



To: Planning Commission
From: Stephen Atkinson, Planning Services Division
Subject: **Tideflats Interim Regulations**
Meeting Date: October 4, 2017
Memo Date: September 28, 2017

On October 4, 2017 the Planning Commission will complete the review of public comments regarding the Tideflats Interim Regulations received at the public hearing on September 13 and through the comment period ending on September 15, and consider making a recommendation to the City Council.

Staff has attached the following documents to support the Commission's deliberations:

Alternative Draft of the Tideflats Interim Regulations: This draft version is intended to present the Commission with a second option for consideration, but is not intended to limit the options the Commission may consider. This draft modifies the Planning Commission Public Review Document in the following ways:

- It would allow residential development on existing legal lots while pausing new platting and subdivision;
- It would narrow the list of non-industrial uses temporarily prohibited in the M-1 and allow limited expansion of existing uses;
- It would place a limitation on expansion of existing specified heavy industrial uses consistent with the staff recommendation from August 16;
- It expands the list of potential heavy industrial uses to be paused on an interim basis to the full list as presented to the Commission on August 16.

Draft Letter of Recommendation: This is a draft letter addressed to the City Council that accompanies the findings and recommendations. This letter can be used to highlight key issues that the Commission would like to communicate to the Council.

Draft Findings and Recommendations: The findings and recommendations have been updated to document the public notification, Planning Commission review, consultation with the Puyallup Tribe of Indians, SEPA, and public comments provided to the Planning Commission, as well as to include several additional legislative citations.

Code Excerpts from Nonconforming Uses and Conditional Use Permits: These two sections are relevant to the staff recommendations to allow expansions of non-industrial uses via the nonconforming use code and to allow expansions of certain heavy industrial uses subject to conditional use permit approval.

RCW 36.70A.370 Takings Review: This is a memorandum from Deputy City Attorney Steve Victor containing a legal review of the draft Tideflats

interim regulations in the context of RCW 36.70A.370 which requires local governments to implement a process to prevent proposed regulatory or administrative actions from resulting in an unconstitutional taking of private property.

To support the Commission's discussion, Steve Victor, Deputy City Attorney, will be present to advise the Commission on legal issues raised in the public testimony as well as on questions the Commission may have relating to potential modifications to the Proposed Interim Regulations.

If you have any questions, please contact me at (253) 591-5531 or satkinson@cityoftacoma.org.

Attachments:

1. Alternative Draft of the Tideflats Interim Regulations
2. Draft Letter of Recommendation
3. Draft Findings and Recommendations
4. Code Excerpts: Nonconforming Uses and Conditional Use Permits
5. RCW 36.70A.370 Takings Review

c. Peter Huffman, Director

TMC 13.04 Platting and Subdivisions

Sections:

| | |
|-----------|--|
| 13.04.010 | Title. |
| 13.04.020 | Intent and authority. |
| 13.04.030 | Policy. |
| 13.04.040 | Definitions. |
| 13.04.050 | Jurisdiction. |
| 13.04.055 | Platting on shorelines. |
| 13.04.060 | Exclusions. |
| 13.04.070 | Alteration. |
| 13.04.075 | Vacation. |
| 13.04.085 | Boundary line adjustment. |
| 13.04.088 | Binding site plan approval. |
| 13.04.090 | Short plat/short subdivisions procedures. |
| 13.04.095 | Appeals. |
| 13.04.100 | Plat/subdivision procedures. |
| 13.04.105 | Replat or redivision of platted lots. |
| 13.04.110 | General requirements and minimum standards for subdivisions and short subdivisions. |
| 13.04.120 | Conformity to the Comprehensive Plan and applicable ordinances, manuals, design specifications, plans, and guidelines. |
| 13.04.130 | Relation to adjoining street system. |
| 13.04.140 | Access. |
| 13.04.150 | Conformity to topography. |
| 13.04.160 | Public or private streets or ways, or permanent access easement widths. |
| 13.04.165 | Streetlights. |
| 13.04.170 | Roadways. |
| 13.04.180 | Public or private streets or ways, or permanent access easement design. |
| 13.04.190 | Dead-end/cul-de-sac public or private streets or ways, or permanent access easements. |
| 13.04.200 | Alleys. |
| 13.04.210 | Easements. |
| 13.04.220 | Blocks. |
| 13.04.230 | Lots. |
| 13.04.240 | Plats within Planned Residential Development Districts (PRD Districts). |
| 13.04.250 | Duplication of names. |
| 13.04.260 | Public open space. |
| 13.04.270 | Checking by the City Engineer – Charges. |
| 13.04.280 | Development of illegally divided land. |
| 13.04.290 | <i>Repealed.</i> |
| 13.04.300 | Model home. |
| 13.04.305 | Temporary rental or sales offices, contractors' offices, and signs. |
| 13.04.310 | Subdivisions and Critical Areas. |
| 13.04.315 | <i>Repealed.</i> |

13.04.010 Title.

These regulations shall hereafter be known, cited and referred to as the plat and subdivision regulations of the City of Tacoma.

(Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.020 Intent and authority.

These regulations are being adopted in accordance with the goals and authority of the Washington State Growth Management Act of 1990, as amended, and Chapter 58.17 of the Revised Code of Washington, concerning plats and

subdivisions. It is intended that these regulations provide an efficient, effective, fair and timely method for the submission, review and approval of plats, short plats, boundary line adjustments and binding site plan approvals.

(Ord. 25532 § 1; passed Jun. 28, 1994)

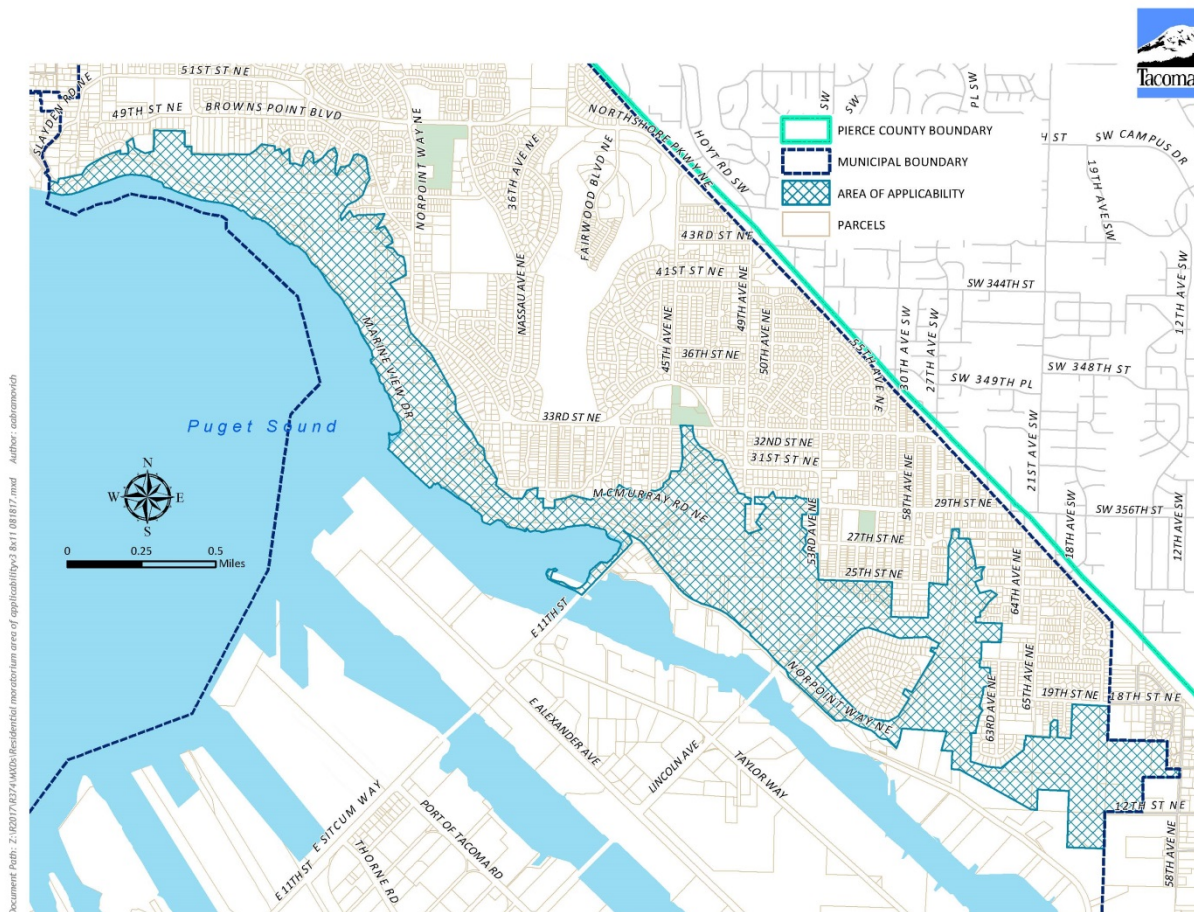
13.04.030 Policy.

A. It is hereby declared to be the policy of the City of Tacoma to consider the subdivision of land and the subsequent development of the subdivision as subject to the control of the City of Tacoma pursuant to the City's land use codes for the orderly, planned, efficient, and economical development of the community.

B. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and land shall not be subdivided until adequate public facilities and improvements exist or proper provision has been made for drainage, water, sewerage, and capital improvements such as schools, parks, recreation facilities, and active transportation facilities. While planning public facilities and improvements for proposed subdivisions of land, consideration shall be given to adopted City policies relating to sustainability, smart growth, urban forestry, complete streets, connectivity, and green infrastructure practices.

C. It is intended that these regulations shall supplement and facilitate the enforcement of the provisions, standards and policies contained in building and housing codes, zoning ordinances, the City of Tacoma's Comprehensive Plan and applicable ordinances, manuals, design specifications, plans and guidelines, and elements thereof.

D. Per Ordinance No. XXXXX, on an interim basis, new residential platting and subdivision of land is prohibited along Marine View Drive and the adjacent slopes, as identified in the following map:



TMC 13.05.020 Notice Process

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

| Permit Type | Preapplication Meeting | Notice: Distance | Notice: Newspaper | Notice: Post Site | Comment Period | Decision | Hearing Required | City Council | Expiration of Permit |
|--|-------------------------------------|--|----------------------------------|-------------------|---------------------------|------------------|--|--------------|-------------------------------|
| Interpretation of code | Recommended | 100 feet for site specific | For general application | Yes | 14 days | Director | No | No | None |
| Uses not specifically classified | Recommended | 400 feet | Yes | Yes | 30 days | Director | No | No | None |
| Boundary line adjustment | Required | No | No | No | No | Director | No | No | 5 years ³ |
| Binding site plan | Required | No | No | No | No | Director | No | No | 5 years ³ |
| Environmental SEPA DNS* (see TMC 13.05.020.I) | Optional | Same as case type | Yes if no hearing required | No | Same as case type | Director | No | No | None |
| Environmental Impact Statement (EIS) * (see TMC 13.05.020.I) | Required for scoping, DEIS and FEIS | 1000 feet | Yes | Yes | Minimum 30 days | Director | No, unless part of associated action. Public scoping meeting(s) required | No | None |
| Variance, height of main structure | Required | 400 feet | No | Yes | 30 days | Director | No ¹ | No | 5 years |
| Open space classification | Required | 400 feet | No | Yes | 2 | Hearing Examiner | Yes | Yes | None |
| Plats 10+ lots | Required | 1000 feet | Yes | Yes | 21 days SEPA ² | Hearing Examiner | Yes | Final Plat | 5 years ⁶ |
| Rezones | Required | 400 feet; 1000 feet for public facility site | No; Yes for public facility site | Yes | 21 days SEPA ² | Hearing Examiner | Yes | Yes | None |
| Shoreline/CUP/ variance* (see TMC 13.05.020.I) | Required | 400 feet | No | Yes | 30 days ⁵ | Director | No ¹ | No | 2 years/ maximum ⁶ |
| Short plat (2-4 lots) | Required | No | No | No | No | Director | No | No | 5 years ³ |
| Short plat (5-9 lots) | Required | 400 feet | No | Yes | 14 days | Director | No ¹ | No | 5 years ⁶ |
| Site approval | Optional | 400 feet | No | Yes | 30 days ⁵ | Director | No | No | 5 years |

| Permit Type | Preapplication Meeting | Notice: Distance | Notice: Newspaper | Notice: Post Site | Comment Period | Decision | Hearing Required | City Council | Expiration of Permit |
|--|------------------------|--|-------------------|-------------------|----------------------|------------------|------------------|--------------|----------------------|
| Conditional use* (see TMC 13.05.020.I) | Required | 400 feet; 1000 feet for development sites over 1 acre in size | No | Yes | 30 days ⁵ | Director | No | No | 5 years ⁴ |
| Conditional use, correctional facility (new or major modification) | Required | 1,000 feet | Yes | Yes | 30 days ² | Hearing Examiner | Yes | No | 5 years |
| Conditional use, large-scale retail | Required | 1,000 feet | Yes | Yes | 30 days ² | Hearing Examiner | Yes | No | 5 years |
| Conditional use, master plan | Required | 1000 feet | Yes | Yes | 30 days ² | Director | Yes | No | 10 years |
| Conditional Use, Minor Modification | Optional | No | No | No | No | Director | No | No | 5 years |
| Conditional Use, Major Modification | Required | 400 feet; 1000 feet for public facility sites and master plans | No | Yes | 14 days ⁵ | Director | No | No | 5 years |
| Temporary Homeless Camp Permit | Required | 400 feet | Yes | Yes | 14 days | Director | No | No | 1 year |
| Minor Variance | Optional | 100 feet ⁷ | No | No | 14 days | Director | No ¹ | No | 5 years |
| Variance | Optional | 100 feet | No | Yes | 14 days | Director | No ¹ | No | 5 years |
| Wetland/Stream / FWHCA development permits | Required | 400 feet | No | Yes | 30 days | Director | No ¹ | No | 5 years* |
| Wetland/Stream / FWHCA Minor Development Permits | Required | 100 feet | No | Yes | 14 days | Director | No ¹ | No | 5 years* |
| Wetland/Stream / FWHCA verification | Required | 100 feet | No | Yes | 14 days | Director | No ¹ | No | 5 years |

INFORMATION IN THIS TABLE IS FOR REFERENCE PURPOSE ONLY.

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

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

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

TMC 13.05.020.I. Interim Expanded Notification for Heavy Industrial Projects, Per Ordinance No. XXXXX

1. Per Ordinance No. XXXXX, on an interim basis, the following applies to all heavy industrial projects (as defined in TMC 13.06.700.I) and industrial uses identified in TMC 13.06.580, which require a discretionary permit ("designated projects") or SEPA determination.

2. Notice for designated projects will be emailed to all Neighborhood Councils and Business Districts, as well as the Community Council. In addition, notice will be sent to the SEPA contact for all adjacent jurisdictions (Federal Way, Fife, Fircrest, Lakewood, Pierce County, and University Place). This is in addition to all typically-notified parties and the Puyallup Tribe of Indians.

3. Notification of designated projects will be mailed by first-class mail to the applicant; property owner (if different than the applicant); neighborhood councils and business districts; qualified neighborhood or community organizations; the Puyallup Tribe of Indians; Local Governments in Pierce County; and to owners of property and/or taxpayers of record, as indicated by the records of the Pierce County Assessor/Treasurer.

4. Notification distance.

(a) The notification distance for a project within the Port of Tacoma Manufacturing/Industrial Center (M/IC) will be 2,500 feet from the boundaries of that center.

(b) Notification distance for a project within the South Tacoma Manufacturing/Industrial Overlay District, as set forth in TMC 13.06.400, will be 2,500 feet from the boundaries of the Overlay District.

(c) Notification distance for a qualifying industrial project in any other zoning district, outside either of the above areas, will be 2,500 feet from the boundaries of the project site.

5. Upon determination of a Complete Application, the City will hold a community meeting to provide notification to the community that a significant project has been applied for. Further, the meeting will provide clarity on the public process (from all permitting agencies) and opportunities for public review and comment.

(a) For projects with an associated land use permit and public notice, this meeting will take place approximately two weeks after the start of the public notice period. Public notice will be extended to 30 days in the rare case that the TMC-required notice period is not already 30 days.

(b) For projects not associated with a land use permit, the meeting will take place after determination that a SEPA application is complete, but prior to issuance of a preliminary SEPA determination. The meeting will include a proposed SEPA timeline, including issuance of the preliminary determination, opportunity for comment, and the appeal process for this type of SEPA determination.

6. Upon determination of a Complete Application, the City will post the permit package and all relevant studies under "public notices" on www.tacomapermits.org.

7. Additional notification may be done as necessary (i.e., social media posts or separate project web pages) or as appropriate for the project type.

TMC 13.06.200 Commercial Districts

5. District Use Table

| Uses | T | C-1 | C-2 ¹ | PDB | Additional Regulations ^{2,3} (also see footnotes at bottom of table) |
|----------------------------------|----|-----|------------------|-----|--|
| Craft Production | CU | P | P | P | Must include a retail/eating/drinking/tasting component that occupies a minimum of 10 percent of usable space, fronts the street at sidewalk level or has a well-marked and visible entrance at sidewalk level, and is open to the public. Outside storage is allowed provided screening and/or buffer planting areas are provided in accordance with Section 13.06.502.C. All production, processing and distribution activities are to be conducted within an enclosed building. |
| Cultural institution | P | P | P | N | |
| Day care, family | P | P | P | P | |
| Day care center | P | P | P | P | Subject to regulations set forth in Section 13.06.155. |
| Detoxification center | N | N | N | N | |
| Drive-through with any use | N | N | P | N | Prohibited in any commercial district combined with a VSD View-Sensitive Overlay District and adjacent to a Shoreline District (i.e., Old Town Area). Subject to the requirements of TMC 13.06.513. |
| Dwelling, single-family detached | P | P | P | P | <u>Per Ordinance No. XXXXX, on an interim basis, prohibited along Marine View Drive. See TMC 13.04.030.D for area of applicability.</u> |
| Dwelling, two-family | P | P | P | P | <u>Per Ordinance No. XXXXX, on an interim basis, prohibited along Marine View Drive. See TMC 13.04.030.D for area of applicability.</u> |
| Dwelling, three-family | P | P | P | P | <u>Per Ordinance No. XXXXX, on an interim basis, prohibited along Marine View Drive. See TMC 13.04.030.D for area of applicability.</u> |
| Dwelling, multiple-family | P | P | P | P | <u>Per Ordinance No. XXXXX, on an interim basis, prohibited along Marine View Drive. See TMC 13.04.030.D for area of applicability.</u> |
| Dwelling, townhouse | P | P | P | P | <u>Per Ordinance No. XXXXX, on an interim basis, prohibited along Marine View Drive. See TMC 13.04.030.D for area of applicability.</u> |
| Dwelling, accessory (ADU) | P | P | P | P | Subject to additional requirements contained in 13.06.150. <u>Per Ordinance No. XXXXX, on an interim basis, prohibited along Marine View Drive. See TMC 13.04.030.D for area of applicability.</u> |

| Uses | T | C-1 | C-2 ¹ | PDB | Additional Regulations ^{2,3} (also see footnotes at bottom of table) |
|---------------------|---|------|------------------|--------|---|
| Eating and drinking | N | P/CU | P | P*/CU* | <p>In the C-1 and PDB districts, restaurants are permitted outright while drinking establishments require a conditional use permit. See Section 13.06.700.E for the definitions of restaurants and drinking establishments.</p> <p>In the C-2 district, live entertainment is limited to that consistent with either a Class “B” or Class ”C” Cabaret license as designated in Chapter 6B.70. In all other districts, live entertainment is limited to that consistent with a Class “C” cabaret license as designated in Section 6B.70.</p> <p>*Limited to 7,000 square feet of floor area, per business, in the HM and PDB Districts</p> |

* * *

TMC 13.06.400 Industrial Districts

The 400 series contains regulations for all industrial classifications, including the following:

- M-1 Light Industrial District
- M-2 Heavy Industrial District
- PMI Port Maritime & Industrial District

A. Industrial district purposes.

The specific purposes of the Industrial districts are to:

1. Implement goals and policies of the City's Comprehensive Plan.
2. Implement Growth Management Act goals, county-wide planning policies, and multi-county planning policies.
3. Create a variety of industrial settings matching scale and intensity of use to location.
4. Provide for predictability in the expectations for development projects.

B. Districts established.

- M-1 Light Industrial District
- M-2 Heavy Industrial District
- PMI Port Maritime & Industrial District

1. M-1 Light Industrial District. This district is intended as a buffer between heavy industrial uses and less intensive commercial and/or residential uses. M-1 districts may be established in new areas of the City. However, this classification is only appropriate inside Comprehensive Plan areas designated for medium and high intensity uses.

2. M-2 Heavy Industrial District. This district is intended to allow most industrial uses. The impacts of these industrial uses include extended operating hours, heavy truck traffic, and higher levels of noise and odors. This classification is only appropriate inside Comprehensive Plan areas designated for medium and high intensity uses.

3. PMI Port Maritime & Industrial District. This district is intended to allow all industrial uses and uses that are not permitted in other districts, barring uses that are prohibited by City Charter. The Port of Tacoma facilities, facilities that support the Port's operations, and other public and private maritime and industrial activities make up a majority of the uses in this district. This area is characterized by proximity to deepwater berthing; sufficient backup land between the berths and public right-of-ways; 24-hour operations to accommodate regional and international shipping and distribution schedules; raw materials processing and manufacturing; uses which rely on the deep water 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.

The PMI District is further characterized by heavy truck traffic and higher levels of noise and odors than found in other districts. The uses are primarily marine and industrial related, and include shipping terminals, which may often include container marshalling and intermodal yards, chemical manufacturing and distribution, forest product operations (including shipping and wood and paper products manufacturing), warehousing and/or storage of cargo, and boat and/or ship building/repair. Retail and support uses primarily serve the area's employees.

Expansion beyond current PMI District boundaries should be considered carefully, as such expansion may decrease the distance between incompatible uses.

Expansion should only be considered contiguous to the existing PMI District. This classification is only appropriate inside Comprehensive Plan areas designated for high intensity uses.

4. ST-M/IC South Tacoma Manufacturing/Industrial Overlay District. This overlay district is intended to provide additional protection to industrial and manufacturing uses within the designated boundary of the South Tacoma M/IC by placing further restrictions on incompatible uses within this defined area. Standards established through the overlay zone are in addition to the requirements of the underlying zone. In all cases, where the overlay district imposes more restrictive standards than the underlying zone, these shall apply. The additional requirements imposed through the South Tacoma M/IC Overlay District are intended to preserve this area for long term urban industrial and manufacturing use consistent with policy direction in the Comprehensive Plan. Expansion of the overlay district

beyond the current boundaries can only be done in conjunction with an expansion of the designated South Tacoma M/IC Center in the Comprehensive Plan. Expansion beyond current boundaries should be carefully considered, as such expansion may decrease the distance between incompatible uses and will impose additional restrictions on the development of residential and commercial uses in affected areas.

C. Land use requirements.

1. Applicability. The following tables compose the land use regulations for all districts of Section 13.06.400. All portions of Section 13.06.400 and applicable portions of Section 13.06.500 apply to all new development of any land use variety, including additions and remodels. Explicit exceptions or modifications are noted. 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.

4. Use table abbreviations.

| | | |
|----|---|---|
| P | = | Permitted use in this district. |
| CU | = | Conditional use in this district. Requires conditional use permit consistent with the criteria and procedures of Section 13.06.640. |
| TU | = | Temporary Uses allowed in this district subject to specified provisions and consistent with the criteria and procedures of Section 13.06.635. |
| N | = | Prohibited use in this district. |

5. District use table.

| Uses | M-1 | M-2 | PMI | Additional Regulations ¹ |
|--------------------------------|---------------|---------------|---------------|--|
| Adult family home | P/N* | N | N | In M-1 districts, permitted only within residential or institutional buildings in existence on December 31, 2008, the effective date of adoption of this provision, or when located within a mixed-use building where a minimum of 1/3 of the building is devoted to industrial or commercial use. *Not permitted within the South Tacoma M/IC Overlay District. See Section 13.06.535. |
| Adult retail and entertainment | P | P | P | Subject to development standards contained in Section 13.06.525. |
| Agricultural uses | CU/ <u>N*</u> | CU/ <u>N*</u> | CU/ <u>N*</u> | Such uses shall not be located on a parcel of land containing less than 20,000 square feet of area. <u>*Per Ordinance No. XXXXX, on an interim basis, such uses are not permitted within the Port of Tacoma M/IC. See 13.06.400.G.</u> |
| Airport | CU/ <u>N*</u> | CU/ <u>N*</u> | CU/ <u>N*</u> | <u>*Per Ordinance No. XXXXX, on an interim basis, such uses are not permitted within the Port of Tacoma M/IC. See 13.06.400.G.</u> |
| Ambulance services | P | P | P | |
| Animal sales and service | P | P | N | |

| Uses | M-1 | M-2 | PMI | Additional Regulations ¹ |
|---|-------|-------|-----|--|
| 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 <u>*Per Ordinance No. XXXXX, on an interim basis, temporary use only within the Port of Tacoma M/IC. See 13.06.400.G.</u> |
| 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. <u>*Per Ordinance No. XXXXX, on an interim basis, within the Port of Tacoma M/IC, 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. Existing uses in the PMI are permitted, subject to the special use restrictions in section 13.06.400.G.</u> |
| 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 | N | CU | CU | Modifications or expansions to existing facilities that increase the inmate capacity shall be processed as a major modification (see Section 13.05.080). A pre-application community meeting is also required (see Section 13.06.640.Q). |
| Craft Production | P | P | P | |

| Uses | M-1 | M-2 | PMI | Additional Regulations ¹ |
|--------------------------------------|------------------|------------------|-----|---|
| Cultural institution | P/CU*/ <u>N~</u> | P/CU*/ <u>N~</u> | N | *Conditional use within the South Tacoma M/IC Overlay District, unless an accessory use. <u>~Per Ordinance No. XXXXX, on an interim basis, such uses are not permitted within the Port of Tacoma M/IC. See 13.06.400.G.</u> |
| Day care, family | P/N* | N | N | *Not permitted within the South Tacoma M/IC Overlay District. |
| Day care center | P | P | N | Subject to development standards contained in Section 13.06.155. |
| Detoxification center | CU | CU | N | |
| Drive-through with any permitted use | P | P | P | Subject to the requirements of TMC 13.06.513. |
| Dwelling, single-family detached | P/N*~ | N* | N* | In M-1 districts, single-, two- and three-family and townhouse dwellings are prohibited, except for residential uses in existence on December 31, 2008, the effective date of adoption of this provision. In M-1 districts, new multi-family residential dwellings are permitted only within a mixed-use building where a minimum of 1/3 of the building is devoted to industrial or commercial use. *In all districts, quarters for caretakers and watchpersons are permitted as is temporary worker housing to support uses located in these districts. ~Not permitted within the South Tacoma M/IC Overlay District except for quarters for caretakers and watchpersons and temporary worker housing, as noted above. <u>~Per Ordinance No. XXXXX, on an interim basis, such uses are not permitted within the Port of Tacoma M/IC except for quarters for caretakers and watchpersons and temporary worker housing to support uses located in these districts. See 13.06.400.G.</u> |
| Dwelling, two-family | P/N*~ | N*~ | N*~ | |
| Dwelling, three-family | P/N*~ | N*~ | N*~ | |
| Dwelling, multiple-family | P/N*~ | N*~ | N*~ | |
| Dwelling, townhouse | P/N*~ | N*~ | N*~ | |
| Dwelling, accessory (ADU) | P/N~ | N | N | Subject to additional requirements contained in 13.06.150. ~Not permitted within the South Tacoma M/IC Overlay District. <u>*Per Ordinance No. XXXXX, on an interim basis, such uses are not permitted within the Port of Tacoma M/IC. See 13.06.400.G.</u> |
| Eating and drinking | P | P | P | |
| Emergency and transitional housing | 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. |

| Uses | M-1 | M-2 | PMI | Additional Regulations ¹ |
|------------------------|-------|-------------|-------------|---|
| Extended care facility | 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. |
| Foster 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. |
| Fueling station | P | P | P | |
| Funeral home | P | P | N | |
| Golf course | P/N* | P/N* | N | *Not permitted within the South Tacoma M/IC Overlay District. <u>Per Ordinance No. XXXXX, on an interim basis, such uses are not permitted within the Port of Tacoma M/IC. See 13.06.400.G.</u> |
| Group housing | 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. |
| Heliport | CU | CU | CU | |
| Home occupation | P | P | P | Subject to additional requirements contained in Section 13.06.100.E |
| Hospital | P/CU* | P/N~ | N | *Conditional use within the South Tacoma M/IC Overlay District. ~Not permitted within the South Tacoma M/IC Overlay District. <u>~Per Ordinance No. XXXXX, on an interim basis, such uses are not permitted within the Port of Tacoma M/IC. See 13.06.400.G.</u> |
| Hotel/motel | P/N* | N | N | *Not permitted within the South Tacoma M/IC Overlay District. |
| Industry, heavy | N | <u>P/N*</u> | <u>P/N*</u> | Animal slaughter, fat rendering, acid manufacture, smelters, and blast furnaces allowed in the PMI District only. <u>*See section 13.06.580 Interim Industrial Use Restrictions for interim regulations.</u> |
| Industry, light | P | P | P | |

| Uses | M-1 | M-2 | PMI | Additional Regulations ¹ |
|--|---------------|---------------|----------------|---|
| Intermediate care facility | 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. |
| Juvenile community facility | P/N* | P/N* | P/ <u>N</u> * | See Section 13.06.530 for resident limits and additional regulations. *Not permitted within the South Tacoma M/IC Overlay District. <u>Per Ordinance No. XXXXX, on an interim basis, such uses are not permitted within the Port of Tacoma M/IC. See 13.06.400.G.</u> |
| Live/Work | P | N | N | Projects incorporating live/work in new construction shall contain no more than 20 live/work units. Subject to additional requirements contained in Section 13.06.570. |
| Marijuana processor, producer, and researcher | P | P | P | See additional requirements contained in Section 13.06.565 |
| Marijuana retailer | P~ | P~ | N | ~Within the South Tacoma M/IC Overlay District, <u>and within the Port of Tacoma M/IC on an interim basis per Ordinance No. XXXXX (See 13.06.400.G.)</u> , limited to 10,000 square feet of floor area per development site in the M-2 district and 15,000 square feet in the M-1 district. See additional requirements contained in Section 13.06.565. |
| Microbrewery/winery | P | P | P | |
| Mobile home/trailer court | N | N | N | |
| Nursery | P | P | N | |
| Office | P* | P* | P | *Within the South Tacoma M/IC Overlay District, unless an accessory use, limited to 10,000 square feet of floor area per development site in the M-2 district and 15,000 square feet in the M-1 district. |
| Parks, recreation and open space | P/ <u>N</u> * | P/ <u>N</u> * | P/ <u>N</u> * | Subject to the requirements of Section 13.06.560.D. <u>*Per Ordinance No. XXXXX, on an interim basis, High Intensity/Destination facilities (see 13.06.560) are not permitted in the Port of Tacoma M/IC. See 13.06.400.G.</u> |
| Passenger terminal | P | P | P | |
| Personal services | P | P | P | |
| Port, terminal, and industrial; water-dependent or water-related (as defined in Chapter 13.10) | N | N | P*/ <u>N</u> ~ | *Preferred use. <u>~See section 13.06.580 Interim Industrial Use Restrictions for interim regulations.</u> |

| Uses | M-1 | M-2 | PMI | Additional Regulations ¹ |
|--|------|------|------|--|
| Public safety and public service facilities | P | P | P | |
| Religious assembly | P | P | P | |
| Repair services | P | P | P | |
| Research and development industry | P | P | N | |
| Residential care facility for youth | 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. |
| Residential chemical dependency treatment facility | P/N* | N | N | See Section 13.06.535. *Not permitted within the South Tacoma M/IC Overlay District. |
| Retail | P~ | P~ | P* | *Limited to 7,000 square feet of floor area, per development site, in the PMI District. ~Within the South Tacoma M/IC Overlay District, <u>and within the Port of Tacoma M/IC on an interim basis per Ordinance No. XXXXX (see 13.06.400.G.)</u> , unless an accessory use, limited to 10,000 square feet of floor area per development site in the M-2 district and 15,000 square feet in the M-1 district. Outside of the South Tacoma M/IC Overlay District <u>and Port of Tacoma M/IC</u> , limited to 65,000 square feet per use, unless approved with a conditional use permit. See Section 13.06.640.J. |
| Retirement 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. |
| School, public or private | P/N* | P/N* | P/N* | *General K through 12 education not permitted in the PMI District or in the South Tacoma M/IC Overlay District. <u>*Per Ordinance No. XXXXX, on an interim basis, General K through 12 education is not permitted within the Port of Tacoma M/IC. See 13.06.400.G.</u> |
| Seasonal sales | TU | TU | TU | Subject to development standards contained in Section 13.06.635. |
| Self-storage | P | P | P | See specific requirements in Section 13.06.503.B. |
| Short-term rental | N | N | N | |

| Uses | M-1 | M-2 | PMI | Additional Regulations ¹ |
|--|-------------|-------------|-------------|---|
| Staffed residential 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. |
| Student housing | 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. |
| Surface mining | CU | CU | CU | |
| Temporary uses | P | P | P | Subject to development standards contained in Section 13.06.635. |
| Theater | P/N* | N | N | *Not permitted within the South Tacoma M/IC Overlay District. |
| Transportation/freight terminal | P | P | P | |
| Urban Horticulture | P | P | P | |
| Utilities | P | P | P | |
| Vehicle rental and sales | P | P | P | Subject to development standards contained in Section 13.06.510. |
| Vehicle service and repair | P | P | P | Subject to development standards contained in Section 13.06.510. |
| Vehicle service and repair, industrial | P | P | P | Subject to development standards contained in Section 13.06.510. |
| Vehicle storage | P | P | P | Subject to development standards contained in Section 13.06.510. |
| Warehouse/storage | <u>P/N*</u> | <u>P/N*</u> | <u>P/N*</u> | Storage and treatment facilities for hazardous wastes are subject to the state locational standards adopted pursuant to the requirements of Chapter 70.105 RCW and the provisions of any groundwater protection ordinance of the City of Tacoma, as applicable. <u>*See section 13.06.580 Interim Industrial Use Restrictions for interim regulations.</u> |
| Wholesale or distribution | <u>P/N*</u> | <u>P/N*</u> | <u>P/N*</u> | <u>*See section 13.06.580 Interim Industrial Use Restrictions for interim regulations.</u> |
| Wireless communication facility | P*/ CU** | P*/ CU** | P*/ CU** | *Wireless communication facilities are also subject to Section 13.06.545.D.1. **Wireless communication facilities are also subject to Section 13.06.545.D.2. |

| Uses | M-1 | M-2 | PMI | Additional Regulations ¹ |
|--|---------------|---------------|--------------|--|
| Work/Live | P/ <u>N*</u> | N | N | Projects incorporating work/live in new construction shall contain no more than 20 work/live units. Subject to additional requirements contained in Section 13.06.570. <u>*Per Ordinance No. XXXXX, on an interim basis, the use is not permitted within the Port of Tacoma M/IC. See 13.06.400.G.</u> |
| Work release center | CU/ <u>N*</u> | CU/ <u>N*</u> | P/ <u>N*</u> | Subject to development standards contained in Section 13.06.550. <u>*Per Ordinance No. XXXXX, on an interim basis, such uses are not permitted within the Port of Tacoma M/IC. See 13.06.400.G.</u> |
| Uses not prohibited by City Charter and not prohibited herein | N | N | <u>NP</u> | |
| Footnotes: 1. For historic structures and sites, certain uses that are otherwise prohibited may be allowed, subject to the approval of a conditional use permit. See Section 13.06.640.F for additional details, limitations and requirements. | | | | |

13.06.400.G Interim Special Use Restrictions for Non-industrial Uses in the Port of Tacoma M/IC

1. Per Ordinance No. XXXXX, on an interim basis, the intent of these special use restrictions is to place a pause on new or expansion of existing non-industrial uses within the Port of Tacoma M/IC until such time as the Tideflats subarea plan is complete.

2. The establishment of certain new non-industrial uses, specified in Table 13.06.400.C.5, is prohibited on an interim basis.

3. Existing uses, legally permitted at the time of adoption of this code, are allowed, subject to limitations on expansion as described in 13.06.400.G.4 below.

4. Expansion of existing identified non-industrial uses is allowed subject to the limitations and procedural requirements of TMC 13.06.630 Nonconforming parcels/uses/structures.

NEW SECTION TMC 13.06.580

13.06.580 Interim Industrial Use Restriction

A. Purpose: Per Ordinance No. XXXXX, on an interim basis, the purpose of this section is to pause the establishment of certain new industrial uses, and to temporarily limit the expansion of existing such uses, on an interim basis until such time as the Tideflats Subarea Plan is complete.

B. Applicability. These special use restrictions apply to the following uses in all zoning districts:

- Coal terminals or bulk storage facilities;
- Oil, or other liquefied or gaseous fossil fuel terminals, bulk storage, manufacturing, production, processing or refining of oil or other liquefied or gaseous fossil fuels;
- Chemical production, processing, or bulk storage;
- Smelting;
- Mining and quarrying;
- Animal slaughter;
- Rendering;
- Iron and steel works ;
- Metal recycling;
- Pulp, paper and paperboard mills;
- Grain terminals and bulk storage.

C. Use Restrictions.

1. New uses. The establishment of new uses as specified in 13.06.580.B are prohibited on an interim basis.

2. Existing uses. Legally permitted uses, listed in 13.06.580.B, at the time of adoption of this code are allowed and may continue existing operations.

3. Expansion of existing uses. Existing uses may expand storage, production, or distribution capacity by no more than 10% beyond that which exists at time of adoption of Ordinance No. XXXXX, subject to approval of a conditional use permit. The 10% limitation shall be measured cumulatively for the duration of the interim regulations when there are multiple applications.

4. Exceptions. Limitations on expansion do not apply to the following uses and activities.

a. Normal Maintenance and Repair. Activities commonly associated with normal maintenance and repair or development activities exempt from shoreline substantial development permits per TMC 13.10 section 2.3.3. Normal maintenance and repair is defined as follows:

Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. “Normal maintenance” includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. “Normal repair” means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.

b. Building codes and environmental regulations. Alteration, expansion or replacement of structures or facilities in order to comply with building code requirements and/or environmental regulations.

c. Accessory uses. A subordinate building or use that is incidental to the use of the main building or use.

d. Accessory utilities. Distribution services directly serving a permitted use. For example, power, telephone, cable, communication antennas, water, sewer lines, and stormwater systems.

5. Risk assessment. As part of any applicable SEPA and/or Conditional Use Permit process, a risk analysis will be conducted proportionate to the size and scale of the project and of the particular industrial process being proposed.

6. Definitions. For the purpose of applying these special use restrictions, applicable North American Industrial Classification System (NAICS) codes and descriptions are cited and shall be interpreted broadly in accordance with the intent of the interim regulations.

a. Coal terminals and bulk storage facilities. The bulk storage or wholesale distribution of coal and coal products or transfer of coal products via shipping terminal.

b. Oil or other liquefied or gaseous fossil fuel terminals, bulk storage, manufacturing, production, processing or refining.

(1) Petroleum bulk stations and terminals. This industry comprises establishments with bulk liquid storage facilities primarily engaged in the merchant wholesale distribution of crude petroleum and petroleum products. NAICS Code 424710.

(2) Petroleum refineries. This industry comprises establishments primarily engaged in refining crude petroleum into refined petroleum. Petroleum refining involves one or more of the following activities: (1) fractionation; (2) straight distillation of crude oil; and (3) cracking. NAICS Code 324110.

(3) Natural gas liquid extraction. This industry comprises establishments primarily engaged in the recovery of liquid hydrocarbons from oil and gas field gases. Establishments primarily engaged in sulfur recovery from natural gas are included in this industry. NAICS Code 211112.

(4) Bulk storage, production, and wholesale distribution of natural gas liquids, liquefied natural gas, and liquefied petroleum gas.

c. Bulk chemical storage, production or processing. The Chemical Manufacturing subsector is based on the transformation of organic and inorganic raw materials by a chemical process and the formulation of products. This subsector distinguishes the production of basic chemicals that comprise the first industry group from the production of intermediate and end products produced by further processing of basic chemicals that make up the remaining industry groups. For the purposes of these special use restrictions, this definition will apply to all industries classified as subcategories of NAICS Code 325 Chemical Manufacturing.

d. Animal slaughter. This industry comprises establishments primarily engaged in slaughtering animals. This industry includes establishments that slaughter and prepare meats, slaughtering poultry and small game, and/or preparing processed poultry and small game meat and meat byproducts. NAICS Codes 311611 and 311615.

e. Rendering plants. This industry comprises establishments primarily engaged in rendering animal fat, bones, and meat scraps. NAICS Code 311613.

f. Smelters

(1) Primary smelting and refining of copper. This industry comprises establishments primarily engaged in (1) smelting copper ore and/or (2) the primary refining of copper by electrolytic methods or other processes. Establishments in this industry make primary copper and copper-based alloys, such as brass and bronze, from ore or concentrates. NAICS Code 331411.

(2) Alumina refining and primary aluminum production. This industry comprises establishments primarily engaged in one or more of the following: (1) refining alumina (i.e., aluminum oxide) generally from bauxite; (2) making aluminum from alumina; and/or (3) making aluminum from alumina and rolling, drawing, extruding, or casting the aluminum they make into primary forms. Establishments in this industry may make primary aluminum or aluminum-based alloys from alumina. NAICS Code 331313

(3) Nonferrous metal (except aluminum) smelting and refining. This industry comprises establishments primarily engaged in (1) smelting ores into nonferrous metals and/or (2) the primary refining of nonferrous metals (except aluminum) by electrolytic methods or other processes. NAICS Code 331410.

(4) Secondary smelting, refining, and alloying of nonferrous metal (except copper and aluminum). This industry comprises establishments primarily engaged in (1) alloying purchased nonferrous metals and/or (2) recovering nonferrous metals from scrap. Establishments in this industry make primary forms (e.g., bar, billet, bloom, cake, ingot, slab, slug, wire) using smelting or refining processes. NAICS Code 331492.

g. Iron and steel works. This industry comprises establishments primarily engaged in one or more of the following: (1) direct reduction of iron ore; (2) manufacturing pig iron in molten or solid form; (3) converting pig iron into steel; (4) making steel; (5) making steel and manufacturing shapes (e.g., bar, plate, rod, sheet, strip, wire); (6) making steel and forming pipe and tube; and (7) manufacturing electrometallurgical ferroalloys. Ferroalloys add critical elements, such as silicon and manganese for carbon steel and chromium, vanadium, tungsten, titanium, and molybdenum for low- and highalloy metals. Ferroalloys include iron-rich alloys and more pure forms of elements added during the steel manufacturing process that alter or improve the characteristics of the metal being made. NAICS Code 331110.

h. Metal recycling. This industry comprises establishments primarily engaged in the merchant wholesale distribution of automotive scrap, industrial scrap, and other recyclable materials. Included in this industry are auto wreckers primarily engaged in dismantling motor vehicles for the purpose of wholesaling scrap. NAICS Code 423930.

i. Mining and quarrying. This use category includes all industry sectors identified under NAICS Code 21 Mining, Quarrying, and Oil and Gas Extraction. The Mining, Quarrying, and Oil and Gas Extraction sector comprises establishments that extract naturally occurring mineral solids, such as coal and ores; liquid minerals, such as crude petroleum; and gases, such as natural gas. The term mining is used in the broad sense to include quarrying, well operations, beneficiating (e.g., crushing, screening, washing, and flotation), and other preparation customarily performed at the mine site, or as a part of mining activity.

j. Pulp, paper, and paperboard mills. This industry group comprises establishments primarily engaged in manufacturing pulp, paper, or paperboard. NAICS Code 3221

k. Grain terminals and bulk storage. This industry comprises establishments primarily engaged in operating bulk farm product warehousing and storage facilities (except refrigerated). Grain elevators primarily engaged in storage are included in this industry. NAICS Code 493130.

l. Terminal. A “terminal” is a point of interchange between land and water carriers, such as a pier, wharf, or group of such, equipped with facilities for care and handling of cargo and/or passengers.

TMC 13.10 Shoreline Management

Table 9-2

| GENERAL SHORELINE USE, MODIFICATION & DEVELOPMENT STANDARDS TABLE ¹ | | | | | | | | | | | | | | | | | |
|--|---------------------|---------------------|-----------------------|---------------------|----------------|----------------|------------|-----------------------------|------------------|---------------------|----------------|----------------------|-----------------------------------|--------------|--|-------------|--|
| District | S-1a | S-1b | S-2 | S-3 | S-4 | S-5 | S-6 | S-6/7 | S-7 | S-8 | S-9 | S-10 | S-11 | S-12 | S-13 | S-14 | S-15 |
| District Name | Western Slope South | Western Slope South | Western Slope Central | Western Slope North | Point Defiance | Point Defiance | Ruston Way | Schuster Parkway Transition | Schuster Parkway | The Foss Waterway | Puyallup River | Port Industrial Area | Marine View Drive | Hylbos Creek | Marine Waters of the State ²¹ | Watson Lake | Point Ruston/Slag Pen. |
| Shoreline Designation | HI | SR | UC | N | N | UC | UC | UC | HI | DW | UC | HI | UC | N | A | UC | HI |
| Shoreline Uses | | | | | | | | | | | | | | | | | |
| Residential Development | | | | | | | | | | | | | | | | | |
| Single-family ¹² | N | P | P | N | N | N | N | N | N | N | N | N | PN ¹ ₃ | N | N | P | N ¹⁴ |
| Multifamily – stand alone | N/C U ¹⁵ | N | N | N | N | N | N | N | N | N/C U ¹⁶ | N | N | N/C U ¹³⁺ ₅ | N | N | N | P ^{17, 18/} CU ¹⁸ |
| Multifamily as part of a mixed-use development | P | N | N | N | N | N | N | N | N | P ¹⁶ | N | N | PN ¹ ₃ | N | N | N | P ¹⁷ |
| Home Occupation | P | P | P | P | N | N | N | N | N | P | N | N | NP ¹ ₃ | N | N | N | P |

- Expansion of an existing marina shall be permitted consistent with the provisions of this Program, new marina development shall be a conditional use.
- Boat ramps shall be permitted only in that area on the east side of the Foss Waterway north of the Centerline of 15th Street.
- Water-enjoyment and -related commercial uses shall be permitted over-water only as a reuse of an existing structure or when located within a mixed-use structure.
- Non-water-oriented commercial uses shall only be permitted in accordance with the regulations in TSMP Section 7.5.2 and only as a conditional use except where otherwise specified for the S-8 and S-15 Shoreline Districts.
- New commercial development shall be limited to upland locations only. Existing water-oriented commercial uses at the Point Defiance Marina Complex may be continued and be modified provided modifications do not adversely affect ecological conditions and comply with all other provisions of this Program.
- Non-water-oriented commercial uses shall be permitted as part of a mixed-use development with a water-oriented component; Non-water-oriented commercial uses in a mixed use development without a water-oriented component shall be permitted as a conditional use consistent with TSMP 9.10(D). In all other circumstances, non-water-oriented uses shall be processed as a conditional use

- 7 Non-water-oriented commercial uses shall be permitted outside 150' of OHWM only, except as specified in note 18. Commercial uses that are located outside shoreline jurisdiction and are consistent with the EIS for the Point Ruston development are allowed, those uses that are not consistent with the EIS shall be processed as a conditional use permit in accordance with the procedures in TMC 13.06.
- 8 New educational, historic, and scientific uses are permitted over-water or in the S-13 Shoreline District (Marine Waters of the State) only when water-dependent or as a reuse of an existing structure.
- 9 Water-dependent and -related port/industrial uses shall be permitted only in existing structures.
- 10 Port and industrial development shall be permitted on the easterly side of the Thea Foss Waterway, north of the centerline of East 15th Street and in addition, in that area to the east of East D Street.
- 11 Non-water-oriented industrial uses shall only be permitted in accordance with the regulations in TSMP Section 7.6.2.
- 12 New single-family residential development shall only be permitted in upland locations.
- 13 In the "S-11" Shoreline District, ~~new single family and multi-family residential development is permitted only in that area north of 5410 Marine View Drive. Per Ordinance No. XXXXX, on an interim basis, new residential uses are prohibited. Existing residential uses may expand so long as the expansion is consistent with the requirements of TMC 13.10.~~
- 14 Detached single-family residential use and development is allowed in the S-15 shoreline district outside of shoreline jurisdiction.
- 15 New stand alone multi-family residential uses may be permitted as a conditional use in accordance with the regulations in TSMP Section 7.8.2.
- 16 Residential development shall be permitted in upland locations on the west side of the waterway and on the east side only south of the East 11th Street right of way, and shall be designed for multiple-family development only, excluding duplex and/or triplex development. Hotel/Motel uses are permitted on the west side of the Foss Waterway, and on the east side of the Foss Waterway only south of the centerline of 11th Street. Residential and Hotel/Motel uses are prohibited to the east of East D Street.
- 17 Multifamily residential uses shall be permitted in upland locations, outside 150' of OHWM.
- 18 No more than 24 total townhouse units may be permitted in upland locations up to 100' from OHWM as an outright permitted use so long as such townhouses are constructed on the southeasterly shoreline of the Point Ruston site. Townhouses may be permitted in upland locations up to 100' from OHWM as a conditional use in all other locations. Townhouses in the S-15 may include an office use on the ground floor.
- 19 Helicopter landing pads are only allowed outside of shoreline jurisdiction as a conditional use and only as part of an approved structure.
- 20 Above ground utilities are only allowed consistent with TSMP 7.13.2.
- 21 New uses and development in the S-13 Shoreline District that are associated with an upland shoreline district shall only be permitted where the use or development is consistent with the permitted uses in the upland Shoreline District. Please see Section 9.15(D)(1)(a).
- 22 Structural shoreline stabilization shall be permitted only when necessity has been demonstrated as described in TSMP Section 8.2.2.
- 23 See application requirements in Section 2.4.4.
- 24 With the exception of the S-7, S-10 and S-11 Shoreline Districts, mooring buoys shall be designed, located and installed only for transient recreational boating, or in association with a single family residential development or a permitted marina. In the S-7, S-10 and S-11 Shoreline Districts mooring buoys may be designed, located and installed to accommodate port and industrial uses including the remote storage of oceangoing vessels and barges.
- 25 Buffer reductions allowed for water-dependent uses per TSMP 6.4.3(C).
- 26 Except that the buffer shall not extend beyond the centerline of Alaska street.
- 27 District specific height limitations shall not apply to bridges in the shoreline. Bridges should be kept to the minimum height necessary and shall provide a view study to determine whether the structure will cause any significant impacts to public views of the shoreline.
- 28 The maximum height standard excludes equipment used for the movement of waterborne cargo between storage and vessel or vessel and storage.
- 29 Any building, structure, or portion thereof hereafter erected (excluding equipment for the movement of waterborne cargo between storage and vessel, vessel and storage) shall not exceed a height of 100 feet, unless such building or structure is set back on all sides one foot for each four feet such building or structure exceeds 100 feet in height.
- 30 Maximum heights on Slag Peninsula are limited to 35 feet.
- 31 The side/yard corridor may be distributed between the two sides at the discretion of the proponent, provided a minimum 5 foot set back is maintained from either lot line.
- 32 New and/or expansion of an existing railroad siding is permitted when necessary to service a water-dependent port or industrial facility.



City of Tacoma
Planning Commission

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Anna Petersen, Vice-Chair
Carolyn Edmonds
Jeff McInnis
Brett Santhuff
Andrew Strobel
Dorian Waller
Jeremy Woolley
(vacant)

October 4, 2017

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

RE: Tideflats Interim Regulations

Honorable Mayor and Members of the City Council,

On behalf of the Tacoma Planning Commission, I am forwarding our recommendations on the Proposed Tideflats Interim Regulation, in response to Resolution No. 39723 from May 9, 2017. Enclosed is the *"Planning Commission's Findings and Recommendations Report, October 4, 2017"* that summarizes the proposed interim regulations, the public review process, and the Planning Commission's deliberations.

Specifically, the Commission finds that interim regulations are warranted and we recommend that the City Council adopt the following proposals for the duration of the Tideflats Subarea Planning process:

1. Expand notification for heavy industrial uses city-wide that require a SEPA determination or discretionary permit;
2. Pause certain new non-industrial uses within the Port of Tacoma MIC and place limitations on expansion of existing uses during the interim period;
3. Pause new residential platting and subdivision of land along Marine View Drive and pause new residential development in the S-11 Shoreline District and C-1 and C-2 Commercial districts along Marine View Drive during the interim period;
4. Pause certain new heavy industrial uses city-wide and place limitations on expansion of existing uses during the interim period.

While the Commission was not specifically required under TMC 13.02.055 to conduct a public hearing, the Commission elected to hold a public hearing and accept comments on the draft documents in response to the significant and diverse interest and concerns expressed to the Commission early in the process. As a result, the Commission received a virtually unprecedented level of participation in the public hearing, with over 300 people in attendance, 81 people who provided testimony, and more than 200 pieces of written comments submitted for Commission consideration.

Ultimately, the interim regulations constitute a general pause while the City undertakes the subarea planning process as called for in Resolution No. 39723. The Commission believes that the subarea plan is the best course of action to comprehensively address land use issues associated with the future of the Port/Tideflats area. We ask that the City Council prioritize the resources to conduct the subarea planning process in the most effective and expeditious way possible.

Sincerely,

STEPHEN WAMBACK, Chair
Tacoma Planning Commission

Enclosure



TIDEFLATS INTERIM REGULATIONS

TACOMA PLANNING COMMISSION DRAFT FINDINGS OF FACT AND RECOMMENDATIONS OCTOBER 4, 2017

The findings and recommendations have been updated to document the public notification, Planning Commission review, consultation with the Puyallup Tribe of Indians, SEPA, and public comments provided to the Planning Commission, as well as to include several additional legislative citations. Findings highlighted in yellow have been added or modified.

A. SUBJECT:

Tideflats Interim Regulations

B. SUMMARY OF PROPOSED AMENDMENTS:

The public review draft of the Tideflats Interim Regulations includes four general categories of potential amendments:

Category 1: Expanded Notification for Heavy Industrial Uses

- These amendments would expand notification of heavy industrial use permits to taxpayers and interested parties.
- The notification distances are expanded to 2500' from the subject parcel. For projects located within a designated manufacturing and industrial center, the 2500' notification distance is measured from the boundary of the applicable M/IC boundary.
- This expanded notification applies to all heavy industrial projects city-wide that require a discretionary permit or SEPA determination.
- The amendments are proposed to TMC 13.05.020 Notice process

Category 2: Non-industrial Uses in the Port of Tacoma M/IC

- These amendments would pause certain new non-industrial uses within the Port of Tacoma M/IC.
- The specific uses identified include, but are not limited to:
 - Destination/high intensity parks and recreation,
 - Agriculture,
 - Residential uses,
 - Hospitals,
 - Airports,
 - Schools (K-12),
 - Retail,
 - Cultural institutions, and
 - Care facilities.
- Existing non-industrial uses would be considered allowed uses subject to limitations on expansion per TMC 13.06.630 Nonconforming uses.
- These amendments are proposed to Tacoma Municipal Code 13.06.400 Industrial Districts and includes a new section 13.06.400.G Interim Special Use Restrictions for Non-industrial Uses within the Port of Tacoma M/IC.

Category 3: Marine View Drive Residential Development Restrictions

- These amendments would pause all new residential platting and subdivision of land along Marine View Drive.
- Residential development within the S-11 Shoreline District and applicable commercial districts would be paused for the interim period.
- These amendments are proposed to TMC 13.10 Shoreline Master Program, TMC 13.04 Platting and Subdivisions, as well as TMC 13.06.200 Commercial Districts.

Category 4: Potential High Impact/High Risk Uses

- These amendments would pause new potential high risk/high impact industrial uses.
- Potential high risk/high impact uses include the following. Where possible the use definitions cite appropriate NAICS codes.
 - Coal terminals and bulk storage facilities
 - Oil or other liquefied fossil fuel terminals, bulk storage, manufacturing, production, processing or refining
 - Bulk chemical storage, production or processing, including acid manufacture
 - Smelting
 - Mining and quarrying
- Existing uses are considered allowed, subject to certain limitations on expansion.
- Unlisted uses would be prohibited and subject to TMC 13.05.030 Director Decision Making Authority.
- The changes would be made to Tacoma Municipal Code 13.06.400 and create a new Section 13.06.580 Interim Industrial Use Restrictions that applies to all industrial zoning districts.

C. FINDINGS OF FACT PART 1: BACKGROUND

1. Comprehensive Plan and Land Use Regulatory Code

The *One Tacoma* Comprehensive Plan, updated in 2015 by Ordinance No. 28335, is Tacoma's comprehensive plan as required by the State Growth Management Act (GMA) and consists of several plan and program elements. As the City's official statement concerning future growth and development, the Comprehensive Plan sets forth goals, policies and strategies for the health, welfare and quality of life of Tacoma's residents. The Land Use Regulatory Code, Title 13 of the Tacoma Municipal Code (TMC), is the key regulatory mechanism that supports the Comprehensive Plan.

2. Comprehensive Plan and Land Use Regulatory Code Amendments

The City of Tacoma periodically accepts applications to amend the Comprehensive Plan and Land Use Regulatory Code. As part of the 2017-2018 Comprehensive Plan and Land Use Regulatory Code Amendment Application period, the City received multiple applications/requests for zoning and land use process changes in the Tideflats Area, including the Northeast Tacoma Buffer Zone application, the implementation of the Container Port Element of the City's Comprehensive Plan, and the Director's Rule relating to Expanded Notification for Large Industrial Projects.

3. Consolidation of Applications

In response to the multiple amendment applications, on May 9, 2017, the Tacoma City Council adopted Resolution No. 39723 initiating a subarea planning process for the Port Tideflats. In addition, the Resolution requested that the Planning Commission consolidate the various applications/requests into the scope of work for the Tideflats Subarea planning process and to hereby consider the need for interim regulations in the Tideflats subarea while the subarea planning process is under way.

4. Subarea Planning

Subarea planning allows for the establishment of a shared, long-term vision, and a more coordinated approach to development, environmental review, and strategic capital investments in a focused area. Subarea Plans typically include:

Plan Concept or Vision

- Preservation of industrial land base
- Economic role of the Center
- Relationship to Comprehensive Plan
- Market analysis

Environment

- Protection of sensitive areas
- Stormwater management
- Air pollution and greenhouse gas emissions

Land Use

- Employment growth targets
- Description of industrial and manufacturing uses
- Incompatible land uses
- Mitigation of aesthetic impacts

Economy

- Economic development strategies
- Key sectors and industry clusters

Public Services and Facilities

- Capital plans and investments to meet targeted growth

Transportation

- Freight movement
- Employee commuting
- Transit and mode splits

5. Interim Regulations Procedures

Tacoma Municipal Code 13.02.055 describes the procedural requirements for establishing interim regulations. The code requires the following procedural elements:

- Interim regulations must be initiated by the City Council or Planning Commission at a public meeting;
- The Council or Commission must determine, through findings of fact, that interim regulations are warranted;
- The ordinance must address the scope and duration of the interim regulations;
- The ordinance must include a work plan to develop permanent regulations;
- The Interim regulations may be effective for up to 1-year, and may be renewed every 6 months thereafter.

City Council Resolution No. 39723 initiated interim regulation review in accordance with the non-emergency procedures within 13.02.055.

D. Findings of Fact Part 3: Assessment of Need for Interim Regulations

6. VISION 2040 Manufacturing and Industrial Centers

The Puget Sound Regional Council's VISION 2040 Multicounty Planning Policies and the City's One Tacoma Comprehensive Plan designate the Port/Tideflats as a Manufacturing/Industrial Center (MIC).

These areas are focal points for targeted regional employment growth. The designation provides regional funding priority for major transportation projects (e.g., Port of Tacoma Road, Taylor Way, SR 167, and freight projects). Regional planning policies protect MICs from encroachment of non-industrial uses.

7. Regional Industrial Employment Forecasts

Puget Sound Regional Council forecasts show industrial jobs region-wide increasing from 305,100 jobs in 2012 to 389,000 jobs in 2040, an increase in 83,900 total jobs (<https://www.psrc.org/sites/default/files/industrialandsanalysisreport.pdf>).

8. Regional Industrial Land Supply

PSRC forecasts employment and land supply for the Tacoma-Puyallup industrial area. Exhibit 6.18 to the Industrial Lands Analysis identifies the total land area, vacant land area, and underutilized land area for each sub-regional industrial area. The analysis indicates that the Tacoma-Puyallup industrial area includes approximately 13% of the regional vacant industrial land supply and 15% of the underutilized land supply.

9. Regional Economic Contribution of Industrial Land

According to PSRC's Industrial Lands Analysis Report "(i)n 2012, total wages paid out by industrial activities on industrial lands summed to \$24.4 billion. Overall, the annual earnings from industrial jobs on industrial lands averaged \$80,000 in 2012. Wages associated with industrial jobs on industrial lands equaled 23.2% of all wages paid out across the region in 2012. By comparison, the average wage across the four-county central Puget Sound region in 2012 was \$59,700. Retail Trade, one of the largest segments of the regional work force, supported an average wage of \$36,300, while Finance and Insurance paid an average wage of \$86,900 (page E-9)."

10. Conversion of Industrial Lands

PSRC estimates that non-industrial employment on industrial lands will grow from 36% of total jobs on industrial lands in 2012 to 45% by 2040 (page E-10, Industrial Lands Analysis Report). PSRC forecasts for the Tacoma-Puyallup subarea show "higher growth in non-industrial jobs, with such jobs representing 70% of all jobs in the subarea (page 6-16)." The employment forecasts for 2040 suggest the existing land supply is sufficient to accommodate both the industrial and non-industrial employment forecasts, but that rising land values, proximity to nearby commercial centers, and other factors, will require some shift in management strategies due these non-industrial trends.

11. Employment Allocation

VISION 2040 allocates an additional 97,000 jobs to Tacoma by 2040.

12. 2014 Pierce County Buildable Lands Analysis

The Pierce County Buildable Lands Analysis assesses the land capacity to absorb the VISION 2040 employment allocations. Appendix D to the report allocates 8% of the City's overall employment allocation to the Tideflats MIC, an estimate of 7,555 new jobs by 2040. The report identifies a total land area of 3,912 acres within the Tideflats MIC and sufficient land capacity to absorb the allocated employment.

13. Non-industrial Uses in the Port/Tideflats

The Port Tideflats are predominantly zoned Port Maritime Industrial (PMI) and Heavy Industrial (M-2) zoning districts. Some areas to the periphery are zoned Light Industrial (M-1). Current policies support the retention and protection of manufacturing and industrial lands for manufacturing and industrial use, and to expand a diversified employment base in these areas. However, the City's current zoning districts allow expansive uses, including certain non-industrial uses that typically require a large land area to accommodate. These uses include:

- Golf Courses
- Schools (K-12)
- Juvenile Community Facilities
- Airports

- Agricultural uses (excluding marijuana production and processing)
- Destination Parks and Recreation (such as stadiums, arenas, museums, zoos, and aquariums).

14. Likelihood of Industrial Development in Tacoma's Port/Tideflats

In addition to the regional industrial employment growth forecasts and availability of developable land within the Port/Tideflats, two major fossil fuel projects have recently been proposed in the Port Tideflats: 1. A liquefied natural gas facility that was permitted and is now under construction, 2. A gas to methanol plant that was proposed for the Tideflats but later withdrawn. Multiple oil, gas and petrochemical refineries, terminals, and bulk storage sites currently operate in the Port Tideflats.

15. Likelihood of Residential Development in Close Proximity

The 2014 Pierce County Buildable Lands Report documents significant development capacity along the City's steep slopes overlooking the Port/Tideflats along Marine View Drive. In addition, the City has seen increased development pressure on these sites. Multiple plats have been submitted to develop slope properties. With continued rising demand for housing in the City of Tacoma, there is a significant likelihood that additional developments will occur on the slopes above Marine View Drive in close proximity to the Port/Tideflats and during the subarea planning process. Many of the concerns raised about Port/Tideflats industrial activities originate from residential developments along these hillsides that have less separation from the industrial waterfront. New residential development in these areas will likely introduce new interested parties and potential for nuisance complaints during the subarea planning process.

16. 1975 Energy Policy and Conservation Act

In 2015, as part of an omnibus budget bill, the U.S. Congress lifted the ban on the export of crude oil that had been in place since the 1975 Energy Policy and Conservation Act was adopted. The ban was lifted with the purpose of expanding new markets for the distribution of crude oil resulting from the increased production associated with shale fracking. This ban did not apply to other refined oil products, including gasoline. According to the Washington Post (https://www.washingtonpost.com/news/energy-environment/wp/2014/01/08/u-s-oil-exports-have-been-banned-for-40-years-is-it-time-for-that-to-change/?utm_term=.b07af10d5a90) gross energy exports in the U.S. have risen significantly since 2003. The result is a likelihood of an increased demand for new bulk storage facilities and terminals located in West Coast ports to tap into these growing markets.

17. Oceanic Resources Management Act

During the 1980's concerns over proposed oil and gas drilling off the coast of Washington resulted in adoption of the Ocean Resources Management Act (ORMA). The ORMA recognizes that "Washington's coastal waters, seabed, and shorelines are among the most valuable and fragile of its natural resources" and that "Some uses may pose unacceptable environmental or social risks at certain times (<http://app.leg.wa.gov/rcw/default.aspx?cite=43.143&full=true>)." Furthermore, "When conflicts arise among uses and activities, priority shall be given to resource uses and activities that will not adversely impact renewable resources over uses which are likely to have an adverse impact on renewable resources" and "(i)t is the policy of the state of Washington to actively encourage the conservation of liquid fossil fuels, and to explore available methods of encouraging such conservation." While the City of Tacoma is not required to plan under the ORMA, the State policy intent clearly indicates that oil and liquid fossil fuels pose risks to sensitive and fragile oceanic natural resources upon which multiple other economic sectors rely.

18. Environmental Risks to Critical Areas

The Port/Tideflats is an area with multiple environmentally sensitive areas, including fish and wildlife habitat conservation areas, streams, wetlands, and aquifer recharge areas. The subarea planning process will include an environmental review that will allow the City to conduct a more scientifically rigorous, area-wide review of the potential impacts from development in the Port/Tideflats, the scale of those impacts, and potential mitigation measures.

19. Environmental Hazards to Port/Industrial Uses

The Port/Tideflats is an area with potential risks of geologic, flood, and other natural disasters. The subarea planning process will include an environmental review that will allow the City to conduct a more scientifically rigorous, area-wide review of the potential risks to new and existing uses, development, and infrastructure, as well as the compounding impacts of a natural disaster occurring in an area with potentially hazardous chemicals and other materials.

20. Public Health, Safety, and Nuisance Impacts to Surrounding Neighborhoods and Employees

Some industrial and manufacturing uses carry a higher probability of health and safety concerns, or a higher risk of nuisance impacts to adjacent uses. These risks may vary considerably depending on the type of use, the location, and the building and operational design and management. Certain types of impacts may be minimized and mitigated adequately by existing regulatory structures (such as storm water management). The City has received complaints pertaining to traffic impacts, greenhouse gas emissions, odor, noise, water consumption, and lighting. The Subarea Planning process will provide a mechanism to review these complaints and potential risks and to evaluate alternative methods of minimizing and mitigating these public health, safety and nuisance risks.

21. Climate Policy (2015)

The 2015 update of the City's Comprehensive Plan, *One Tacoma*, included new goals and policies pertaining to the assessment of climate risks, adaptation measures, mitigation of climate causing greenhouse gas emissions, and the promotion of community resilience strategies.

22. Climate Change Resiliency Study (2016)

This study marks the beginning of a process undertaken by the City of Tacoma's Environmental Services and the Planning and Development Services Departments to better understand and proactively manage climate risks in order to protect local residents, make sound investments, and ensure that the City can prosper, even in a changing climate.

Three systems were considered in the study:

- Built infrastructure, with a focus on surface water, wastewater, solid waste, and transportation assets;
- Natural systems, including streams, lakes, wetlands, open spaces, and restoration sites; and
- Social systems, including general health and social services and potentially at-risk populations and neighborhoods.

23. Washington Coastal Resilience Project (2016-2018)

The City of Tacoma is participating as a case study in the Washington Coastal Resilience Project. Washington's Coastal Resilience Project is a three-year effort to rapidly increase the state's capacity to prepare for natural events that threaten the coast. The project will improve risk projections, provide better guidance for land use planners and strengthen capital investment programs for coastal restoration and infrastructure. These are the tools that coastal communities need to become more resilient to disasters.

24. Transportation

Multiple Transportation studies have been conducted for the Port Tideflats that analyze growth forecasts and scenarios, existing conditions, improvement concepts, and recommended projects. However, these studies do not use the same current data or development assumptions and in some cases differ by geographic applicability. These studies include:

- Emergency Response/Intelligent Transportation System Study (2016)
- Transportation Master Plan (2015)
- Tideflats Areas Transportation Study (2011, Port of Tacoma)
- East Thea Foss Waterway Transportation Corridor Study (2008)

25. Emergency Response

The City of Tacoma and the Port of Tacoma partnered with other agencies and private companies to initiate a study of Emergency Response systems in the tideflats area. The team included representatives from Tacoma's Planning and Development Services, Fire, and Public Works departments, as well as Tacoma Rail. In addition to active involvement from the Port of Tacoma, the Puyallup Tribe of Indians, U.S. Oil, Targa Sound Terminals, and Puget Sound Energy all participated in the study.

The Emergency Response/Intelligent Transportation System (ER/ITS) study addresses existing and future traffic congestion as well as infrastructure and operating deficiencies for emergency response in the tideflats.

26. Relationship to Other Emergency Ordinances

In addition to the Resolution directing the Planning Commission to evaluate the need for interim regulations for the Port/Tideflats, the City Council also recently adopted, via emergency ordinances, interim regulations relating to temporary shelters and correctional facilities. Both of these interim regulations geographically coincide with and impact the Port/Tideflats and subarea planning discussions.

E. Findings of Fact Part 2: Planning Mandates

27. Planning Mandates and Guidelines

GMA requires that any amendments to the Comprehensive Plan and/or development regulations conform to the requirements of the Act, and that all proposed amendments, with certain limited exceptions, shall be considered concurrently so that the cumulative effect of the various changes can be ascertained. Proposed amendments to the Comprehensive Plan and/or development regulations must also be consistent with the following State, regional and local planning mandates and guidelines:

- The State Growth Management Act (GMA);
- The State Environment Policy Act (SEPA);
- The State Shoreline Management Act (SMA);
- The Puget Sound Regional Council's *VISION 2040* Multicounty Planning Policies;
- The Puget Sound Regional Council's *Transportation 2040*, the action plan for transportation in the Central Puget Sound Region (adopted on May 20, 2010);
- The Puget Sound Regional Council's Subarea Planning requirements;
- The Countywide Planning Policies for Pierce County;
- TMC 13.02 concerning the procedures and criteria for amending the Comprehensive Plan and development regulations.

F. Findings of Fact Part 4: Public Notification and Involvement

28. Public Hearing Notification Process:

- (a) **Public Hearing.** A public hearing was set for September 13th at 6:00 pm at the Greater Tacoma Convention Center. Public comments were accepted through September 15th at 5:00 pm.
- (b) **Informational Meeting.** An informational Session was scheduled on September 6th from 5:00 – 7:00 pm for citizens to learn more about the proposed interim regulations and the legislative process.
- (c) **Public Hearing Notice:**

- A notice announcing the public hearing on September 13th and the informational meeting on September 6th was distributed to the City Council, Neighborhood Councils, business district associations, civic organizations, environmental groups, the development community, the Puyallup Tribal Nation, adjacent jurisdictions, major employers and institutions, City and State departments, Tideflats stakeholders and other known stakeholders and interested entities. The notice was also mailed to taxpayers of record within 2500 feet of the boundaries of the South Tacoma and Port of Tacoma Manufacturing and Industrial Districts as well as other zoning districts that allow heavy industrial uses, and within 1000' of the boundary for the proposed residential use restrictions along Marine View Drive.
- **Social Media.** Facebook Event Pages were created and disseminated for both the informational meeting and the public hearing.
- **News Media.** An advertisement was placed on The News Tribune on August 29, 2017 and a press release was issued through the City's Media and Communications Office on August 28, 2017.
- **60-Day Notices.** A "Notice of Intent to Adopt Amendment 60 Days Prior to Adoption" was sent to the State Department of Commerce (per RCW 36.70A.106), and Joint Base Lewis-McChord (per RCW 36.70A.530(4)). Finally, the proposal was submitted to the Department of Ecology SEPA Register (per the requirements of RCW 43.21.C and WAC 197-10) on August 29, 2017. A request for consultation was sent to the Puyallup Tribe of Indians on July 26th and again on August 29. These notices were sent more than 60 days prior to the Council's scheduled action in November 2017, so that their comments, if any, can be addressed in a timely manner during the Planning Commission and City Council review process.
- **Website.** Public review documents were posted to the City of Tacoma's website at www.cityoftacoma.org/tideflatsinterim

29. Consultation with the Puyallup Tribe of Indians

- On July 26, 2017 the City of Tacoma sent a letter of request for consultation to Chairman Sterud of the Puyallup Tribe of Indians, inviting early involvement and comments from the Puyallup Tribe throughout the development of the interim regulations.
- On August 16th, staff received a comment letter from Chairman Sterud of the Puyallup Tribal Council in support of staff's initial recommendations as presented to the Commission on August 2nd and August 16th.
- On August 29th, the City of Tacoma sent an additional letter to Chairman Sterud regarding the Planning Commission's public comment period and hearing, and highlighting key changes to staff's recommendations within the Commission's public review draft.

30. Public Comments:

Notification for the public hearing and comment period was sent to approximately 14,000 taxpayers of record as well as other interested parties. Approximately 300 people attended the hearing and 81 people provided testimony to the Commission. In addition, approximately 200 written comments were submitted prior to the close of the public comment period.

The comments received reflect broad and diverse viewpoints and interests among residents, businesses, labor interests, property owners, environmental representatives, adjacent jurisdictions, and Puyallup Tribal members. Staff provided the following summary of public testimony and comments to the Planning Commission as part of the Commission's deliberations on September 20, 2017.

Category 1: Expanded Notification for Heavy Industrial Uses

- Overall, comments have been supportive of expanding notification.
- Some concerns expressed that the notification does not go far enough, that certain uses are of a city-wide import and notification should reflect that.

Category 2: Non-industrial Uses in the Port of Tacoma M/IC

- Some confusion over why these uses are included.

- Concern expressed that these uses cannot expand, but industrial uses can.
- Concern over the scope of uses identified.

Category 3: Marine View Drive Residential Development Restrictions

- Concerns over the immediate and long term impacts of heavy industry on nearby residential areas.
- Some acknowledgement that recent residential developments in this area may not have been appropriate.
- General recognition that a transition area is appropriate.
- Some concern was expressed that these restrictions put greater focus on residences and not on impacts from heavy industry.

Category 4: Heavy Industrial Special Use Restrictions

- The scope of uses identified (should be broader/should be more narrowly focused)
- Expansion of existing uses
- Economic impact of the restrictions
- Environment and health impacts from heavy industry (existing and new)
- Risks and vulnerability to environmental hazard and natural disaster
- Opposition to any restrictions
- General support for the restrictions

Other Themes:

- Support for the Subarea Planning Process
- Timeline for adoption
- Concern over potential impacts to Joint-Base Lewis-McChord and other communities
- Job creation and retention
- Existing regulations are adequate and effective to address community concerns
- Concerns and questions regarding consultation with the Puyallup Tribe of Indians
- Basis for interim regulations:
 - No emergency basis identified
 - Fossil fuel facilities are an emergency issue
 - Existing uses are already impacting residents and workers and causing health impacts
- Legal concerns:
 - Recent cases pertaining to fossil fuel bans and Interstate Commerce;
 - Reasonable use of residential lots along Marine View Drive
 - State Environmental Policy Act (SEPA) review
 - Port Container Element and Growth Management Act requirements
 - Correctional facilities and essential public facilities

G. Findings of Fact Part 5: Planning Commission Review

29. Planning Commission Records.

Planning Commission agendas, minutes, handouts, and presentations are available at www.cityoftacoma.org/tideflatsinterim and at http://www.cityoftacoma.org/government/committees_boards_commissions/planning_commission/agendas_and_minutes/

30. Determination of Need.

On June 21 the Commission began its deliberation as to the need for interim regulations and staff presented findings in support of a determination of need. The Commission preliminarily determined that interim regulations were warranted.

31. Consideration of Options.

On August 2 the Commission discussed initial concepts for a scope of work for the interim regulations and provided staff with guidance to develop an initial draft document.

32. Public Review Document.

On August 16 the Commission reviewed, modified and released a public review draft for comments and set a public hearing.

33. Public Hearing.

On September 13 the Commission conducted a public hearing at the Greater Tacoma Convention Center. Approximately 300 people attended and 81 people provided testimony.

34. Review of Comments.

On September 20, the Commission reviewed public testimony and comments and discussed potential modifications to the draft proposals in response to public testimony received.

35. Recommendation.

On October 4, the Commission reviewed final modifications to the draft Interim Regulations and made a recommendation to the City Council to adopt the Planning Commission's proposal.

H. Findings of Fact Part 6: SEPA Review

Interim regulations are exempt from SEPA review, per WAC 197-11-800(19) as procedural actions and WAC 197-11-880 in circumstances of emergency. Interim regulations are an available procedural step to pause significant intervening projects during development of a subarea plan including long-term policy and development regulations for the Port Tideflats area. In addition, interim regulations are responsive to an emergent situation where a temporary protective measures are necessary while planning efforts are undertaken to address an area or issue of concern.

I. EXHIBITS:

J. CONCLUSIONS:

1. The Commission concludes that interim regulations are warranted for the duration of the Tideflats Subarea Planning process to maintain the status quo until such time as the Subarea Plan is completed:
 - Conversion of industrial lands is a critical regional issue and current codes allow significant non-industrial uses within the Port Tideflats, as well encroachment by potentially incompatible residential land uses. Therefore, limitations on non-industrial uses both within the Port/Tideflats and along the related slopes above Marine View Drive are appropriate until such time as the subarea plan is completed;
 - Significant new heavy industrial development projects are likely to occur during the subarea planning timeframe that could pre-empt the subarea planning process. Therefore, limitations on new certain new heavy industrial uses are appropriate until such time as the subarea plan is completed;
 - A subarea planning process typically takes 2 years to complete. However, the schedule and length of the process is dependent upon the final scope of work developed through a public process, the breadth and depth of issues to be reviewed, and the legislative process. While a shorter subarea planning process would limit the overall risk of projects occurring during the planning timeframe, there is a likelihood that the permanent regulations, developed through the subarea plan, may require more than the typical timeframe to complete which would increase the risks of significant new developments occurring during the plan and code development;

- Beyond the issues relating to incompatible land uses, pre-emption of the planning process, or risks of new development occurring during the planning timeframe, there are also multiple goals, policies, studies, programs, and emergency ordinances that pertain to the Port/Tideflats and which have been adopted in a piecemeal fashion. It is clear at this time that these issues must be addressed through a comprehensive manner through the subarea planning process. It is appropriate, therefore, to place a pause on significant new developments until such time as this planning effort has been completed, to ensure that new uses and development are fully compliant with the City's goals and policies and that plans and strategies are in place to invest in the necessary supportive infrastructure and mitigation measures.
2. The Commission concludes that a subarea planning process is the best course of action to comprehensively address land use issues associated with the future of the Port/Tideflats area, and given the multiple planning mandates and policy objectives for the area, the diverse stakeholder interests, and new scientific information relevant to the area, maintaining the status quo in the Port/Tideflats during the subarea planning process would serve to protect the integrity of that process until such time as these issues may be resolved through an adopted Subarea Plan.
 3. The Commission concludes that the Interim Regulations have been developed consistent with the procedural requirements of the Growth Management Act and Tacoma Municipal Code 13.02.055.
 4. The Commission concludes that these Interim Regulations constitute a broad pause while the Tideflats Subarea Plan is under development and that these proposed regulations do not pre-determine or constrain the outcomes of or the scope of work for the Tideflats Subarea Planning process.
 5. The Commission concludes that the Tideflats Subarea Plan and environmental review are the appropriate work plan to address the issues raised through the public testimony and ultimately to replace these interim regulations.

E. RECOMMENDATIONS:

The Planning Commission recommends that the City Council adopt the proposed interim regulations for the Port of Tacoma Manufacturing and Industrial Center (MIC) and other zoning districts that allow heavy industrial uses city-wide, as described below:

1. Expanded notification for heavy industrial uses city-wide that require a SEPA determination or discretionary permit;
2. Pausing certain new non-industrial uses within the Port of Tacoma MIC and placing limitations on expansion of existing uses during the interim period;
3. Pausing new residential platting and subdivision of land along Marine View Drive and pausing new residential development in the S-11 Shoreline District and C-1 and C-2 Commercial districts along Marine View Drive during the interim period;
4. Pausing certain new heavy industrial uses city-wide and placing limitations on expansion of existing uses during the interim period.

The Commission recommends that the Tideflats Interim Regulations be approved for a 12 month period with subsequent re-authorization every 6 months until the Tideflats Subarea Plan is complete.

Furthermore, the Commission recommends that staff provide a tracking, mapping and reporting mechanism for permit applications subject to these proposed interim regulations to inform the public, the Commission, and the City Council as to the costs and impacts associated with these regulations such that modifications may be evaluated and considered during the re-authorization process.

Finally, the Commission recommends that the City Council prioritize the resources (both budget and staffing) to conduct the subarea planning process in the most effective and expeditious way possible, commensurate with the degree of concern expressed over the future of the Port Tideflats by this community as evidenced by the volume and breadth of comment provided to the Commission.



Tideflats Interim Regulations

D12 Attachment C: Nonconforming Uses and Conditional Use Criteria

Planning Commission Review – October 4, 2017

TMC 13.06.630 Nonconforming Uses

A. Scope and purpose. Within the zones established by this title there exist parcels, uses, and structures which were lawful when established, but whose establishment would be prohibited under the requirements of this title. The intent of this section is to allow the beneficial development of such nonconforming parcel, to allow the continuation of such nonconforming uses, to allow the continued use of such nonconforming structures, and to allow maintenance and repair of nonconforming structures. It is also the intent of this section, under certain circumstances and controls, to allow the enlargement, intensification, or other modification of nonconforming uses and structures, consistent with the objectives of maintaining the economic viability of such uses and structures, and protecting the rights of other property owners to use and enjoy their properties. However, relief for nonconforming uses shall be narrowly construed, recognizing that nonconforming uses are disfavored by state law.

* * *

c. If a determination of nonconforming rights concludes that a use is lawfully in existence, then it may be expanded or changed to another nonconforming use, subject to the limitations and standards provided herein.

(1) Changes in use shall be limited to those uses allowed in the lowest intensity zoning district where the existing nonconforming use is currently permitted outright.

(2) The proposed change or expansion will not increase the cumulative generation of vehicle trips by more than 10 percent, as estimated by the City Traffic Engineer; nor will the change or expansion result in an increase in the number of parking spaces that would be required by this chapter by more than 10 percent. In no event shall multiple changes or expansions be approved that would, in the aggregate, exceed the 10 percent requirement as calculated for the initial request for a change or expansion in use;

(3) The proposed change or expansion will not result in an increase in noise such that it exceeds maximum noise levels identified in TMC 8.122;

(4) The proposed change or expansion will not result in substantial additional light or glare perceptible at the boundary lines of the subject property;

(5) The proposed change or expansion will not result in an increase in the outdoor storage of goods or materials; and

(6) The proposed change or expansion will not result in an increase in the hours of operation.

d. Any change from one nonconforming use to another nonconforming use, as allowed herein, shall not be considered converting such nonconforming use to a permitted use.

e. Changes in use that would exceed the standards herein may be approved through the issuance of a conditional use permit subject to the criteria in 13.06.640.P.

D1 Attachment A: Nonconforming Uses and Conditional Use Criteria

Planning Commission Review – October 4, 2017

TMC 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.

**INTEROFFICE MEMORANDUM
CITY OF TACOMA**

TO: Stephen Atkinson, Senior Planner

FROM: Steve Victor, Deputy City Attorney

SUBJECT: Tideflats Interim Regulations – RCW 36.70A.370 Takings Review

DATE: September 28, 2017

Per your request, provided below is a legal review of the draft Tideflats interim regulations in the context of RCW 36.70A.370 which requires local governments to implement a process to prevent proposed regulatory or administrative actions from resulting in an unconstitutional taking of private property. In performing my legal analysis, I follow the guidance of the Washington State Attorney General (“AGO”) set out in the AGO’s 2015 “Avoiding Unconstitutional Takings of Private Property” Memorandum.

In addition, I must emphasize the limitations of the legal review. The law of takings relies primarily on an analysis of three underlying factors: 1. The requirements of planning policies, including mandatory GMA policies and locally adopted policies; 2. Alternatives to proposed or adopted plans that may have less impact on private property, but still achieve the policy goals; 3. Economic impacts of the proposed or adopted plans. The effectiveness of this legal review is wholly dependent on the substantive data on the above-referenced factors that is included in the draft documents.

1. Does the Regulatory Action Result in a Permanent or Temporary Physical Occupation of Private Property?

This review noted no data in the draft regulations that indicated they would result in a permanent physical occupation of all or a portion of private property within the area of effect.

2. Does the Regulatory Action Deprive the Owner of All Economically Viable Uses of the Property?

This review noted no data in the draft regulations that indicated they would result in permanently eliminating all economically viable or beneficial uses of any private property within the area of effect.

3. Does the Regulatory Action Deny or Substantially Diminish a Fundamental Attribute of Property Ownership?

This review noted no data in the draft regulations that indicated they would result in denial of a property owner's ability to exercise a fundamental attribute of property ownership on any private property within the area of effect.

4. Does the Regulatory Action Require a Property Owner to Dedicate a Portion of Property, to Grant an Easement, or to Undertake Some Independent Financial Obligation?

This review noted no data in the draft regulations that indicated they would result in requiring a property owner to dedicate a portion of the property, to grant an easement, or to undertake some independent financial obligation within the area of effect.

5. Does the Regulatory Action Have a Severe Impact on the Landowner's Economic Interest?

This review noted that all residential building permits within the area of effect for the interim regulations are intended to be paused for the interim period. Such an interim regulation may conflict with Washington State's vested rights doctrine. RCW 58.17.033, the vesting statute that applies to subdivision and short subdivision applications, states that a complete application for preliminary plat or short plat approval is to be considered under the subdivision/short subdivision ordinance and "zoning or other land use control ordinances" in effect at the time that application is submitted.

In Noble Manor v. Pierce County, 133 Wn.2d 269, 943 P.2d 1378 (1997), the Washington State Supreme Court held that submission of a completed plat/short plat application vests the developer with the right to both divide the property, and to develop it in the manner disclosed in the application, in accordance with the land use and zoning laws in effect on the date of submission of the application.

The vested right to develop platted residential property has the potential to be impacted, at least in the interim, by the draft regulations. While an interim residential permitting pause for existing platted lots may not be deemed a taking, it may nevertheless be vulnerable to application of the vested rights doctrine.

Please advise if you have further questions.

cc: Brian Boudet, Planning & Development Services Division Manager