

**SUBSTITUTE
ORDINANCE NO. 28027**

AN ORDINANCE relating to land use and zoning; adopting findings of fact and recommendations to justify modification and retention of the emergency moratorium, adopted by Ordinance No. 28014, on the acceptance of applications for new building or other development permits associated with establishment, location, or permitting of large retail establishments with a floor area greater than 65,000 square feet within the City.

WHEREAS, on August 30, 2011, the City Council adopted Ordinance No. 28014, enacting an emergency moratorium on the filing, acceptance, and processing of applications for land use, building permits or other development permits associated with the establishment, location, or permitting of large retail sales establishments with a floor area greater than 65,000 square feet in size, and enacting said moratorium City-wide for a period of six months, and

WHEREAS the purpose of the moratorium is to allow time for the City Council and Planning Commission (“Commission”), along with City staff, to review the City’s existing standards for large retail developments and to determine whether these regulations should be amended to address economic, environmental, and social impacts, among others, and to provide mitigation requirements, if any, for large retail establishments, and

WHEREAS, in accordance with RCW 35.63.200 and Section 13.02.055 of the Tacoma Municipal Code, on October 5, 2011, the Commission conducted a public hearing on the moratorium and, on October 19, 2011, provided its findings and recommendations addressing the necessity, scope and appropriate duration of the moratorium to the City Council, attached hereto as Exhibit “A” and by this reference incorporated as if fully set forth herein, and

WHEREAS, after a review of the current large retail establishment regulations and the City's Comprehensive Plan ("Plan"), the Commission found that areas exist where current land use regulations do not sufficiently implement the policies and goals of the Plan, particularly as they relate to Community and Urban Mixed-Use Centers and the potential development of large retail establishments therein, and

WHEREAS the Commission concluded that, absent the moratorium, continued permitting of large retail establishments is likely, and any corresponding development of large retail establishments under the current regulations will negatively impact the community's ability to achieve the goals, policies, and vision laid out in the Plan, and

WHEREAS the Commission found that there is a continuing need for the emergency moratorium to preserve the status quo regarding development permits under the current regulations while the City reviews and considers implementation of improved regulations pertaining to large retail establishments, and

WHEREAS, after a review of the findings in the moratorium and the extensive public comments provided at the public hearing on October 5, 2011, the Commission found that the wide range of land use issues and community concerns, some highly contentious and some highly technical in nature, will require significant research, study, and public outreach, and

WHEREAS the Commission found that a more thorough review is necessary and will likely engender a comprehensive update to regulations,

potentially including updates to permitting procedures, zoning, design and development standards, and environmental review processes and standards, and

WHEREAS the Commission **found** that potential new land use regulations could impact a wide range of residents and businesses in the City, and, based on substantial community interest shown so far, should be developed with input from community stakeholders, including neighborhood groups, internal staff and officials, business community representatives and the public, together with close coordination between the City Council, the Commission and City staff, and

WHEREAS, given the many issues and concerns surrounding the moratorium established by Ordinance No. 28014, the two other moratoria currently in effect, and numerous other work program items, the ability of the Commission and City staff to manage existing responsibilities and the task at hand will be severely constrained within a six-month schedule, and

WHEREAS RCW 35.63.200 and Section 13.02.055 of the Tacoma Municipal Code allow a moratorium to be in effect for up to one year if a work plan to address the permanent regulatory requirements is developed that requires a longer period, and

WHEREAS the Commission provided its findings and recommendations to the City Council on October 19, 2011, with a proposed work plan attached, and **accordingly recommended** that the City Council extend the timeline associated with the emergency moratorium to August 30, 2012, a one-year

period, in order to allow the Commission, Council, City staff, and community sufficient time to develop a comprehensive and balanced regulatory approach that will address the myriad land use issues raised in relation to large retail establishments, and

WHEREAS the Commission further **recommended** that: (1) the moratorium only apply to new large retail establishments; (2) the City Council reduce the geographic scope of the moratorium to apply exclusively to Community and Urban Mixed-Use Centers; and (3) the moratorium be limited to applying to (a) substantial alterations to existing large retail establishments and (b) additions to large retail establishments that exceed 10 percent of the existing building size, and

WHEREAS the Commission finally **recommended** that the moratorium be modified to not apply to minor alterations and tenant improvements to, or the reuse of existing large retail establishments, and

WHEREAS the City Council has held a public hearing on the emergency moratorium on October 25, 2011, and

WHEREAS the City Council has determined that the Commission should focus its study on size limitations, and that the Commission's study of this issue should not be limited geographically, and should include the effects that the size of large retail establishments have on the entire community comprised by the City of Tacoma and how the size of large retail establishments fits with the entire Plan, but has otherwise agreed with the recommendations of the Commission, and

WHEREAS the City Council has determined that the Commission should complete its consideration of the above within the six month time period originally proposed for the moratorium; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That the City Council has considered the testimony presented at the October 25, 2011, public hearing on the City-wide moratorium on the filing, acceptance, and processing of applications for land use, building permits or other development permits associated with the establishment, location, or permitting of large retail sales establishments with a floor area greater than 65,000 square feet in size, as established by Ordinance No. 28014.

Section 2. That the City Council has considered the findings and recommendations of the Planning Commission dated October 19, 2011, regarding the moratorium established by Ordinance No. 28014.

Section 3. That, in accordance with RCW 35.63.200 and Section 13.02.055 of the Tacoma Municipal Code, which require the City Council to adopt findings of fact justifying the adoption of moratoria, the "Whereas" clauses set forth above are hereby adopted as the Findings of Fact of the City Council and are by this reference incorporated herein as if set forth in their entirety.

Section 4. That, consistent with the findings and recommendations of the Planning Commission, the City Council hereby amends the moratorium established by Ordinance No. 28014 to provide: (1) that the moratorium apply to new large retail establishments; and (2) that the moratorium be limited to applying to (a) substantial alterations to existing large retail establishments and

(b) additions to large retail establishments that exceed 10 percent of the existing building size.

Section 5. That, consistent with the findings and recommendations of the Planning Commission, the City Council hereby amends the moratorium established by Ordinance No. 28014 to provide that the moratorium be modified to not apply to minor alterations and tenant improvements to, or the reuse of existing large retail establishments, **or to boundary line adjustments.**

Section 6. That the amendment to Ordinance No. 28014, described herein, shall be as follows: That a moratorium is hereby adopted on the filing, acceptance, and processing of applications for land use, building, or other development permits in the **City of Tacoma** associated with the establishment, location, or permitting of new retail sales establishments with a floor area greater than 65,000 square feet in size. The foregoing notwithstanding, in the case of existing large retail establishments, the moratorium is hereby further modified to only apply to substantial alterations to existing large retail establishments and additions to large retail establishments that exceed 10 percent of the existing building size.

Section 7. That the City Council has determined that the moratorium on the filing, acceptance, and processing of applications for land use, building, or other development permits associated with the establishment, location, or permitting of new retail sales establishments with a floor area greater than 65,000 square feet in size, as established by Ordinance No. 28014, and as further amended by Section 4 and Section 6 of this Ordinance, shall be retained

in full force and effect until February 29, 2012, unless hereafter rescinded, modified or extended by separate ordinance.

Section 8. That if any section, subsection, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or situation, should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

Passed _____

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney



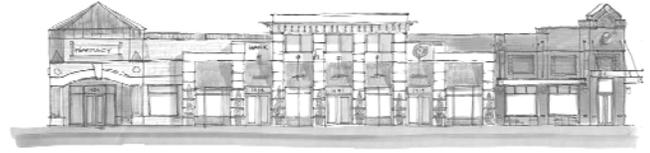
LARGE SCALE RETAIL MORATORIUM

DRAFT SCHEDULE
September 15, 2011

Date	Event
August 30, 2011	City Council adopts emergency moratorium; Ordinance No. 28014
September 1, 2012	Effective date of emergency moratorium
September 21	Planning Commission discussion of Ordinance No. 28010, State law, Council direction and proposed code amendment schedule
September 23	Provide notice for Commission public hearing on emergency moratorium
October 5	Planning Commission public hearing on emergency moratorium
October 5	Commission review of preliminary draft code options
October 19	Recommendation to City Council on emergency moratorium
October 20	Provide notice of Commission's recommendation on moratorium in advance of Council public hearing
October 25, 2011	City Council conducts public hearing on emergency moratorium
November 1, 2011	City Council retains, modifies or rescinds emergency moratorium
November 2	Commission discussion of preliminary draft code
November 16	Commission authorizes proposed amendments for public review and sets the public hearing date
November 23	Distribution of public notice for Planning Commission public hearing
December 7, 2011	Planning Commission public hearing on draft amendments
December 9	Last day to submit written comments on draft amendments
December 21	Planning Commission discussion of hearing testimony
January 4, 2012	Planning Commission makes recommendation to City Council
January 10	City Council sets hearing date
January 12	City Clerk distributes public notice for City Council public hearing
January 31	City Council study session on proposed amendments
January 31, 2012	City Council conducts public hearing on proposed amendments
February 7	City Council – first reading of ordinance(s) to adopt amendments
February 14	City Council – second reading and adoption of amendments
February 24	Submit final amendments to State
February 26	Effective date of amendments
March 1, 2012	Moratorium expires



LARGE SCALE RETAIL MORATORIUM



DISCUSSION OUTLINE

November 1, 2011

Substitute Ordinance 28027

- Retains moratorium
- Exempts reuse, minor alterations, minor additions, and *boundary line adjustments*
- Maintains original 6-month timeline
- Maintains original citywide geographic scope
- Regulatory changes should focus on limiting the size of retail businesses:

WHEREAS the City Council has determined that the Commission should **focus its study on size limitations**, and that the Commission's study of this issue should not be limited geographically, and should include the effects that the size of large retail establishments have on the entire community comprised by the City of Tacoma and how the size of large retail establishments fits with the entire Plan

Business Size Limitations

Overall limitation of retail business size

Existing, similar limitations:

- NCX – Neighborhood Commercial Mixed-Use (30,000 sq. ft. *per business*, but 45,000 sq. ft. *for grocery stores*)
- HMX – Hospital Medical Mixed-Use (7,000 sq. ft. *per business*)
- T – Transitional (20,000 sq. ft. *per building*)
- C-1 – Neighborhood Commercial (30,000 sq. ft. *per building*)

Districts where large commercial businesses could be located under existing regulations:

Mixed-Use Districts

- CCX – Community Commercial Mixed-Use
- UCX – Urban Center Mixed-Use
- UCX-TD – Urban Center Mixed-Use (Tacoma Dome)
- CIX – Commercial-Industrial Mixed-Use

Commercial Districts

- C-2 General Community Commercial

Industrial Districts

- M-1 – Light Industrial (outside of ST-M/IC)
- M-2 – Heavy Industrial (outside of ST-M/IC)

Downtown Districts

- All Downtown Districts – DCC, DMU, DR, WR

Limited Benchmarking

After a brief review of some other area jurisdictions, 30,000 – 60,000 sq. ft. seems to be a common threshold used. In some jurisdictions thresholds are used as trigger points for design review processes and in others the thresholds are used as the trigger points for requiring a conditional use permit or other type of site-specific discretionary review process. The following are examples of specific size limitations in some jurisdictions:

Olympia

25,000 sq. ft. limit in downtown

60,000 sq. ft. limit in some commercial zones

Bellingham

90,000 sq. ft. citywide

Seattle

25,000 sq. ft. in some neighborhood commercial districts

Port Townsend

60,000 sq. ft. gross floor area in most commercial zones

Existing Large Retail Establishments

Location	Approximate Size
Macy's (Tacoma Mall)	255,000 sq. ft.
JC Penney's (Tacoma Mall)	*233,000 sq. ft.
Sears (Tacoma Mall)	*180,000 sq. ft.
Costco (37 th & Steele)	152,000 sq. ft.
Nordstrom (Tacoma Mall)	*144,000 sq. ft.
Fred Meyer (19 th & Stevens)	143,000 sq. ft.
Fred Meyer (72 nd & Pacific)	142,000 sq. ft.
Lowe's (80 th & Hosmer)	138,000 sq. ft.
Lowe's (25 th & Orchard)	131,000 sq. ft.
Target (Allenmore)	124,000 sq. ft.
Home Depot (Center & Mullen)	117,000 sq. ft.
Home Depot (74 th & Sprague)	110,000 sq. ft.
Forever 21 (Tacoma Mall)	106,000 sq. ft.
K-Mart (72 nd & Portland)	106,000 sq. ft.
K-Mart (6 th & Orchard)	106,000 sq. ft.
Winco (72 nd & Hosmer)	103,000 sq. ft.
Fred Meyer (19 th & Mildred)	68,000 sq. ft.