3331 of title 5, United States Code;
- (b) Make use of all available systems and resources to ensure the efficient and faithful execution of the immigration laws of the United States;
- (c) Ensure that jurisdictions that fail to comply with applicable Federal law do not receive Federal funds, except as mandated by law;
- (d) Ensure that aliens ordered removed from the United States are promptly removed; and
- (e) Support victims, and the families of victims, of crimes committed by removable aliens.

Sec. 3. Definitions. The terms of this order, where applicable, shall have the meaning provided by section 1101 of title 8, United States Code.

Sec. 4. Enforcement of the Immigration Laws in the Interior of the United States. In furtherance of the policy described in section 2 of this order, I hereby direct agencies to employ all lawful means to ensure the faithful execution of the immigration laws of the United States against all removable aliens.

Sec. 5. Enforcement Priorities. In executing faithfully the immigration laws of the United States, the Secretary of Homeland Security (Secretary) shall prioritize for removal those aliens described by the Congress in sections 212(a)(2), (a)(3), and (a)(6)(C), 235, and 237(a)(2) and (4) of the INA (8 U.S.C. 1182(a)(2), (a)(3), and (a)(6)(C), 1225, and 1227(a)(2) and (4)), as well as removable aliens who:

- (a) Have been convicted of any criminal offense;
- (b) Have been charged with any criminal offense, where such charge has not been resolved;
- (c) Have committed acts that constitute a chargeable criminal offense;
- (d) Have engaged in fraud or willful misrepresentation in connection with any official matter or application before a governmental agency;
- (e) Have abused any program related to receipt of public benefits;
- (f) Are subject to a final order of removal, but who have not complied with their legal obligation to depart the United States; or
- (g) In the judgment of an immigration officer, otherwise pose a risk to public safety or national security.

Sec. 6. Civil Fines and Penalties. As soon as practicable, and by no later than one year after the date of this order, the Secretary shall issue guidance and promulgate regulations, where required by law, to ensure the assessment and collection of all fines and penalties that the Secretary is authorized under the law to assess and collect from aliens unlawfully present in the United States and

from those who facilitate their presence in the United States.

Sec. 7. Additional Enforcement and Removal Officers. The Secretary, through the Director of U.S. Immigration and Customs Enforcement, shall, to the extent permitted by law and subject to the availability of appropriations, take all appropriate action to hire 10,000 additional immigration officers, who shall complete relevant training and be authorized to perform the law enforcement functions described in section 287 of the INA (8 U.S.C. 1357).

Sec. 8. Federal-State Agreements. It is the policy of the executive branch to empower State and local law enforcement agencies across the country to perform the functions of an immigration officer in the interior of the United States to the maximum extent permitted by law.

(a) In furtherance of this policy, the Secretary shall immediately take appropriate action to engage with the Governors of the States, as well as local officials, for the purpose of preparing to enter into agreements under section 287(g) of the INA (8 U.S.C. 1357(g)).

(b) To the extent permitted by law and with the consent of State or local officials, as appropriate, the Secretary shall take appropriate action, through agreements under section 287(g) of the INA, or otherwise, to authorize State and local law enforcement officials, as the Secretary determines are qualified and appropriate, to perform the functions of immigration officers in relation to the investigation, apprehension, or detention of aliens in the United States under the direction and the supervision of the Secretary. Such authorization shall be in addition to, rather than in place of, Federal performance of these duties.

(c) To the extent permitted by law, the Secretary may structure each agreement under section 287(g) of the INA in a manner that provides the most effective model for enforcing Federal immigration laws for that jurisdiction.

Sec. 9. Sanctuary Jurisdictions. It is the policy of the executive branch to ensure, to the fullest extent of the law, that a State, or a political subdivision of a State, shall comply with 8 U.S.C. 1373.

(a) In furtherance of this policy, the Attorney General and the Secretary, in their discretion and to the extent consistent with law, shall ensure that jurisdictions that willfully refuse to comply with 8 U.S.C. 1373 (sanctuary jurisdictions) are not eligible to receive Federal grants, except as deemed necessary for law enforcement purposes by the Attorney General or the Secretary. The Secretary has the authority to designate, in his discretion and to the extent consistent with law, a jurisdiction as a sanctuary jurisdiction. The Attorney General shall take appropriate enforcement action against any entity that violates 8 U.S.C. 1373, or which has in effect a statute, policy, or practice that prevents or hinders the enforcement of Federal law.

(b) To better inform the public regarding the public safety threats associated with sanctuary jurisdictions, the Secretary shall utilize the Declined Detainer Outcome Report or its equivalent and, on a weekly basis, make public a comprehensive list of criminal actions committed by aliens and any jurisdiction that ignored or otherwise failed to honor any detainers with respect to such aliens.

(c) The Director of the Office of Management and Budget is directed to obtain and provide relevant and responsive information on all Federal grant money that currently is received by any sanctuary jurisdiction.

Sec. 10. Review of Previous Immigration Actions and Policies. (a) The Secretary shall immediately take all appropriate action to terminate the Priority Enforcement Program (PEP) described in the memorandum issued by the Secretary on November 20, 2014, and to reinstitute the immigration program known as "Secure Communities" referenced in that memorandum.

(b) The Secretary shall review agency regulations, policies, and procedures for consistency with this order and, if required, publish for notice and comment proposed regulations rescinding or revising any regulations inconsistent with this order and shall consider whether to withdraw or modify any inconsistent policies and procedures, as appropriate and consistent with the law.

(c) To protect our communities and better facilitate the identification, detention, and removal of criminal aliens within constitutional and statutory parameters, the Secretary shall consolidate and revise any applicable forms to more effectively communicate with recipient law enforcement agencies.

Sec. 11. Department of Justice Prosecutions of Immigration Violators. The Attorney General and the Secretary shall work together to develop and implement a program that ensures that adequate resources are devoted to the prosecution of criminal immigration offenses in the United States, and to develop cooperative strategies to reduce violent crime and the reach of transnational criminal organizations into the United States.

Sec. 12. Recalcitrant Countries. The Secretary of Homeland Security and the Secretary of State shall cooperate to effectively implement the sanctions provided by section 243(d) of the INA (8 U.S.C. 1253(d)), as appropriate. The Secretary of State shall, to the maximum extent permitted by law, ensure that diplomatic efforts and negotiations with foreign states include as a condition precedent the acceptance by those foreign states of their nationals who are subject to removal from the United States.

Sec. 13. Office for Victims of Crimes Committed by Removable Aliens. The Secretary shall direct the Director of U.S. Immigration and Customs Enforcement to take all appropriate and lawful action to establish within U.S. Immigration and Customs Enforcement an office to provide proactive, timely, adequate, and professional services to victims of crimes committed by removable aliens and the family members of such victims. This office shall provide quarterly reports studying the effects of the victimization by criminal aliens present in the United States.

Sec. 14. Privacy Act. Agencies shall, to the extent consistent with applicable law, ensure that their privacy policies exclude persons who are not United States citizens or lawful permanent residents from the protections of the Privacy Act regarding personally identifiable information.

Sec. 15. Reporting. Except as otherwise provided in this order, the Secretary and the Attorney General shall each submit to the President a report on the progress of the directives contained in this order within 90 days of the date of this order and again within 180 days of the date of this order.

Sec. 16. Transparency. To promote the transparency and situational awareness of criminal aliens in the United States, the Secretary and the Attorney General are hereby directed to collect relevant data and provide quarterly reports on the following:

- (a) the immigration status of all aliens incarcerated under the supervision of the Federal Bureau of Prisons;
- (b) the immigration status of all aliens incarcerated as Federal pretrial detainees under the supervision of the United States Marshals Service; and
- (c) the immigration status of all convicted aliens incarcerated in State prisons and local detention centers throughout the United States.

Sec. 17. Personnel Actions. The Office of Personnel Management shall take appropriate and lawful action to facilitate hiring personnel to implement this order.

Sec. 18. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE,

January 25, 2017.

**Bill Fosbre**

**Acting City Attorney**

**City of Tacoma**

**PO BOX 11007**

**3628 S. 35<sup>th</sup> St.**

**Tacoma, WA 98411**

**(253) 591-5632 (Tacoma Municipla Building on Monday, Tuesday, Thursday, Friday)**

**(253) 502-8218 (TPU building on Wednesday)**

**FAX (253) 502-8672**

**[Bill.Fosbre@CityofTacoma.org](mailto:Bill.Fosbre@CityofTacoma.org)**

---

**From:** Pauli, Elizabeth (Legal)

**Sent:** Friday, February 17, 2017 4:27 PM

**To:** Fosbre, Bill (Legal)

**Subject:** RE: A federal judge declined Friday to release "Dreamer" Daniel Ramirez Medina

---

**From:** Fosbre, Bill (Legal)

**Sent:** Friday, February 17, 2017 4:08 PM

**To:** Pauli, Elizabeth (Legal) <[EPAULI@ci.tacoma.wa.us](mailto:EPAULI@ci.tacoma.wa.us)>

**Subject:** A federal judge declined Friday to release "Dreamer" Daniel Ramirez Medina

**A federal judge declined Friday to release "Dreamer" Daniel Ramirez Medina, picked up in Des Moines last week. His lawyers and the government have given vastly differing accounts of who he is and the details** **86**

surrounding his arrest and detention.

## Share story



By

[Nina Shapiro](#)

*Seattle Times staff reporter*

Lawyers for detained “Dreamer” Daniel Ramirez Medina went to court Friday [seeking his immediate release](#) and calling his arrest in a Des Moines apartment unconstitutional. A federal magistrate ruled he wasn’t empowered to free Ramirez without giving an immigration judge a “first crack.”

But in a case that he said had far-reaching implications about federal policy regarding Dreamers, Chief Magistrate Judge James Donohue took the unusual step of requiring that a bond hearing in immigration court be held within a week.

U.S. District Court does not usually exercise authority over the immigration court system.

Lawyers and supporters of Ramirez said they were disappointed the 23-year-old would not be freed, but took heart in the call for an expedited schedule.

Mark Rosenbaum, a Los Angeles attorney helping to represent Ramirez, also noted that the magistrate said that if immigration court does not hold a hearing within a week, Ramirez’s attorneys could come back to his courtroom.

The magistrate also set a briefing schedule to consider whether the federal court has jurisdiction to consider the merits of the case. The government has argued that it doesn’t, and that Ramirez’s removal proceedings belong only in immigration court. After the hearing on the courthouse steps, where people demonstrated support for Ramirez and spilled into the street, his lawyers talked to reporters.

“Daniel is just like me,” said Luis Cortes Romero, a Kent-based attorney who is himself a Dreamer.

In another development, Ramirez’s attorneys on Thursday evening said a note from Ramirez, who is being held at the Northwest Detention Center, was altered to make it look like he was admitting gang membership.

Rosenbaum said the alleged note tampering was “one of the most serious examples of government misconduct” he has seen in 40 years of practice.

Rose Richeson, a spokeswoman for U.S. Immigration and Customs Enforcement (ICE) has not responded to the allegation.

The accusation about the note is the latest controversy in a case marked by contradictions and speculation over what it may reveal about President Donald Trump’s immigration policies.

In the past couple of days, the federal government and attorneys for Ramirez, as well as the young man himself, have given vastly different versions of who he is and what he said under questioning.

## The note, the tattoo

Briefs submitted by both sides Thursday fleshed out their varying accounts of what happened since agents took Ramirez into custody. Ramirez, the father of a 3-year-old, was brought illegally to this country when he was 7 and later given authorization to live and work here under President Barack Obama’s Deferred Action for Childhood Arrivals (DACA) program. ICE agents arrested him Feb. 10, accusing him of being a gang member, which would void his DACA status.

In the brief submitted by Ramirez’s lawyers late Thursday, and in a subsequent conference call with news reporters, Ramirez’s lawyers said the young man submitted the note to detention officials to get out of a gang unit he had been placed in.

According to the lawyers, Ramirez’s note, as written began: “I came in and the officers said I have gang affiliation... so I wear an

orange uniform.”

The first part of the note was erased, according to his lawyers, who provided a copy with their brief of what they said was the tampered note. It began, “I have gang affiliation . . .”

Altered or not, the note still ended with him repeating that he was not affiliated with gangs.

According to the government brief, ICE agents arrested Ramirez in a Des Moines apartment around 8:30 a.m. last Friday. They were targeting not the 23-year-old but his father, who had previously been deported eight times, convicted of narcotics trafficking and sentenced to roughly a year in prison in this state, the government said.

While there, the agents found Ramirez sleeping on the living-room floor, according to the government brief. Asked by an agent if he had ever been arrested, Ramirez said “yes,” the brief said.

At that point, the agent arrested him.

It was later, while being interviewed at an ICE holding facility, that agents asked Ramirez if he had been involved in any gang activity.

“No, not no more,” said Ramirez, according to the brief.

The agent pressed on with that line of questioning in relation to what an agent’s report called a “gang tattoo.” That tattoo on his left arm read [“La Paz BCS.”](#)

At that point, the agent’s report said, Ramirez added that he “used to hang out with the Sureno’s in California,” fled that state to escape gangs, yet “still hangs out with the Paizas in Washington state.”

The agent concluded that Ramirez no longer qualified for the DACA program due to gang association and he was taken to the detention center.

## **“You cannot take me”**

A declaration by Ramirez, filed with his lawyers’ brief, differs in details big and small from the government’s account. It said he was sleeping on a couch, not the floor in the apartment when agents found him, and he was handcuffed immediately after saying he was born in Mexico. The cuffs stayed on, Ramirez said, after he told them “I have a work permit. You cannot take me.”

Then, they started asking him about gang affiliation.

“It felt like forever,” he said in the declaration. “I felt an intense amount of pressure, like if I did not give them something, they would not stop. So, I told them that I did nothing more than hang out with a few people who may have been Sureños, but that since I became an adult I have not spoken with any of those people.”

He said they zeroed in on his tattoo, which they assumed was related to gangs, but he said actually signified the place of his birth: La Paz, the capital city of Baja California Sur, abbreviated by the initials “BCS” on the tattoo.

Rosenbaum, in the conference call, called the gang accusation racist and an attempt to cover up a mistaken arrest.

“He has picked the fruit that all of us eat,” added the L.A.-based Rosenbaum, noting that Ramirez was a farmworker in California before moving here about a month ago. In his declaration, the Dreamer said he was looking for a way to provide for his son, perhaps working in auto repair.

As yet, nobody knows whether the case signifies anything about Trump’s plans for Dreamers.

Trump promised to end the program during the campaign, and when he was elected, [many Dreamers feared](#) the president would seek to deport them.

In a [news conference Thursday](#), Trump called DACA “a very, very difficult subject for me . . . It’s one of the most difficult subjects I have because you have these incredible kids.”

His administration continues to approve new applications and renew existing DACA permits, said Cortes Romero.

“As far as we know, there hasn’t been a situation like this,” said Cortes Romero, adding he was inclined to believe it was “just a one-time circumstance.”

Jorge Barón, executive director of the Northwest Immigrant Rights Project, isn’t so sure. “I do think this kind of situation would not have happened under Obama,” he said.

He said he worried that an [under-scrutinized executive order](#) issued by Trump during his first week in office sent a signal to immigration officers to step up their enforcement efforts — and gave them broad discretion about whom to target. That order, which contained more-widely publicized provisions aimed at [punishing “sanctuary cities”](#) like Seattle, outlined new priorities for immigration enforcement.

They included deporting undocumented immigrants charged with any criminal offense, whether they were convicted or not. What’s more, the order also licenses immigration officers to remove anyone who, in their judgment, poses a risk to public **88** safety or national

security.

“That could be anything,” said Barón, saying such broad leeway invites abuse.

The Department of Homeland Security has not linked Ramirez’s arrest to Trump’s order, however. In a statement, it pointed to longstanding guidelines in the DACA program saying that participation can be terminated at any time for those found to be a threat.

Reasons include criminal activity and gang membership.

Since 2012, the statement said, 1,500 Dreamers have had their permits revoked for such reasons.

Nina Shapiro: 206-464-3303 or [nshapiro@seattletimes.com](mailto:nshapiro@seattletimes.com). On Twitter [@NinaShapiro](https://twitter.com/NinaShapiro)

**Bill Fosbre**

**Acting City Attorney**

**City of Tacoma**

**PO BOX 11007**

**3628 S. 35<sup>th</sup> St.**

**Tacoma, WA 98411**

**(253) 591-5632 (Tacoma Municipla Building on Monday, Tuesday, Thursday, Friday)**

**(253) 502-8218 (TPU building on Wednesday)**

**FAX (253) 502-8672**

**[Bill.Fosbre@CityofTacoma.org](mailto:Bill.Fosbre@CityofTacoma.org)**

---

**From:** Pauli, Elizabeth (Legal)  
**Sent:** Tuesday, February 21, 2017 7:59 AM  
**To:** Fosbre, Bill (Legal)  
**Subject:** FW: WA Dems Concerned about Detention of DREAMer, Denounce ICE Raids | Congresswoman Suzan DelBene

-----Original Message-----

From: Strickland, Marilyn  
Sent: Monday, February 20, 2017 5:53 PM  
To: Mello, Ryan <[rmello@cityoftacoma.org](mailto:rmello@cityoftacoma.org)>  
Cc: Pauli, Elizabeth (Legal) <[EPAULI@ci.tacoma.wa.us](mailto:EPAULI@ci.tacoma.wa.us)>  
Subject: WA Dems Concerned about Detention of DREAMer, Denounce ICE Raids | Congresswoman Suzan DelBene

This is the text of the letter sent by Kilmer and members of our delegation.

<https://delbene.house.gov/media-center/press-releases/wa-dems-concerned-about-detention-dreamer-denounce-ice-raids>

Sent from my iPad



---

**From:** Pauli, Elizabeth (Legal)  
**Sent:** Tuesday, February 21, 2017 7:59 AM  
**To:** Fosbre, Bill (Legal)  
**Subject:** FW: Daniel Ramirez Letter to ICE  
**Attachments:** ICE Daniel Ramirez letter.docx; ATT00001.htm

---

**From:** Mello, Ryan  
**Sent:** Monday, February 20, 2017 12:30 PM  
**To:** Strickland, Marilyn ; Ibsen, Anders ; Thoms, Robert ; McCarthy, Conor ; Lauren Walker ; Blocker, Keith ; Loneragan, Joe ; Campbell, Marty  
**Cc:** Boydston, Rebecca ; Pauli, Elizabeth (Legal)  
**Subject:** Daniel Ramirez Letter to ICE

Colleagues,

By now I am sure you have heard about the story of Daniel Ramirez who is being held in the Tacoma Detention Center ICE facility. You can read more about his situation here: <http://www.seattletimes.com/seattle-news/ramirez-hearingnew/>

In these very uncertain times about our country's immigration policies and how immigrants and refugees are being treated, I believe it is very important that our community hear from its elected leaders loud and clear that we stand for due process and protection of civil liberties above all else and to advocate for individuals' protection of civil liberties.

I will be sending the attached letter by the end of the day tomorrow, Tuesday, February 21st to regional ICE officials and would welcome and encourage all of you to join me with your signature. Please let Rebecca know if you are willing to sign on.

I consulted with Congressman Kilmer over the weekend

**Office of the Principal Legal Advisor**  
**Northwest Detention Center – Office of Chief Counsel (Seattle)**  
1623 East J Street Suite 2  
Tacoma, WA, 98421

To Whom It May Concern:

It has come to our attention that that Daniel Ramirez, a recipient of the DACA program (Deferred Action for Childhood Arrivals) is being held in custody in Tacoma without cause. We, the undersigned, request his immediate release and furthermore are very interested in ensuring proper procedures were followed and if the federal administration is changing its policy on protecting DACA individuals. To our knowledge protection for childhood arrivals has not been withdrawn as of yet. Immigration & Customs Enforcement's (ICE) broad action in advance of an official directive coming from the White House, and the way these warrantless arrests were executed, has raised concerns about civil and human rights violations that may be taking place in our region – causing fear and deep concern for thousands of individuals and families.

There has been extensive fear and uncertainty in our community, and we are concerned by the rash implementation of some of these policies, or in this case the arrest of an individual who, by all accounts, is in compliance with the DACA requirements.

Our understanding is that Mr. Ramirez passed the extensive vetting process to get DACA status, and at a minimum should be released so as to not cause additional emotional and financial harm to his family as he pursues his immigration case.

We have an extensive immigrant and refugee community in our City, and it is our obligation to work to provide them with a sense of security that they will not be detained and assure them that they will continue to be valued members of Tacoma. We will continue to work to protect due process and ensure immigrants and refugees are welcomed and celebrated.

We request Mr. Ramirez's release and continued protection and request ICE and the federal administration will move swiftly to clear up the current uncertainty and fear caused by its application of the law.

Thank you for your time and attention to this serious matter.

Sincerely,



---

**From:** Fosbre, Bill (Legal)  
**Sent:** Tuesday, February 21, 2017 8:00 AM  
**To:** Pauli, Elizabeth (Legal)  
**Subject:** letter

# WA Dems Concerned about Detention of DREAMer, Denounce ICE Raids

Feb 18, 2017  
Press Release

## ***Lawmakers also call for clarification of administration's practices***

**WASHINGTON, D.C.** – Today, U.S. Senators Maria Cantwell (D-WA) and Patty Murray (D-WA), joined by Reps. Pramila Jayapal (WA-07), Adam Smith (WA-09), Denny Heck (WA-10), Derek Kilmer (WA-06), Rick Larsen (WA-02), and Suzan DelBene (WA-01), sent a letter to Homeland Security Secretary John Kelly to express concern that enforcement priorities are now so broad that Deferred Action for Childhood Arrivals (DACA) recipients, such as Daniel Ramirez Medina, may be caught up in Immigration and Customs Enforcement (ICE) raids.

Under the Executive Order titled “Enhancing Public Safety in the Interior of the United States,” Mr. Ramirez should not have been a priority for detention by ICE. The letter seeks clarification of the changes to ICE’s enforcement priorities and the practices of ICE agents at the doors and in the homes of immigrants.

**“We expect due process and facts to guide government agency’s actions,”** the members of Congress wrote. **“But what we have seen from this administration is repeated falsehoods about immigrants and refugees, and suspicion and allegations rule the day. This is unacceptable, and we demand better.”**

That America may break its promise to DACA recipients, who came out of the shadows to sign up for the program with the understanding that they would not be targeted for detention and deportation if they followed the law, is of particular concern to the members of Congress. Further, the Senators and Representatives note that immigration raids do not succeed in creating safe communities.

**“In nearly all circumstances, engaging in immigration raids to detain people is unnecessary and damaging to our communities,”** wrote the members of Congress.

Specifically, the letter requests:

- A detailed description of any change in ICE policy since January 19, 2017, that allows for ICE agents to detain a DACA recipient, and under what conditions.
- A detailed description of how ICE conducts oversight of its enforcement actions, including as it pertains to DACA recipients who were detained “collaterally” to other enforcement targets.
- A copy of any written policies or standard practices ICE agents use to guide their actions when they are presented with legal documents by individuals in the home of a person who is the target of an ICE raid.
- A description of how the Executive Order pertaining to interior enforcement will be implemented by local ICE agents as it relates to DACA recipients, and what guidance local ICE agents were provided on this matter.
- A copy of any policies used by ICE when issuing press statements pertaining to allegations against a detainee that are not proven in a Federal criminal court or State criminal court.

A copy of the letter can be found below.

*February 17, 2017*

*The Honorable John F. Kelly*

Secretary of Homeland Security

3801 Nebraska Ave., NW

Washington, DC 20528

Dear Secretary Kelly,

We write to express concern that the Executive Order titled "Enhancing Public Safety in the Interior of the United States" seems to expand enforcement priorities so broadly that even Deferred Action for Childhood Arrivals (DACA) recipients could be susceptible. It appears that local U.S. Immigration and Customs Enforcement (ICE) agents arrested a recipient of the DACA program in error. We want to inquire whether ICE has changed its enforcement practices pertaining to DACA recipients. We are also deeply concerned the Department may have altered the procedures and practices of ICE agents at the doors and in the homes of immigrants. This is clearly demonstrated by the detainment of Mr. Daniel Ramirez Medina near Seattle, a recipient of DACA whose attorney states there is no apparent reason he should have been detained. We are particularly concerned about Mr. Ramirez's case and would like a full briefing at the earliest possible date on all actions and evidence that led ICE to detain Mr. Ramirez after learning he is a DACA recipient.

Young people applied for the DACA program with the promise that applying would not result in immigration enforcement actions as long as they followed the law. DACA recipients have been carefully vetted by U.S. Citizenship and Immigration Services and granted permission to remain in the United States and authorization to work, a clear indication DACA recipients are not an enforcement priority. Moreover, in nearly all circumstances engaging in immigration raids to detain people is unnecessary and damaging to our communities. These raids wreak havoc in immigrant communities across the country. Mr. Ramirez's case, and the lack of clear communication regarding his arrest, will only cause more anxiety and confusion among immigrant communities in Washington state and across the United States.

We expect due process and facts to guide government agency's actions. But what we have seen from this administration is repeated falsehoods about immigrants and refugees, and suspicion and allegations rule the day. This is unacceptable, and we demand better. We request that you provide to our staff:

- A detailed description of any change in ICE policy since January 19, 2017, that allows for ICE agents to detain a DACA recipient, and under what conditions.
- A detailed description of how ICE conducts oversight of its enforcement actions, including as it pertains to DACA recipients who were detained "collaterally" to other enforcement targets.
- A copy of any written policies or standard practices ICE agents use to guide their actions when they are presented with legal documents by individuals in the home of a person who is the target of an ICE raid.
- A description of how the Executive Order pertaining to interior enforcement will be implemented by local ICE agents as it relates to DACA recipients, and what guidance local ICE agents were provided on this matter.
- A copy of any policies used by ICE when issuing press statements pertaining to allegations against a detainee that are not proven in a Federal criminal court or State criminal court.

We are deeply troubled by the lack of communication and transparency in ICE's handling of this matter and expect a prompt reply to this letter.

Sincerely,

###

Bill Fosbre  
Acting City Attorney  
City of Tacoma  
PO BOX 11007  
3628 S. 35<sup>th</sup> St.  
Tacoma, WA 98411  
(253) 591-5632 (Tacoma Municipla Building on Monday, Tuesday, Thursday, Friday)  
(253) 502-8218 (TPU building on Wednesday)  
FAX (253) 502-8672  
[Bill.Fosbre@CityofTacoma.org](mailto:Bill.Fosbre@CityofTacoma.org)

---

**From:** Strickland, Marilyn  
**Sent:** Wednesday, February 22, 2017 1:40 PM  
**To:** Fosbre, Bill (Legal)  
**Cc:** Pauli, Elizabeth (Legal)  
**Subject:** Fwd: Special Report on Homeland Security Action to Implement Immigration Executive Orders – February 22, 2017

Sent from my iPad

Begin forwarded message:

**From:** Simon and Company <[silvana.caldera@simoncompany.com](mailto:silvana.caldera@simoncompany.com)>  
**Date:** February 22, 2017 at 10:33:00 AM PST  
**To:** <[marilyn.strickland@cityoftacoma.org](mailto:marilyn.strickland@cityoftacoma.org)>  
**Subject:** Special Report on Homeland Security Action to Implement Immigration Executive Orders – February 22, 2017  
**Reply-To:** Simon and Company <[silvana.caldera@simoncompany.com](mailto:silvana.caldera@simoncompany.com)>

## SIMON AND COMPANY

*Intergovernmental Relations and Federal Affairs*

### Special Report

February 22, 2017

---

#### DHS Outlines Immigration Executive Orders

The Department of Homeland Security (DHS) has taken additional steps to implement President Trump's immigration policies. The Department released several [documents](#) yesterday that shed light on the scope and implementation of the various executive orders the President has issued related to immigration. DHS Secretary **John Kelly** issued two memorandums providing guidance on the executive orders as well as the following fact sheets and other supporting documents:

- [Fact Sheet: Executive Order: Border Security and Immigration Enforcement Improvements](#)
- [Fact Sheet: Enhancing Public Safety in the Interior of the United States](#)
- [Fact Sheet: Protecting The Nation From Foreign Terrorist Entry To The United States](#)
- [Q&A: DHS Implementation of the Executive Order on Enhancing Public Safety in the Interior Of the United States](#)
- [Q&A: DHS Implementation of the Executive Order on Border Security and Immigration Enforcement](#)

Secretary Kelly's first [memorandum](#) expands on the President's [Executive Order Enhancing Public Safety in the Interior of the United States](#) – the Executive Order that focused in part on sanctuary cities. Secretary Kelly directs U.S. Immigration and Customs Enforcement (ICE) to hire 10,000 officers and agents, which are “*subject to available resources*” in order to better execute the Department's enforcement priorities. This means that Congress will need to appropriate additional funding in the budget process to make this a reality. He also states that “*the Department will no longer exempt classes or categories of removable aliens from potential enforcement,*” essentially vastly broadening the scope of who may be subject to deportation. He also gives prosecutorial discretion to Department personnel who will now have “*full authority to arrest or apprehend an alien whom an immigration officer has probable cause to believe is in violation of the immigration laws.*” Furthermore, the memo states that “*The Department will no longer afford Privacy Act rights and protections to persons who are neither U.S. citizens nor lawful permanent residents.*”

This memo reaffirms the termination of the Priority Enforcement Program and restores the Secure Communities Program, which we have covered in past reports. In addition, it touches on the expansion of the 287(g) program, covered in his second memo. [Section 287\(g\) of the Immigration and Nationality Act \(INA\)](#) allows a local law enforcement officer to be designated as an “*immigration officer.*” The Secretary touts the program, but specifies that the expansion only applies to qualified law enforcement agencies that “*request to participate.*” Finally, Secretary Kelly establishes the Victims of Immigration Crime Engagement (VOICE) Office within the Office of the Director of ICE. The Office is designed to create a liaison between ICE and the known

victims of crimes committed by removable aliens. For a full overview of this memo, click [here](#).

The second [memorandum](#) expands on the [Border Security and Immigration Enforcements Improvements Executive Order](#) issued in late January, which largely focuses on security at the exterior of the U.S. and building the border wall. To enforce this Executive Order, the memo details how DHS will end the “catch-and-release” policy, hire more U.S. Customs and Border Patrol (CBP) agents, reassess aid to Mexico, expand the 287(g) program, fund the border wall, expand and modify removal and detention policies, and process and treat unaccompanied alien minors.

The memo states that DHS will *“immediately begin the process of hiring 5,000 additional Border Patrol agents, as well as 500 Air & Marine Agents/Officers.”* However, it also states that this is again *“subject to the availability of resources,”* so it is expected that the President will seek funding from Congress to carry out the stated directives. [Section 287\(g\) of the Immigration and Nationality Act \(INA\)](#) allows a state and local law enforcement entity to enter into a written partnership with ICE and gives the local entity delegated immigration enforcement authority. Secretary Kelly calls for the expansion of this program and *“authorizes state and local law enforcement personnel to perform all law enforcement functions specified in [section 287\(a\)](#) of the INA, including the authority to investigate, identify, apprehend, arrest, detain, transport and conduct searches of an alien for the purposes of enforcing the immigration laws.”* For a full overview of this memo, click [here](#).

In addition to Secretary Kelly’s two memos, the Department also released a clarifying [fact sheet](#) on the [Executive Order](#) that instituted the travel ban for the targeted countries. The fact sheet restates much of what was already known from that Executive Order, but provides additional guidance on the treatment of traveling lawful permanent residents or “green card” holders. To that end, it states: *“Lawful Permanent Residents of the United States traveling on a valid I-551 (green card) will be allowed to board U.S. bound aircraft and will be assessed for exceptions at arrival ports of entry, as appropriate. The entry of these individuals, subject to national security checks, is in the national interest. Therefore, we expect swift entry for these individuals.”*

*For more information on the recently released DHS documents, please review the links*



above. We will be sure to let you if we learn more and will revisit this in this week's edition of the Washington Friday Report.



---

If you have any questions about this special report, please feel free to contact [Len Simon](#), [Jen Covino](#), or [Silvana Caldera](#).

---

Copyright © 2017

**Our mailing address is:**  
Simon and Company, Inc.  
1660 L Street NW  
Suite 501  
Washington, D.C. 20036  
(202)659-2229

Want to change how you receive these emails?  
You can [update your preferences](#) or [unsubscribe from this list](#)

---

This email was sent to [marilyn.strickland@cityoftacoma.org](mailto:marilyn.strickland@cityoftacoma.org)  
[why did I get this?](#) [unsubscribe from this list](#) [update subscription preferences](#)  
Simon and Company, Inc. · 1660 L Street NW · Suite 501 · Washington, DC 20036 · USA



---

**From:** Pauli, Elizabeth (Legal)  
**Sent:** Thursday, February 23, 2017 3:30 PM  
**To:** Fosbre, Bill (Legal)  
**Subject:** FW: Document1  
**Attachments:** Document1.docx

---

**From:** Pauli, Elizabeth (Legal)  
**Sent:** Wednesday, February 22, 2017 4:39 PM  
**To:** Strickland, Marilyn  
**Subject:** Document1

Mayor, attached is a draft for your review. I am wondering about a second letter to Homeland (or others) who can impact policy and enforcement priorities as a venue to express the enforcement priorities important to this community.

Elizabeth

Geo Corrections & Detention LLC  
dba Northwest Detention Center

Site Address:  
1623 E J St  
Tacoma WA 98421

Mailing Address:  
621 NW 53<sup>rd</sup> St #700  
Boca Raton FL 33487

Re: Business Activity Review/Certificate of Compliance

Dear,

We are writing to express our concern about the current operation of the detention center. More specifically, we are concerned about the possible detention of individuals in violation of due process rights, and the violation of the status of DACA recipients and other established and relied upon enforcement priorities. It is the City's firm position that detention of individuals in violation of state and federal due process rights bears a direct relationship to the conduct of the business for which you are licensed within the City of Tacoma, and will result in danger to the public health, safety and welfare of the individuals involved as well as the community as a whole.

Pursuant to Tacoma Municipal Code (TMC) 6B.10.140 (6), the Director of Finance has the power and authority to suspend or revoke any license issued under TMC Title 6 on the following grounds:

Licensee's continued conduct of the business for which the license or registration was issued will result in danger to the public health, safety, or welfare, by reason of ... the licensee, his/her employee or agent has committed a crime or other violation of law, which bears a direct relationship to the conduct of the business under the license or registration issued pursuant to this title. The Director may consider any relevant violation of law. . . . the licensee, or his/her agents or employees, have in

the conduct of business, violated any local, state, or federal law relating to public health or safety.

We are requesting the following

- Copy of current policies for accepting and detaining individuals in your facility

- Executed Certificate of Compliance, certifying that all individuals currently detained or to be detained in your facility have been are being detained in a manner consistent with all applicable state and federal laws as well as established enforcement priorities.

Failure to respond to this letter, and to return a fully executed copy of the Certificate of Compliance may result in the suspension of your business license to operate in the City of Tacoma.

Cc:

**From:** Pauli, Elizabeth  
**Sent:** Monday, February 27, 2017 9:16 AM  
**To:** Mello, Ryan  
**Cc:** Huffman, Peter  
**Subject:** Re: GEO Detention Center

Thank you.

Sent from my iPad

On Feb 27, 2017, at 8:47 AM, Mello, Ryan <[rmello@cityoftacoma.org](mailto:rmello@cityoftacoma.org)> wrote:

FYI

Sent from my iPhone

Begin forwarded message:

**From:** <[susannemarten2014@gmail.com](mailto:susannemarten2014@gmail.com)>  
**Date:** February 27, 2017 at 7:08:17 AM PST  
**To:** "[ryan.mello@cityoftacoma.org](mailto:ryan.mello@cityoftacoma.org)" <[ryan.mello@cityoftacoma.org](mailto:ryan.mello@cityoftacoma.org)>  
**Subject:** GEO Detention Center

Councilman Mello:

I appreciate your interest in examining the future viability of what is commonly referred to as the "City of Tacoma's Detention Center".

As background, I would recommend starting such an analysis by including staff representation from the Attorney General's Office and Congressman Smith. Approaching either increased bed capacity or closure via city ordinance will need to be based on the negative economic impact for Tacoma and surrounding communities. Since the Attorney General articulated this argument within the State of Washington's suit over the immigration ban, I am certain they have compiled useful economic data from a regional and state perspective. Congressman Smith's staff will be able to provide what their inquiries uncovered and access to Homeland Security's plans for additional funding for "Tacoma's Detention Center".

Susanne Marten

---

**From:** Strickland, Marilyn  
**Sent:** Tuesday, February 28, 2017 7:13 AM  
**To:** Gallagher, Anita  
**Cc:** Pauli, Elizabeth (Legal); Huffman, Peter; Duggan, Jim; Cherullo, Andy; Fosbre, Bill (Legal)  
**Subject:** Additional Info GEO Group NWDC

Thank you for your help with the letter and talking points. I would also like the following information. With the exception of questionable 7, most of this information already exists. I just need it in one document. Thanks.

1. What is the current zoning?
2. When was the zoning established?
3. What specifically were the roles of the city council, city staff, the Port, the State and members of our Congressional delegation when this was originally planned?
4. How many people are employed at the facility?
5. How much does the city collect annually from this facility in property, utility and b&o taxes?
6. How often are TPD and TFD deployed for service calls to the facility? Is it disproportionate compared to other large facilities/companies that we serve in the region?
7. Are there proven, verifiable cases of city, state or federal law violations? Have police reports been filed with DHS, TPD, WSP or other law enforcement agencies and are there court cases related to such violations at this facility?

Sent from my iPad

**From:** Pauli, Elizabeth  
**Sent:** Friday, March 03, 2017 5:34 AM  
**To:** Strickland, Marilyn  
**Subject:** Re: Detainees Sue Private Prison for 'Forced Labor' - The Daily Beast

Thanks Mayor. [REDACTED]

Sent from my iPhone

On Mar 3, 2017, at 1:15 AM, Strickland, Marilyn <[Marilyn.Strickland@ci.tacoma.wa.us](mailto:Marilyn.Strickland@ci.tacoma.wa.us)> wrote:

Sent from my iPad

Begin forwarded message:

**From:** [mstrickland253@gmail.com](mailto:mstrickland253@gmail.com)  
**Date:** March 3, 2017 at 3:09:23 AM EST  
**To:** Marilyn Strickland <[mayor@cityoftacoma.org](mailto:mayor@cityoftacoma.org)>  
**Subject:** Detainees Sue Private Prison for 'Forced Labor' - The Daily Beast

<http://www.thedailybeast.com/articles/2017/02/27/detainees-sue-private-prison-for-forced-labor.html?via=desktop&source=facebook>

Sent from my iPhone

Bill, here is some more information on this generally.

[illegible]

[REDACTED]

106



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

I hope this is helpful. Let me know if you wish to discuss.

Debra

---

**From:** Casparian, Debra (Legal)  
**Sent:** Monday, March 06, 2017 2:28 PM  
**To:** Fosbre, Bill (Legal)  
**Cc:** Harding, Melanie  
**Subject:** FW: Detainees Sue Private Prison for 'Forced Labor' - The Daily Beast

Bill—As I just mentioned to you, we have (really Melanie) quick answers to some of your questions. [REDACTED]

Debra

---

**From:** Harding, Melanie  
**Sent:** Monday, March 06, 2017 11:39 AM  
**To:** Casparian, Debra (Legal)  
**Cc:** Larson, Danielle; Flores, Sergio; Cherullo, Andy; Calderon, Susan  
**Subject:** RE: Detainees Sue Private Prison for 'Forced Labor' - The Daily Beast

Hi Debra,

Some initial info below on Bill's three questions:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Melanie Harding  
*Employment Standards Program Manager*  
City of Tacoma | Tax & License Division  
[cityoftacoma.org/employmentstandards](http://cityoftacoma.org/employmentstandards)  
(253) 591-5216

---

**From:** Casparian, Debra (Legal)  
**Sent:** Monday, March 06, 2017 10:56 AM  
**To:** Larson, Danielle; Harding, Melanie; Flores, Sergio  
**Subject:** FW: Detainees Sue Private Prison for 'Forced Labor' - The Daily Beast

[REDACTED]

---

**From:** Fosbre, Bill (Legal)  
**Sent:** Monday, March 06, 2017 10:48 AM  
**To:** Casparian, Debra (Legal); Cherullo, Andy  
**Cc:** Pauli, Elizabeth (Legal)

**Subject:** RE: Detainees Sue Private Prison for 'Forced Labor' - The Daily Beast

*Bill Fosbre  
Acting City Attorney  
City of Tacoma  
PO BOX 11007  
3628 S. 35<sup>th</sup> St.  
Tacoma, WA 98411  
(253) 591-5632 (Tacoma Municipal Building on Monday, Tuesday, Thursday, Friday)  
(253) 502-8218 (TPU building on Wednesday)  
FAX (253) 502-8672  
[Bill.Fosbre@CityofTacoma.org](mailto:Bill.Fosbre@CityofTacoma.org)*

---

**From:** Strickland, Marilyn  
**Sent:** Friday, March 03, 2017 1:16 AM  
**To:** Pauli, Elizabeth (Legal)  
**Cc:** Fosbre, Bill (Legal); Cherullo, Andy  
**Subject:** Fwd: Detainees Sue Private Prison for 'Forced Labor' - The Daily Beast

Sent from my iPad

Begin forwarded message:

**From:** [mstrickland253@gmail.com](mailto:mstrickland253@gmail.com)  
**Date:** March 3, 2017 at 3:09:23 AM EST  
**To:** Marilyn Strickland <[mayor@cityoftacoma.org](mailto:mayor@cityoftacoma.org)>  
**Subject:** Detainees Sue Private Prison for 'Forced Labor' - The Daily Beast

[http://www.thedailybeast.com/articles/2017/02/27/detainees-sue-private-prison-for-forced-labor.html?  
via=desktop&source=facebook](http://www.thedailybeast.com/articles/2017/02/27/detainees-sue-private-prison-for-forced-labor.html?via=desktop&source=facebook)

Sent from my iPhone

---

**From:** Pauli, Elizabeth (Legal)  
**Sent:** Friday, March 03, 2017 4:38 PM  
**To:** Capell, Jeff (Legal); Fosbre, Bill (Legal)  
**Subject:** FW: Detention Facility  
**Attachments:** Immigration Detention Facilities - Options Overview.docx

Fyi – more discussion to come Monday.

---

**From:** Boudet, Brian  
**Sent:** Friday, March 3, 2017 4:00 PM  
**To:** Pauli, Elizabeth (Legal) <[EPAULI@ci.tacoma.wa.us](mailto:EPAULI@ci.tacoma.wa.us)>  
**Cc:** Huffman, Peter <[phuffman@ci.tacoma.wa.us](mailto:phuffman@ci.tacoma.wa.us)>; Magoon, Jana <[JMAGOON@ci.tacoma.wa.us](mailto:JMAGOON@ci.tacoma.wa.us)>  
**Subject:** Detention Facility

Elizabeth,  
Attached is a summary of regulatory options/processes relative to immigration detention facilities

Let Peter or I know if you have questions or need anything else.

Thanks.

---

**BRIAN BOUDET**  
Planning Division Manager  
City of Tacoma, Washington  
747 Market Street, Room 345  
Tacoma, WA 98402

v: 253.573.2389  
e: [bboudet@cityoftacoma.org](mailto:bboudet@cityoftacoma.org)  
w: [www.cityoftacoma.org/planning](http://www.cityoftacoma.org/planning)

[Thoughts about our service? Take our survey!](#)



City of Tacoma  
W A S H I N G T O N

## PRIVATE FEDERAL IMMIGRATION DETENTION FACILITIES

### Background

---

#### Current site:

The NW Detention Center was constructed around 2000, and then expanded in 2008. The facility is currently permitted to accommodate up to 1,575 detainees. The site is currently zoned “PMI” Port Maritime & Industrial District. *Of note, when the facility was first permitted, the area was zoned “M-3” Heavy Industrial (a zoning classification that was eliminated and essentially replaced with the PMI district in 2003).*

#### How is this use classified in the City’s zoning regulations?

This use is classified as a “Correctional Facility.”

#### Where is this use allowed within the city?

Correctional Facilities are currently allowed in the following zoning districts:

Allowed “Outright” (without any special land use permits)	Allowed only with approval of a Conditional Use Permit
M-1 (Light Industrial)	R-4L (Low-density Multifamily)
M-2 (Heavy Industrial)	R-4 (Multifamily)
PMI (Port-Maritime and Industrial)	R-5 (Multifamily)

### Regulatory/Policy Options

---

#### Moratorium

##### What is it?

A moratorium is effectively a “time out” on permitting, which can be applied to all development, specific types of development, or specific types of permits. Moratoria are generally adopted as a protective measure to preclude development from occurring under current regulations and/or to maintain the status quo for a specified period of time, usually while new or revised regulations are being considered (see “Permanent Regulations” below).

Moratoria are used more commonly than interim regulations or zoning, in large part because such issues often arise in response to unforeseen circumstances, potentially involve imminent proposals, and are related to issues that the community feels have not previously been sufficiently vetted or for which conditions have changed dramatically and thus are not appropriately addressed in current regulations.

##### Pros:

- Temporary halt on allowance for uses or activities that community feels may be inappropriate as currently regulated
- Provides opportunity to explore code modifications without fear of permitting under current regulations

**Cons:**

- Takes time to implement (*approx. 3-4 months*)
- Can feed a perception that a community is unfriendly to development and undermine general confidence in the code (particularly if they are used regularly)
- Can expose the City to litigation (particularly if it is perceived to be directed at a specific project or site)

**Can this be done as an Emergency?**

Yes, under emergency circumstances, the City Council can enact an immediate moratorium without prior notice or a public hearing. However, the Council must then hold a public hearing within 60-days on the need for the emergency moratorium. After the hearing, the Council must decide whether to retain, modify or remove the moratorium, and, unless removed, also adopt specific findings supporting the moratorium.

**Can a moratorium prevent new facilities from being permitted?**

Yes, but only temporarily. At the conclusion of the moratorium, new facilities will only be permitted as allowed by the permanent regulations.

**What affect does this have on existing facilities?**

This depends on the structure of the moratorium. Often moratoria are designed to prevent new facilities from being constructed and also prevent expansions of existing facilities, but not necessarily. This is an important consideration in the adoption of any moratorium, so that it is clear as to the impact of the moratorium on existing facilities during the moratorium period.

**Interim Regulations or Zoning****What is it?**

Interim Regulations or Zoning are effectively “temporary regulations” or a “temporary rezone,” which can be applied to all development, specific types of development, specific types of permits or a specific area. Like moratoria, interim regulations or zoning are adopted as a protective measure to preclude certain kinds of development from occurring under current regulations for a specified period of time, usually while new or revised permanent regulations or zoning are being considered (see “Permanent Regulations” below).

**Pros:**

- Similar to a moratorium, except that it allows development to occur based on the temporary regulations or zoning while the permanent regulations or zoning are being considered

**Cons:**

- Similar to a moratorium, except that it necessitates that a temporary solution be adopted in fairly quick order
- May have unintended consequences, as interim regulations are not as well vetted as regulations adopted through the full code development process

**Can this be done as an Emergency?**

Yes, just like with moratoria, under emergency circumstances, the City Council can immediately enact Interim Regulations or Zoning without prior notice or a public hearing (although a public hearing and reconsideration is required to happen within 60-days).

Interim regulations or zoning implemented as an emergency measure (immediately) is fairly unusual because there is very little time to evaluate the potential impacts, intended and unintended, of the temporary, new regulations or zoning.

### **Permanent Regulations**

#### **What is it?**

A change or revision of development regulations or regulatory procedures placed on or involving development or land use activities within the City. This includes regulations addressing issues such as zoning, development standards, subdivisions, shoreline, environment, and critical areas.

Even if a regulatory code change is initiated via a moratorium or interim regulations/zoning, the legislative process for enacting permanent changes to the code or zoning follows the standard process.

#### **Pros:**

- Follows an established, deliberative, and structured process
- Facilitates significant notification and opportunities for community input
- Incorporates substantial involvement of Planning Commission, other advisory groups, etc.
- Allows for more complete analysis and vetting of potential impacts, costs and benefits, alternatives and other considerations associated with a proposed regulatory change

#### **Cons:**

- Requires significant resources and time (*generally at least 9-months and sometimes much more, depending on the level of complexity and community interest*)
- Projects continue to be permitted under existing regulations while modified regulations or zoning are being considered (unless a moratorium or interim regulations/zoning has been adopted)

**From:** Lauzier, Mark  
**Sent:** Tuesday, March 07, 2017 4:52 PM  
**To:** DIST- ALL Mayor and Council  
**Cc:** Pauli, Elizabeth; Fosbre, Bill (Legal); Huffman, Peter; Holderman, Celia; Capell, Jeff  
**Subject:** Study Session Follow-up on Interim Regulations for Correctional Facilities

**Importance:** High

Hello Mayor and Council Members:

We tracked down what we could in the way of follow-up questions that came up during the study session on the above topic.

At today's Study Session there were a few questions raised during the discussion on the proposed ordinance reference the above topic. Below is the information we were able to gather in response. If you need additional information, please don't hesitate to ask.

1. What B&O Tax category is the Northwest Detention Center Licensed Under? What about Pioneer?

GEO Detention and Corrections is categorized as a correctional facility as a business type for a business license. It is in the B&O Service category since they are a "service provider". Other types of providers (transitional houses, halfway houses, pre-release centers, etc. ) all get categorized under Transitional Housing for business licenses and fall into the Service category for B&O. Additionally, Tax and Licensing advised the only 2 "correctional facilities" we have in the City are the NWDT and the county jail. Transitional housing, such as the Pioneer Group mentioned by CM Blocker, would not be classified as a correctional facility.

2. Has GEO Detention and Corrections submitted any permit requests for expansion, remodel or for new buildings for Northwest Detention Center?

Planning and Development Services said no permits for expansion or moves have been received. Recent permit requests have been for maintenance or equipment upgrade, such as fire protection system and court room video conferencing equipment permits. There have also not been any inquiries regarding locating any new similar facilities. During the discussion, Planning staff advised that, other than the parking lot at the NWDC, there does not appear to be sufficient room for any real expansion at the NW Detention Center.

3. Regulations impact on public custody facilities such as Remann Hall.

Since the regulation impacts private correctional facilities, it should not impact facilities owned and operated by the public. We could not reach TJ Bohl, the administrator of Remann Hall, but we did speak informally to the Court Administrator who reported she could not officially say whether Remann had plans to expand, but indicated nothing was under immediate discussion to her knowledge. I will also add that Remann Hall, like the county jail, apparently has plenty of unused beds-thus making any immediate expansion unnecessary.

The Attorney's Office may have additional. Thanks.



**From:** Fosbre, Bill (Legal)  
**Sent:** Tuesday, March 07, 2017 3:21 PM  
**To:** Campbell, Marty  
**Cc:** Pauli, Elizabeth (Legal)  
**Subject:** Q&A: DHS Implementation of the Executive Order on Border Security and Immigration Enforcement | Homeland Security

Question 9 addresses Homeland Security desire to increase and secure additional detention facilities.

<https://www.dhs.gov/news/2017/02/21/qa-dhs-implementation-executive-order-border-security-and-immigration-enforcement>

Bill Fosbre  
City of Tacoma

**From:** Pauli, Elizabeth  
**Sent:** Sunday, March 12, 2017 1:42 PM  
**To:** Gallagher, Anita  
**Subject:** Re: Proportion of detainees by offense

I will have to ask.

Sent from my iPhone

On Mar 10, 2017, at 2:49 PM, Gallagher, Anita <[Anita.Gallagher@cityoftacoma.org](mailto:Anita.Gallagher@cityoftacoma.org)> wrote:

Hi Elizabeth, has Geo provided any data as to the proportion of detainees who are there for violent offenses vs. non-violent? The Mayor is giving an interview with NPR Oregon and she wanted this info as background. I have seen news articles stating that 90% of detainees are held for traffic infractions or immigration infractions rather than violent offenses on a national scale.

Anita Gallagher  
Chief Policy Analyst to the Mayor  
City of Tacoma  
O: 253.591.5156  
C: 253.777.8692

**From:** Pauli, Elizabeth  
**Sent:** Monday, March 13, 2017 8:39 AM  
**To:** Gallagher, Anita  
**Subject:** RE: ADVISORY: NWDC Detainees Demand Humane Treatment During Geo Group Corporate Inspection

I have not heard anything.

---

**From:** Gallagher, Anita  
**Sent:** Monday, March 13, 2017 8:38 AM  
**To:** Strickland, Marilyn <[Marilyn.Strickland@ci.tacoma.wa.us](mailto:Marilyn.Strickland@ci.tacoma.wa.us)>; Pauli, Elizabeth (Legal) <[EPAULI@ci.tacoma.wa.us](mailto:EPAULI@ci.tacoma.wa.us)>  
**Subject:** FW: ADVISORY: NWDC Detainees Demand Humane Treatment During Geo Group Corporate Inspection

Anita Gallagher  
Chief Policy Analyst to the Mayor  
City of Tacoma  
O: 253.591.5156  
C: 253.777.8692

---

**From:** Hanchard, Jenna [<mailto:jhanchard@king5.com>]  
**Sent:** Monday, March 13, 2017 7:37 AM  
**To:** Gallagher, Anita  
**Subject:** Fwd: ADVISORY: NWDC Detainees Demand Humane Treatment During Geo Group Corporate Inspection

Have you heard that GEO Group will have an inspection today?

Jenna Hanchard  
Reporter  
KING 5  
206-604-0571

Begin forwarded message:

**From:** KING News Tips <[king-newstips@king5.com](mailto:king-newstips@king5.com)>  
**Date:** March 13, 2017 at 2:14:28 AM PDT  
**To:** "Hanchard, Jenna" <[jhanchard@king5.com](mailto:jhanchard@king5.com)>  
**Subject:** Fw: ADVISORY: NWDC Detainees Demand Humane Treatment During Geo Group Corporate Inspection

FYI

**ASSIGNMENT DESK**  
KING 5 News | Seattle, WA



A **TEGNA** Company  
[newstips@king5.com](mailto:newstips@king5.com) | P. 206.448.3850 | Twitter: [@king5now](https://twitter.com/king5now) | [king5.com](http://king5.com)

**117**

2018.01.05.GEO Response000103

**From:** Pauli, Elizabeth  
**Sent:** Friday, March 31, 2017 6:50 PM  
**To:** Strickland, Marilyn  
**Subject:** Re: Detention Facility Tour

[REDACTED]

On Mar 31, 2017, at 5:42 PM, Strickland, Marilyn <[Marilyn.Strickland@ci.tacoma.wa.us](mailto:Marilyn.Strickland@ci.tacoma.wa.us)> wrote:

Thank you. This is helpful.

[REDACTED]

Sent from my iPad

On Mar 31, 2017, at 5:02 PM, Pauli, Elizabeth (Legal) <[EPAULI@ci.tacoma.wa.us](mailto:EPAULI@ci.tacoma.wa.us)> wrote:

Mayor, in follow up to your request, following are some things that stood out to me from my tour of the Northwest Detention Center.

[REDACTED]

[REDACTED]

Let me know if you have questions.

Elizabeth

(This page intentionally left blank.)

January 5, 2018

Planning Commission  
City of Tacoma

Dear planning commission members,

We write to you as groups that work in solidarity with people held in the Northwest Detention Center (NWDC), their families, and those at risk of immigration detention. We write out of deep concern that the proposed permanent regulations on correctional facilities are out of step with the state Attorney General's office and will jeopardize the Civil Rights Unit's efforts to ensure that GEO Group pays state minimum wage to all workers, both detained and regular employees. Likewise, the currently proposal to zone residential facilities out of residential areas may endanger the health of the people who are forced to live in them.

1) On September 20, 2017, Washington State Attorney General Bob Ferguson announced a lawsuit against the GEO Group for failing to pay state minimum wage since 2005 because it pays workers only \$1 per day and sometimes only extra food and for "unjust enrichment," meaning it profited by its illegal actions exploiting its workers. The crux of this lawsuit is that that the Northwest Detention Center (NWDC) is not exempted from paying minimum wage laws, as it would have been if it were operating a state, county, or municipal correctional facility under RCW 49.46.010(k). After the state filed its lawsuit, the Tacoma Planning Commission added a new change to the regulations, expanding 13.06.700.C to explicitly include both private and public detention centers in the definition of "correctional facilities." As Attorney General Ferguson noted in his press conference on September 20<sup>th</sup>, immigration detention centers are not correctional facilities as immigrants are awaiting administrative proceedings – not the criminal justice process. **Changing Tacoma Municipal Code to make immigrant detention centers into "correctional facilities" will help GEO Group avoid paying minimum wage to workers.** We implore the Planning Commission not to derail the State Attorney General's lawsuit to protect worker rights and ensure economic development. To mitigate these potential harms, we ask that the Planning Commission clarify the municipal code to clearly differentiate between correctional facilities that are related to the criminal justice process and immigrant detention centers where immigrants are held pending administrative hearings.

2) We ask that the Commission omit the recommendation to prohibit correctional facilities and detention centers from multi-family and light industrial zoning districts. While the NWDC is not a correctional facility, NWDC Resistance recognizes that all people have a right to live in safe, healthy places. **Residential facilities should be sited in places that are zoned residential.** We call on Tacoma Planning Commission to limit zoning practices that may expose residents to light, noise and other forms of pollution. This is of particular concern for facilities that are privately owned and operated, as they can deny city, county, and state authorities access to test the soil, water and air vapors to ensure that they will not negatively affect resident health. To the extent that the Planning Commission recommends

differentiating between publicly and privately run facilities, we would like to see a municipal code that allows for greater transparency and oversight of residential facilities to ensure that they are meeting city, county, and state environmental health and safety laws.

3) We applaud the Planning Commission's suggestion to increase notification and discussion in the Tacoma community before any permits are issued to expand correctional facilities.

We urge the Tacoma Planning Commission not to recommend changing the municipal code in a way that will help GEO avoid paying minimum wage to workers residing in Tacoma – including detained workers. Fair wages for all workers will benefit our community in the long run.

Sincerely,

Carly Brook, Angélica Cházaro, Maru Mora Villalpando, Wendy Pantoja, Naomi Strand  
and Megan Ybarra  
Northwest Detention Center Resistance (NWDCR)  
[www.nwdcresistance.org](http://www.nwdcresistance.org)  
[resistenciasolidarity@gmail.com](mailto:resistenciasolidarity@gmail.com)



**From:** Resistencia Northwest [mailto:resistenciasolidarity@gmail.com]  
**Sent:** Friday, January 05, 2018 2:54 PM  
**To:** Planning  
**Subject:** Petition for inclusion in Jan 3 public hearing documents

Below is a copy of a petition for the Planning Commission's consideration, and attached are over 500 signatures.

Please acknowledge receipt.

Thank you,

NWDCR

**To: Tacoma Planning Commission**

**Tell Tacoma not to Block WA State's Lawsuit  
Against GEO Group!**



Campaign created by  
[NWDC Resistance](#)



Tell the City of Tacoma not to change its municipal code to say that detention centers are correctional facilities! This change would allow GEO Group to avoid paying state minimum wage to detained immigrant workers.

### **Why is this important?**

In March 2017, Tacoma City Council enacted emergency interim zoning regulations pertaining to correctional facilities. The explicit goal at that time was to make it more difficult for correctional facilities to expand. Since it opened with 516 beds in 2005, the Northwest Detention Center (NWDC) has expanded twice more to 1,575 beds, and one council member was concerned that it would expand again. In December, the Planning Commission rewrote a proposal to change the municipal code to explicitly state that immigrant detention centers are defined as correctional facilities. We think this will only help GEO Group to fight a lawsuit that demands it pay minimum wage to detained immigrants.

In September 2017, the Washington State Attorney General filed a lawsuit against GEO for failing to pay minimum wage. GEO Group currently pays people \$1 per day, and sometimes only snacks, to do most of the work at the facility, including the cooking, cleaning, and laundry. GEO Group claims it doesn't have to pay workers minimum wage because the detention center is a correctional facility. In the September 20 press conference announcing the lawsuit, however, Attorney General Bob Ferguson pointed out that immigrant detention centers are not correctional facilities -- correctional facilities are for people going through the criminal justice system, not administrative immigration proceedings. If Tacoma changes its municipal code, GEO can use this change as evidence that it should get to keep paying people \$1 per day.

Tell the City of Tacoma not to do GEO Group's bidding, and not to sabotage the state minimum wage!

To: Tacoma Planning Commission

Tell the City of Tacoma not to change its municipal code to say that detention centers are correctional facilities! This change would allow GEO Group to avoid paying state minimum wage to detained immigrant workers.

Signed by 580 people:

<b>Name</b>	<b>Zip code</b>
NWDC Resistance	98421
Megan Ybarra	98144
marteenaa caple	98403
Jeffrey Cohen	98406
Brenda Bentley	98225-5347
Elizabeth Lara-Fiore	98408
Eric Madfis	98306
Saiyare Refaei	98405
Todd Bohannon	98053
Andrea Hill	98402
Stacy Oaks	98271
Sara Chacon	98513
Pamela Keeley	98118
Kimberly Zewdu	98166
Otto Youngers	98418-1826
Jasper Perry-Anderson	44074
Krystal Kyer	98502
Lucas Ayenew	98502
Maru Mora Villalpando	98225
Olga Prado	98499
MARLES BLACKBIRD	98501
Liisa Wale	98225
Audrey Faunce	98225
Joseph Lachman	98104

<b>Name</b>	<b>Zip code</b>
Susana Mercado Alvarado	03400
Zoe Wahbeh	98226
J Joy	98144
Alexis Rouse	98406
Melvin Rouse	98406
Ashley Ramos	98403
Nathalie Op de Beeck	98406
Lois Danks	98363
Jodi Franks	98407
LUKE QUINN	98144
Carol Olivier	98198
Marilyn Kimmerling	98407
Erran Sharpe	98362
Seth Mangold	98225
Kristin Day	99223
Alicia Luna	98503
Amy Glasser	98225
Karen Price	98248
Elizabeth Darrow	98225
Zephyra Burt	98405
Stuart Mangold	98370
Sarah Sarfaty	98122
Tina McKim	98225
Adrienned Weller	98122
Alexandra Torres	98407
Irene Bowen	98118
Patti Santangelo	98221
Kathy Lawhon	98405
David Brookbank	99203
Lesley Hoare	98331
Joy Caddock	98403

<b>Name</b>	<b>Zip code</b>
Jan Treecraft	99203
Lindsey Gard	98225
Joy Fradin	99147
Michael Edwards	99224
judith lienhard	97225
patricia wolfram	98133-7721
Vanessa Freije	98102
michelle devillier	98028
Jamie Jones	98557
Carlo Voli	98020
John Carlton	98405
Adam Weber	98407
Matthew Lemanski	98403
Peter Henry	98020
Robert Blum	98584
Leah Montange	98105
Karla Rixon	98408
Kathy Barker	98122
Fred Strange	99203
cole chambers	98405
Sierra Brown	98509
Deborah Hill	98406
Dean Paton	98122
carrie anders	99203
Rebecca Friedman	98405
Victoria Matey	98225
Monisha Wasson	98391
Katia Roberts	98122
Bonnie Price	83687
Sarah Brownstein	98402
Barbara Powers	98046

<b>Name</b>	<b>Zip code</b>
Omid Bagheri	98144
Elizabeth Botts	98406
Wayland Hubbart	98502
Sherrin Ungren	97958
Alexa Brockamp	98403
Jeremy Harrison-Smith	98235
Carol Kindt	98407
Jane Keating	97221
Patricia Menzies	98405
Derek Boiko-Weyrauch	98118
Beverly Naidus	98403
Julie Carey	98115
Christianne Brendible	98404
Christopher Hutchins	98404
Valerie Costa	98112
Star Murray	98402
LaDonna Robertson	98405
Suzanne Melton	98387
Wynn Barnard	98144
Joann Donald	99201
Annie Phillips	98166
Sandra Sylvester	98166
Alexis Langguth-Torres	98685
Malakay Betor	98407
Debra Warmington	98498-6418
Erika Bartlett	98404
Elizabeth Brant	98198
Erika Nelson	98250

<b>Name</b>	<b>Zip code</b>
Alline Birkel	98409
kim wool	98125
Rebecca Dare	98166
Theresa Crecelius	98166
Anthony DeLorenzo	97045
Anne Armstrong	98166
David Long	98405
Manuela Raunig	98112
Alx Dark	98103
Lisa McArthur	98103
Patricia Blau	98406
Julie Ball	98406
Rachel Fay	98103
morgan michel	98103
JM Wong	98122
Cherylann Brown	98106
Helen Meyer	98409
Tony Vrchota	98208
Brandon Meyer	98466
Adelina Nicholls	30338
Katie Kadwell	98106
Dali G. Martinez	30319
Tiffany Williams	98403
Karen Little	98166
Andrea Schmitt	98501
Ronda L Teel	98166
Rev. Tandi Rogers	98403
Lela Joseph	96822
Brice Kauffman	98115
Nancy Farrell	98406
Sallie Shawl	98349
Carrie Little	98360

<b>Name</b>	<b>Zip code</b>
Kenneth Little	98360
Rose OBrien Ochs	98177
Adina Joslyn	98405
Maureen Kill	98125
Paola del Sol	98115
Katherine Oak- schiller	98408
Linda S	98133
Tracey Hook	98405
Patricia Hoppa	98498
Edith Morgan	98349
Theresa Evans	98404
Gwendolyn Gaudefroy- Demombynes	98103
Carmen McKibben	98662
Abigail Scholar	99362
irene danysh	98166
Linda Hiser	98333
Bourtai Hargrove	98512
Eleanor Hoague	98155
Kent Sundberg	98117
Ann Pielli	98166
betty devereux	98335
Carolyn Blasdel	98402
Mark Garrett	98122
Lynn Macdonald	98467
Jeni Woock	98335
Christine Kohnert	98274
Kat Martin	98006
Tom Manley	98466
Philippa Sonnichsen	99352
Barbara Short	98208



<b>Name</b>	<b>Zip code</b>
Christina Bearer	98103
Tomas Madrigal	98146
Lauren Ford	12209
April Hersey	97212
ALYCIA Ramirez	98034
Briana Brannan	98118
elena perez	98116
Jared Howe	98108-1684
Robert Telzrow	98109
Barry Westbrook	98102
Sheila Moon	99354
Dana Gaskin Wenig	98177
Donna Ellefson	98103
Sherri Stair	98133
Linda Parrish	98444
Dorothy Craig	98103
Cheryl Tobie	98405
Beth de la Fuente	98117
Elizabeth Morris	98406
Alexandra Browne	98103
Gavin Alfus	98058
Nancy B.	83544
Elizabeth Binnian	98133
Dean Fournier	98177
Elizabeth Desimone	98148
Robert Anderson	98332
Marsha Stipe	99353
Jim Allyn	98801
Janet Wing	70512
Josh Smith	98801
Toni Long	98103

<b>Name</b>	<b>Zip code</b>
Ann El-Moslimany	98062
David Newman	98103-5753
Carol Lynn Harp	98010
Carolyn Deford-Eden	98404
Kristina Johnson	98112
Elizabeth Maupin	98027
Teresa Rivero	30021
Mary Fournier	98177
Bruce and Paula Foreman	98407
Melvin Mackey	98070
Carol Larkin	99352
SUZANNE GROGAN	98033
Ann Lewis	98070
Karen Hobson	98370
David Larkin	99352
Patricia Moore	98580
Angela Ko	98403
Kathy Partida	98040
Nathan Renner	98118
Julie Manley	98466
Sarajane Siegfriedt	98125
Patricia Wood	77008
Anneke Fleming	98416
Dee Oemig	98052
Terry Repak	98105
Austin Hayes	98447
Jo Gudgell	98410
Sarah Brimhall	98391
Abby Dalke	97201
Mickey Beary	99354

<b>Name</b>	<b>Zip code</b>
ELAINE PHELPS	98177
Justin Camarata	98406
Bethany Llewellyn	98416
Aliza Diepenbrock	98280
Mary Ann Yakabi	98856
Ron Gross	98856
Mary Sue Walker	98223
Eve Rumpf- Sternberg	98105
M. Kai Sanburn	98261
Jonathan Rosenblum	98118
Vanessa Koelling	98406
Frances Wessling	98052
Claire Smith	98105
Anita Latch	98405
Maeve Diepenbrock	98416
Maggie Rose	98230
Genevieve Caskey	80304
Joel Eklof	98406
Jeff Garrett	98404
Dennis Barnes	98155
Jesica Vega	98467
Linda Lane	98052
Diane Vickers	98133
Ellen Ratajak	98177
Diane Baer	98107
Teresa Romaneschi	98113
Minnette Lesser	98052
Celestine West	98133
Howard Harrison	98052-7252

<b>Name</b>	<b>Zip code</b>
Barbara Harrison	98052
Susan Fiksdal	98502
Amy Provenzano	98103
Margaret Rogers	98052
Linda Bonk	98053
Rev. Jim VanderWeele	98005
Tina Ilvonen	98105
Bernice Harris	98115
Anne-Cecile PORTER	98375
Sarah Tuttle	98103
Andrew Bacon	98404
Lisa McKay	98034
Chris Knowlton	98052-5497
Nola Elson	98011
Margo MacVicar Whelan	98136
Beth Kahn	98052
Joe ORear	98466
Dina Burstein	98112
Leah Soltar	98125
Rachel Zerrell	98102
Danielle Baer	98177
Rabbi David Basior	98122
Mariah Lynge	98056
Kayla Weiner	98146
Lonnie Lopez	98168
Russell Parks	98404
Gerald Zeno	98034
Barbara Leigh	98115
Sharon Moe	98116
Kerri Gibbard Kline	98146

<b>Name</b>	<b>Zip code</b>
Leslie Cohen	98102
Pamela Allyn	97504
Shirley Peak	98005
Lucina Strandjord	95401
Donna Rueth	98105
Ann Reeves	98631
Staci Sprout	98103
Dale Chase	98115
Sharon Evans	98342
Kevin Manley	98404
Dana Nickleach	98117
Joan Newcomb	98407
Aowen Annbjorg	98496
Paula Manley	97013
Gena Margason	98155
Ana Braxton	98125
Samuel Pingree	98406
Bryan Johns	98125
Constance Voget	98103
Wendell Phillips	98116
Ira Pollock	98112
Erin Stewart	98012
Maxwell Lewis	98101
Keaton Slansky	98105
Rosemary Cooke	98373
Janet Alderton	98243
Tolulope Taiwo	98405
Ronald Shure	98105
Anne Drury	98103
nancy corr	98198
Leo Garibaldi	98115
Lucas Cuellar	98108

<b>Name</b>	<b>Zip code</b>
Melanie Foster	98107
Robin Jacobson	98403
Deborah Carstens	98103
Bard Luippold	98406
Sean Horner	98499
Janet Campbell	98499
Samuel Torvend	98499
William Tudor	98371
Michael Xavier	98026
Sean Phelan	98144
Kim Gunning	98122
Julie Mckay	98122
Melinda Mueller	98117
Angelique Godley	98133
Tessa Paulson- Palmer	95524
Lucy EveryHope	98229
Sandra Diaz	98133
Margaret Broden	98661
Rhoda Karusaitis	98070
Lezley McDouall	98405
Marie-Anne Johnson	98052
Kristen Kussmann	98118
Nancy Murphy	98013
Sandy Barnes	98155
Holly M	98072
Amy Morrison	98070
Olga Solano	98248
Jett Jones	98103
Kristi Nebel	98415
Kevin Jones	98070
Milea Stauber	98117

<b>Name</b>	<b>Zip code</b>
Claire Pellegrino	98107
Diane Shaughnessy	98406
Frances Blair	98388-1028
Sharol Hallanger	98290
Florence Ariessohn	98391
megan stack	98390
Katrina Wolfe	98103
Susan Murphy	98070
Janet Way	98155
Janie Starr	98070
Rich Murphy	98070
Steve Rubicz	98070
Spring Hecht	98070
Alexandra Clarke	98070
Robert Blauvelt	98070
ELIZABETH WHITE	98070-6327
Donovan Johnson	98467
Melody Stepp	98445
Michael Lafreniere	98406
Deborah Mangold	98418
Amands Locke	98122
Karen Agee	50613
Daniel Ammons	98125
Gwynne Brown	98406
Michael Magrath	98070
Jennifer Zeisig	98070
Mary Burggraff	98125
Merrilee Runyan	98070
Susan Wachtman	98384
Rosemarie Wiegman	98404

<b>Name</b>	<b>Zip code</b>
Margaret Noone	98125
Jeff Bialer	98115
Thomas Buchanan	98117
Judy Tralnes	98009
Carol Sandoval	98166
Rhonda Medalia	98133
Liz Frazer	98103
Anne Avery	98406
Nicholas Magruder	98119
Susan Eckersley	98166
Dorothy Mowry	98264
Aaron Mandell	98103
Stacey Romero	98404
Margot Boyer	98070
Pablo Barcenas	98033
Pat Moris	98166
Lucia Faithfull	98023
Sanford Olson	98261
Cam Pratt	98370
Dominic Petoud	98146
Shaylon Stolk	98109
Sheila Dwyer	99354
Kyle Ostermick-Durkee	98407
Victoria Mena	98166
Meta Thayer	98103
Andrea Marcos	98144
judith jesiolowski	98004
Anna Minard	98107
sheila markman	98117
Edward Stipe	99352
Jade Jones-Hawk	98502



<b>Name</b>	<b>Zip code</b>
Lisa Painter	98177
Stephanie Cambier	98144
Chris Pollina	98155
Jesse Thibodeaux	98107
Tim Exton	98107
Binh Nguyen	98118
Kathryn Scott	98424
nyx zierhut	70119
Adrian Nelson	98404
jackson millikan	98406
Ellen Notehelfer	98282
Lin Nelson	98506
Jorge Velazco	98003
Margaret Diddams	98101
Liesl Santkuyl	98407
Alex Macdonald	98467
Anne Fischel	98502
Geena Barker	98579
Linda Theophilus	15235-4810
Marcia Rubardt	98070
Janice Altenburger	15658
Courtney Morales Thrall	98339
Cherotich Chuma	98004
Kathryn Fontana	98466
Lizzy Jansen	98115
Kim Raymoure	98119
Susan Schulkin	98115
Alan Schulkin	98115
Kristi Rozdilsky	98465
Emily Strong	98446

<b>Name</b>	<b>Zip code</b>
Hillary J	98674
Laurel Wolff	98579
Joanna Kaufman	11221
Mollie Wolf	98144
Glenrose Meersman	98406
Stacy Kidd	98407
Jorgen Junker	98404
Katherine Scott	98221
Alicia Price	98405
Joshua Lovejoy	98466
Kathy Allard	98021
Rachel Lindahl	98360
Vicky McCarley	98501
Joanna Bryan	98579
morgan wolff	98579
Ursula Mlynarek	98403
Ann Krigbaum	98403
Thomas Mlynarek	98403
Lucrecia Choto	98422
Rachel Erstad	98106
Joseph Hann	98405
Tom Link	98406
Ken House	98403
Malya Muth	98026
Maria Bell	98405
Karen Meisenburg	98407
Will M.	98104
Jada Marsden	98144
Rachel Bjork	98103
Robin Hamman	98407
Emmett Stanfield	98122
Diana Falchuk	98144

<b>Name</b>	<b>Zip code</b>
Carmen Miravalle	98395
Alicia Dudziak	98122
Brett Hamil	98144
Amy Madden	98105
Erin Mayo-Adam	11209
Bradley Thompson	98405
Richard Williams	98405
Katrina Spade	98102
Zoe Grieder	98122
Victoria Patterson	98122
Jeremy Puma	98106
Bernadette Guzman	98526
Jeannette Murphy	98502
Claire Smith	98105
Danny Tayara	98122
Timothy McNeely	98405
Kristy Copeland	98125
Micah Kehrein	98144
Margarita Medina	98112
Carol Cox	98115
Nicole Pope	98115
Joana Cervera	98498
Danae Hackett	98121
Dwight Mims	98498
Angelina Fazio	85020
Hannah Bernard	60625
Caitlin Bergman	98107
Alex Brott	98144
Tracy Lopez	98126
Rosa Palumbo	98115
Becs Richards	98118

<b>Name</b>	<b>Zip code</b>
RR Anderson	98405
Fred Swanson	98166
Tiffany Lemmon	98405
Hanna Hill	98405
Edgar Sandoval	98122
Sharalee Stephens	98168
eric brunt	98122
Laura Martinez	98499
Eric Wolff	98125
Christian Swacker	98122
Orlando Lugo	98108
Mac McGregor	98108
Miranda Williams	98229
Jeff Masse	98122
Andrea Berg	97214-5402
Tash Hansen-Day	98118
den mark wihar	98660
Kathleen Geluso	98199
Sarah Brady	98144
Sarah Lippek	98108
Mary Gross	98199
Christopher Langelier	98126
Sara Parolin	98105
Cecil Seferos	98146
Kathryn Grubbs	98102
Heather Urschel	98405
Micah Tucker	98404
Andrea Moody	20015
Jacqueline Rickert	98003
Catherine Buckley	98115
Dan Berger	98144

<b>Name</b>	<b>Zip code</b>
Talitha Jones	98225
Eugene Choo	91711
Stephanie Jamieson	98104
Angharad Hollingworth	98405
Lillian Adamski-Thorpe	98117
Justin Camarata	98406
John Loritsch	98104
Margaret Wilson-Briggs	98115
Jamie B	98333
Teshan Laucirica	98115
Grayson Crane	98328
Dan Tenenbaum	98144
Eric Gross	98177
Hannah Siano	98107
Sumyat Thu	98108
Pat Tobin	98371
Rolf Vegdahl	98816
John Bito	98107
Emily Brown	98125
Patricia Atwater	98103
Rebecca Gross	98122
Ted Dreier	97219
Danielle Rowland	98007-6140
Anita Dietrich	98208
Heidi Schutz	98407
Sharon Michael	98335
Jordan Fonseca	98416
Mary Sue Walker	98223
Carino Barragan	98144
Sybill Hyppolite	98118

<b>Name</b>	<b>Zip code</b>
Anthony Helmbolt	98002
Hannah Strub	98445
Judy Stilson	98204
Robert Briggs	98070
Yvonne Kuperberg	98070
Carol Ferch	98070

## Wung, Lihuang

---

**From:** Sarah Parillo <sparillo3@gmail.com>  
**Sent:** Thursday, January 04, 2018 12:38 PM  
**To:** Planning  
**Subject:** Tacoma Planning Commission

Along with so many others, I want to ask the Tacoma Planning Commission to omit zoning practices that allow for correctional facilities to be housed in areas that are zoned industrial and may expose residents to light, noise, and other forms of pollution. This is of particular concern for facilities that are privately owned and operated, as they can deny city, county, and state authorities access to test the soil, water and air vapors to ensure that they will not negatively affect resident health.

I know that GEO Group filed a complaint before the Central Puget Sound Growth Management Hearings Board (No. 17-3-0004) and intimated that it might sue the City of Tacoma. I've already had to restructure my IRA to ensure I'm not accidentally supporting GEO Group in my mutual funds! I urge the Tacoma Planning Commission not to give in to these intimidation tactics. Please do not change Tacoma's municipal code to help a multinational private prison company avoid paying minimum wage. The Planning Commission exists to benefit everyone residing in Tacoma, including those held at the NW Detention Center, and fair wages for all workers will benefit our entire community in the long run. Thank you so much for your time and service, Sarah Parillo.

## **Wung, Lihuang**

---

**From:** annie phillips <felicity@nwlink.com>  
**Sent:** Saturday, December 30, 2017 10:03 PM  
**To:** Planning  
**Subject:** Ordinance No. 28417 - Correctional Facilities

Hello. I'm commenting on the designation of the NW Detention Center as a "correctional facility." This is wrong - it is currently holding hundreds of immigrant detainees who are not criminals and should not be made to work for just \$1/day. Please change its designation from "correctional facility" to another term that would make their detention less cruel and punitive. Thank you.

Annie Phillips  
17600 Sylvester Rd SW  
Burien, WA 98166



## Wung, Lihuang

---

**From:** Kim R <kiminoa@gmail.com>  
**Sent:** Wednesday, January 03, 2018 3:33 PM  
**To:** Planning  
**Subject:** Tacoma Planning Commission - written comment for 3 January meeting

I'm unable to attend the meeting this evening, but wanted to share my written comment.

Along with so many others, I want to ask the Tacoma Planning Commission to omit zoning practices that allow for correctional facilities to be housed in areas that are zoned industrial and may expose residents to light, noise, and other forms of pollution. This is of particular concern for facilities that are privately owned and operated, as they can deny city, county, and state authorities access to test the soil, water and air vapors to ensure that they will not negatively affect resident health.

I know that GEO Group filed a complaint before the Central Puget Sound Growth Management Hearings Board (No. 17-3-0004) and intimated that it might sue the City of Tacoma. I've already had to restructure my IRA to ensure I'm not accidentally supporting GEO Group in my mutual funds! I urge the Tacoma Planning Commission not to give in to these intimidation tactics. Please do not change Tacoma's municipal code to help a multinational private prison company avoid paying minimum wage. The Planning Commission exists to benefit everyone residing in Tacoma, including those held at the NW Detention Center, and fair wages for all workers will benefit our entire community in the long run. Thank you so much for your time and service,

-Kim Raymoure.

## Wung, Lihuang

---

**From:** Karen Sjöström <karen.sjostrom@gmail.com>  
**Sent:** Wednesday, January 03, 2018 10:14 PM  
**To:** Planning  
**Subject:** RCW49.46.010(k)

Dear Planning Commission,

The State of Washington is suing GEO Group (1) for failing to pay state minimum wage since 2005 because it pays workers only \$1 per day and sometimes only pays workers in extra food, and (2) for “unjust enrichment,” meaning it profited by its illegal actions. The crux of this lawsuit is that the Northwest Detention Center (NWDC) is not exempted from paying minimum wage laws, as it would have been if it were a state, county, or municipal correctional facility under RCW 49.46.010(k). After the state filed its lawsuit, the Tacoma Planning Commission added a new change to the regulations, expanding 13.06.700.C to explicitly include both private and public detention centers in the definition of “correctional facilities.”

We call on the Planning Commission not to derail the State Attorney General’s lawsuit to protect worker rights and ensure economic development. As such, we ask that the Planning Commission take out language that redefines detention centers. This language only serves to benefit GEO Group’s claims that it should be allowed to pay workers in snacks or \$1 per day. Rejecting the proposed changes to the municipal code will help ensure that GEO Group follows minimum wage laws for all workers, whether they are detained or from the greater Tacoma community.

Along with so many others, I want to ask the Tacoma Planning Commission to omit zoning practices that allow for correctional facilities to be housed in areas that are zoned industrial and may expose residents to light, noise, and other forms of pollution. This is of particular concern for facilities that are privately owned and operated, as they can deny city, county, and state authorities access to test the soil, water and air vapors to ensure that they will not negatively affect resident health.

I know that GEO Group filed a complaint before the Central Puget Sound Growth Management Hearings Board (No. 17-3-0004) and intimated that it might sue the City of Tacoma. I urge the Tacoma Planning Commission not to give in to these intimidation tactics. Please do not change Tacoma’s municipal code to help a multinational private prison company avoid paying minimum wage. The Planning Commission exists to benefit everyone residing in Tacoma, including those held at the NW Detention Center, and fair wages for all workers will benefit our entire community in the long run.

Thank you so much for your time and service.

Sincerely,

Dr. Karen E Sjostrom

## Wung, Lihuang

---

**From:** Jurjen Smies <jurjen.smies@gmail.com>  
**Sent:** Thursday, January 04, 2018 1:28 PM  
**To:** Planning  
**Subject:** Comment on Proposed Correctional Facilities Permanent Regulations

Dear members of the Committee,

I am writing to object to the definition, as proposed in the Proposed Correctional Facilities Permanent Regulations, of what constitutes a "correctional facility," to wit:

"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 [sic] charges, convicted of federal, state or local charges, but not yet sentenced, or serving a federal, state or local sentence upon conviction."

While I understand that this definition constitutes a convenient catch-all to encompass all forms of facilities in which persons are detained, for the purposes of land use regulation, it may have wider, unintended ramifications. Case in point is, of course, the lawsuit initiated by the state Attorney-General's Office against GEO Group, which operates the Northwest Detention Center (NWDC) in the Port of Tacoma. While I understand, again, that the intention of the proposed definition, in the context of land use regulation, is to cover the NWDC to prevent it from expanding even further than it already has, defining it as a "correctional facility" in the municipal code would provide ammunition for GEO Group's lawyers to argue that it is exempt from state minimum wage laws (the issue at hand in the suit). Whether such a claim could actually be substantiated is open to question, I acknowledge: the detainees at the NWDC are being held pending civil proceedings and are thus not "awaiting trial on federal [...] felony or misdemeanor charges" nor are they being detained "under federal [...] warrant" but the risk still exists that the proposed definition will muddy the legal waters. Moreover, if the aforementioned objections were found to hold water, the NWDC would thus be exempt from the Proposed Regulations, which would obviate--at least in part--the point of adopting them in the first place!

I therefore strongly urge the Committee to alter the wording of the Proposed Permanent Regulations to distinguish between correctional facilities and other forms of detention facility, the latter to include facilities like the NWDC.

Respectfully submitted,

Jurjen Smies  
3102 N 11th Street  
Tacoma, WA 98406

--

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. --  
Amendment IV, Constitution of the United States of America

## Wung, Lihuang

---

**From:** Mary Susan Walker <marysusanwalker@gmail.com>  
**Sent:** Thursday, January 04, 2018 3:43 PM  
**To:** Planning  
**Subject:** Proposed change to municipal code about detention center

Dear City of Tacoma,

I am writing as a citizen that is very concerned and against the proposed changes to the municipal code. Detention centers are NOT correctional facilities. In fact, being an immigrant in this country is not a crime, so changing the detention center to a correctional facility is NONSENSE. Furthermore, allowing the FOR-PROFIT detention center to exploit detained immigrant people is unethical.

The minimum wage is \$15/hour, and these people have families who need support. As you know, even with 2 parents working minimum wage jobs, children rarely have enough to eat. Give the money to the community members who need it most, and not to the corporation who is charging these people outrageous fees for phone calls and other activities.

I urge you to do the right, ethical thing for PEOPLE. Vote no on the proposed change to the municipal code!

Sincerely,

Mary Susan Walker

January 3, 2018

City of Tacoma  
Planning Commission  
747 Market Street  
Tacoma, WA 98402

**Subject: Correctional Facilities Use**

Dear Chair Wamback,

**Please consider our request to prohibit Correctional Facilities in the PMI zone classification.**

Under the proposal up for consideration, Correctional Facilities would be allowed only in the M2 and PMI zones, with approval of a special conditional use permit and added public notice.

We offer the following comments on this proposed change to city code:

1. Port Maritime and Industrial (PMI) zoning designation provides for "...uses which rely on the deepwater berthing to transport raw materials for processing or manufacture, or transport of finished products; and freight mobility infrastructure, with the entire area served by road and rail corridors designed for large, heavy truck and rail loads "(TMC 13.06.400.B).
2. Although a correctional facility is an essential public facility, it is not in any way related to the port maritime industry.
3. The recent process of adopting interim regulations for the Tideflats concluded that non-industrial uses should be restricted from encroaching upon limited industrial lands. Allowing this use in only M2 and PMI is inconsistent with this previous finding.
4. It is not in the best interest of city staff, or the general public, to increase the complexity of city code by writing an application and notice process for one particular use.

Thank you for the opportunity to provide comment.  
Sincerely,

Deirdre Wilson, AICP

A handwritten signature in blue ink that reads "Deirdre Wilson".

Northwest Seaport Alliance  
1 Sitcum Way  
Tacoma, WA 98421  
253-209-9154 | dwilson@nwseaportalliance.com

(This page intentionally left blank.)



City of Tacoma  
Planning Commission

Stephen Wamback, Chair  
Anna Petersen, Vice-Chair  
Carolyn Edmonds  
Jeff McInnis  
Brett Santhuff  
Andrew Strobel  
Dorian Waller  
(vacant)  
(vacant)

January 17, 2018

Honorable Mayor and Members of the City Council:

On behalf of the Planning Commission, I am forwarding our recommendations regarding the Proposed Correctional and Detention Facilities Permanent Regulations, for your consideration for adoption before the current interim zoning regulations expire on March 6, 2018. The interim regulations were originally enacted on March 7, 2017, per Ordinance No. 28417 and subsequently modified on May 9, 2017, per Ordinance No. 28429.

The Planning Commission acknowledges and understands the City Council's intent and objectives in enacting the interim regulations, which highlight community concerns about correctional facilities generally as well as how they are currently regulated in the City's zoning code. The Commission also feels the sentiment of the community about immigration, social justice and associated issues, due to the current national political environment and the uncertainty it has instigated. However, the Commission has great concerns about using the City's land use regulatory authority to potentially try and address these types of broad-reaching, politically charged, and largely national-level issues.

Given the unique circumstances surrounding the interim regulations, which encompass both land use and non-land use perspectives, the Commission's review and discussion of the matter has been robust, vigorous and contentious, with divisive and strong opposing viewpoints. But we have strived to complete the development of the corresponding permanent regulations that we believe would bridge the gap between land use regulations and a specific land use and function that many of us – and the larger community – find particularly upsetting.

Attached is the *Planning Commission's Findings of Fact and Recommendations Report* which documents the Commission's observations, concerns, deliberations, and recommendations. We look forward to our continued work in addressing land use issues associated with correctional and detention facilities and other similar and relevant uses within the City.

Sincerely,

STEPHEN WAMBACK  
Chair, Planning Commission

Enclosure







# Correctional and Detention Facilities Permanent Regulations (Revisions to TMC 13.06 Zoning)

---

## Planning Commission Findings of Fact and Recommendations Report

January 17, 2018 Draft

### A. Subject:

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

### B. Summary of the Proposed Permanent Regulations:

The Proposed Correctional and Detention Facilities Permanent Regulations (see **Exhibit 1**) would amend several sections of the Tacoma Municipal Code that would:

- Prohibit correctional and detention facilities in multi-family and light industrial zoning districts (where they are currently allowed by zoning);
- Require a Conditional Use Permit for new correctional and detention facilities (in zones where they are allowed) or significant modifications to existing ones;
- 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
- Modify and expand the definition of “correctional facility” to “correctional and detention facilities”.

### 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 2**), 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; broader land use concerns about allowing non-typical “residential” uses in the Tideflats industrial area; the relationship and potential impact of this project on other high-priority projects in the Commission’s work program; and the scope and limited time potentially available to consider permanent regulations.
11. While the Commission was able to spend considerable time on this issue, 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 3**). 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 will better ensure 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 4a**) 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 remains a permitted use but will need a conditional use permit to expand.
16. The Pierce County Jail (see **Exhibit 4b**), 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 4c**), 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 Pierce County Jail and the Remann Hall are not prevented from, 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 expanded correctional or detention facility in the Tideflats will require a conditional use permit.
20. The following are some of the policies as set forth in the Public Facilities and Services Element of the *One Tacoma* Comprehensive 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.*

*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.*

*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.*

*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.*

*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.*

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" (Goal PFS-3). 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)

### **Part Three – Planning Commission's Review Process for Permanent Regulations:**

23. 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.
24. 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).
25. 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.
26. 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.

27. One of the key issues the Commission heard at the January 3<sup>rd</sup> public hearing and reviewed at the January 17<sup>th</sup> meeting was the concern that detention facilities be differentiated from correctional facilities. The Commission reviewed the legal opinion on the subject from the City Attorney's Office (see **Exhibit 5**).
28. 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:
- January 23 – Setting February 6 as the date for a public hearing
  - 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 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 (County Jail, Remann Hall, and NWDC) were opened.
- Maintain or enhance compatibility with existing or planned land uses and the surrounding development pattern. Adding a conditional use requirement will allow these new policies to be properly considered in any new siting decisions, whether for existing or new locations.

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. Ordinance No. 28417, March 7, 2017
3. Ordinance No. 28429, May 9, 2017
4. Location and Parcel Maps:
  - a. Northwest Detention Center
  - b. Pierce County Jail
  - c. Pierce County Juvenile Detention Center (Remann Hall)
5. Letter from Deputy City Attorney to the Planning Commission, January 20, 2018, concerning Detention Facilities as Essential Public facilities





# Correctional and Detention Facilities Permanent Regulations

---

## DRAFT CODE AMENDMENTS

*For Planning Commission's Consideration for Recommending to the City Council  
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 development sites over 1 acre in size	No	Yes	30 days <sup>5</sup>	Director	No	No	5 years <sup>4</sup>
<a href="#">Conditional use, correctional or detention facilities (new or major modification)</a>	<a href="#">Required</a>	<a href="#">1,000 feet</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">30 days<sup>2</sup></a>	<a href="#">Hearing Examiner</a>	<a href="#">Yes</a>	<a href="#">No</a>	<a href="#">5 years</a>
Conditional use, large-scale retail	Required	1,000 feet	Yes	Yes	30 days <sup>2</sup>	Hearing Examiner	Yes	No	5 years
Conditional use, master plan	Required	1000 feet	Yes	Yes	30 days <sup>2</sup>	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 <sup>5</sup>	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).

<sup>1</sup> 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.

<sup>2</sup> Comment on land use permit proposal allowed from date of notice to hearing.

<sup>3</sup> Must be recorded with the Pierce County Auditor within five years.

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

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

<sup>6</sup> Refer to Section 13.05.070 for preliminary plat expiration dates.

<sup>7</sup> 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 <sup>1</sup>
* * *									
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 <u>or detention facilities</u> <del>facility</del>	N	N	N	N	N	<del>CU</del> <u>N</u>	<del>CU</del> <u>N</u>	<del>CU</del> <u>N</u>	<del>Side yards shall be provided as specified in Section 13.06.602.</del>
* * *									

### 13.06.200 Commercial Districts.

\* \* \*

5. District use table.

Uses	T	C-1	C-2 <sup>1</sup>	HM	PDB	Additional Regulations <sup>2,3</sup> (also see footnotes at bottom of table)
* * *						
Communication facility	N	N	P	N	P	
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 <u>or detention facilities</u> <del>facility</del>	N	N	N	N	N	
* * *						

### 13.06.300 Mixed-Use Center Districts.

\* \* \*

3. District use table.

Uses	NCX	CCX	UCX	RCX <sup>1</sup>	CIX	HMX	URX	NRX	Additional Regulations <sup>3, 4, 5</sup> (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. <sup>2</sup>
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. <sup>2</sup> 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. <sup>2</sup>
Correctional <a href="#">or detention facilities</a> <del>facility</del>	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 <sup>1</sup>
* * *				
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 <del>facility</del> <u>or detention facilities</u>	<del>P</del> N	<del>P</del> CU	<del>P</del> CU	<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>
* * *				

### 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. 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 ~~and detention facilities~~facility. 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 or administrative detention, 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.

\* \* \*

#### 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,  
and

WHEREAS 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, and

WHEREAS 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, and

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

WHEREAS 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, and

WHEREAS, 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 NDC, and





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

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

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

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



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

WHEREAS requiring conditional use permits for new or expanded facilities, in the interim, 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 and compatibility issues associated with siting these types of facilities, and

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

BE IT ORDAINED BY THE CITY OF TACOMA:

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

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

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



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

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

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

Passed \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
Deputy City Attorney

## **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 <sup>1</sup>
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 <sup>1</sup>
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, <a href="#">public or private</a>	N	N	N	N	N	<del>CU N</del>	<del>CU N</del>	<del>CU N</del>	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 <sup>1</sup>	PDB	Additional Regulations <sup>2,3</sup> (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, <a href="#">public or private</a>	N	N	N	N	

\* \* \*

### 13.06.300 Mixed-Use Center Districts.

\* \* \*

#### 3. District use table.

Uses	NCX	CCX	UCX	RCX <sup>1</sup>	CIX	HMX	URX	NRX	Additional Regulations <sup>3,4,5</sup> (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. <sup>2</sup> 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. <sup>2</sup>
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. <sup>2</sup>
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. <sup>2</sup>



Uses	NCX	CCX	UCX	RCX <sup>1</sup>	CIX	HMX	URX	NRX	Additional Regulations <sup>3,4,5</sup> (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. <sup>2</sup>
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. <sup>2</sup> 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. <sup>2</sup>
Correctional facility, <a href="#">public</a> or <a href="#">private</a>	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 <sup>1</sup>
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, <a href="#">public</a>	<a href="#">P N</a>	<a href="#">P CU</a>	<a href="#">P CU</a>	<a href="#">Correctional facility, private is not allowed in M-1, M-2 and PMI</a>

\* \* \*

### **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  
24  
25  
26





they are allowed (currently, M-2 Heavy Industrial and PMI Port Maritime &  
1 Industrial), and

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

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

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  
21

22 WHEREAS, while the Commission was able to spend considerable time on  
23 this issue, it was unable to reach consensus on a final recommendation on the  
24 Interim Regulations; however, the Commission forwarded its work to the City  
25  
26



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

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,  
26



BE IT ORDAINED BY THE CITY OF TACOMA:

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 ~~striketrough~~.*

#### 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 <sup>2</sup>	Hearing Examiner	Yes	Yes	None
Shoreline/CUP/ variance	Required	400 feet	No	Yes	30 days <sup>5</sup>	Director	No <sup>1</sup>	No	2 years/ maximum <sup>6</sup>
Short plat (2-4 lots)	Required	No	No	No	No	Director	No	No	5 years <sup>3</sup>
Short plat (5-9 lots)	Required	400 feet	No	Yes	14 days	Director	No <sup>1</sup>	No	5 years <sup>6</sup>
Site approval	Optional	400 feet	No	Yes	30 days <sup>5</sup>	Director	No	No	5 years
Conditional use	Required	400 feet; 1000 feet for development sites over 1 acre in size	No	Yes	30 days <sup>5</sup>	Director	No	No	5 years <sup>4</sup>
<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 days<sup>2</sup></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 <sup>2</sup>	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 <sup>2</sup>	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 <sup>5</sup>	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).

- <sup>1</sup> 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.
- <sup>2</sup> Comment on land use permit proposal allowed from date of notice to hearing.
- <sup>3</sup> Must be recorded with the Pierce County Auditor within five years.
- <sup>4</sup> Special use permits for wireless communication facilities, including towers, are limited to two years from the effective date of the Director's decision.
- <sup>5</sup> If a public meeting is held, the public comment period shall be extended 7 days beyond and including the date of the public meeting.
- <sup>6</sup> Refer to Section 13.05.070 for preliminary plat expiration dates.
- <sup>7</sup> 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 <sup>1</sup>
***									
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; <del>public or private</del>	N	N	N	N	N	N	N	N	<del>Side yards shall be provided as specified in Section 13.06.602.</del>
***									

### 13.06.200 Commercial Districts.

\*\*\*

5. District use table.

Uses	T	C-1	C-2 <sup>1</sup>	PDB	Additional Regulations <sup>2,3</sup> (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; <del>public or private</del>	N	N	N	N	
***					

### 13.06.300 Mixed-Use Center Districts.

\*\*\*

3. District use table.

Uses	NCX	CCX	UCX	RCX <sup>1</sup>	CIX	HMX	URX	NRX	Additional Regulations <sup>3,4,5</sup> (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. <sup>2</sup>
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. <sup>2</sup> 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. <sup>2</sup>
Correctional facility; <del>public or private</del>	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 <sup>1</sup>
* * *				
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; <del>public</del>	N	CU	CU	<del>Correctional facility, private is not allowed in M-1, M-2 and PMI</del> Modifications or expansions to existing facilities that increase the inmate capacity shall be processed as a major modification (see Section 13.05.080). <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.

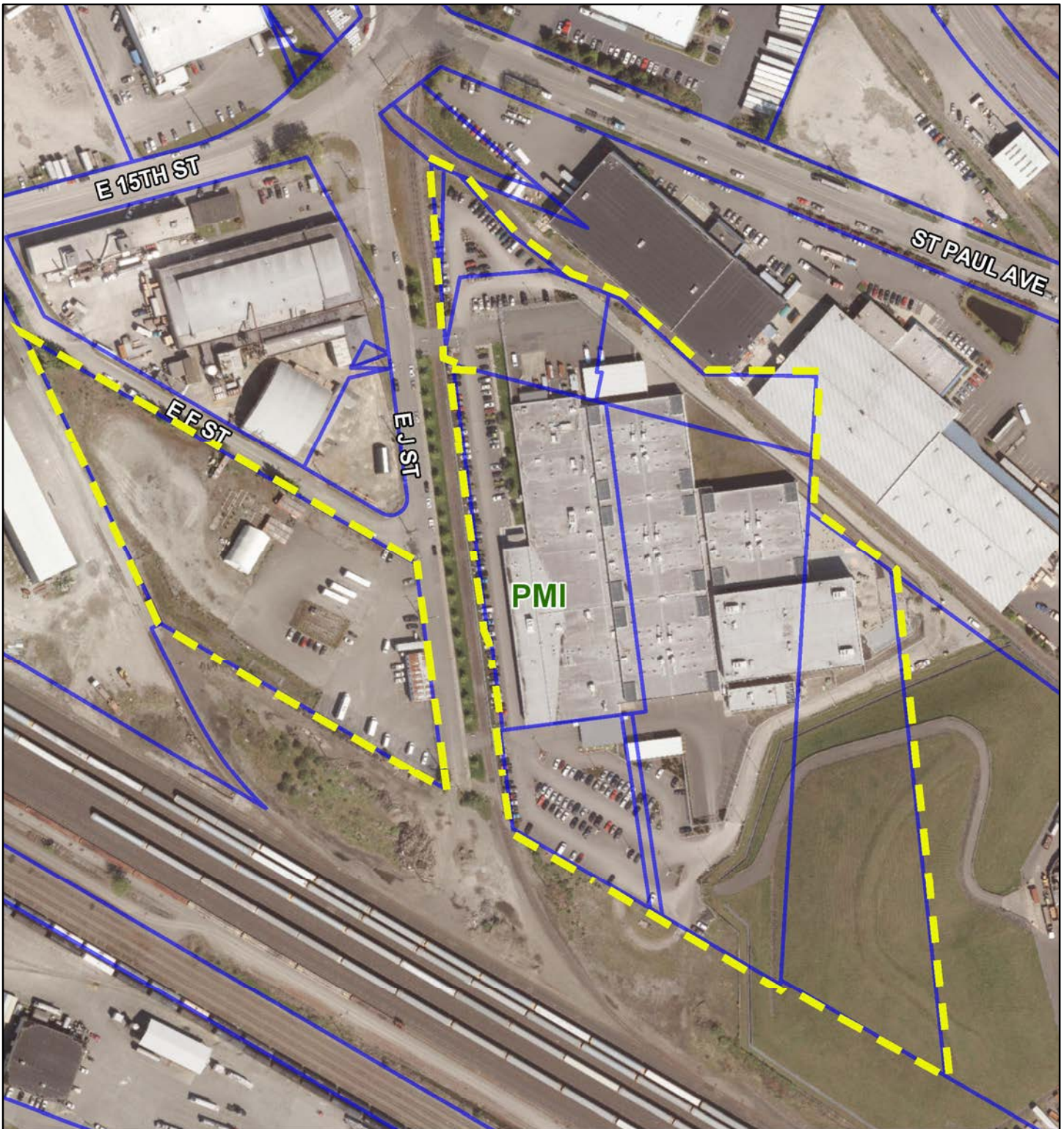
~~Correctional facility, private. A privately owned facility under contract with a government agency to provide incarceration or detention services for the incarceration or detention of persons under warrant, awaiting trial on felony or misdemeanor charges, convicted but not yet sentenced, or serving 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.~~

\* \* \*

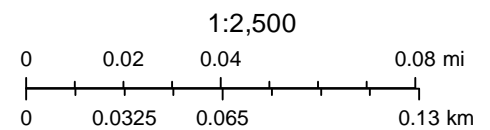


# Northwest Detention Center Parcels



March 10, 2017

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

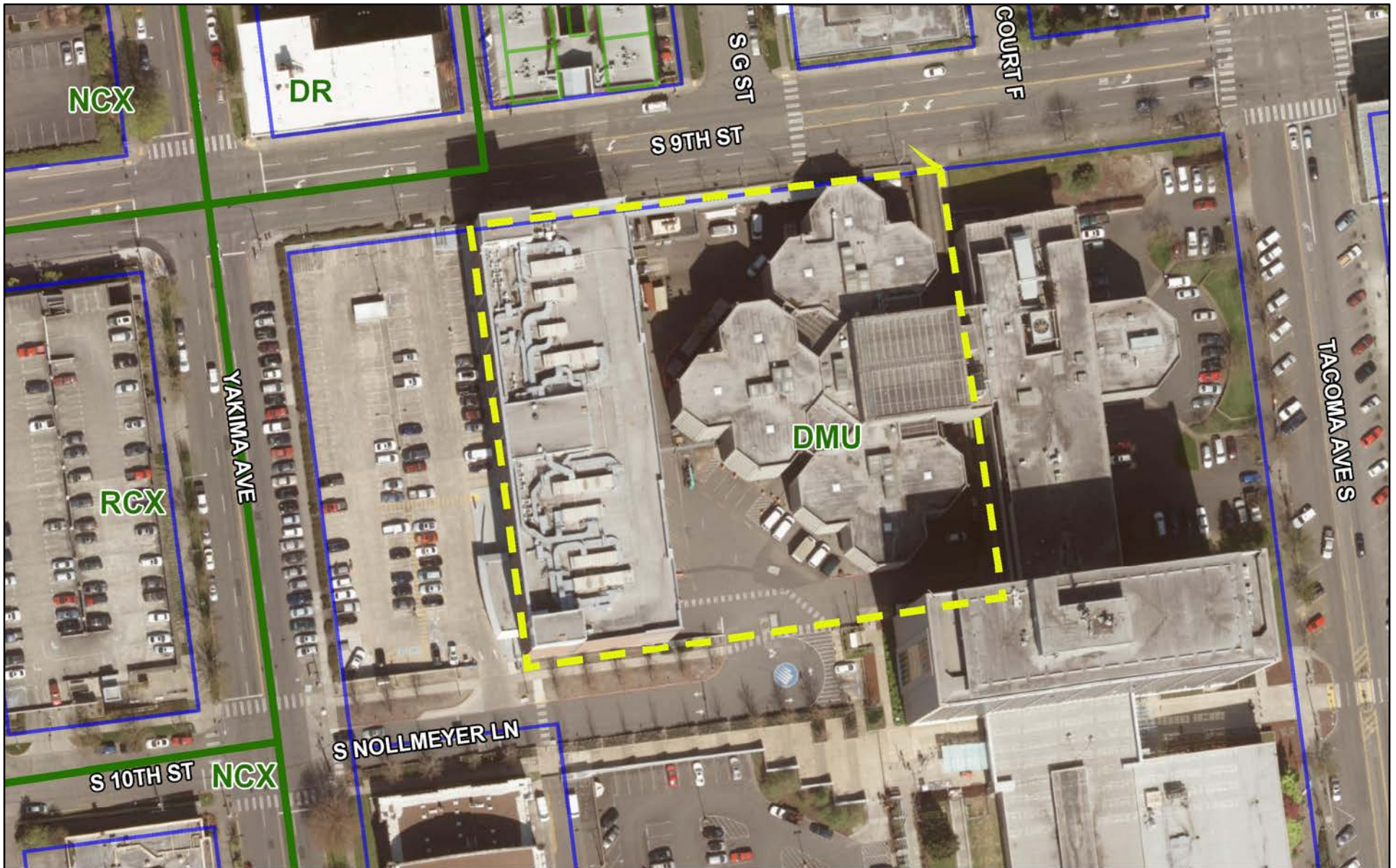


Tacoma IT-GIS  
Tacoma Community & Economic Development Department

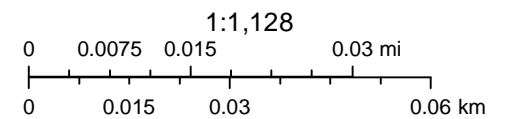




# Pierce County Jail



March 23, 2017

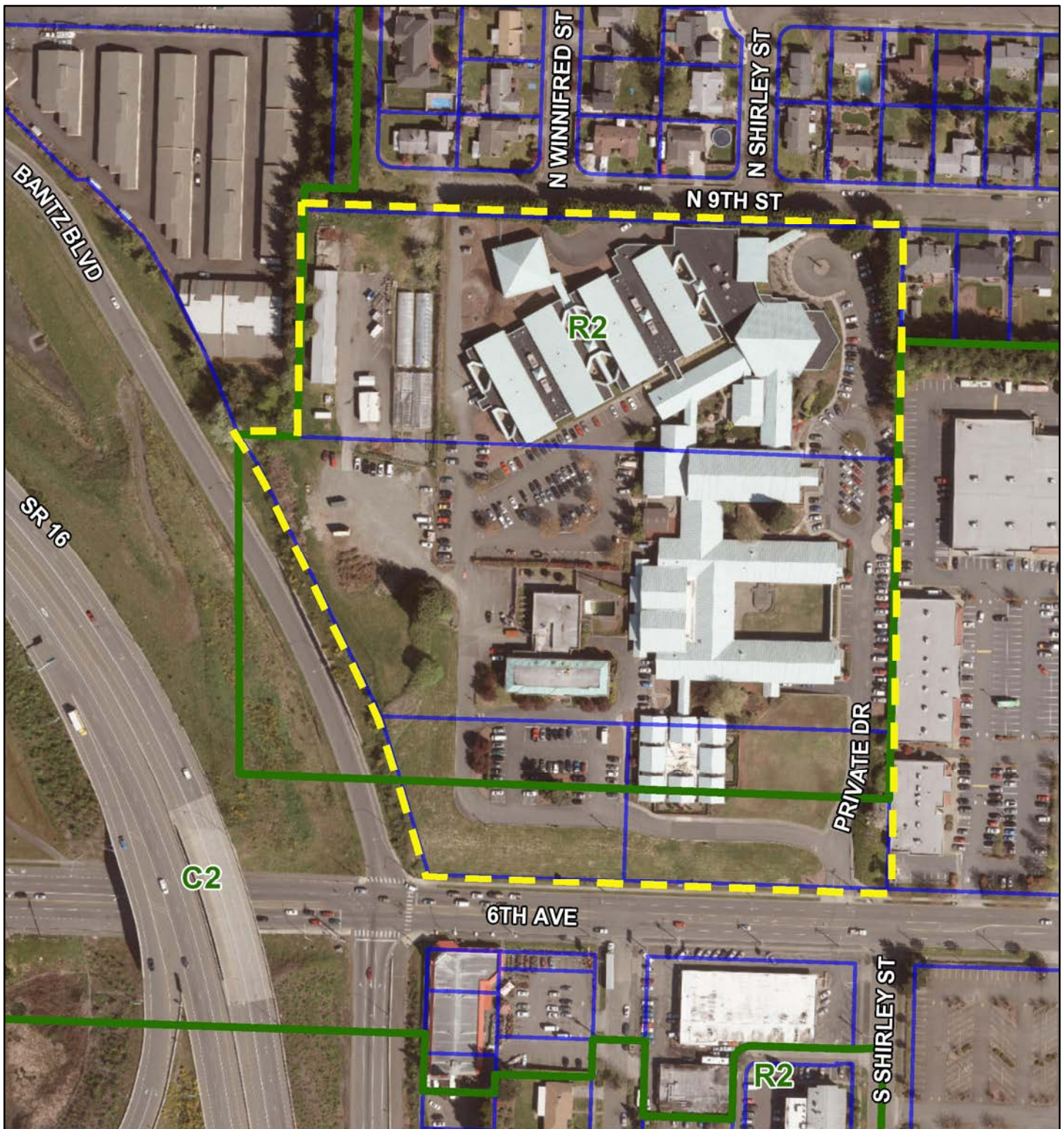


Tacoma IT-GIS  
Tacoma Community & Economic Development Department





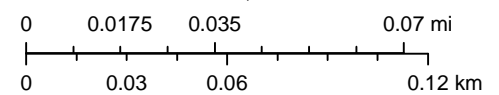
# Remann Hall



March 10, 2017

1:2,257

- |                                 |                    |
|---------------------------------|--------------------|
| Tacoma City Boundary            | Building Only      |
| Street Names                    | Condominium        |
| Zoning                          | Lease Hold         |
| <b>Parcels (All categories)</b> | 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