



To: Planning Commission
From: Ian Munce, AICP, Special Assistant to the Director,
Subject: **Proposed Correctional Facilities Permanent Regulations**
Meeting Date: January 3, 2018
Memo Date: December 28, 2017

Action Requested:

Conduct public hearing to receive testimony on the proposed regulations and leave the record open through January 5, 2018 to accept additional written comments.

Project Summary:

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

- Prohibit correctional facilities in multi-family and light industrial zoning districts (where they are currently allowed by zoning);
- Require a Conditional Use Permit for new correctional facilities (in zones where they are allowed) or significant modifications to existing ones;
- As part of the Conditional Use Permit process, require expanded public notice (to properties within 1,000-feet) and a pre-application community meeting; and
- Modify the definition of “correctional facility.”

Currently, there are interim regulations in effect concerning correctional facilities that were originally enacted by the City Council on March 7, 2017, per Ordinance No. 28417, and subsequently modified on May 9, 2017, per Ordinance No. 28429. The proposed permanent regulations, which are the subject of this public hearing, are generally the same as the interim regulations adopted by Council and currently in effect.

Attached in preparation for the public hearing are (1) a Public Review Packet that includes the public hearing notice and the full text of the propose code amendment, and (2) a Staff Analysis Report that provides additional background information about the proposal, staff’s analysis of the proposal against relevant policies of the Comprehensive Plan, and notification efforts associated with the public hearing. More information about the project can be viewed at www.cityoftacoma.org/Planning (and click on “Recent and Completed Projects” then “Correctional Facilities Interim Regulations”).

Prior Actions:

The Planning Commission began the process of developing permanent regulations in November 2017 for the City Council’s consideration for adoption before the interim regulations expire on March 6, 2018. At the December 6, 2017 meeting, the Commission authorized the distribution of the proposal for public review and set January 3, 2018 as the date for a public hearing.

Planning Commission

Proposed Correctional Facilities Permanent Regulations

December 28, 2017

Page 2 of 2

Staff Contact:

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

Attachments:

1. Public Review Packet – Proposed Correctional Facilities Permanent Regulations (prepared for Public Hearing, January 3, 2018)
2. Staff Analysis Report (December 28, 2017)

c: Peter Huffman, Director



NOTICE OF PUBLIC HEARING

PLANNING COMMISSION PUBLIC HEARING CORRECTIONAL FACILITIES – PERMANENT REGULATIONS

Wednesday, January 3, 2018, 5:30 p.m.

City Council Chambers
Tacoma Municipal Building
747 Market Street
Tacoma, WA 98402

How to provide comments?

1. Testify at the hearing on **January 3**; and/or
2. Provide written comments by 5:00 p.m., **Friday, January 5, 2018**, via:
 - E-mail: planning@cityoftacoma.org; or
 - Letter: Planning Commission
747 Market Street, Room 345
Tacoma, WA 98402

Subject of the Public Hearing

Proposed amendments to the Tacoma Municipal Code that would:

- Prohibit correctional facilities in multi-family and light industrial zoning districts (where they are currently allowed by zoning)
- Require a Conditional Use Permit for new correctional facilities (in zones where they are allowed) or significant modifications to existing ones
- As part of the Conditional Use Permit process, require expanded public notice (to properties within 1,000-feet) and a pre-application community meeting
- Modify the definition of “correctional facility”

Background

Currently, there are interim regulations in effect concerning correctional facilities that were originally enacted by the City Council on March 7, 2017, per Ordinance No. 28417, and subsequently modified on May 9, 2017, per Ordinance No. 28429. The proposed permanent regulations, which are the subject of this public hearing, are generally the same as the interim regulations adopted by Council and currently in effect.



The City of Tacoma does not discriminate on the basis of disability in any of its programs, activities, or services. To request this information in an alternative format or to request a reasonable accommodation, please contact the Planning and Development Services Department at (253) 591-5056 (voice) or (253) 591-5820 (TTY).

747 Market Street, Room 345 ■ Tacoma, WA 98402 ■ (253) 591-5682 ■ FAX (253) 591-5433 ■ <http://www.cityoftacoma.org/planning>

Next Steps

These draft permanent regulations are currently being considered by the Planning Commission. Following the public hearing, the Planning Commission will review all public input received and consider any potential modifications before making a recommendation to the City Council. The City Council is expected to consider this issue in February and make its final decision on the permanent regulations before the interim regulations expire on March 6, 2018.

Environmental Review

A Preliminary Determination of Nonsignificance (DNS) for the proposed permanent regulations has been issued based on the completion of an environmental checklist. Comments on the DNS must be submitted by 5:00 p.m., Friday, January 5, 2018. Unless modified by the City, the DNS will become final on January 12, 2018. The DNS and the environmental checklist are available at the website below.

Where to Get More Information

For more information about the proposal, please visit:

www.cityoftacoma.org/Planning

(click on "Recent and Completed Projects" then "Correctional Facilities Interim Regulations")

Staff Contact

Ian Munce
Special Assistant to the Director
(253) 573-2478
imunce@cityoftacoma.org



Correctional Facilities Permanent Regulations

DRAFT CODE AMENDMENTS

For Planning Commission's Public Hearing, January 3, 2018

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

These draft code amendments include modifications to the following sections of the Tacoma Municipal Code (TMC), Title 13 – Land Use Regulatory Code:

Chapter 13.05 – Land Use Procedures

13.05.020 – Notice Process

Chapter 13.06 – Zoning

13.06.100 – Residential Districts

13.06.400 – Industrial Districts

13.06.640 – Conditional Use Permit

13.06.700 – Definitions and Illustrations

Chapter 13.05 – LAND USE PERMIT PROCEDURES

13.05.020 Notice process.

* * *

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

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

Permit Type	Pre-application Meeting	Notice: Distance	Notice: Newspaper	Notice: Post Site	Comment Period	Decision	Hearing Required	City Council	Expiration of Permit
* * *									
Conditional use	Required	400 feet; 1000 feet for development sites over 1 acre in size	No	Yes	30 days ⁵	Director	No	No	5 years ⁴
Conditional use, correctional facility (new or major modification)	Required	1,000 feet	Yes	Yes	30 days²	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
* * *									

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.

* * *

Chapter 13.06 – ZONING

13.06.100 Residential Districts.

* * *

5. District use table.

Uses	R-1	R-2	R-2SRD	HMR-SRD	R-3	R-4-L	R-4	R-5	Additional Regulations ¹
* * *									
Communication facility	CU	CU	CU	CU	CU	CU	CU	CU	Antennas for such facilities are subject to the additional requirements contained in Section 13.06.545.
Confidential Shelter	P	P	P	P	P	P	P	P	Subject to additional requirements contained in Section 13.06.535.
Continuing care retirement community	N	N	N	N	P	P	P	P	Subject to additional requirements contained in Section 13.06.535.
Correctional facility	N	N	N	N	N	CUN	CUN	CUN	Side yards shall be provided as specified in Section 13.06.602.
* * *									

13.06.200 Commercial Districts.

* * *

5. District use table.

Uses	T	C-1	C-2 ¹	HM	PDB	Additional Regulations ^{2,3} (also see footnotes at bottom of table)
* * *						
Communication facility	N	N	P	N	P	
Confidential shelter	P	P	P	P	P	See Section 13.06.535. Limit: 15 residents in T District.
Continuing care retirement community	P	P	P	P	P	See Section 13.06.535.
Correctional facility	N	N	N	N	N	
* * *						

13.06.300 Mixed-Use Center Districts.

3. District use table.

Uses	NCX	CCX	UCX	RCX ¹	CIX	HMX	URX	NRX	Additional Regulations ^{3,4,5} (also see footnotes at bottom of table)

Communication facility	CU	CU	P	N	P	N	N	N	Prohibited at street level along frontage of designated pedestrian streets in NCX and CCX Districts. ²
Confidential shelter	P	P	P	P	P	P	P	P	See Section 13.06.535. Prohibited at street level along frontage of designated core pedestrian streets in NCX. ² Not subject to minimum densities founding Section 13.06.300.E.
Continuing care retirement community	P	P	P	P	P	P	P	P	See Section 13.06.535. Prohibited at street level along frontage of designated core pedestrian streets in NCX. ²
Correctional facility	N	N	N	N	N	N	N	N	

13.06.400 Industrial Districts.

* * *

5. District use table.

Uses	M-1	M-2	PMI	Additional Regulations ¹
* * *				
Communication facility	P	P	P	
Confidential shelter	P/N*	N	N	See Section 13.06.535. *Not permitted within the South Tacoma M/IC Overlay District.
Continuing care retirement community	P/N*	N	N	In M-1 districts, permitted only within residential or institutional buildings in existence on December 31, 2008, the effective date of adoption of this provision, or when located within a mixed-use building where a minimum of 1/3 of the building is devoted to industrial or commercial use. *Not permitted within the South Tacoma M/IC Overlay District. See Section 13.06.535.
Correctional facility	P N	P CU	P 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).
* * *				

13.06.640 Conditional use permit.

A. Purpose. In many zones there are uses that may be compatible but because of their size, operating characteristics, potential off-site impacts and/or other similar reasons warrant special review on a case-by-case basis. The purpose of the conditional use permit review process is to determine if such a use is appropriate at the proposed location and, if appropriate, to identify any additional conditions of approval necessary to mitigate potential adverse impacts and ensure compatibility between the conditional use and other existing and allowed uses in the same zoning district and in the vicinity of the subject property. The zoning district use tables identify which uses require a conditional use permit (see Sections 13.06.100, -.200, -.300, and -.400). These uses may be authorized by the Director or Hearing Examiner in accordance with the procedures established in TMC 13.05 and the applicable criteria outlined below.

* * *

D. Criteria. A conditional use permit shall be subject to the following criteria:

1. There shall be a demonstrated need for the use within the community at large which shall not be contrary to the public interest.
2. The use shall be consistent with the goals and policies of the Comprehensive Plan, any adopted neighborhood or community plan, and applicable ordinances of the City of Tacoma.
3. For proposals that affect properties that are listed individually on the Tacoma Register of Historic Places, or are within historic special review or conservation districts, the use shall be compatible and consistent with applicable historic preservation standards, and goals, objectives and guidelines of the historic or conservation districts. Proposed actions or alterations inconsistent with historic standards or guidelines as determined by the Landmarks Commission are a basis for denial.
4. The use shall be located, planned, and developed in such a manner that it is not inconsistent with the health, safety, convenience, or general welfare of persons residing or working in the community. The following shall be considered in making a decision on a conditional property use:
 - a. The generation of noise, noxious or offensive emissions, light, glare, traffic, or other nuisances which may be injurious or to the detriment of a significant portion of the community.
 - b. Availability of public services which may be necessary or desirable for the support of the use. These may include, but shall not be limited to, availability of utilities, transportation systems (including vehicular, pedestrian, and public transportation systems), education, police and fire facilities, and social and health services.
 - c. The adequacy of landscaping, screening, yard setbacks, open spaces, or other development characteristics necessary to mitigate the impact of the use upon neighboring properties.
5. An application for a conditional use permit shall be processed in accordance with the provisions of Chapter 13.05.

* * *

[Q. An application for a conditional use permit for correctional 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. 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.

* * *

Project: “Proposed Correctional Facilities Permanent Regulations”

Staff Analysis Report

December 28, 2017

Introduction

This report is prepared for the Planning Commission’s public hearing on January 3, 2018. The subject of the public hearing is summarized below:

Project Summary	
Project Title:	Proposed Correctional Facilities Permanent Regulations*
Applicant:	City of Tacoma
Location and Size of Area:	Citywide
Current Land Use and Zoning:	All zones are involved
Neighborhood Council Area:	All neighborhood council areas are affected
Staff Contact:	Ian Munce, AICP, imunce@cityoftacoma.org
Staff Recommendation:	Not prior to the public hearing
Project Proposal:	<p>Amend several sections of the Tacoma Municipal Code that would:</p> <ul style="list-style-type: none">• Prohibit correctional facilities in multi-family and light industrial zoning districts (where they are currently allowed by zoning);• Require a Conditional Use Permit for new correctional facilities (in zones where they are allowed) or significant modifications to existing ones;• As part of the Conditional Use Permit process, require expanded public notice (to properties within 1,000-feet) and a pre-application community meeting; and• Modify the definition of “correctional facility.”
*Additional Notes:	<p>Currently, there are interim regulations in effect concerning correctional facilities that were originally enacted by the City Council on March 7, 2017, per Ordinance No. 28417, and subsequently modified on May 9, 2017, per Ordinance No. 28429. The proposed permanent regulations, which are the subject of this public hearing, are generally the same as the interim regulations adopted by Council and currently in effect.</p>

Planning and Development Services
City of Tacoma, Washington
Peter Huffman, Director



Ian Munce, AICP
imunce@cityoftacoma.org
<http://www.cityoftacoma.org/planning>

Procedural History

1. Imposition of Interim Regulations:

The City Council adopted Ordinance No. 28417 on March 7, 2017, enacting emergency interim zoning regulations pertaining to correctional facilities and setting April 25, 2017 as the date for a public hearing on the matter. The interim regulations were effective for six months (through September 6, 2017) or until the City's zoning regulations for correctional facilities are permanently updated. The interim regulations amended the Tacoma Municipal Code, Sections 13.06.100, 13.06.200, 13.06.300, 13.06.400, and 13.06.700, as follows:

- Modified the use definition of "correctional facility" to clearly differentiate between public and private correctional facilities;
- Prohibited the siting of private correctional facilities in all zoning districts;
- Removed public correctional facilities as a permitted use in multi-family and light-industrial zoning districts (i.e., R-4L, R-4, R-5, and M-1); and
- Modified 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).

The adoption of emergency Ordinance No. 28417 was intended to prohibit or require conditional use permits for new or expanded correctional facilities in the interim and to allow time for the City Council and the Planning Commission to conduct appropriate research, analyze potential impacts and applicable local, state and regional policies, and determine the appropriate permanent regulatory framework for public and private correctional facilities in Tacoma.

2. Planning Commission's Review:

Per the City Council's request, the Planning Commission reviewed the initial interim regulations and was scheduled to formulate its findings of fact and recommendations to the City Council on April 19, but was not successful in reaching a consensus on a final version of their recommendations. Nonetheless, the Commission decided to forward the draft recommendations as the work-to-date to keep the Council abreast of their observations, concerns and deliberations.

3. Modifications to the Interim Regulations:

The City Council adopted Ordinance No. 28429 on May 9, 2017, modifying the Correctional Facilities Interim Regulations (Ordinance No. 28417), as follows:

- Revising the regulations so they regulate public and private correctional facilities in the same manner;
- Revising the permit modification standards to indicate that any modifications that would increase the inmate capacity of an existing facility shall be processed as a conditional use modification;
- Modifying the Conditional Use Permit process standards to ensure significant community engagement as part of any permit for significant modification of an existing correctional facility; and
- Extending the duration of the Interim Regulations from six months to one year (i.e., expiring on March 6, 2018).

Policy Framework

Summarized below is staff's analysis of the proposed correctional facilities permanent regulations against relevant policies of the *One Tacoma* Comprehensive Plan:

A. The proposed amendment seeks to implement the following Comprehensive Plan policies regarding public participation in development review:

- *Policy PFS-1.3: Coordinate and cooperate with federal, state, regional, and local jurisdictions, private industry, businesses, and citizens in the planning, siting, design, and development of facilities serving and affecting the community.*
- *Policy PFS-3.6: Active public involvement at the earliest point in the siting process shall be encouraged through timely notification, public meetings and hearings.*

These policies are advanced by requiring a Conditional use permit together with a pre-application community meeting.

B. It is less clear as to how simply adding additional public participation requirements advances the following Comprehensive Plan public facility siting policies:

- *Policy PFS-3.7: Notify and coordinate with adjacent jurisdictions that are affected by the siting of an essential public facility. Equitable distribution of facilities for the populations they serve will be cooperatively established through inter-local agreements in order to ensure that all jurisdictions share the burden of providing essential public facilities.*
- *Policy PFS-3.5: If Tacoma is selected as a site for a regional or statewide essential public facility, or is otherwise impacted by a regional or statewide facility's development, expansion or operation, ensure that impacts on Tacoma are mitigated.*

However, the siting mandates of RCW 36.70A.200 and WAC365-196-550 provide an overarching structure (Exhibit A) and the controlling Comprehensive Plan goal is to "Collaborate with regional partners to site essential public facilities in an equitable and practical manner" (Goal PFS-3). Further, adding a conditional use permit review will advance the first part of Policy PFS-3.7 (i.e., "Notify and coordinate with adjacent jurisdictions that are affected by the siting of an essential public facility"). Finally, the City Comprehensive Plan highlights that "Regional public facilities are designated by GMA as essential public facilities. The City realizes that these facilities are often difficult to site, but they provide needed public services. Tacoma will coordinate with other jurisdictions in the region to site public facilities and will not exclude such facilities from its jurisdiction" (CP 9-6).

C. It is also less clear as to how simply adding additional public participation requirements advances the following Comprehensive Plan Container Port Element policies:

- *Core Area Vision and Principles: Uses should be prioritized as follows: (1) cargo facilities and activities, (2) water dependent port uses, (3) water related port uses, and (4) other uses permitted in Port Maritime Industrial zoning.*
- *CP-2: Port and Port-Related Cargo and Industrial Land – Preservation of available industrial waterfront land for port and port-related container and industrial activity is vital to the City's economy. Prohibit uses that would negatively affect the availability of land for the primary port*

and port-related cargo and industrial function of the Core Area. Encourage aggregation of industrial land for future development as cargo port terminals and supporting uses.

- *CP-3: Incompatible Core Area Uses – Clearly identify and prohibit uses that are entirely incompatible with the Core Area uses. Examples may include those that attract people to the area for non-industrial purposes or that would be incompatible with typical industrial area impacts (noise, truck movement, etc.). These may include residential, general retail, temporary lodging or other similar uses.*

It should be noted that these land-use issues are to be addressed in the forthcoming subarea planning process for the Tideflats. Also note that, in reference to “Core Area Vision and Principles” above, the Core Area is coterminous with Port Maritime Industrial Zoning (PMI).

- D. It is clear that the public transit requirement set forth in the Comprehensive plan is not met by the existing correctional facility located in the Tacoma Tideflats—there is no transit service nearby and there is substantial demand:
- *Policy PFS–3.4: Major essential public facilities that generate substantial travel-demand should be sited along or near major transportation and public transit corridors.*

Adding transit service might be an appropriate requirement for any new conditional use permit.

Objectives

The proposed amendment seeks to achieve the following objectives:

- Respond to changing circumstances, such as growth and development patterns, needs and desires of the community, and the City’s capacity to provide adequate services. Specifically, after extensive public participation the City has adopted new Comprehensive plan policies since the three correctional facilities (County Jail, Redman Hall, and Detention Facility) were opened.
- Maintain or enhance compatibility with existing or planned land uses and the surrounding development pattern. Adding a conditional use requirement will allow these new policies to be properly considered in any new siting decisions, whether for existing or new locations.

Options Analysis

In Washington State a major focus is placed on the “essential public facility” category under RCW36.70A.200. There is a broad spectrum of opinion as to how this category can and should be applied to specific essential facility requests. City staff considers that the correctional facility definition appropriately captures detention as well as correctional facilities. Additionally, for clarification purposes it is important to highlight that the 5-year permit expiration referenced in the City Conditional Use code sections refers to the time to act/initiate/construct/open an approved use/facility, not the full duration of the approval such that an applicant would have to vacate or get another approval after 5-years.

As to the Detention Facility, research reveals that ICE Detention facilities across the country are handled differently depending on the unique state/local regulatory framework.

Impacts Assessment

The proposed amendment will avoid correctional facilities being located in residential areas, focus on heavy industrial areas (pending subarea plan review), and increase the public participation for new or expanded correctional facilities.

Outreach Summary

The public record on this proposal is extensive. Materials received since the January 3, 2018 public hearing notice was issued are attached (Exhibit B).

Public Hearing Notifications

Documented below are the notification efforts for the public hearing as well as the environmental evaluation and takings review of the proposal:

1. Notification:

Notification for the public hearing has been conducted to reach a broad-based audience, through the following efforts that occurred in December 2017:

- (a) **Public Hearing Notice** – The public hearing notice was distributed on December 15, 2017, to approximately 1,000 individuals on the Planning Commission’s e-mail and U.S. mail distribution lists. The mailing lists include such entities as 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, and other interested parties.
- (b) **Library** – A request was made to the Tacoma Public Library on December 18, 2017 to make the public review packet, including the public hearing notice, available for patrons’ review at all branches.
- (c) **News Media** – An advertisement was placed on The News Tribune on December 19, 2017; and a legal notice was published on the Tacoma Daily Index on December 19, 2017. A City of Tacoma News Release was distributed on December 20, 2017. A recurring public hearing notice has been run on TV Tacoma through January 3, 2018.
- (d) **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) on December 15, 2017. A similar notice was sent to Joint Base Lewis-McChord (per RCW 36.70A.530(4)) on December 18, 2017, asking for comments within 60 days of receipt of the notice.
- (e) **Tribal Consultation** – A letter was sent to the chairman of the Puyallup Tribe of Indians on December 18, 2017, to formally invite the Tribe’s consultation on the proposed amendment.
- (f) **Website** – The public hearing notice, the public review packet, and the DNS and Environmental Checklist have been posted on the project’s website, which can be accessed by visiting www.cityoftacoma.org/Planning and clicking on “Recent and Completed Projects” then “Correctional Facilities Interim Regulations”.

2. Environmental Evaluation:

A Preliminary Determination of Nonsignificance (DNS) for the proposed permanent regulations was issued on December 14, 2017, based on the completion of an environmental checklist. Comments on the DNS must be

submitted by 5:00 p.m., Friday, January 5, 2018. Unless modified by the City, the DNS will become final on January 12, 2018. The DNS and the environmental checklist are available for review at the project's website.

3. Takings:

A copy of the public review packet was forwarded to the City Attorney's Office for their review, pursuant to RCW 36.70A.370 and following the State Attorney General's recommended checklist, to determine if the City Council's adoption of the proposal might result in an unconstitutional taking of private property. Legal counsel has responded with an indication that based on the information provided the proposed amendment does not appear to do so.

Exhibits

- A. RCW 36.70A.200 and WAC365-196-550
- B. Public Comments Received To Date (December 28, 2017)

EXHIBIT A
RCW 36.70A.200 AND WAC 365-196-550

(Proposed Correctional Facilities Permanent Regulations, Staff Analysis Report, December 28, 2017)

RCW 36.70A.200

Siting of essential public facilities—Limitation on liability.

(1) The comprehensive plan of each county and city that is planning under RCW [36.70A.040](#) shall include a process for identifying and siting essential public facilities. Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW [47.06.140](#), regional transit authority facilities as defined in RCW [81.112.020](#), state and local correctional facilities, solid waste handling facilities, and inpatient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW [71.09.020](#).

(2) Each county and city planning under RCW [36.70A.040](#) shall, not later than September 1, 2002, establish a process, or amend its existing process, for identifying and siting essential public facilities and adopt or amend its development regulations as necessary to provide for the siting of secure community transition facilities consistent with statutory requirements applicable to these facilities.

(3) Any city or county not planning under RCW [36.70A.040](#) shall, not later than September 1, 2002, establish a process for siting secure community transition facilities and adopt or amend its development regulations as necessary to provide for the siting of such facilities consistent with statutory requirements applicable to these facilities.

(4) The office of financial management shall maintain a list of those essential state public facilities that are required or likely to be built within the next six years. The office of financial management may at any time add facilities to the list.

(5) No local comprehensive plan or development regulation may preclude the siting of essential public facilities.

(6) No person may bring a cause of action for civil damages based on the good faith actions of any county or city to provide for the siting of secure community transition facilities in accordance with this section and with the requirements of chapter 12, Laws of 2001 2nd sp. sess. For purposes of this subsection, "person" includes, but is not limited to, any individual, agency as defined in RCW [42.17A.005](#), corporation, partnership, association, and limited liability entity.

(7) Counties or cities siting facilities pursuant to subsection (2) or (3) of this section shall comply with RCW [71.09.341](#).

(8) The failure of a county or city to act by the deadlines established in subsections (2) and (3) of this section is not:

(a) A condition that would disqualify the county or city for grants, loans, or pledges under RCW [43.155.070](#) or [70.146.070](#);

(b) A consideration for grants or loans provided under RCW [43.17.250](#)(3); or

(c) A basis for any petition under RCW [36.70A.280](#) or for any private cause of action.

WAC 365-196-550

Essential public facilities.

(1) Determining what facilities are essential public facilities.

(a) The term "essential public facilities" refers to public facilities that are typically difficult to site. Consistent with county-wide planning policies, counties and cities should create their own lists of "essential public facilities," to include at a minimum those set forth in RCW [36.70A.200](#).

(b) For the purposes of identifying facilities subject to the "essential public facilities" siting process, it is not necessary that the facilities be publicly owned.

(c) Essential public facilities include both new and existing facilities. It may include the expansion of existing essential public facilities or support activities and facilities necessary for an essential public facility.

(d) The following facilities and types of facilities are identified in RCW [36.70A.200](#) as essential public facilities:

(i) Airports;

(ii) State education facilities;

(iii) State or regional transportation facilities;

(iv) Transportation facilities of statewide significance as defined in RCW [47.06.140](#). These include:

(A) The interstate highway system;

(B) Interregional state principal arterials including ferry connections that serve statewide travel;

(C) Intercity passenger rail services;

(D) Intercity high-speed ground transportation;

(E) Major passenger intermodal terminals excluding all airport facilities and services;

(F) The freight railroad system;

(G) The Columbia/Snake navigable river system;

(H) Marine port facilities and services that are related solely to marine activities affecting international and interstate trade;

(I) High capacity transportation systems.

(v) Regional transit authority facilities as defined under RCW [81.112.020](#);

(vi) State and local correctional facilities;

(vii) Solid waste handling facilities;

(viii) In-patient facilities, including substance abuse facilities;

(ix) Mental health facilities;

(x) Group homes;

(xi) Secure community transition facilities;

(xii) Any facility on the state ten-year capital plan maintained by the office of financial management.

(e) Essential public facility criteria apply to the facilities and not the operator. Cities and counties may not require applicants who operate essential public facilities to use an essential public facility siting process for projects that would otherwise be allowed by the development regulations. Applicants who operate essential public facilities may not use an essential public facility siting process to obtain approval for projects that are not essential public facilities.

(f) Regardless of whether it is a new, existing or an expansion or modification of an existing public facility, the major component in the identification of an essential public facility is whether it provides or is necessary to provide a public service and whether it is difficult to site.

(2) Criteria to determine if the facility is difficult to site. Any one or more of the following conditions is sufficient to make a facility difficult to site.

(a) The public facility needs a specific type of site of such as size, location, available public services, which there are few choices.

(b) The public facility needs to be located near another public facility or is an expansion of an essential public facility at an existing location.

(c) The public facility has, or is generally perceived by the public to have, significant adverse impacts that make it difficult to site.

(d) Use of the normal development review process would effectively preclude the siting of an essential public facility.

(e) Development regulations require the proposed facility to use an essential public facility siting process.

(3) Preclusion of essential public facilities.

(a) Cities and counties may not use their comprehensive plan or development regulations to preclude the siting of essential public facilities. Comprehensive plan provisions or development regulations preclude the siting of an essential public facility if their combined effects would make the siting of an essential public facility impossible or impracticable.

(i) Siting of an essential public facility is "impracticable" if it is incapable of being performed or accomplished by the means employed or at command.

(ii) Impracticability may also include restrictive zoning; comprehensive plan policies directing opposition to a regional decision; or the imposition of unreasonable conditions or requirements.

(iii) Limitations on essential public facilities such as capacity limits; internal staffing requirements; resident eligibility restrictions; internal security plan requirements; and provisions to demonstrate need may be considered preclusive in some circumstances.

(b) A local jurisdiction may not include criteria in its land use approval process which would allow the essential public facility to be denied, but may impose reasonable permitting requirements and require mitigation of the essential public facility's adverse effects.

(c) An essential public facility is not precluded simply because the comprehensive plan provisions would be too costly or time consuming to comply with.

(d) If the essential public facility and its location have been evaluated through a state or regional siting process, the county or city may not require the facility to go through the local siting process.

(e) Essential public facilities that are sited through a regional or state agency are distinct from those that are "sited by" a city or county or a private organization or individual. When a city or county is siting its own essential public facility, public or private, it is free to establish a nonpreclusive siting process with reasonable criteria.

(4) Comprehensive plan.

(a) Requirements:

(i) Each comprehensive plan shall include a process for identifying and siting essential public facilities. This process must be consistent with and implement applicable county-wide planning policies.

(ii) No local comprehensive plan may preclude the siting of essential public facilities.

(b) Recommendations for meeting requirements:

(i) Identification of essential public facilities. When identifying essential public facilities, counties and cities should take a broad view of what constitutes a public facility, involving the full range of services to the public provided by the government, substantially funded by the

government, contracted for by the government, or provided by private entities subject to public service obligations.

(ii) Agreements among jurisdictions should be sought to mitigate any disproportionate financial burden which may fall on the county or city which becomes the site of a facility of a statewide, regional, or county-wide nature.

(iii) Where essential public facilities may be provided by special districts, the plans under which those districts operate must be consistent with the comprehensive plan of the city or county. Counties and cities should adopt provisions for consultation to ensure that such districts exercise their powers in a way that does not conflict with the relevant comprehensive plan.

(c) The siting process should take into consideration the need for county-wide, regional, or statewide uniformity in connection with the kind of facility under review.

(5) Development regulations governing essential public facilities.

(a) Development regulations governing the siting of essential public facilities must be consistent with and implement the process set forth in the comprehensive plan.

(b) Except where county-wide planning policies have otherwise dictated siting choices, provision should be made for the possibility of siting each of the listed essential public facilities somewhere within each county's or city's planning area.

(c) Counties and cities should consider the criteria established in their comprehensive plan, in consultation with this section to determine if a project is an essential public facility. Counties and cities may also adopt criteria for identifying an essential public facility.

(d) If an essential public facility does not present siting difficulties and can be permitted through the normal development review process, project review should be through the normal development review process otherwise applicable to facilities of its type.

(e) If an essential public facility presents siting difficulties, the application should be reviewed using the essential public facility siting process.

(6) The essential public facility siting process.

(a) The siting process may not be used to deny the approval of the essential public facility. The purpose of the essential public facility siting process is to allow a county or city to impose reasonable conditions on an essential public facility necessary to mitigate the impacts of the project while ensuring that its development regulations do not preclude the siting of an essential public facility.

(b) The review process for siting essential public facilities should include a requirement for notice and an opportunity to comment to other interested counties and cities and the public.

(c) The permit process may include reasonable requirements such as a conditional use permit, but the process used must ensure a decision on the essential public facility is completed without unreasonable delay.

(d) The essential public facility siting process should identify what conditions are necessary to mitigate the impacts associated with the essential public facility. The combination of any existing development regulations and any new conditions may not render impossible or impracticable, the siting, development or operation of the essential public facility.

(e) Counties and cities should consider the extent to which design conditions can be used to make a facility compatible with its surroundings. Counties and cities may also consider provisions for amenities or incentives for neighborhoods in which facilities are sited. Any conditions imposed must be necessary to mitigate an identified impact of the essential public facility.

EXHIBIT B
Public Comments Received To Date
December 28, 2017

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

Wung, Lihuang

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

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

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

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

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

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

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

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

Wung, Lihuang

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

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

Sent from my iPhone

Wung, Lihuang

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

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

I'll be brief.

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

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

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

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

I am hoping that you will “do the right thing” regarding the NW Detention Center.

Alex Macdonald, University Place

Sent from my iPhone