To: Planning Commission
From: Stephen Atkinson, Planning Services Division
Subject: Tideflats Interim Regulations
Meeting Date: August 2, 2017
Memo Date: July 27, 2017

On June 21, 2017, the Planning Commission reviewed the City Council’s request (per Resolution No. 39723, adopted on May 9, 2017) for the Commission to consider interim regulations for the Port/Tideflats during the subarea planning process. The Commission reviewed initial findings and determined that interim regulations may be warranted, pending further analysis and discussion.

At the next meeting on August 2, the Commission will review the attached draft findings of fact and options for the interim regulations. Staff is seeking Commission feedback on the draft findings of fact and direction on the Commission’s preferred options for interim regulations. Pending this discussion, staff will then update the attached documents and develop an initial draft of the interim regulation code amendments.

*Additional Note: The Planning Commission has suspended public comments on this item during the regular meeting. A public hearing is tentatively scheduled for this fall. Written comments are still being accepted.

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

Attachments:
1. Summary of Staff Recommendation
2. Interim Regulation Options
3. Draft Findings of Fact
4. Letter from Legal Counsel re: Interim Regulations

c. Peter Huffman, Director
Tideflats Interim Regulations: Summary of Staff Recommendations

1. Non-Industrial Uses

Prohibit the following uses to retain an adequate industrial land supply and prevent conversion of industrial lands to non-industrial uses.

- Golf Courses
- Schools (K-12)
- Juvenile Community Facility
- Airport
- Agricultural Uses (excludes Marijuana Production and Processing, or Urban Horticulture)
- Destination Parks and Recreation

2. New High Risk/High Impact Industrial Uses

Prohibit the following uses with a probable high risk to public health, safety and environment, or high probability of related off-site impacts:

- Coal terminals, storage or transport
- Oil or other liquified or gaseous fossil fuel terminals, manufacturing, production, processing or refining
- Bulk chemical storage, production or processing
- Animal slaughter
- Fat rendering
- Acid manufacture
- Smelters
- Blast furnaces
- Metal recyclers
- Surface mining

3. Expansion of Existing High Risk/High Impact Industrial Uses

Treat existing High Risk Industrial Uses (same as in 2 above) as permitted, with the following limitations on expansion:

- Expansion of up to 10% by right.
- Expansion of up to 20% by Conditional Use Permit.
- Expansion may be measured in some cases as storage volume, or production capacity, use or building area, or other measure depending on the type of activity.

4. Expanded Notification

Codify the Director’s Rule on Expanded Notification for Heavy Industrial Uses as part of the Interim Regulations.

Continue on next page...
5. Residential Encroachment

Limit new residential development along the slopes above Marine View Drive to minimize the potential for new incompatible uses in close proximity to Port/Industrial activities.

- Allow a single residential unit per existing parcel.

6. Unlisted Uses.

- Uses not listed on the use table in TMC 13.06.400 are prohibited.
### Option 1: Pause (Staff Proposal)

**Non Industrial Uses**
Prohibit the following uses to retain an adequate industrial land supply and prevent conversion of industrial lands to non-industrial uses.
- Golf Courses
- Schools (K-12)
- Juvenile Community Facility
- Airport
- Agricultural Uses (excludes Marijuana Production and Processing, or Urban Horticulture)
- Destination Parks and Recreation

**New High Risk/High Impact Industrial Uses**
Prohibit the following uses with a probable high risk to impact public health, safety and environment, or high probability of related off-site impacts:
- Coal terminals, storage or transport
- Oil or other liquefied or gaseous fossil fuel terminals, manufacturing, production, processing or refining
- Bulk chemical storage, production or processing
- Animal slaughter
- Fat rendering
- Acid manufacture
- Smelters
- Blast furnaces
- Metal recyclers
- Surface mining

### Option 2: Process (Enhanced)

**Non Industrial Uses**
Prohibit the following uses via **Conditional Use Permit to review impacts to industrial land supply and conversion of industrial lands to non-industrial uses.**
- Same list of uses
- Different list of uses?

**New High Risk/High Impact Industrial Uses**
Prohibit the following uses with a probable high risk to impact public health, safety and environment, or high probability of related off-site impacts via **Conditional Use Permit:**
- Same list of uses
- Different list of uses?

### Option 3: Prohibition

**Non Industrial Uses**
Prohibit the following uses to retain an adequate industrial land supply and prevent conversion of industrial lands to non-industrial uses.
- Same list of uses
- Additional uses?

**New High Risk/High Impact Industrial Uses**
Prohibit the following uses with a probable high risk to public health, safety and environment, or high probability of related off-site impacts:
- Same list of uses
- Additional uses?
<table>
<thead>
<tr>
<th>Option 1: Pause (Recommended)</th>
<th>Option 2: Process (Enhanced)</th>
<th>Option 3: Prohibition</th>
</tr>
</thead>
<tbody>
<tr>
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<td><strong>Encroachment of Incompatible Uses</strong>&lt;br&gt;Limit new residential development along the slopes above Marine View Drive. &lt;br&gt;• Permit new residential development via Conditional Use Permit.</td>
<td><strong>Encroachment of Incompatible Uses</strong>&lt;br&gt;Limit new residential development along the slopes above Marine View Drive. &lt;br&gt;• Prohibit all new residential development and platting until the subarea plan is complete.</td>
</tr>
<tr>
<td><strong>Expansion of Existing High Risk/High impact Industrial Uses</strong>&lt;br&gt;Accommodate limited expansion of existing industrial uses. &lt;br&gt;• 10% Expansion by right. &lt;br&gt;• 20% expansion by Conditional Use permit.</td>
<td><strong>Expansion of Existing High Risk/High impact Industrial Uses</strong>&lt;br&gt;Accommodate limited expansion of existing industrial uses. &lt;br&gt;• Limited expansion allowed via Conditional Use Permit. &lt;br&gt;• Greater allowance or unlimited allowance.</td>
<td><strong>Expansion of Existing High Risk/High impact Industrial Uses</strong>&lt;br&gt;Accommodate limited expansion of existing industrial uses. &lt;br&gt;• Limited expansion allowed via Conditional Use Permit, for certain uses.</td>
</tr>
<tr>
<td><strong>Unlisted Uses</strong>&lt;br&gt;Implement more protective zoning for unforeseen circumstances. &lt;br&gt;• Unlisted uses not allowed.</td>
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A. **SUBJECT:**
Tideflats Interim Regulations

B. **SUMMARY OF PROPOSED AMENDMENTS:**
*Placeholder*

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 2: Planning Mandates

6. 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.

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

7. 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.

8. 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/industriallandsanalysisreport.pdf).

9. 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.

10. 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)."

11. 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.

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

13. 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.
14. 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).

15. 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.

16. 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.

17. Environmental Impacts 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.

18. Environmental Hazards to Port/Industrial Uses
The Port/Tideflats is an area with potential for multiple 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.

19. 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.
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.

21. 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.

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.

23. 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)

24. 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.

25. 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.
26. Pause
Whereas the City and the Port have agreed 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.

the City and the Port have agreed that a subarea planning process is the best course of action to comprehensively address land use issues associated with the future of the tidalflats/port area in Tacoma ("Tideflats Subarea Plan")

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

27. Public Hearing Notification Process: *placeholders*

(a) Public hearing
(b) Informational Session for citizens to learn more about the proposed amendments and ask questions.
(c) Public Hearing Notice:
   - Public Hearing Notice
   - News Media
   - 60-Day Notices
   - Website

28. Consultation with the Puyallup Tribe of Indians
*Placeholder*

29. Public Hearing Comments and Responses:
*Placeholder*

Findings of Fact Part 5: SEPA Review
*Placeholder*

G. EXHIBITS:
*Placeholder*

H. 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 development projects are likely to occur during the subarea planning timeframe that could pre-empt the subarea planning process. Therefore, limitations on new uses that are potentially high risk/high impact are appropriate until such time as the subarea plan is completed;
A subarea planning process typically takes between 2-3 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 over a significant length of time and 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. Consistency with procedural requirements of TMC 13.02.055 (Moratoria and Interim Regulations), RCW 90.58.590 (Placeholder).

3. Consistency with GMA, VISION 2040, One Tacoma Comprehensive Plan (Placeholder).

4. Continue to allow industrial and manufacturing uses and development and accommodate reasonable expansion of certain types of existing uses consistent with the role of the area as a regionally important Manufacturing and Industrial Center (Placeholder).

5. The interim regulations do not pre-determine specific outcomes of the subarea plan process (Placeholder).

6. Unintended or undesired impacts may be addressed through refinements to the ordinance as part of the periodic, six month re-authorization of the interim ordinance (Placeholder).

E. **RECOMMENDATIONS:**

*Placeholder*
July 24, 2017

Tacoma Planning Commission
Tacoma Municipal Building
747 Market Street #345
Tacoma, WA 98402

Re: Tidelands Interim Regulations

Dear Chair Beale and Commission,

I am counsel to the City’s Planning and Development Services Department. It has come to my attention that among comments you have received regarding the proposed Tidelands Interim Regulations are some which question the fundamental legal validity of interim regulations. The purpose of this letter is to provide assurance that your consideration of interim regulations is lawful and clearly within the planning and land use regulatory authority of the City of Tacoma.

Under State law and the City Charter, Tacoma has land use regulatory authority throughout all parts of the incorporated boundaries of the City. Under the Growth Management Act (GMA) Tacoma is responsible for developing and updating its Comprehensive Plan, and implementing that plan through zoning and other land use regulations.

Port Districts are State Special Purpose Districts and have neither responsibilities nor authority under GMA. Ports cannot zone. A statute specific to ports does require ports to undertake comprehensive operational planning, but that is referred to in the statute as “Comprehensive Scheme” to clearly distinguish it from a “Comprehensive Plan” under GMA.

The premise of the argument that the proposed Tidelands Interim Regulations are unlawful is construed from a statute specific to the Port Container element of the City’s Comprehensive Plan. That statute, RCW 36.70A.085, was enacted in 2009 as an anti-encroachment measure intended to deter the conversion of port industrial properties to non-industrial uses. The City’s current sub area planning process to develop a Port Container Element within its Comprehensive Plan is guided by and consistent with this statute.

RCW 36.70A.085 includes a list of “approaches” that the City may take to the Port Container Element, including “Creation of a port overlay district that protects container port uses” (a form of Subarea Plan), as well as five other potential outcomes, and finally notes that other outcomes may be agreed by the planning city and the subject port district. It is essential to note that this statute requires port district consent only for an outcome that is not within any of the six listed, and interim regulations are by definition a process step. Not an outcome.
Interim regulations are a process step intended to ensure that incompatible uses are not vested pending revision of the existing zoning code or regulations. The City’s authority to enact interim regulations is found in RCW 35.63.200 and RCW 36.70A.390. The statute referenced above regarding the Port Container Element approaches does not by its plain language limit the City’s authority to utilize interim regulations to protect the Port Subarea Plan process, nor can such a limitation be reasonably implied.

Interim regulations are lawful and wholly compatible with the process to establish the Port Container Subarea Plan by protecting that process to its final outcome.

Please contact me should you have any questions or concerns. I can be reached at (253) 591-5638. Thank you.

Sincerely,

Steve Victor
Deputy City Attorney

SV/nsc