ORDINANCE NO. 28429

BY REQUEST OF MAYOR STRICKLAND

AN INTERIM ORDINANCE relating to land use regulations; revising interim zoning regulations; amending Chapter 13.05 of the Tacoma Municipal Code (“TMC”) at Section 13.05.020 and Chapter 13.06 at Sections 13.06.100, 13.06.200, 13.06.300, 13.06.400, 13.06.640, and 13.06.700, pertaining to the siting of correctional facilities; and amending a work plan for review and development of permanent regulations relating to siting correctional facilities.

WHEREAS, pursuant to RCW 36.70A.390 and TMC 13.02.055, the City Council has the authority to enact interim zoning ordinances, and

WHEREAS, on March 7, 2017, pursuant to Ordinance No. 28417, the City Council enacted Interim Zoning Regulations (“Interim Regulations”) for correctional facilities on an emergency basis, and

WHEREAS, as adopted, the Interim Regulations are effective for six months, through September 6, 2017, or until the City’s zoning regulations for correctional facilities are permanently updated, and

WHEREAS the Interim Regulations amended Sections 13.06.100, 13.06.200, 13.06.300, 13.06.400, and 13.06.700 of the Tacoma Municipal Code, as follows: (1) modify the use definition of “correctional facility” to clearly differentiate between public and private correctional facilities; (2) prohibit the siting of private correctional facilities in all zoning districts; (3) remove public correctional facilities as a permitted use in multi-family and light-industrial zoning districts (i.e., R-4-L, R-4, R-5, and M-1); and (4) modify how public correctional facilities are permitted by requiring approval of a Conditional Use Permit in all districts in which
they are allowed (currently, M-2 Heavy Industrial and PMI Port Maritime &
Industrial), and

WHEREAS the Interim Regulations were intended to allow time for the City
to conduct appropriate research and community outreach; analyze potential
impacts and applicable local, state and regional policies; and determine the
appropriate permanent regulatory framework for correctional facilities in Tacoma,
and

WHEREAS, as requested by the City Council, the Planning Commission
reviewed the Interim Regulations and explored both regulatory and non-regulatory
issues surrounding them, and

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

WHEREAS, while the Commission was able to spend considerable time on
this issue, it was unable to reach consensus on a final recommendation on the
Interim Regulations; however, the Commission forwarded its work to the City
Council relating to observations, concerns, deliberations, and preliminary thoughts on this issue, and

WHEREAS, after additional review, discussion, and a public hearing on the emergency Interim Regulations on April 25, 2017, the City Council desires to modify the Interim Regulations, and

WHEREAS the proposed modifications will amend the Interim Regulations as follows: (1) revise the regulations so they regulate public and private correctional facilities in the same manner; (2) revise permit modification standards to indicate that any modifications that would increase the inmate capacity of an existing facility shall be processed as a major modification; (3) modify the conditional use permit process standards to ensure substantial community engagement as part of any permit for significant modification of an existing correctional facility; and (4) extend the duration of the Interim Regulations from six months to one year, and

WHEREAS, in the interim, requiring conditional use permits for new or expanded facilities will better ensure that the review of any proposal includes significant community outreach and the opportunity for local discretionary review addressing applicable policies and standards, as well as potential impacts, mitigation of those impacts, and compatibility issues, and extending the duration of the interim regulations from six months to one year will better ensure there is adequate time for the City Council, Planning Commission, City staff, and the community to appropriately explore and address this issue, which is complicated and controversial; Now, Therefore,
BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That Chapter 13.05 of the Tacoma Municipal Code ("TMC") is hereby amended at Section 13.05.020, as set forth in the attached Exhibit "A."

Section 2. That Chapter 13.06 of the TMC is hereby amended at Sections 13.06.100, 13.06.200, 13.06.300, 13.06.400, 13.06.640, and 13.06.700, as set forth in the attached Exhibit "B."

Section 3. Duration. That the Interim Zoning Regulations modified by this ordinance shall be extended to a one-year effective period, and may be renewed as provided by law.

Section 4. Work Plan. That the Planning Commission shall develop permanent regulations for City Council's consideration based on the issues, timeline, and approach outlined in this ordinance.

Passed ______________________

______________________________
Mayor

Attest:

______________________________
City Clerk

Approved as to form:

______________________________
Deputy City Attorney
EXHIBIT "A"

Chapter 13.05
LAND USE PERMIT PROCEDURES

Note: These amendments show proposed changes to existing (interim) Land Use regulations. The sections included are only those portions of the code that are associated with these amendments. New text is underlined and text that has been deleted is shown as strikethrough.

13.05.020 Notice process.

H. Notice and Comment Period for Specified Permit Applications. Table H specifies how to notify, the distance required, the comment period allowed, expiration of permits, and who has authority for the decision to be made on the application.

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

<table>
<thead>
<tr>
<th>Permit Type</th>
<th>Pre-application Meeting</th>
<th>Notice: Distance</th>
<th>Notice: Newspaper</th>
<th>Notice: Post Site</th>
<th>Comment Period</th>
<th>Decision</th>
<th>Hearing Required</th>
<th>City Council</th>
<th>Expiration of Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rezones</td>
<td>Required</td>
<td>400 feet; 1000 feet for public facility site</td>
<td>No; Yes for public facility site</td>
<td>Yes</td>
<td>21 days SEPA²</td>
<td>Hearing Examiner</td>
<td>Yes</td>
<td>Yes</td>
<td>None</td>
</tr>
<tr>
<td>Shoreline/CUP/ variance</td>
<td>Required</td>
<td>400 feet</td>
<td>No</td>
<td>Yes</td>
<td>30 days⁵</td>
<td>Director</td>
<td>No¹</td>
<td>No</td>
<td>2 years/ maximum⁶</td>
</tr>
<tr>
<td>Short plat (2-4 lots)</td>
<td>Required</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Director</td>
<td>No</td>
<td>No</td>
<td>5 years¹</td>
</tr>
<tr>
<td>Short plat (5-9 lots)</td>
<td>Required</td>
<td>400 feet</td>
<td>No</td>
<td>Yes</td>
<td>14 days</td>
<td>Director</td>
<td>No¹</td>
<td>No</td>
<td>5 years⁶</td>
</tr>
<tr>
<td>Site approval</td>
<td>Optional</td>
<td>400 feet</td>
<td>No</td>
<td>Yes</td>
<td>30 days⁵</td>
<td>Director</td>
<td>No</td>
<td>No</td>
<td>5 years</td>
</tr>
<tr>
<td>Conditional use</td>
<td>Required</td>
<td>400 feet; 1000 feet for development sites over 1 acre in size</td>
<td>No</td>
<td>Yes</td>
<td>30 days⁵</td>
<td>Director</td>
<td>No</td>
<td>No</td>
<td>5 years⁴</td>
</tr>
<tr>
<td>Conditional use, correctional facility (new or major modification)</td>
<td>Required</td>
<td>1,000 feet</td>
<td>Yes</td>
<td>Yes</td>
<td>30 days²</td>
<td>Hearing Examiner</td>
<td>Yes</td>
<td>No</td>
<td>5 years</td>
</tr>
<tr>
<td>Conditional use, large-scale retail</td>
<td>Required</td>
<td>1,000 feet</td>
<td>Yes</td>
<td>Yes</td>
<td>30 days²</td>
<td>Hearing Examiner</td>
<td>Yes</td>
<td>No</td>
<td>5 years</td>
</tr>
<tr>
<td>Permit Type</td>
<td>Pre-application Meeting</td>
<td>Notice: Distance</td>
<td>Notice: Newspaper</td>
<td>Notice: Post Site</td>
<td>Comment Period</td>
<td>Decision</td>
<td>Hearing Required</td>
<td>City Council</td>
<td>Expiration of Permit</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>-------------------------</td>
<td>------------------</td>
<td>-------------------</td>
<td>-------------------</td>
<td>----------------</td>
<td>----------</td>
<td>------------------</td>
<td>--------------</td>
<td>----------------------</td>
</tr>
<tr>
<td>Conditional use, master plan</td>
<td>Required</td>
<td>1000 feet</td>
<td>Yes</td>
<td>Yes</td>
<td>30 days</td>
<td>Director</td>
<td>Yes</td>
<td>No</td>
<td>10 years</td>
</tr>
<tr>
<td>Conditional Use, Minor Modification</td>
<td>Optional</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Director</td>
<td>No</td>
<td>No</td>
<td>5 years</td>
</tr>
<tr>
<td>Conditional Use, Major Modification</td>
<td>Required</td>
<td>400 feet; 1000 feet for public facility sites and master plans</td>
<td>No</td>
<td>Yes</td>
<td>14 days</td>
<td>Director</td>
<td>No</td>
<td>No</td>
<td>5 years</td>
</tr>
</tbody>
</table>

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.

***
## Exhibit "B"

Chapter 13.06  
ZONING

Note: These amendments show proposed changes to existing (interim) Land Use regulations. The sections included are only those portions of the code that are associated with these amendments. New text is underlined and text that has been deleted is shown as strikethrough.

### 13.06.100 Residential Districts.

**5. District use table. (see next page for table)**

<table>
<thead>
<tr>
<th>Uses</th>
<th>R-1</th>
<th>R-2</th>
<th>R-2SRD</th>
<th>HMR-SRD</th>
<th>R-3</th>
<th>R-4-5</th>
<th>R-4-L</th>
<th>Additional Regulations¹</th>
</tr>
</thead>
<tbody>
<tr>
<td>Communication facility</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>CU</td>
<td>Antennas for such facilities are subject to the additional requirements contained in Section 13.06.545.</td>
</tr>
<tr>
<td>Confidential Shelter</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>Subject to additional requirements contained in Section 13.06.535.</td>
</tr>
<tr>
<td>Continuing care retirement community</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>Subject to additional requirements contained in Section 13.06.535.</td>
</tr>
<tr>
<td>Correctional facility, public or private</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>Side yards shall be provided as specified in Section 13.06.602.</td>
</tr>
</tbody>
</table>

¹ Additional Regulations

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Exhibit "B" - Proposed Revisions to TMC 13.06  
Page 1 of 4
### 13.06.200 Commercial Districts.

* * *

5. District use table.

<table>
<thead>
<tr>
<th>Uses</th>
<th>T</th>
<th>C-1</th>
<th>C-2¹</th>
<th>PDB</th>
<th>Additional Regulations²,³ (also see footnotes at bottom of table)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Communication facility</td>
<td>N</td>
<td>N</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>Confidential shelter</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>See Section 13.06.535. Limit: 15 residents in T District.</td>
</tr>
<tr>
<td>Continuing care retirement community</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>See Section 13.06.535.</td>
</tr>
<tr>
<td>Correctional facility, public or private</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td></td>
</tr>
</tbody>
</table>

* * *

### 13.06.300 Mixed-Use Center Districts.

* * *

3. District use table.

<table>
<thead>
<tr>
<th>Uses</th>
<th>NCX</th>
<th>CCX</th>
<th>UCX</th>
<th>RCX¹</th>
<th>CIX</th>
<th>HMX</th>
<th>URX</th>
<th>NRX</th>
<th>Additional Regulations³,⁴,⁵ (also see footnotes at bottom of table)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Communication facility</td>
<td>CU</td>
<td>CU</td>
<td>P</td>
<td>N</td>
<td>P</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>Prohibited at street level along frontage of designated pedestrian streets in NCX and CCX Districts.²</td>
</tr>
<tr>
<td>Confidential shelter</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>See Section 13.06.535. Prohibited at street level along frontage of designated core pedestrian streets in NCX.² Not subject to minimum densities founding Section 13.06.300.E.</td>
</tr>
<tr>
<td>Continuing care retirement community</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>See Section 13.06.535. Prohibited at street level along frontage of designated core pedestrian streets in NCX.²</td>
</tr>
<tr>
<td>Correctional facility, public or private</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td></td>
</tr>
</tbody>
</table>

* * *
### 13.06.400 Industrial Districts.

#### 5. District use table.

<table>
<thead>
<tr>
<th>Uses</th>
<th>M-1</th>
<th>M-2</th>
<th>PMI</th>
<th>Additional Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Communication facility</td>
<td>P/N*</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>Confidential shelter</td>
<td>P/N*</td>
<td>N</td>
<td>N</td>
<td>See Section 13.06.535.</td>
</tr>
<tr>
<td>*Not permitted within the South Tacoma M/IC Overlay District.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Continuing care retirement community</td>
<td>P/N*</td>
<td>N</td>
<td>N</td>
<td>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.</td>
</tr>
<tr>
<td>Correctional facility, public</td>
<td>N</td>
<td>CU</td>
<td>CU</td>
<td><strong>Corre</strong>lational facility, private is not allowed in M-1, M-2 and PMI** Mod<strong>if</strong>ications 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).</td>
</tr>
</tbody>
</table>
13.06.640 Conditional use permit.

Q. An application for a conditional use permit for correctional facilities shall be processed in accordance with the provisions of Chapter 13.05, except with the following additional requirement:

Pre-application community meeting. Prior to submitting an application to the City for a conditional use permit for a correctional facility, it is required that the applicant hold a public informational meeting with community members. The purpose of the meeting is to provide an early, open dialogue between the applicant and the neighborhood surrounding the proposed development. The meeting should acquaint the neighbors of the proposed development with the applicant and/or developers and provide for an exchange of information about the proposal and the community, including the characteristics of the proposed development and of the surrounding area and any particular issues or concerns of which the applicant should be made aware. The applicant shall provide written notification of the meeting, at least 30 calendar days prior to the meeting date, to the appropriate neighborhood council pursuant to TMC 1.45 and neighborhood business district pursuant to TMC 1.47, qualified neighborhood and community organizations, and to the owners of property located within 1,000 feet of the project site.

13.06.700 Definitions and illustrations.

For the purposes of this chapter, certain words and terms are defined as follows: words used in the present tense include the future, words in the singular number include the plural, and words in the plural number include the singular; the word “building” includes the word “structure”; the word “shall” is mandatory and not directory. For words that are not defined in this chapter, or that do not incorporate a definition by reference, refer to a Webster’s Dictionary published within the last ten years.

13.06.700.C

Container, shipping/storage. A large, prefabricated box or container made of metal, wood, or similar material utilized for the shipping/storage and distribution of various products or commodities.

Continuing care retirement community. An age-restricted development that provides a continuum of accommodations and care, from independent living to long-term bed care. Due to the wide range of services provided, such facilities generally operate under multiple state-licensing programs.

Convalescent home. See “extended care facility.”

Cornice. Projection at the top of a wall; a term applied to construction where the roof and side walls meet.

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

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