TITLE 13

Land Use Regulatory Code

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LAND USE REGULATORY CODE

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Chapter 13.02

PLANNING COMMISSION

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13.02.010 Creation – Appointment.

Pursuant to the authority conferred by Article II, Section 11, of the Constitution of the State of Washington, and Section 3.8 of the Tacoma City Charter, there is hereby created a City Planning Commission consisting of nine members, who shall be residents of Tacoma. The members shall be appointed and confirmed by a majority of the City Council. One member shall be appointed by the City Council for each of the five council districts. The Council shall appoint to the four remaining positions an individual from each of the following: (a) the development community; (b) the environmental community; (c) public transportation; and (d) a designee with background of involvement in architecture, historic preservation, and/or urban design.

At the expiration of each respective three-year term, a successor shall be appointed by the City Council.

Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired terms. Members may be removed by a majority of the Council, after public hearing, for inefficiency, neglect of duty, or malfeasance in office. Upon an appointed member's missing three unexcused, consecutive regular meetings, the Commission shall afford such member a hearing to determine whether the absences are to be excused. If the Commission determines not to excuse such absences, then the Commission shall determine the question of whether the Commission shall recommend to the City Council that such member should be deemed to have forfeited the office and a new member be appointed to fill the unexpired term. The members shall be selected without respect to political affiliations and they shall serve without compensation. (Ord. 26386 § 28; passed Mar. 23, 1999: Ord. 25318 § 1; passed Jun. 8, 1993: Ord. 24942 § 1; passed Jul. 2, 1991: Ord. 20266 § 1; passed Dec. 17, 1974: Ord. 20183 § 1; passed Aug. 13, 1974: Ord. 18877 § 1; passed Jul. 15, 1969: Ord. 14983 § 1; passed Mar. 1, 1954)

13.02.015 Establishment of advisory committees.

In order to carry out its duties and functions prescribed by this chapter, the Planning Commission may establish advisory committees as it deems appropriate. Advisory committees shall serve at the discretion of the Commission and their duties and scope of responsibilities shall be established by the Planning Commission. The members of such advisory committees shall be appointed and confirmed by a majority of the City Council, except that the Planning Commission, in such instances as it deems appropriate, may designate that the chairperson of an advisory committee be a regular appointed member of the Planning Commission and shall be selected by a majority vote of the Commission. Nothing in this section shall be construed to authorize members of such advisory committees to be members of the Planning Commission. (Ord. 25318 § 2; passed Jun. 8, 1993: Ord. 20266 § 2; passed Dec. 17, 1974)

13.02.016 Definitions.

Repealed by Ord. 27172

(Ord. 27172 § 3; passed Dec. 16, 2003: Ord. 27079 § 8; passed Apr. 29, 2003: Ord. 25850 § 2; passed Mar. 12, 1996)

13.02.020 Meetings – Officers – Records.

The Commission shall elect its own chairperson and create and fill such other offices as it may determine it requires. The Commission shall hold at least one regular meeting in each month in each year. All meetings of the Commission or its advisory committees shall be open to the public pursuant to the Open Public Meetings Act of 1971. The Commission shall adopt rules for transaction of business. Records of all official Commission proceedings shall be kept by the City Clerk and shall be open to public inspection. The City Manager shall assign to the Commission and its advisory committees a place of meeting in which to meet and transact business. (Ord. 24942 § 2; passed Jul. 2, 1991: Ord. 20266 § 3; passed Dec. 17, 1974: Ord. 14983 § 2; passed Mar. 1, 1954)

13.02.030 Expenditures – Budget.

The expenditures of the Commission, exclusive of gifts, shall be limited to appropriations made to the

Community and Economic Development Department by the City Council for the planning function of the City. The services and facilities of the Community and Economic Development Department shall be utilized by the Commission in performing its duties. The work program for the coming year will be prepared by the Community and Economic Development Department and submitted to the Commission for approval. (Ord. 27466 § 33; passed Jan. 17, 2006: Ord. 26386 § 29; passed Mar. 23, 1999: Ord. 24942 § 3; passed Jul. 2, 1991: Ord. 20266 § 4; passed Dec. 17, 1974: Ord. 14983 § 3; passed Mar. 1, 1954)

13.02.040 Duties and responsibilities.

The Planning Commission is hereby vested with the following duties and responsibilities:

A. To prepare the Comprehensive Plan, pursuant to Revised Code of Washington Chapter 36.70A, that is concerned with protecting the health, welfare, safety, and quality of life of City residents, and to recommend such plan to the City Council. The Comprehensive Plan shall consist of policy plan elements consistent with the planning goals established by the State in RCW 36.70A , and shall contain descriptive text covering the objectives, principles, or standards used to develop the Plan, map(s), statements of goals, policies, and intents, and may include recommendations for the implementation thereof.

B. To review and update the Comprehensive Plan and its elements as necessary and, if appropriate, recommend new goals and policies and propose amendments to the City Council.

C. To develop and prepare as necessary and appropriate, long- and short-range programs for implementation of the Comprehensive Plan.

D. To conduct periodic planning studies of homogeneous community units, distinctive geographic areas, or other types of districts having unified interests within the total area of the City which will amplify and augment the Comprehensive Plan.

E. To formulate effective and efficient land use and development regulations and processes, consistent with the goals and policies of the Comprehensive Plan and which provide for the implementation thereof.

F. To review and make recommendations on matters concerning land use and development, including moratoria and interim zoning.

G. To designate historic special review districts and conservation districts within the City, after public hearing, and to make recommendations to the City Council for establishment of such districts.

H. To ensure early and continuous public participation in the development, amendment, and implementation processes of the Comprehensive Plan, including all of its elements, and in the development of land use and development regulations and amendments thereto.

I. To review the capital budgets and expenditures for public facilities and services for conformity with the Comprehensive Plan.

J. To review the Six-Year Comprehensive Transportation Program for consistency with the Comprehensive Plan.

K. To provide for the inventory, collection, mapping, research, and analysis of data describing land uses, demographics, infrastructure, critical areas, transportation corridors, housing, and other information useful in managing growth through the use of land use and geographic information systems.

L. To provide an annual report to the City Council regarding accomplishments and the status of planning efforts undertaken in the previous year.

M. Beginning on January 1, 1991, to provide a report to the State Department of Community, Trade, and Economic Development on the progress made in implementing Chapter 36.70A RCW. This report shall be submitted annually until January 1, 1995, and shall be submitted every five years thereafter.

N. To initiate and make recommendations to the City Council for area-wide zoning reclassifications to implement the Comprehensive Plan and its elements; initiate and make recommendations on moratoria and interim zoning; and review and make recommendations on City Council-initiated moratoria and interim zoning.

O. To conduct pre-annexation planning for areas which are within the City's urban growth area and which may be reasonably expected to be annexed to the City. Planning for these areas may include, but not be limited to: land use; intensity designations; public facilities and services; capital facility needs; and zoning classifications and regulations. Areas not included in the Comprehensive Plan and annexed to the City will necessitate a plan amendment. (Ord. 27172 § 4; passed Dec. 16, 2003: Ord. 27079 § 9; passed Apr. 29, 2003: Ord. 25850 § 3; passed Mar. 12, 1996: Ord. 25696 § 4; passed Apr. 25, 1995: Ord. 24942 § 4; passed Jul. 2, 1991: Ord. 20560 § 1; passed Sept. 30, 1975: Ord. 20266 § 5; passed Dec. 17, 1974: Ord. 14983 § 4; passed Mar. 1, 1954)

13.02.041 Quorum.

A quorum for the transaction of official business of the Planning Commission shall consist of a majority

of the members of the Commission, but a smaller number may adjourn, from time to time. (Ord. 27172 § 5; passed Dec. 16, 2003)

13.02.043 Definitions.

For the purpose of this chapter, certain words and terms used herein are defined as follows:

A. An "area-wide zoning reclassification" is a legislative action to change the zoning classification(s) on an area-wide basis in order to implement and maintain the consistency of the Comprehensive Plan. It is comprehensive in nature and deals with homogenous communities, distinctive geographic areas, and other types of districts having unified interests within the City, including those associated with annexation and overlay special review zoning districts. Area-wide zoning reclassifications, unlike parcel zoning reclassifications, are generally of area-wide significance, usually involving many separate properties under various ownerships, and often utilize several of the City's zoning classifications to implement the City's Comprehensive Plan. An area-wide zoning reclassification consisting of a single ownership but having a broader impact of significance on the community may be considered to be an area-wide reclassification if it is being undertaken in order to maintain consistency of the City's Comprehensive Plan.

B. "Department," as used in this chapter, refers to the Community and Economic Development Department.

C. "Development regulations" are any regulations and regulatory procedures placed on or involving development or land use activities of the City, including, but not limited to, zoning ordinances, critical area ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances (RCW 36.70A).

D. An "emergency" situation is one in which human health or safety is jeopardized and/or public or private property is imminently endangered. For the purposes of this section, an "emergency" situation shall also include one demanding the immediate amendment of the Comprehensive Plan outside of the annual amendment cycle, without which capital facilities concurrency is likely to be compromised and/or levels of service are expected to drop below an acceptable level.

E. "Interim zoning" is an immediate change in existing zoning classifications or regulations where new zoning classifications or regulations are temporarily imposed. Such temporary zoning controls are designed to regulate specific types of development so that, when new plans and/or zoning are adopted, they will not have been rendered moot by intervening development; or are necessary to prevent harm or to preserve the status quo. Interim zoning can be an area-wide reclassification of a temporary nature or modification to specific requirements of a zoning classification.

F. "Land Use Intensity" is a designation for all property that indicates the future development influence based on factors such as size, scale, bulk, nuisance level, density, activity level, amount of open space, and traffic generation. Intensities are classified as high, medium, and low, and are depicted on the Generalized Land Use Plan map which illustrates the future land use pattern for the City.

G. "Moratorium" (or collectively, "moratoria") is the refusal to accept or process new applications for building, zoning, subdivision (platting), or other types of development to preclude development from occurring for a specified period of time. A moratorium on development may be imposed on all development, on all permit applications, or on specific types of development or permit applications.

H. "Plan amendment" is a proposed change to the Comprehensive Plan and may include adoption of a new plan element; a change to an existing plan element, including goals, policies and narrative text; a change to the objectives, principles, or standards used to develop the Comprehensive Plan; a revision to the land use intensity designation as shown on the Generalized Land Use Plan map; or a change to implementation strategies or programs adopted as part of the Comprehensive Plan, including updates to inventories and financial plans. (Ord. 27466 § 34; passed Jan. 17, 2006: Ord. 27172 § 6; passed Dec. 16, 2003)

13.02.044 Comprehensive Plan.

A. The Comprehensive Plan shall include the following planning elements:

1. A land use element indicating the proposed generalized land use, including the suitability, capability, location, and number of acres of land devoted to such uses as residential, commercial, industrial, recreation, open space, and other uses. The land use element shall include population densities and distribution, estimates of future population growth, building intensities, and areas for potential annexation. The land use element shall also provide for the protection of the quality and quantity of ground water used for public water supplies, as well as for the protection of the quality of water discharged into waters of the state, including Puget Sound.

2. A transportation element which implements and is consistent with the land use element, is regionally

coordinated, and identifies the need for future transportation facilities and services, including system expansion and management needs. The transportation element shall include the following:

(a) Land use assumptions used in estimating travel.

(b) Estimated traffic impacts to state-owned transportation facilities from land use assumptions.

(c) An inventory of existing air, water, and ground transportation facilities and services, including state-owned facilities.

(d) Level of service standards for all locally owned arterials and transit routes that are regionally coordinated, to serve as a gauge to judge performance of transportation systems and specific actions for bringing into compliance the facilities and services which fall below these standards.

(e) Level of service standards for state-owned transportation facilities as prescribed by RCW 47.06 and 47.80 to gauge the performance of the system.

(f) Identification of state and local system needs to meet current and future demands.

(g) At least a 10-year forecast of travel levels based upon the adopted Comprehensive Plan to provide information on the location, timing, and capacity needs of future growth.

(h) An assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions.

(i) Demand-management strategies.

(j) Finance component including

(1) An analysis of funding capability to judge needs against probable funding sources and a multi-year financing plan for identified needs, the appropriate parts of which shall serve as the basis for the six-year transportation program required by RCW 35.77.010 and which is coordinated with the six year improvement program developed by the State Department of Transportation as required by RCW 47.050.030.

(2) A discussion of how additional funding will be raised or how land use assumptions will be reassessed to ensure the level of services standards will be met if probable funding falls short.

3. A housing element which shall provide policies for the preservation, improvement, and development of housing, and shall include an inventory and analysis of existing and projected housing needs. The housing element shall identify sufficient land to meet housing needs, including, but not limited to, low-income housing, multi-family housing, group homes, and foster care facilities.

4. A capital facilities element, including an inventory of the location and capacity of existing publicly-owned capital facilities, and a forecast of the future needs for such capital facilities, including the expansion of capital facilities, the construction of new facilities, and the maintenance requirements of existing facilities. The capital facilities element shall include at least a six-year financing plan identifying projected funding capacity and sources of public money for financing new or expanded capital facilities. The land use and capital facilities elements and the capital facilities financing plan shall be coordinated and consistent. The capital facilities element shall include a requirement to reassess the land use element if probable funding falls short of meeting existing needs.

5. A utilities element identifying the general location, proposed location, and capacity of all existing and proposed utilities, including, but not limited to, electrical lines, telecommunication lines, and natural gas lines.

6. A shoreline element setting forth policies concerning economic development; public access and circulation; recreation; urban design, conservation, restoration, and natural environment; and historical, cultural, scientific, and educational values.

7. A process for identifying and siting essential public facilities which are typically difficult to site.

B. The Comprehensive Plan may include the following planning elements and any additional planning elements which the Commission or Council considers pertinent:

1. A community services and facilities element indicating the general location of all community services and facilities, and indicating the need and appropriate location for such services and facilities.

2. A recreation and open space element indicating the location and development of areas and public sites for recreation, natural conservations, parks, parkways, beaches, playgrounds, and other recreational and open space areas. The element should include estimates of park and recreation demand, an evaluation of facilities and service needs and identification of intergovernmental coordination opportunities to provide regional approaches for meeting park and recreational demands.

3. An economic element providing for economic growth and vitality and a high quality of life. The element shall include a summary of the local economy, utilizing standard employment categories and indicating employment levels and trends and other information, as appropriate; a summary of the strengths and weaknesses of the local economy and supporting factors such as land use, utilities, transportation, work force, housing, education,

natural/cultural resources, and amenities; and an identification of policies, programs, projects, or strategies to foster economic growth.

4. An environmental element indicating environmental conditions and natural processes, including climate, air quality, geology, hydrology, vegetation, wildlife, fisheries, critical areas, mineral resource lands, solar energy, and other natural factors and hazards that affect, or would be affected by, development.

5. A historic and conservation element identifying objects, areas, sites, or structures of historical, archaeological, architectural, or cultural significance.

6. An annexation element setting forth policies to guide orderly urban growth and designating areas for potential annexation for at least 20 years. The annexation element shall identify future land uses and consider development patterns, density, projected population growth, timing, and the provision of capital facilities and services, including capacity, financing, and expansion.

7. An urban design element addressing the design of development through the application of standards, guidelines, and recommendations for project review.

8. Sub-area elements setting forth policies concerning specific geographic areas of the City or concerning specific issues.

C. The Comprehensive Plan shall be coordinated and consistent with other entities and governmental jurisdictions sharing common borders or related regional issues.

D. The City shall carry out its programs, perform its activities, and make capital budget decisions in conformance with the Comprehensive Plan, including matters affecting land use and development regulations.

E. The City shall continuously review and evaluate the Comprehensive Plan and development regulations that implement the Plan. At least every seven years the City shall take legislative action to review and, if needed, revise the Comprehensive Plan and development regulations to ensure that the Plan and regulations are complying with the requirements of RCW 36.70A. The first review shall be completed no later than December 1, 2004. The review, and any revisions that result from the review, may be conducted in concert with the procedures used to annually amend the Comprehensive Plan.
(Ord. 27172 § 7; passed Dec. 16, 2003)

13.02.045 Adoption and amendment procedures.

A. Adoption and amendment. The Comprehensive Plan, including any of its elements, and development regulations shall be adopted and amended by ordinance of the City Council. The procedures identified in this section shall be followed to adopt and amend the City's Comprehensive Plan, including all elements, and to adopt and amend development regulations and regulatory procedures that implement the Comprehensive Plan.

B. When Amendments Will Be Adopted. All amendments to the Comprehensive Plan shall be considered concurrently and no more frequently than once each year except that amendments may be considered more frequently under the following circumstances:

1. An emergency exists;

2. The initial adoption of a sub-area plan;

3. The adoption or amendment of a shoreline master program under the procedures set forth in RCW 90.58;

4. The amendment of the capital facilities element of the Comprehensive Plan that occurs concurrently with the adoption or amendment of the City's biennial budget; or

5. To resolve an appeal of a Comprehensive Plan filed with the Central Puget Sound Growth Management Hearings Board or a decision of the state or federal courts.

The proposed plan amendments shall be considered concurrently by the Planning Commission and City Council so that the cumulative effect can be ascertained. Amendments proposed to comply with the update requirements of RCW 36.70.A.130 will occur according to the time frames established therein.

C. Who may propose an amendment. A proposed amendment to the Comprehensive Plan or development regulations may be submitted by any private individual, organization, corporation, partnership, or entity of any kind, including any member(s) of the Tacoma City Council or the Tacoma Planning Commission or other governmental Commission or Committee, the City Manager, any neighborhood or community council or other neighborhood or special purpose group, a department or office, agency, or official of the City of Tacoma, or of any other general or special purpose government.

D. Amendment application. The Department shall prescribe the form and content for applications for amendments to the Comprehensive Plan and development regulations. The deadline for submitting an application to the Planning Commission for amendment to the Comprehensive Plan is 5:00 p.m., December 31, of any given year to be considered in the following year; however,

applications will be accepted at any time. Those applications to amend the Comprehensive Plan received after the above established deadline are less likely to be considered by the Commission for possible consideration in the current annual amendment cycle and are more likely to be considered in a subsequent amendment cycle, unless determined otherwise by the Planning Commission. Applications for a change to development regulations or a proposal for an area-wide zoning reclassification which are consistent with the Comprehensive Plan and do not require an amendment to the Comprehensive Plan can be submitted at any time. The application shall include, but not be limited to, the following:

1. A description of the proposed amendment;

2. The current land use intensity designation as shown on the Generalized Land Use Intensity Plan map, and zoning classification for the affected area;

3. The desired land use intensity designation and/or zoning classification, if applicable;

4. The reason the amendment is needed and being proposed;

5. A description of the affected area including identification of affected parcels, ownership, current land uses, and site characteristics, such as topography and natural features;

6. A description of the land uses surrounding the proposed amendment area;

7. A description of how the proposed amendment enhances the applicable portion of the neighborhood element of the Comprehensive Plan and a discussion of whether the proposed amendment was considered and included in a Neighborhood Council's Action Strategy;

8. A description of any community outreach and response to the proposed amendment;

9. A demonstration by the applicant of consistency with the applicable policies of the Comprehensive Plan, and the criteria for amending the Comprehensive Plan or development regulations;

10. Proposed amendatory language, if applicable;

11. A map of the affected area, if applicable; and

12. Additional application information may be requested by the Department, which may include, but is not limited to, completion of an environmental checklist, wetland delineation study, visual analysis, or other studies.

The applicant is responsible for providing complete and accurate information. A meeting between the Department, staff, and the applicant to discuss the application submittal requirements before submitting an application is strongly advised.

E. Selection procedure. The Department shall docket all amendment requests upon receipt to ensure that all requests receive due consideration and are available for review by the public. The Department will provide an assessment of all proposed amendment applications and forward proposed amendment applications to the Planning Commission. This assessment shall include, but not be limited to, the assessment and amendment criteria contained herein. The Planning Commission will review this assessment and make its decision as to which amendment application(s) will be considered and in which amendment cycle. The Planning Commission shall make a determination concerning proposed amendments within 120 days of receiving an application.

F. Assessment criteria. Criteria for assessing plan amendment applications will include:

1. Determining if the application is complete or what information is needed to make the application complete;

2. Determining if the request is site specific (i.e., a land use intensity or a zoning change for a specific parcel(s) likely to be under one ownership);

3. Receipt prior to the December 31st deadline (a large volume of requests before the deadline may necessitate that some requests be reviewed in a subsequent year);

4. Order of receipt;

5. Study of the same area or issue within the last year (this may be cause for the Commission to decline further review);

6. Amount of analysis necessary for the Commission to reach an initial determination (if a large-scale study is required, a request may have to be delayed until the following year due to work loads, staffing levels, etc.); and

7. Available incorporation into planned or active projects (if a request can be incorporated into a planned or active project, it may receive immediate consideration).

G. Amendment criteria. Proposed amendments must meet at least one of the following criteria to be considered by the Planning Commission:

1. There exists an obvious technical error in the pertinent Comprehensive Plan or regulatory code provisions;

2. The amendment is consistent, or will achieve consistency with the Comprehensive Plan's goals or policies;

3. Circumstances related to the proposed amendment have significantly changed, or a lack of change in circumstances has occurred since the area or issue was last considered by the Planning Commission;

4. The needs of the City have changed, which support an amendment;

5. The amendment is compatible with existing or planned land uses and the surrounding development pattern;

6. Growth and development, as envisioned in the Plan, is occurring faster, slower, or is failing to materialize;

7. The capacity to provide adequate services is diminished or increased;

8. Plan objectives are not being met as specified, and/or the assumptions upon which the Plan is based are found to be invalid;

9. Transportation and/or other capital improvements are not being made as expected;

10. Substantial similarities of conditions and characteristics can be demonstrated on abutting properties that warrant a change in land use intensity or zoning classification; or

11. A question of consistency exists between the Comprehensive Plan and its elements and RCW 36.70A, the County-wide Planning Policies for Pierce County, Multi-County Planning Policies, or development regulations.

H. Review of proposed amendments. Under the review and direction of the Planning Commission, the Department will evaluate the amendment application , collect necessary data, and conduct the appropriate analysis and make an environmental determination. The Department will solicit comments from the general public, organizations and agencies, other governmental departments and agencies, and adjacent jurisdictions. The Department will prepare a report summarizing the comments, provide a response to comments and make recommendations, if appropriate, and forward the report and all comments to the Planning Commission for consideration. The Department will present the proposed amendments to the Planning Commission, which will conduct public meetings and hearings, and make recommendations to the City Council.

1. Adoption or amendment of the Comprehensive Plan or development regulations shall be enacted only after public notice and public hearings by both the Planning Commission and City Council.

2. The Planning Commission may recommend, and the City Council may adopt, or adopt with modifications, the Comprehensive Plan, development regulations, regulatory procedures, and amendments thereto, if:

a. The adoption or amendment merits approval because it will benefit the City as a whole, will not adversely affect the City's public facilities and services, and bears a reasonable relationship to the public health, safety, and welfare; and

b. The adoption or amendment conforms to RCW 36.70A.

I. Public hearing and action.

1. The Planning Commission may formulate and recommend to the City Council adoption or amendment of the Comprehensive Plan, or adoption or amendment of development regulations or regulatory procedures that implement the Comprehensive Plan. In formulating its recommendations to the City Council, the Planning Commission shall provide public notice and conduct at least one public hearing. Advisory committees established in accordance with Section 13.02.015 may also conduct one or more public hearings prior to making recommendations to the Planning Commission. Planning Commission public hearings for development regulations and processes, moratoria, or interim zoning may be, but are not required to be, held at the same time as and in conjunction with the amendment of the Comprehensive Plan.

2. At least one hearing on adoption or amendment of the Comprehensive Plan or development regulations shall be held prior to final action by the City Council.

3. Consistent with RCW 36.70A, the Department must notify the Washington State Office of Community Development and other required state agencies of the City's intention to adopt or amend the Comprehensive Plan or development regulations at least 60 days prior to adoption by the City Council, and to transmit copies of the adopted plan or development regulation and any amendment within 10 days after City Council action.

J. Amendments considered under emergency situation. The Planning Commission and the City Council may consider amendments to the Comprehensive Plan as a result of an emergency situation. Situations involving official, legal, or administrative actions, such as those to immediately avoid an imminent danger to public health and safety, prevent imminent danger to public or private property, prevent an imminent threat of serious environmental degradation, or address the absence of adequate and available public facilities or services as provided for in Chapter 13.16 of the Tacoma Municipal Code, decisions by the Central Puget Sound Growth Management Hearings Board or the State or Federal Courts, or actions of a State Agency

or Office or the State Legislature, affecting Tacoma will be reviewed by the Planning Commission with advice from the City Attorney's Office to determine if an appropriate "emergency" exists, necessitating an emergency Comprehensive Plan amendment. Capital projects which are fully funded by non-City revenue (i.e., an outside grant or other "windfall") are not considered emergencies and, therefore, amendment of the Comprehensive Plan is not necessary; however, such projects shall be added to the Capital Facilities Program at the next annual amendment. (Ord. 27172 § 8; passed Dec. 16, 2003: Ord. 26899 § 1; passed Dec. 11, 2001: Ord. 26386 § 30; passed Mar. 23, 1999: Ord. 25850 § 4; passed Mar. 12, 1996: Ord. 25696 § 5; passed Apr. 25, 1995: Ord. 25360 § 1; passed Aug. 31, 1993: Ord. 24942 § 5; passed Jul. 2, 1991: Ord. 21883 § 1; passed Nov. 13, 1979: Ord. 20266 § 6; passed Dec. 17, 1974)

13.02.050 Quorum.

Repealed by Ord. 27172

(Ord. 27172 § 9; passed Dec. 16, 2003: Ord. 25318 § 3; passed Jun. 8, 1993: Ord. 20266 § 7; passed Dec. 17, 1974: Ord. 20183 § 2; passed Aug. 13, 1974: Ord. 14983 § 5; passed Mar. 1, 1954)

13.02.053 Area-wide zoning reclassifications.

The Planning Commission may also consider the need for area-wide zoning reclassifications, in association with or independently of Comprehensive Plan amendments, including those associated with an annexation or which are necessary to maintain the zoning classification's consistency with the Comprehensive Plan. The procedures for consideration of area-wide zoning reclassifications shall be as follows:

1. Who may request an area-wide zoning reclassification, and how. The means of submitting a request for an area-wide zoning reclassification and those empowered to submit such a request shall be the same as in Section 13.02.045.

2. Process for area-wide zoning reclassification. An area-wide zoning reclassification implementing the goals and policies of the Comprehensive Plan will be conducted by the Planning Commission, consistent with RCW 42.36.010, with recommendation to the City Council. Area-wide zoning reclassifications which are inconsistent with the Comprehensive Plan shall be proposed for adoption at the same time as and in conjunction with the Plan's amendment. Area-wide zoning reclassifications which are consistent with the Comprehensive Plan and do not require plan modification may be considered at any time.

3. Public Hearing and Recommendation for an Area-Wide Zoning Reclassification. The Planning Commission shall conduct a public hearing to consider an area-wide zoning reclassification and to determine the consistency of the reclassification with the Comprehensive Plan and its elements and RCW 36.70A. In making its recommendation to the City Council, the Planning Commission shall make findings and conclusions to demonstrate the manner in which the area-wide reclassification carries out and helps implement the goals and policies of the Comprehensive Plan. If a reclassification is recommended, it shall be based on, but not limited to, the following circumstances: (a) substantial evidence is presented demonstrating that growth and development is occurring in a different manner than presented in the Comprehensive Plan; (b) the proposed area-wide reclassification is consistent with the Comprehensive Plan and the Generalized Land Use Plan map; (c) the reclassification is needed to further implement the Comprehensive Plan; (d) the proposed reclassification is needed to maintain consistency with proposed amendments to the Comprehensive Plan; (e) there is substantial evidence presented showing inconsistency between the designated land use intensity in the subject area and the existing zoning; or (f) the subject property is suitable for development in general conformance with the zoning standards under the recommended rezone classification.

4. At least one public hearing on a proposed area-wide zoning reclassification shall be held prior to final action by the City Council. (Ord. 27172 § 10; passed Dec. 16, 2003)

13.02.055 Moratoria and interim zoning.

A. Who may request moratoria or interim zoning, and how. Those empowered to submit a request shall be the same as in Section 13.02.045.C. Those empowered may petition the City Council or Planning Commission, in writing, to request moratoria or interim zoning, including the specific geographic location and describing what circumstances contribute to an emergency situation or the need for protective measures.

B. Process for moratoria and interim zoning. A moratorium and/or interim zoning controls may be considered either as a result of an emergency situation or as a temporary protective measure to prevent vesting of rights to develop under existing zoning. Moratoria or interim zoning may be initiated by either the Planning Commission or the City Council by means of determination at a public meeting that such action may be warranted. Where an emergency exists, prior public notice may be limited to the information contained in the public meeting agenda. City Council-initiated moratoria or

interim zoning shall be referred to the Planning Commission for findings of fact and a recommendation prior to action; provided, that where an emergency is found to exist by the City Council, it may act immediately and prior to the formulation of Planning Commission findings of fact and recommendation. At its next meeting immediately following the City Council's referral or action, the Planning Commission shall consider the measure and, if it finds evidence that an emergency exists necessitating the immediate imposition of a moratorium or interim zoning, or that temporary measures are needed to protect the status quo, it shall recommend adoption to the City Council. The Planning Commission shall respond with its findings of fact and recommendation to the Council within 30 days of the date of the Commission meeting at which it is first made aware of the Council's request. In emergency situations where the City Council has first enacted a moratorium or interim zoning, but where the Planning Commission's findings of fact and recommendation do not support the action, the City Council shall reconsider, but shall not be bound to reversing, its action.

C. Public hearing and action. The Planning Commission will hold at least one public hearing prior to formulating its recommendation to the City Council. The public hearing may be, but it is not required to, be held at the same time and in conjunction with the amendment of the Comprehensive Plan. Where an emergency exists, public hearings regarding moratoria or interim zoning may be held after the Planning Commission forwards its findings of fact and recommendation to the City Council, and after action has been taken by the City Council.

In the case of moratoria or interim zoning, the City Council shall hold a public hearing within at least 60 days of adopting any moratoria or interim zoning, as provided by RCW 36.70A.390. The City Council shall adopt findings of fact justifying the adoption of moratoria before, or immediately after, it holds a public hearing.

D. Duration of Moratorium or Interim Zoning. As part of its findings of fact and recommendation, the Planning Commission shall recommend to the City Council a duration for the moratorium or interim zoning controls and note if a study, either underway or proposed, is expected to develop a permanent solution and the time period by which that study would be concluded. Moratoria or interim zoning may be effective for a period of not longer than six months, but may be effective for up to one year if a work plan is developed for related studies requiring such longer period. Moratoria or interim zoning may be renewed for an unlimited number of six-month intervals following their imposition; provided, that prior to each renewal, a public hearing is held by the City Council and findings of fact are made which support the renewal. (Ord. 27172 § 11; passed Dec. 16, 2003)

13.02.057 Notice for public hearings.

A. The Department shall give public notice of the subject, time and place of the Planning Commission, or its advisory committee, public hearings in a newspaper of general circulation in the City of Tacoma prior to the hearing date. The Department shall provide notice of Commission public hearings on proposed amendments to the Comprehensive Plan and development regulations to adjacent jurisdictions, other local and state government agencies, Puyallup Tribal Nation, the applicable current neighborhood council board members, and other affected individuals or organizations. For land use intensity changes, area-wide zoning reclassifications, and interim zoning of an area-wide nature, a special notice of public hearing shall be provided to all property taxpayers, as indicated in the records of the Pierce County Assessor, within, and within 400 feet of, the subject area.

B. The Department shall require all applicants requesting a land use intensity change or an area-wide zoning classification to post a public information sign(s), provided by the Department, on the affected site or sites at least 14 calendars days prior to the Planning Commission public hearing.

C. The sign shall be erected at a location or locations as determined by the Department, and shall remain on site until final decision is made by the City Council on the land use intensity change or area-wide zoning classification.

D. The sign shall contain, at a minimum, the name of the applicant, a description and location of the proposed amendment, and where additional information may be obtained.

E. The City Clerk shall give public notice of the subject, time and place of public hearings for actions by the City Council in a newspaper of general circulation in the City of Tacoma prior to the hearing date. (Ord. 27172 § 12; passed Dec. 16, 2003)

13.02.060 Reports.

Repealed by Ord. 24942

(Ord. 24942; passed Jul. 2, 1991: Ord. 20266 § 8; passed Dec. 17, 1974: Ord. 14983 § 6; passed Mar. 1, 1954)

Chapter 13.03

HEARING EXAMINER[1]

Repealed by Ord. 25517

(Ord. 25517; passed Jun. 14, 1994)

Chapter 13.04

PLATTING AND SUBDIVISIONS

Sections:

13.04.010 Title.
13.04.020 Intent and authority.
13.04.030 Policy.
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13.04.050 Jurisdiction.
13.04.055 Platting on shorelines.
13.04.060 Exclusions.
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13.04.090 Short subdivisions and short plats.
13.04.095 Appeals.
13.04.100 Plat procedures.
13.04.110 General requirements and minimum standards.
13.04.120 Conformity to the Comprehensive Plan and the Major Street Plan.
13.04.130 Relation to adjoining street system.
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13.04.160 Street widths.
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13.04.280 Development of illegally divided land – Innocent purchaser for value.
13.04.290 Development of illegally divided land – Public interest determination.
13.04.300 Model home.
13.04.305 Temporary rental or sales offices, contractors' offices, and signs.
13.04.310 Subdivisions.

13.04.010 Title.

These regulations shall hereafter be known, cited and referred to as the plat and subdivision regulations of the City of Tacoma. (Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.020 Intent and authority.

These regulations are being adopted in accordance with the goals and authority of the Washington State

[1] Code Reviser's note: Powers of the Hearing Examiner are listed in Section 1.23.070.

Growth Management Act of 1990, as amended, and Chapter 58.17 of the Revised Code of Washington, concerning plats and subdivisions. It is intended that these regulations provide an efficient, effective, fair and timely method for the submission, review and approval of plats, short plats, boundary line adjustments and binding site plan approvals. (Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.030 Policy.

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

B. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and land shall not be subdivided until adequate public facilities and improvements exist or proper provision has been made for drainage, water, sewerage, and capital improvements such as schools, parks, recreation facilities, and motorized and non-motorized transportation facilities.

C. It is intended that these regulations shall supplement and facilitate the enforcement of the provisions, standards and policies contained in building and housing codes, zoning ordinances, the City of Tacoma's Major Street Plan and comprehensive plan, and elements thereof. (Ord. 27079 § 10; passed Apr. 29, 2003: Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.040 Definitions.

For the purpose of these regulations, certain words used herein are defined as follows:

A. "Alley" shall mean a public or private accessway which provides a secondary means of vehicular access to abutting property, unless determined by the Land Use Administrator or Hearing Examiner to be an Officially Approved Accessway as provided under Section 13.04.140.B.

B. "All weather surface" shall mean asphaltic concrete pavement conforming to the requirements of the "City of Tacoma Department of Public Works General Specifications for Street and Sewer Construction (Requirements for Private Permits – January 1963)," or as hereafter amended, with a standard thickness of three inches unless otherwise specified by the City Engineer, or portland cement concrete pavement conforming to the requirements of the "City of Tacoma Department of Public Works General Specifications for Street and Sewer Construction (Requirements for Private Permits – January 1963)," or as hereinafter amended, with a standard thickness of six inches unless otherwise specified by the City Engineer.

C. "Binding site plan" shall mean a drawing to scale showing a plan for the development of a specific parcel of land, which drawing has been approved as applicable by the Building Official or designee and which, as a minimum:

1. Shows the areas and locations of all streets, public ways, lot lines, utilities, street improvements and open spaces, and, also, shall either show site development, driveways, parking layout, landscaping, lighting, signs, building perimeters and elevations, or shall carry a condition of general site plan approval that no development or building permit will be granted therefor until additional development plans are submitted to and approved by the body approving the general binding site plan;

2. Is filed of record in the Pierce County Auditor's office and is legally enforceable.

D. "Building line" shall mean a line on a plat indicating the limit beyond which buildings or structures may not be erected.

E. "Collector arterial" shall mean a highway whose function is to collect and distribute traffic from major arterial streets to access streets, or directly to traffic destinations; to serve traffic within a neighborhood; and to serve neighborhood traffic generators such as a small group of stores, an elementary school, church, clubhouse, small hospital, and small apartment area.

F. "Comprehensive plan" shall mean the official statement of the Tacoma City Council which sets forth its major policies concerning desirable future physical development.

G. "Curb line" shall mean the line defining the limits of a roadway.

H. "Dead-end street" or "cul-de-sac" shall mean a residential access street with only one outlet.

I. "Freeway" shall mean a highway the function of which is to permit unimpeded traffic flow through urban areas and between their major elements or most important traffic generators such as the central business district, major shopping areas, major university, civic center, or a major sports stadium or pavilion.

J. "Official map" shall mean the map on which the planned locations, particularly of streets, are indicated with detail and exactness so as to furnish the basis for property acquisition or building restriction.

K. "Plat" shall mean the map, drawing or chart on which the subdivider's plan of subdivision is

presented and which the subdivider submits for approval and intends to record in final form.

L. "Primary arterial" shall mean a highway the function of which is to expedite movement of through traffic to a major traffic generator such as the central business district, a major shopping area, a commercial service district, a small college or university or a military installation; or to expedite movement of through traffic from community to community, to collect and distribute traffic from freeways to minor arterial streets, or directly to traffic destinations.

M. "Residential access street" shall mean a highway the primary function of which is to provide access to residential property.

N. "Roadway" shall mean the portion or portions of a public or private street or way, or permanent access easement, improved with an all-weather surface, available for vehicular traffic or the portion or portions of a public or private street or way, or permanent access easement, improved with an all-weather surface, available for vehicular traffic between curbs where curbs are laid.

O. "Secondary arterial" shall mean a highway the function of which is to collect and distribute traffic from a major arterial highway to minor streets or directly to traffic destinations; to serve traffic from neighborhood to neighborhood within a community center, athletic field, neighborhood shopping area, major park, golf course, important grouping of churches, multiple residence area, concentration of offices or clinics, major private recreation facility, or large hospital.

P. "Short plat" shall mean the map or representation of a short subdivision.

Q. "Short subdivision" shall mean the division of land into a maximum of four or fewer total lots, tracts, parcels, sites or subdivisions for the purpose of sale or lease.

R. "Street width" shall mean the shortest distance between the lines which delineate the right-of-way of a street.

S. "Subdivision" shall mean the division of a lot, tract or parcel of land into five or more lots or other divisions of land for the purpose, whether immediate or future, of transfer of ownership, lease or building development, including all changes in street or lot lines, and shall include all resubdivision of land. The division of contiguous parcels of land resulting in a five or more total lots, tracts, parcels, or sites, and which are served by a shared public and/or private street or way, and/or permanent access easement shall be deemed a subdivision.

T. "Transit street" shall mean a street on which regularly scheduled bus service operates at frequencies of 15 minutes or less during peak travel periods. Transit streets are designated by the Director of Public Works in consultation with Pierce Transit and include streets designated in Section 11.05.492 of the Tacoma Municipal Code. (Ord. 27563 Exhibit A; passed Dec. 12, 2006: Ord. 27079 § 11; passed Apr. 29, 2003: Ord. 25893 § 4; passed Jun. 4, 1996: Ord. 25851 § 1; passed Feb. 27, 1996: Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.050 Jurisdiction.

A. These subdivision regulations shall apply to all subdivisions of land, as defined herein, located within the corporate limits of the City of Tacoma.

B. No land shall be subdivided within the corporate limits of the municipality until:

1.Approval of the preliminary and final plat, binding site plan, or short plat, as applicable, is granted by the City of Tacoma; and

2.The approved plat is recorded with the Pierce County Auditor.

C. No building permit or certificate of occupancy shall be issued for any lot, tract, parcel, or site of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of these subdivision regulations. (Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.055 Platting on shorelines.

In addition to the general provisions governing platting in the City of Tacoma as set forth in this chapter, platting shall also be governed by the provisions of Chapter 13.10 relating to Shoreline Management. (Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.060 Exclusions.

The provisions of this chapter shall not apply to:

A. Cemeteries and other burial plots while used for that purpose;

B. Divisions of land into lots or tracts each of which is one-one-hundred-twenty-eighth of a section of land or larger, or five acres or larger, if the land cannot be described as a fraction of a section of land; provided, that, for purposes of computing the size of any lot under this subsection which borders on a street or road, the lot size shall be expanded to include that area which would be bounded by the centerline of the road or street and the site lot lines of the lot running perpendicular to such center line;

C. Divisions made by testamentary provisions or the laws of descent;

D. A division for the purpose of lease when no residential structure other than mobile homes or travel trailers is permitted to be placed upon the land and the City has approved a binding site plan for the use of land in accordance with the City's zoning regulations. The term "site plan" means a drawing to scale specified by the zoning ordinances which: (1) identifies and shows the area and locations of all streets, roads, improvements, utilities, open spaces and other matters specified by the zoning ordinances; and (2) contains inscriptions or attachments setting forth such appropriate limitations and conditions of the use of land as are established by the City. (Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.085 Boundary line adjustment.

A. A boundary line adjustment shall be a minor alteration in the location of lot boundaries of an existing lot. Such alteration shall not increase the number of lots nor diminish in size open space or other protected environments.

B. Such alteration shall not diminish the size of any lot so as to result in a lot of less square footage than prescribed in the zoning regulations for the property in question.

C. Such alteration shall not result in the reduction of setbacks or site coverage to less than prescribed by the zoning regulations.

D. All lots resulting from the boundary line alteration shall be in conformance with the design standards of this chapter.

1 . Review Process. The Land Use Administrator or designee has the authority to approve boundary line adjustments.

2 . Applications. Applications for boundary line adjustments shall be submitted to the Public Works Department in a manner consistent with the procedure for applications for short plats and shall include the following information:

a. The existing lot lines (shown in dashed lines) and the area, in square feet, of each of the existing lots;

b. The new lot lines (shown in solid lines) and the area, in square feet, of each of the new lots;

c. The location of all structures and access drives on the lots and the distance of each from both the existing and proposed lot lines, when such distance is less than 25 feet.

3. Recordation. All approved boundary line adjustments shall be recorded with the Pierce County Auditor's office. (Ord. 27017 § 1; passed Dec. 3, 2002: Ord. 25851 § 2; passed Feb. 27, 1996: Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.088 Binding site plan approval.

A. Divisions of commercial or industrial zoned land for sale or lease may be permitted by approval of a binding site plan by the Land Use Administrator or designee; provided, that the property to be divided has had land use actions specifying use and building, parking and driveway layouts.

B. Applications for binding site plans shall be submitted in a manner consistent with applications for short plats.

C. When considering requests for binding site plan approval, the Land Use Administrator shall utilize the criteria for approving short plats. In addition, the binding site plan shall be consistent with the land use action precedent to the request for binding site plan approval.

D. After approval of a general binding site plan, subsequent amendments shall be considered by the Land Use Administrator as a modification to the original approval.

E. The approved binding site plan and any modification approved subsequently shall be recorded with the Pierce County Auditor's office. (Ord. 27017 § 2; passed Dec. 3, 2002: Ord. 25851 § 3; passed Feb. 27, 1996: Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.090 Short subdivisions and short plats.

A. Administration. The Land Use Administrator or designee is vested with the duty of administering the provisions of this section and with the authority to summarily approve or disapprove proposed short plats. The Land Use Administrator or designee may prepare and require the use of such forms and develop policies deemed essential to the effective administration of this code.

B. Application. Applications for approval of short subdivisions shall be submitted to the Department of Public Works and shall be accompanied by a proposed short plat which includes pertinent survey data compiled as a result of a survey of the property made by or under the supervision of a registered land surveyor. In addition, an application will include a title report and free consent statement signed by all owners of land within the proposed short plat. All surveys shall be accomplished as required by the Survey Recording Act (RCW Titles 58 and 322), and shall be monumented in accordance with Section 13.04.360 of this chapter. In addition to the survey data, the short plat shall indicate:

1. The name and address of the owner or owners of said tract;

2. The legal description of the said tract and legal descriptions of all proposed lots;

3. North point, scale and date;

4. The boundary lines of the tract to be subdivided and their dimensions;

5. The layout and dimensions of proposed lots;

6. The layout, names and width of proposed streets, alleys and easements;

7. Dedication of all streets, alleys, ways and easements for public use;

8. The location of all on-site private roadways, pedestrian ways, bike routes, and utilities;

9. The accurate location, material and size of all monuments. Monuments shall meet the specifications of the City Engineer;

10. Certification by a registered land surveyor to the effect that the short plat is a true and correct representation of the lands actually surveyed and that all the monuments shown thereon actually exist, or that, in lieu of their placement, a bond has been provided in conformance with Section 13.04.360 of this chapter, and that the location, size and material of the monuments are correctly shown;

11. Certification of approval by the Land Use Administrator or designee.

C. Approval. The Land Use Administrator or designee shall review the proposed short plat. The short plat shall not be approved unless it is found that:

1. Appropriate provisions are made for the public health, safety, and general welfare; and for open spaces; drainage ways; streets or roads; alleys; bike routes; other public ways; transit stops; potable water supplies; sanitary wastes; parks and recreation; playgrounds; schools and school grounds; and all other relevant facilities, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school.

2. The public use and interest will be served by the platting and dedication of such subdivision.

Upon completion of the review, the Land Use Administrator shall either approve or disapprove a proposed short plat within 30 days after filing of the short plat, unless the applicant consents to the extension of such time period; provided, that if an environmental impact statement is required as provided in RCW 43.21C.030, the 30-day period shall not include the time during which the environmental impact statement was prepared and circulated.

D. After approval by the Land Use Administrator, the short plat shall be filed with the Pierce County Auditor, and only after such filing shall the short plat be deemed approved and accepted by the City of Tacoma.

E. Dedications and Improvements. All public dedications and improvements, including, but not limited to, rights-of-way, easements, streets, alleys, pedestrian ways, bike routes, sidewalks, storm-drainage facilities, sewer systems, and water and electrical distribution systems, shall be provided in accordance with the requirements of this chapter, and any other applicable codes and ordinances of the City of Tacoma.

F. Issuance of Building Permits. The issuance of a building permit or other development permit for the development of a short subdivision may be delayed or issued contingent upon the subdivider's providing for adequate access, storm drainage facilities, sewer systems and water supply systems, and electrical power supply systems. If required improvements are not properly installed prior to the issuance of a building permit or other development permit, surety may be required in accordance with Section 13.04.100.J.8 of this chapter.

G. Resubdivision. Land within a short subdivision shall not be further divided in any manner for a period of five years from the date of filing of the short plat of said short subdivision with the Pierce County Auditor without the filing of a final plat, except that when the short plat contains fewer than four parcels, the owner who filed the short plat may submit a revision within the five-year period to create up to a total of four lots within the original short plat boundary. (Ord. 27017 § 3; passed Dec. 3, 2002: Ord. 25893 § 5; passed Jun. 4, 1996: Ord. 25851 § 4; passed Feb. 27, 1996: Ord. 25532 § 1; passed Jun. 28, 1994)[2]

13.04.095 Appeals.

The Land Use Administrator's decision on a boundary line adjustment, binding site plan approval, or short plat shall be final unless the applicant who filed the permit files an appeal with the Public Works Department within 14 days of the permit decision date. If an appeal is filed, it shall be accompanied by a letter setting forth the alleged errors contained in the decision. The Hearing Examiner shall consider the appeal and shall issue a final decision concerning the request. (Ord. 27017 § 4; passed Dec. 3, 2002:

[2] Ord. 25851 contained two sections numbered 4 – see also Section 13.04.100.

Ord. 25851 § 5; passed Feb. 27, 1996: Ord. 25532 § 1; passed Jun. 28, 1994)[3]

13.04.100 Plat procedures.

A. Application. Applications for preliminary plat approval shall be submitted to the Public Works Department on forms provided by the City. The application shall be considered complete when the following information is received by the Public Works Department:

1. A completed application form including the following information: name(s), mailing address(es), and phone number(s) of applicant(s) and owner(s); legal description of property; assessor's parcel number; general location of property; current use of property; proposed improvement; signature of applicant(s); and date signed.

2. An environmental checklist or draft environmental impact statement.

3. A free-consent statement signed by all owners of the property.

4. A current (within 90 days) title report or plat certificate.

5. A filing fee as set forth in Chapter 2.09.

6. A City-approved plat mylar containing the following information:

a. The plat shall show the bearings and distances on the exterior boundary with ties to at least two known monuments on the City of Tacoma horizontal grid system. The plan shall be to scale, have a north arrow, and display the date of preparation.

b. The plat shall show existing and proposed contours at intervals of five feet or less, sufficient to show drainage patterns.

c. The names of all adjacent subdivisions and owners of adjoining parcels shall be shown.

d. All the zoning districts as set forth in the Tacoma zoning ordinances shall be shown on the mylar.

e. The location of all existing and platted streets, pedestrian ways, bike routes, recorded easements, rights-of-way, and section lines within and adjacent to the plat shall be shown on the mylar.

f. All public and private open space to be preserved within the plat shall be shown on the mylar.

g. A table showing the plat area, number of lots and minimum and average lot size shall be shown. The lot layout, numbers and lot dimensions shall also be shown on the mylar.

h. The locations of existing storm and sanitary sewers, water mains and electric conduits or overhead power lines to be used to serve the property shall be shown at points of proposed connection.

i. All existing buildings and required setbacks for each lot shall be shown.

j. The mylar shall be stamped by a Professional Land Surveyor or Professional Civil Engineer licensed in the State of Washington.

7. A transit access checklist, including a table showing the location and walking distance in feet to the nearest bus stop(s), the routes served by that stop, and the potential transit patronage calculated according to a formula and generation rates shown on the checklist, unless this information has already been provided in the checklist submitted pursuant to the State Environmental Policy Act (SEPA).

B. Process. Upon submittal of a complete preliminary plat application, the Public Works Department shall transmit at least one copy of the plat for review and comment to departments and agencies as determined by the Department of Public Works. Preliminary plat applications for plats that are adjacent to a transit street or within 1,000 feet of a bus stop shall be forwarded to Pierce Transit for review and comment.

The Public Works Department shall assemble the agency comments and prepare a written preliminary report to the Hearing Examiner. The report shall be transmitted to the Examiner and applicants a minimum of seven days prior to the date of the public hearing on the application. The report shall contain an analysis of the applicable criteria for the approval of preliminary plats, agency comments, an environmental determination and requested conditions of approval.

C. Notification. Notices for any public hearing required by this chapter shall be given in accordance with provisions of Chapter 13.05. In the event that a preliminary plat of proposed subdivision with the City of Tacoma joins the municipal boundaries thereof, a notice of filing shall be given to the appropriate county or city officials and, in the event that a preliminary plat of a proposed subdivision within the City of Tacoma is adjacent to the right-of-way of a state highway, a notice of filing shall be given to the Washington State Department of Transportation.

Mailed notices required by these regulations shall give the time, date, and place of the hearing; a legal description of the property to be platted; a vicinity sketch; and a location description in non-legal language.

D. Land Use Administrator Consideration of Minor Preliminary Plats. The Land Use Administrator may

[3] Ord. 25851 contained two sections numbered 5 – see also Section 13.04.140.

administratively approve minor (nine or fewer lots) preliminary plats, subject to the provisions of Chapter 13.05.

1. Notice of the request for administrative preliminary plat approval shall be mailed to all owners of property within 400 feet of the site within 10 days of the filing of a complete application with the Department of Public Works. In addition, the applicant shall post notice of the preliminary plat application in at least five conspicuous places on the property within 10 days of the filing of a complete application with the Department of Public Works.

2. Any person shall have a period of 20 days from the date of the notice to comment upon the proposed preliminary plat. All comments shall be sent to the Department of Public Works. All comments received by the Department of Public Works shall be provided to the applicant. The applicant shall have seven days to respond to the comments.

3. A public hearing on the proposed subdivision shall be held if any person files a request with the Department of Public Works within 21 days of the publishing of notice as described in paragraph 1 above. If such public hearing is required, notification shall be given in a manner consistent with public hearings for preliminary plats considered by the Hearing Examiner.

4. The Department of Public Works is authorized to require that a public hearing be held on a minor preliminary plat. A decision to require a public hearing on a minor preliminary plat shall be made within 21 days of the filing of said request.

E. Hearing Examiner or Land Use Administrator Review of Preliminary Plat. The Hearing Examiner or Land Use Administrator shall review the proposed preliminary plat. The preliminary plat shall not be approved unless it is found that:

1. Appropriate provisions are made for the public health, safety, and general welfare, and for open spaces; drainage ways; streets or roads; alleys; other public ways; bicycle circulation; transit stops; potable water supplies; sanitary wastes; parks and recreation; playgrounds; schools and school grounds; and all other relevant facilities, including sidewalks and other planning features which assure safe walking conditions for students who walk to and from school and for transit patrons who walk to bus stops or commuter rail stations.

2. The public use and interest will be served by the platting of such subdivision and dedication.

The Hearing Examiner or Land Use Administrator shall consider the proposed preliminary plat and shall issue a decision. The decision of the Land Use Administrator shall, at the conclusion of the appeal period, be forwarded to the Hearing Examiner for concurrence with the decision. An appeal taken within 14 days of the Land Use Administrator's decision will be processed in accordance with provisions of Chapter 1.23 of the Tacoma Municipal Code.

Approval of the preliminary plat is a tentative approval and does not constitute final acceptance of the plat. Approval of the preliminary plat, however, shall be assurance to the subdivide that the final plat will be approved; provided, that:

a. The final plat conforms to the approved preliminary plat.

b. All requirements specified for the final plat are fully complied with.

A decision on the preliminary plat shall be made by the Hearing Examiner or Land Use Administrator within 90 days from the date of filing with the City Clerk, unless the applicant consents to the extension of such time period; provided, that if an environmental impact statement is required as provided in RCW 43.21C.030, the 90-day period shall not include the time spent preparing and circulating the environmental impact statement.

A final plat meeting all requirements of this section shall be submitted to the Land Use Administrator within five years of the effective date of the preliminary plat approval.

F. Final Plat Approval. The final plat for the subdivision shall be submitted to the Department of Public Works and shall be an accurate plat for official record, surveyed and prepared by, or under the supervision of, a registered land surveyor who shall certify on the plat that it is a true and correct representation of the lands actually surveyed. The final plat shall be prepared in accordance with the regulations set forth in subsequent sections of this chapter and the "City of Tacoma Department of Public Works General Specifications for Street and Sewer Construction (Requirements for Private Permits – January 1963)," or as hereafter amended. When the final plat is submitted to the Department of Public Works for processing, it shall be accompanied by two copies of a title report confirming that the title of lands, as described and shown on a plat, is in the name of the owner(s) signing the certificate of the plat. The final plat will be reviewed by the City Engineer and by representatives of the Water and Light Divisions of the Department of Public Utilities, and the Tacoma-Pierce County Health Department. The Department of Public Works shall prepare a report summarizing the findings and recommendations of the reviewing departments and agencies and shall file said report and request with the Land Use Administrator. The Land Use

Administrator shall review the final plat. The Land Use Administrator's review shall be limited to ensuring that the final plat conforms to all requirements of this chapter and that all required improvements have been constructed or bonded. The Administrator shall issue a report approving or denying the final plat and shall transmit a copy of the report to the applicant and parties of record. The Administrator's decision shall be forwarded, by resolution, to the City Council for approval, unless the decision is appealed to the Hearing Examiner within 14 days of the date of the Administrator's decision. An applicant may develop a plat in two or more phases. If phasing is to be used in the development, it is recommended that an applicant identify the proposed phasing plan at the time of preliminary plat approval so that appropriate conditions for each phase can be developed. When an applicant requests final plat approval for a specific phase of a plat subsequent to approval of the preliminary plat, the Land Use Administrator shall determine, after consultations with affected departments and agencies, the conditions of approval necessary to support that phase of the development. Each phase of a plat must receive final plat approval within the time period identified in Section 13.04.100.E.

G. Contents of Final Plat. The final plat shall be drawn to a scale of 100 feet or less, but, preferably, 100 feet to the inch, and shall show:

1. Name of subdivision.

2. Name and address of the subdivider.

3. North point, scale, and date.

4. The boundary lines with accurate distances and bearings, and the exact location and width of all existing or recorded streets and ways intersecting the boundary of the tract.

5. True bearings and distances to the established street lines or official monuments, which shall be accurately described on the plat; municipal, township, county, or section lines accurately tied to the lines of the subdivision by distances and bearings.

6. Streets, alleys, and ways, together with their names, and any dedicated pedestrian ways, bike routes, and land for transit facilities within the subdivision.

7. The length of the arcs, radii, internal angles, points of curvature, length, and bearing of the tangents.

8. All easements for rights-of-way provided for public services or utilities and any limitations of the easement.

9. All block indications, lot numbers, and lot lines with accurate dimensions in feet and hundredths and with bearings and angles to street and alley lines.

10. The accurate location, material, and size of all monuments. Monuments shall meet the specifications of the City Engineer.

11. The accurate outline of all property which is offered for dedication for public use with the purpose indicated thereon, and all property that may be reserved by deed covenant for the common use of the property owners in the subdivision.

12. Zoning districts as set forth in the Tacoma zoning ordinances.

13. Private restrictions:

a. Boundaries of each type of use restriction;

b. Other private restrictions for each definitely restricted section of the subdivision.

14. Certification by a registered land surveyor to the effect that the plat is a true and correct representation of the lands actually surveyed and that all monuments shown thereon actually exist, or, in lieu of their placement, that a bond has been provided in conformance with Section 13.04.360 of this chapter, and that their location, size, and material are correctly shown.

15. Certification of approval by the City Engineer of all locations, grades, and dimensions of the plat and the construction specifications.

16. Dedication of all streets, alleys, ways, easements, parks, and lands for public use as shown on the plat and as required by the City of Tacoma.

17. All private easements (new or existing).

18. All critical areas requiring delineation in accordance with Chapter 13.11.

19. All building setback lines.

H. Monuments to be Placed Prior to Submission of Final Plat. Prior to the time the final plat shall be submitted to the Land Use Administrator, monuments shall be placed at angle points along the perimeter of the subdivision at intervals designated by the City Engineer; and monuments shall also be placed at all intersections of centerlines of streets and at all locations where the centerlines of streets cross section lines or quarter section lines. Delayed monumentation of the interior of the plat may be desirable pending completion of street and utility improvements. In that case, satisfactory completion of monumentation shall be secured in the form of a cash deposit or by inclusion in the performance bond. This provision shall not be construed to apply to boundary monumentation and survey.

I. All final plats hereafter shall contain the following dedicatory language:

> KNOW ALL PEOPLE BY THESE PRESENTS: We (name of owners), the owners of the land herein described, embraced in and covered by said plat, do hereby donate and dedicate to the public forever the streets, alleys, and public places shown hereon, together with a perpetual easement on and over the private property abutting upon said streets, alleys, and public places to construct and maintain all slopes, cuts, and fill occasioned by the original grading by the City of Tacoma and necessary to accomplish and maintain such original grade of said streets, alleys, and public places. Said owners, for themselves and their respective successors and assigns, waive all claims for damages to the property included in this plat by reason of any cuts or fills made in streets, alleys, or public places shown hereon in the original grading thereof by the City of Tacoma, and further certify and swear that said land is free from all taxes and assessments which have heretofore been levied and become chargeable against said property, and further certify and swear that there are no encumbrances existing upon any of the land upon which streets, alleys, and public places have been herein donated and dedicated to the public, except for the encumbrances that are the property of the following named person(s):
>
> (Name of person(s))

If any of these persons named as having encumbrances are lienholders, then the dedication language must also include the following:

> KNOW ALL PEOPLE BY THESE PRESENTS: We (name of lienholders), who have liens upon the land herein described, embraced in, and covered by said plat, do hereby, as to any of said property hereafter acquired, donate and dedicate to the public forever the streets, alleys, and public places shown hereon, together with a perpetual easement on and over said private property abutting upon said streets, alleys, and public places, to construct and maintain all slopes, cuts, and fills occasioned by the original grading by the City of Tacoma and necessary to accomplish and maintain such original grade of said streets and alleys. Said lienholders, for themselves and their respective successors and assigns, as to any of the property hereafter acquired, waive all claims for damages to the said property included in this plat by reason of any cuts or fills made in streets, alleys, or public places shown hereon in the original grading thereof by the City of Tacoma.

J. Conditions of Approval of the Final Plat. Before approval of the final plat of a subdivision, the Land Use Administrator will require:

1. That all street grading and grading along street lines, including sidewalk areas and bus stop areas, be approved by the City Engineer to ensure proper transition from street grade to adjacent property.

2. Surfacing of all roadways, bike routes, and pedestrian ways with an all-weather surface approved by the City Engineer; this shall include the construction of curbs and gutters of Portland cement concrete in accordance with the specifications of the City of Tacoma.

3. Installation of necessary facilities for the proper handling of storm drainage as approved by the City Engineer.

4. Installation of necessary facilities for the disposal of sanitary wastes as approved by the City Engineer.

5. Installation of necessary water supply systems, including fire hydrants, as approved by the Department of Public Utilities.

6. Installation of the necessary electrical power facilities as approved by the Department of Public Utilities.

a. As a condition of the final plat, the Land Use Administrator shall require the petitioner or developer to install underground all public utility services such as electric, telephone, and CATV facilities, whether in streets, alleys, on public easements, or on private properties.

b. The Land Use Administrator may, however, if the facts and circumstances in respect to some particular development in a proposed plat so warrant, authorize a waiver or modification from the general requirement hereinabove set forth, but, in such cases, shall give the reasons and conditions therefor.

7. The Land Use Administrator may also require the petitioner or developer, as a condition of approval of the final plat, to install or construct certain improvements on existing rights-of-way abutting the plat which are deemed necessary to control and expedite the movement of bicycles, automobiles, buses, and other vehicular and/or pedestrian traffic which would be generated by the development of the subdivision.

8. In lieu of the construction of the required improvements before approval of the final plat of a subdivision by the Land Use Administrator, the

subdivider shall post a performance bond, or cash deposit in lieu thereof, with the Public Works Department in an amount not less than the City Engineer's estimate of the cost of the required improvements, and provide security satisfactory to the Department of Public Works, guaranteeing that the required improvements shall be completed in accordance with the requirements of the City of Tacoma and within the specified period of time. The cash deposit, bond, or other security, as hereinabove required, may also secure the successful operation of required improvements for a two-year period after final approval.

All required improvements shall be completed by the subdivider within one year from the date of the approval of the final plat by the Land Use Administrator unless waived by the department, or departments, requiring such improvements. If said required improvements are not completed in the specified time, or the required improvements do not operate successfully for two years after completion, the City may use the applicable bonds or other security, or any portion thereof, to complete the same, correct any deficiencies in, or make any repairs to, constructed improvements which fail to successfully operate for two years after completion and final approval. After approval of the final plat by the Land Use Administrator and recording by the County Auditor of Pierce County, the subdivider may petition for, and have established by the City Council, a local improvement district in accordance with the state statutes and ordinances of the City of Tacoma to cover the cost of all required improvements not previously constructed. The Public Works Department and/or Public Utilities Department may authorize cancellation of the previously posted performance bond or security, or a portion thereof, for installation of the required improvements after final establishment of a local improvement district by the City Council and the execution of a contract therefor.

9. A house numbering system.

10. Sidewalks shall be required along all lot frontages within a subdivision as a condition of the building permit for the development of each lot within a subdivision. The required sidewalk(s) along a lot frontage(s) shall be constructed prior to the final inspection for any structure constructed upon such lot as provided for in Ordinance No. 19486 of the City of Tacoma or, in lieu of actual construction of required sidewalks, a performance bond or cash deposit shall be posted with the Department of Public Works ensuring that said sidewalks shall be constructed within a period of one year.

If required as a condition of the preliminary plat, sidewalks abutting private, common, or public open spaces within a subdivision shall be constructed in conjunction with the construction of the streets within the subdivision and, in lieu of actual construction, surety guaranteeing their installation shall be provided in accordance with the provisions contained in paragraph 8 of this subsection.

K. Approval of Final Plat. Approval of the final plat shall be indicated by the signatures of the City Engineer, the Director of Public Works, the City Treasurer, the City Attorney, the Land Use Administrator, the Mayor, and the City Clerk on the original reproducible final plat.

The approval of the final plat by the Land Use Administrator shall be deemed to constitute acceptance by the public of the dedication of any street or other proposed public way or space, but only after such final plat has been recorded by the Pierce County Auditor.

Approval of the final plat by the Land Use Administrator shall be null and void if the plat is not recorded within 90 days after the date of approval, unless, during said 90-day period, written application to the Land Use Administrator for an extension of time is made and granted.

L. Plat Construction Permit. The development of any improvements associated with a plat will not be permitted until a Plat Construction Permit is issued by the Department of Public Works. The Plat Construction Permit shall not require a fee. The purpose for requiring a Plat Construction Permit is to ensure that no construction activities associated with the development of a plat are started without approval by the City of Tacoma. It is anticipated that partial permits to allow grading, clearing, etc., may be issued prior to the issuance of final permits for streets and utilities. A Plat Construction Permit shall not be issued until the City has reviewed and approved all necessary construction plans (including streets, utilities, grading, and erosion control). A preconstruction meeting may be required by the Public Works Department prior to the issuance of a Plat Construction Permit.

M. Plat Certificate of Completion Permit. The Department of Public Works shall not issue permits for buildings within platted property prior to the issuance of a Temporary or Final Plat Certificate of Completion Permit. The Plat Certificate of Completion Permit shall be signed by all departments and agencies deemed necessary by the Public Works Department. Issuance of the Final Plat Certificate of Completion shall indicate that the plat, or an identified portion thereof, has been inspected for completion of all necessary conditions of approval. (Ord. 26934 § 8; passed Mar. 5, 2002: Ord. 26386 § 31; passed Mar. 23, 1999: Ord. 25893 § 6; passed

Jun. 4, 1996: Ord. 25851 § 4; passed Feb. 27, 1996: Ord. 25532 § 1; passed Jun. 28, 1994)[4]

13.04.110 General requirements and minimum standards for subdivisions and short subdivisions.

The general requirements and minimum standards of design and development set forth in Sections 13.04.120 to 13.04.230, inclusive, of these regulations, and the "City of Tacoma Department of Public Works General Specifications for Street and Sewer Construction (Requirements for Private Permits – January 1963)," or as hereafter amended, are hereby adopted as the minimum requirements and standards to which a subdivision plat, including short subdivision, must conform for approval. However, the minimum standards found in Sections 13.04.120 to 13.04.230 may be waived upon a finding by the Hearing Examiner or Land Use Administrator that unique circumstances exist that make the strict application of the standards unreasonable. (Ord. 27563 Exhibit A; passed Dec. 12, 2006: Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.120 Conformity to the Comprehensive Plan and the Major Street Plan.

The subdivision/short subdivision shall conform to and be in harmony with the Comprehensive Plan and the Major Street Plan. (Ord. 27563 Exhibit A; passed Dec. 12, 2006: Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.130 Relation to adjoining street system.

A subdivision/short subdivision shall provide for the continuation of the transportation system existing in the adjoining subdivisions/short subdivisions, or of their proper projection when adjoining property is not subdivided/short subdivided, and shall be of a width not less than the minimum requirements for streets set forth in these regulations. Where, in the opinion of the Hearing Examiner or Land Use Administrator, topographic or other conditions make such continuation or conformity impractical, an exception can be made. In cases where the City Council itself adopts a plan or plat of a neighborhood or area of which the subdivision/short subdivision is a part, the subdivision/short subdivision shall conform to such adopted neighborhood or area plan.

Where the plat subdivision/short subdivision submitted covers only a part of the subdivider's tract, a sketch of the prospective future street system of the unsubmitted part shall be furnished, and the street system of the part submitted shall be considered in the light of adjustments and connections with the street system of the part not submitted.

Where a tract is subdivided/short subdivided into lots of an acre or more, the Hearing Examiner or Land Use Administrator may require an arrangement of lots and streets such as to permit a later resubdivision/short subdivision in conformity to the streets and other requirements specified in these regulations. (Ord. 27563 Exhibit A; passed Dec. 12, 2006: Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.140 Access.

A. There shall be no reserve strips controlling access to streets except where such strips are controlled by the City under conditions approved by the Hearing Examiner or Land Use Administrator. The land shall be subdivided/short subdivided, providing each lot, by means of either a public or private street or way, or permanent access easement, with satisfactory access to an existing public highway or to a thoroughfare as shown in the Major Street Plan, the comprehensive plan, or an official map.

B. Officially Approved Accessway. When considering a subdivision, short subdivision, boundary line adjustment and/or binding site plan approval, a public or private street or way, or permanent access easement, which does not conform to the minimum requirements of the Major Street Plan and the specifications of the City of Tacoma, and which provides principal access to the property it is intended to serve, shall be found by the Land Use Administrator or Hearing Examiner to be adequate to provide all necessary ingress and egress to a parcel or parcels of land for specific uses subject to the following conditions:

1. That a minimum of 10-foot-wide officially approved accessway be required for one dwelling unit, and a minimum of a 16-foot-wide officially approved accessway be required for two or more dwelling units, or for any use other than residential;

2. That such officially approved accessway be permanent, unobstructed, and designed, improved, and maintained to accommodate fire apparatus and necessary mobile service equipment;

3. That, if determined to be necessary for the convenience and safety of the residents served by said officially approved accessway, the Land Use Administrator or Hearing Examiner may require other reasonable standards and improvements of said officially approved accessway;

4. That the ownership and control of said officially approved accessway be with the owner of the property it serves, unless other provisions are determined to be satisfactory;

[4] Ord. 25851 contained two sections numbered 4 – see also Section 13.04.090.

5. That the Hearing Examiner or Land Use Administrator may attach to such a determination reasonable conditions limiting and controlling the development of said parcel according to the practical capacity of said officially approved accessway and in the interest of the particular neighborhood and of the general public. (Ord. 27563 Exhibit A; passed Dec. 12, 2006: Ord. 25851 § 5; passed Feb. 27, 1996: Ord. 25532 § 1; passed Jun. 28, 1994)[5]

13.04.150 Conformity to topography.

When the existing topography requires, the design of the subdivision/short subdivision shall be made so that the location of public or private streets or ways, or permanent access easements conform to the topography to the extent that desirable grades are secured and other requirements of these regulations are met and, especially, that desirable building sites are provided. (Ord. 27563 Exhibit A; passed Dec. 12, 2006: Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.160 Public or private streets or ways, or permanent access easement widths.

The widths for public or private streets or ways, or permanent access easements shall conform to the widths designated on the Major Street Plan and the specifications of the City of Tacoma. In cases where topography or other conditions make a public or private street or way, or permanent access easement of this width impractical, the Hearing Examiner or Land Use Administrator may modify this public or private street or way, or permanent access easement width regulation. (Ord. 27563 Exhibit A; passed Dec. 12, 2006: Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.165 Streetlights.

Streetlights shall be installed throughout the subdivision in accordance with the Illuminating Engineering Society (IES) Standards. The minimum requirement for full lighting shall be for intersection, mid-block, and cul-de-sac lighting. Maximum spacing of streetlights at a 30-foot mounting height shall generally be 150 feet to 200 feet, subject to approval by the City Engineer. Short subdivisions are exempt from the streetlighting requirements of this Section. (Ord. 27563 Exhibit A; passed Dec. 12, 2006: Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.170 Roadways.

Roadways for arterial streets shall conform to the Major Street Plan and specifications of the City of Tacoma.

Roadways for public or private streets or ways, or permanent access easements serving residential development shall not be less than 28 feet; provided, however, where topographical or other conditions make a roadway of this width impractical, the roadway width may be reduced with approval by the City Engineer. (Ord. 27563 Exhibit A; passed Dec. 12, 2006: Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.180 Public or private streets or ways, or permanent access easement design.

In general, the horizontal and vertical components of public or private streets or ways, or permanent access easement design shall conform with the latest current edition of "A Policy on Geometric Design of Highways and Streets" as published by the American Association of State Highway and Transportation Officials (AASHTO).

All non-arterial public or private streets or ways, or permanent access easements shall be constructed with a minimum pavement section consisting of three inches of asphaltic concrete pavement over 2.5 inches of crushed surfacing top course over five inches of crushed ballast or alternative section subject to approval by the City Engineer. All design and construction features shall conform to design standards and policies of the City of Tacoma. (Ord. 27563 Exhibit A; passed Dec. 12, 2006: Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.190 Dead-end/cul-de-sac public or private streets or ways, or permanent access easements.

Dead-end/cul-de-sac public or private streets or ways, or permanent access easements shall not be longer than 500 feet. Any dead-end/cul-de-sac public or private street or way, or permanent access easement in excess of 150 feet in length shall terminate in a turnaround with a minimum curb radius of 45 feet. A center island with a maximum width of 30 feet may be constructed within the cul-de-sac. Any dead-end/cul-de-sac public or private street or way, or permanent access easement with four or fewer lots accessing the public or private street or way, or permanent access easement may satisfy this requirement with the construction of a T-type or branch turnaround subject to approval by the City Engineer. (Ord. 27563 Exhibit A; passed Dec. 12, 2006: Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.200 Alleys.

A minimum width of an alley in a residential block, when platted, shall be 20 feet. Alleys may be required in the rear of commercial and industrial districts and, where required, shall be at least 20 feet wide.

[5] Ord. 25851 contained two sections numbered 5 – see also Section 13.04.095.

(Ord. 27563 Exhibit A; passed Dec. 12, 2006: Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.210 Easements.

Where alleys are not provided, easements of not less than five feet in width may be required on each side of all rear lot lines or side lot lines where necessary for poles, cross-arms, guys, wires, appurtenances, conduits, storm and sanitary sewers, gas, water and heat mains. Easements of greater width may be required along lot lines or across lots where necessary for the extension of main sewers and other utilities. (Ord. 25532 § 1; passed Jun. 28, 1994)

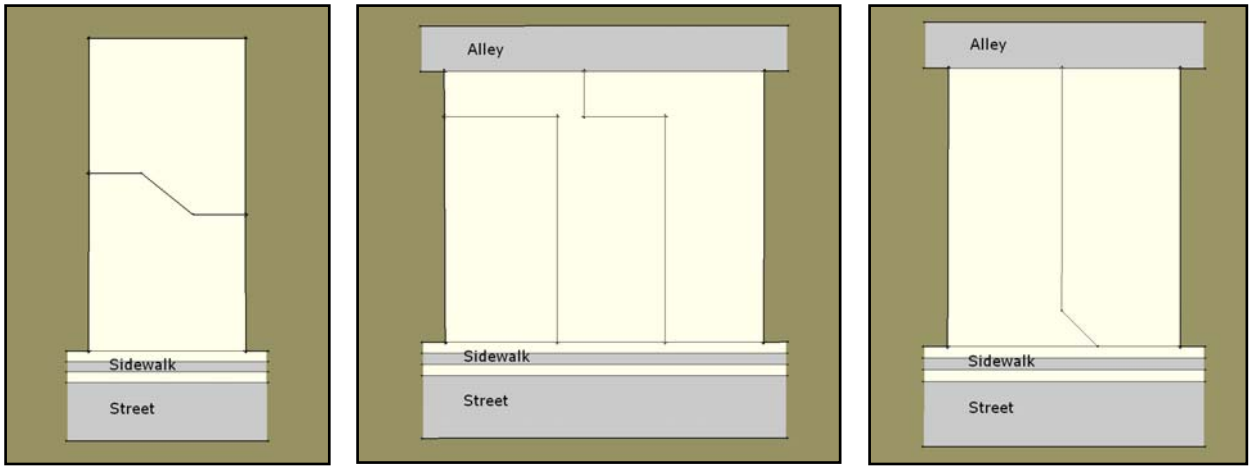
13.04.220 Blocks.

Block length shall not exceed 660 feet. The width of blocks shall be such as to allow two tiers of normal lots. (Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.230 Lots.

A. All side lot lines shall be at right angles to public or private street or way, or permanent access easement lines or radial to curved lines, unless a reasonable variation will give a better arrangement. Significant meandering of lot lines for the purpose of achieving minimum zoning lot size, frontage, width and/or setback standards which would result in the creation of development sites significantly inconsistent with a predominantly uniform development pattern of the surrounding area shall be prohibited. Lots with double frontage shall not be permitted except where unavoidable or when backing onto an arterial street.

Examples of Significant Meandering of Lot Lines



B. Corner lots shall have width sufficient to permit required front and side building setbacks and buildable widths as required by the zoning ordinances or other City regulations.

C. Lots on arterial street intersections shall have a corner radius of not less than 15 feet in the property line. This 15-foot radius is advisable in the property lines at all street intersections. (Ord. 27563 Exhibit A; passed Dec. 12, 2006: Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.240 Plats within Planned Residential Development Districts (PRD Districts).

A. Intent. The PRD District is intended to: provide for greater flexibility in large-scale residential developments; promote a more desirable living environment than would be possible through the strict regulations of conventional zoning districts and of the subdivision ordinance of the City of Tacoma; encourage developers to use a more creative approach in land development; provide a means for reducing the improvements required in development through better design and land planning; conserve natural features and ecological systems of the physical environment; and facilitate more desirable, aesthetic and efficient use of open space.

In order to facilitate development within PRD Districts, these regulations may, if necessary, be modified as they apply to residential access streets, blocks, lots and building lines when the plan for such PRD District provides: adequate access to arterial streets and adequate circulation, recreation areas, and area per family as required by the zoning ordinances; light and air for the needs of the tract when fully developed and populated; and such legal restrictions or other legal status as will assure the carrying out of the plan.

B. Procedures.

1. All preliminary plats within PRD Districts shall be considered by the Hearing Examiner, except for minor preliminary plats considered by the Land Use Administrator subsequent to approval of a reclassification to a PRD District. The final plat shall be considered by the Land Use Administrator. The preliminary plat for a planned residential development may be submitted with the application for reclassification to a PRD District, and will then be processed concurrently with the reclassification application.

2. The final plat for a PRD District may be considered as a final site plan for that portion of the PRD District to which it pertains.

3. When the preliminary plat of a proposed subdivision in a PRD District is processed as the preliminary plan for the reclassification request, and/or the final plat is processed as the final site plan, the processing procedures for plats contained in this chapter shall be followed.

C. General Requirements.

1. Lot Area. Lot sizes required for plats within PRD Districts shall be the same as for the residential district with which the PRD District is combined; provided, however, that the Hearing Examiner or Land Use Administrator may modify said lot sizes where the following factors have been considered:

a. Type of dwelling structures involved;

b. Amount of common and private open space to be provided and the location of such open space in relation to the dwelling structures involved;

c. The street pattern and street design within the PRD District; and

d. The landscaping plan concept to be utilized around such dwellings. All modifications shall be made strictly within the spirit, intent, and purposes of this section and the PRD District section of the zoning ordinances.

2. Transfer of ownership of lots within PRD Districts shall be made in such a manner as to not increase the total number of lots in the PRD District, and in no event shall any ownership be less than the dimensions of the minimum size lot within the PRD District.

3. Streets and Roadways Within PRD Districts.

a. Standards of design and construction for roadways, both public and private, within PRDs may be modified as is deemed appropriate by the Hearing Examiner.

b. Right-of-way widths and street roadway widths may be reduced where it is found that the plan for the PRD District provides for the separation of vehicular and pedestrian circulation patterns, accommodates bicycle circulation, and provides for adequate off-street parking facilities.

4. All land within the Planned Residential Development District shall be subject to contractual agreements with the City of Tacoma and to recorded covenants approved by the City of Tacoma providing for compliance with the regulations and provisions of the district and the site plan or plat as approved. (Ord. 25893 § 7; passed Jun. 4, 1996: Ord. 25851 § 6; passed Feb. 27, 1996: Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.250 Duplication of names.

The name of the proposed subdivision shall not duplicate the name of any other area within the City. A street name shall not duplicate the name of any other street or way within the City. (Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.260 Public open space.

Due consideration shall be given by the subdivider to the allocation of suitable areas for schools, parks and playgrounds to be dedicated, by covenants in the deeds, for public use or reserved for the common use of all owners of property within the subdivision. Public open spaces shall conform to the comprehensive plan of the City. In lieu of dedication for open space, the City may require payment of a fee of $25.00 per lot contained in the subdivision. The fee shall be used for the acquisition and/or development of parks or open space land which will benefit the residents of the subject subdivision and the citizens of the City of Tacoma. The above-referenced fee shall be applicable to all plats. (Ord. 27079 § 12; passed Apr. 29, 2003: Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.270 Checking by the City Engineer – Charges.

The City Engineer shall completely check the final plat before it receives his approval. The City Engineer shall prepare an estimate of cost for field and office checking and for changing any office

records. The subdivider shall thereupon deposit each estimated cost with the City Treasurer to be credited to the Department of Public Works Revolving Fund.

All work done by the City Engineer in connection with checking, computing and correcting such plat, either in the field or in the office, or for changing office records, shall be charged to such deposit. If, during the progress of such work, it shall appear that the cost thereof will exceed the amounts so deposited, the City Engineer shall notify the subdivider thereof and shall do no further work in connection with such plat until there shall be deposited such additional amount as may be necessary to cover the cost of such work.

Upon completion of the work of checking and correcting any such plat or correcting office records, a statement of the amount of the engineering charges against such proposed plat shall be rendered by the Finance Department and any balance of such deposit unexpended shall thereupon be refunded to the subdivider; or, in case the engineering charges shall for any reason exceed the amount so deposited, such amount shall be due and payable by the subdivider upon receipt of statement of engineering charges referred to herein. (Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.280 Development of illegally divided land – Innocent purchaser for value.

An application for a building permit or other development permit for any lot, tract or parcel of land divided in violation of state law or these regulations shall not be granted without prior approval by the Hearing Examiner, which approval shall only be given following a hearing at which the applicant shall demonstrate to the satisfaction of the Hearing Examiner that:

A. The applicant purchased the lot, tract or parcel for value;

B. The applicant did not know, and could not have known by the exercise of care which a reasonable purchaser would have used in purchasing the land, that the lot, tract or parcel had been part of a larger lot, tract or parcel divided in violation of state law or these regulations. (Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.290 Development of illegally divided land – Public interest determination.

No application for a building permit or other development permit for any lot, tract or parcel of land divided in violation of state law or these regulations, excluding an innocent purchaser for value as determined pursuant to Section 13.04.280 of this chapter, shall be granted without prior approval by the Hearing Examiner. Such approval shall only be given following a public hearing at which the applicant shall demonstrate to the satisfaction of the Hearing Examiner that:

A. The Tacoma-Pierce County Health Department has certified that the proposed means of sewage disposal and water supply on and to the lot, tract or parcel are adequate;

B. The City Engineer has certified that the lot, tract or parcel is served with an adequately designed means of ingress and egress, and with adequate drainage facilities, none of which interferes with or impairs existing or planned public highway and drainage facilities in the vicinity;

C. The Public Works Department has certified that the proposed development will not adversely affect the safety, health, or welfare of owners of adjacent property or interfere with their enjoyment of their property. (Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.300 Model home.

As many as four model homes may be constructed within a subdivision which has received preliminary plat approval. The purpose of the model homes shall be to demonstrate a variety of housing designs together with all associated on-site improvements, e.g., landscaping, improved driveway, patios. Model homes shall be established subject to the following criteria:

A. Model homes shall meet all applicable codes of the City of Tacoma.

B. Only one model home may be occupied as a temporary real estate office.

C. Access and fire safety provisions shall be provided in a manner approved by the Building Official prior to construction of the model home. A model home may not be occupied as a dwelling unit or sold until the plat is recorded. (Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.305 Temporary rental or sales offices, contractors' offices, and signs.

Temporary facilities, structures or signs for rental or sales offices; contractors' offices; and advertising, directional and identification signs or structures may be utilized for the purpose of developing a new residential subdivision if:

A. Located in the residential subdivision to be served, promoted, or advertised, and deals exclusively with the real property of said subdivision; and

B. Structures and signs are removed upon buildout of the subdivision.

If a model home is occupied as a real estate office as identified in Section 13.04.300.B a temporary rental or sales office shall not be allowed. (Ord. 25851 § 7; passed Feb. 27, 1996)

13.04.310 Subdivisions

The subdivision and short subdivision of land in wetlands and associated buffers is subject to the following, and Chapter 13.11.260:

A. Land that is located partially within a wetland or its buffer may be subdivided provided that an accessible and contiguous portion of each new lot is located outside the wetland and its buffer.

B. Access roads and utilities serving the proposed subdivision may be permitted within the wetland and associated buffers only if the Land Use Administrator determines that no other feasible alternative exists, and the project is consistent with the remaining provisions of this chapter.

C. A protection covenant such as a Conservation Easement shall be recorded with the Pierce County Assessor's Office for wetland, stream or natural area tracts that are created as part of the permitting process. (Ord. 27431 § 2; passed Nov. 15, 2005: Ord. 25532 § 1; passed Jun. 28, 1994)

13.04.315 Violations – Penalties.

Any person, firm, corporation, or association, or any agent of any person, firm, or corporation, or association who/which violates any provision of this chapter, including, but not limited to, the sale, offer for sale, lease, or transfer of any lot, tract, or parcel of land, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine in any sum not exceeding $300.00, or by imprisonment in the Pierce County Jail for a term not exceeding 90 days, or by both such fine and imprisonment, and each violation or each sale, offer for sale, lease or transfer of each separate lot, tract, or parcel of land in violation of any provision of these regulations shall be deemed a separate and distinct offense. (Ord. 27431 § 3; passed Nov. 15, 2005)

Chapter 13.05

LAND USE PERMIT PROCEDURES

Sections:

13.05.005 Definitions.
13.05.010 Application requirements for land use permits.
13.05.020 Notice process.
13.05.030 Land Use Administrator – Creation and purpose – Appointment – Authority.
13.05.040 Decision of the Land Use Administrator.
13.05.050 Appeals of administrative decisions.
13.05.060 Applications considered by the Hearing Examiner.
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13.05.100 Enforcement.
13.05.105 Sign enforcement.
13.05.110 Violations – Penalties.

13.05.005 Definitions.

As used in this chapter, the following terms are defined as:

A. Aggrieved Person: In an appeal, an "aggrieved person" shall be defined as a person who is suffering from an infringement or denial of legal rights or claims.

B. Appeal, for Standing: An aggrieved person or entity has "standing" when such person or entity is entitled to notice under the applicable provision of the Tacoma Municipal Code, or when such person or entity can demonstrate that such person or entity is within the zone of interest to be protected or regulated by the City law and will suffer direct and substantial impacts by the governmental action of which the complaint is made, different from that which would be experienced by the public in general.

C. Application, Complete: An application which meets the procedural requirements outlined in Section 13.05.010.C.

D. Department: As used in this chapter, "Department" refers to the Public Works Department.

E. Open Record Hearing: A hearing, conducted by a single hearing body or officer authorized to conduct such hearings that create a record through testimony and submission of evidence and information.

F. Project Permit or Project Permit Application: Any land use or environmental permit or license required for a project action, including, but not limited to, subdivisions, binding site plans, planned developments, conditional uses, shoreline substantial

development permits, site plan review, permits or approvals required by the critical area preservation ordinance, site-specific rezones authorized by a comprehensive plan or sub area plan, but excluding the adoption or amendment of a comprehensive plan, sub area plan, or development regulations, except as otherwise specifically included in this subsection.

G. Public Meeting: An informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to the decision. A public meeting does not constitute an open record hearing. The proceedings at a public meeting may be recorded and a report or recommendation shall be included in the project permit application file. (Ord. 27431 § 4; passed Nov. 15, 2005: Ord. 25852 § 1; passed Feb. 27, 1996)

13.05.010 Application requirements for land use permits.

A. Purpose. The purpose of this section is to outline land use permit and application requirements.

B. Applicability. The regulations identified in this section apply to land use permits for which the Land Use Administrator and/or Hearing Examiner have decision-making authority. The applicant for a land use permit requested under this title shall have the burden of proving that a proposal is consistent with the criteria for such application.

C. Application Requirements.

1. Predevelopment Conference. A predevelopment conference may be scheduled at the request of the Department or the applicant. The predevelopment conference is intended to define the project scope and identify regulatory requirements of Title 13, prior to preparing a land use proposal.

2. Pre-Application Meeting. The pre-application meeting is a meeting between Department staff and a potential applicant for a land use permit to discuss the application submittal requirements and pertinent fees. A pre-application meeting is required prior to submittal of an application for rezoning, platting, height variances, conditional use permit**,** shoreline management substantial development (including conditional use, variance, revision and exemptions), wetland/stream development permits, wetland/stream assessments, and wetland delineation verifications. This requirement may be waived by the Department. The pre-application meeting is optional for other permits.

3. Applications Form and Content. The Department shall prescribe the form and content for complete applications made pursuant to this title. The applicant is responsible for providing complete and accurate information on all forms as specified below. Applications shall include the following:

a. The correct number of completed Department application forms signed by the applicant;

b. The correct number of documents, plans, or maps identified on the Department Submittal Requirements form which are appropriate for the proposed project;

c. A demonstration by the applicant of consistency with the applicable policies, regulations, and criteria for approval of the permit requested;

d. A completed State Environmental Policy Act checklist, if required; containing all information required to adequately determine the potential environmental impacts of the proposal;

e. Payment of all applicable fees as identified in Section 2.09.170 – Required Filing Fees for Land Use Applications; and

f. Additional application information which may be requested by the Department and may include, but is not limited to, the following: geotechnical studies, hydrologic studies, noise studies, air quality studies, visual analysis, and transportation impact studies.

D. Initiation of Review Process. The Department shall review a submitted application to determine its completeness, but will not begin permit processing of any application until the application is found to be complete. “Completeness” means the appropriate documents and reports have been submitted. Accuracy and adequacy of the application is not reviewed as a part of this phase.

E. Notice of Complete or Incomplete Application.

Applications for land use permits which require notice under Process I in Section 13.05.020 below are exempt from the provisions in this section.

1. Within 28 days after receiving a development permit application, the Department shall provide in writing to the applicant either:

a. A notice of complete application; or

b. A notice of incomplete application and what information is necessary to make the application complete.

The 28-day time period shall be determined by calendar days from the date the application was filed to the postmarked date on the written notice from the Department.

2. An application shall be found complete if the Department does not, within 28 days, provide to the applicant a notice of incomplete application.

3. If the application is determined to be incomplete, and additional information is requested, within 14 days after an applicant has submitted the requested additional information, the Department shall notify

the applicant whether the information submitted adequately responds to the notice of incomplete application, thereby making the application complete, or what additional information is still necessary.

4. An application is complete for purposes of this section when it meets the submission requirements of the Department as outlined in Section 13.05.010.C and TMC Section 13.11.250 for projects that may affect wetlands, streams, or their regulated buffers, even though additional information may be required or project modifications may be made later. The determination of a complete application shall not preclude the Department from requesting additional information or studies, either at the time of the notice of complete application or subsequently if new information is required or substantial changes in the proposed action occur, or should it be discovered that the applicant omitted, or failed to disclose, pertinent information.

F. Inactive Applications. If an applicant fails to submit information identified in the notice of incomplete application within 120 days from the Department's mailing date, or does not communicate the need for additional time to submit information, the Department may consider the application inactive and, after notification to the applicant, may close out the file and refund a proportionate amount of the fees collected with the application.

G. Modification to Application. Proposed modifications to an application which the Department has previously found to be complete will be treated as follows:

1. Modifications proposed by the Department to an application shall not be considered a new application.

2. If the applicant proposes modifications to an application which would result in a substantial increase in a project's impacts, as determined by the Department, the application may be considered a new application. The new application shall conform to the requirements of this title which are in effect at the time the new application is submitted.

H. Limitations on Refiling of Application.

1. Applications for a land use permit pursuant to Title 13 on a specific site shall not be accepted if a similar permit has been denied on the site within the 12 months prior to the date of submittal of the application. The date of denial shall be considered the date the decision was made on an appeal, if an appeal was filed, or the date of the original decision if no appeal was filed.

2. The 12-month time period may be waived or modified if the Land Use Administrator finds that special circumstances warrant earlier reapplication. The Land Use Administrator shall consider the following in determining whether an application for permit is similar to, or substantially the same as, a previously denied application:

a. An application for a permit shall be deemed similar if the proposed use of the property is the same, or substantially the same, as that which was considered and disallowed in the earlier decision;

b. An application for a permit shall be deemed similar if the proposed application form and site plan (i.e., building layout, lot configuration, dimensions) are the same, or substantially the same, as that which was considered and disallowed in the earlier decision; and

c. An application for a variance or waiver shall be deemed similar if the special circumstances which the applicant alleges as a basis for the request are the same, or substantially the same, as those considered and rejected in the earlier decision.

In every instance, the burden of proving that an application is not similar shall be upon the applicant.

I. Filing Fees. The schedule of fees for land use permits is established in Chapter 2.09 of the Tacoma Municipal Code.

J. Time Periods for Decision on Application.

1. A decision on applications considered by the Land Use Administrator shall be made within 120 days of complete application. Applications within the jurisdiction of the Hearing Examiner shall be processed within the time limits set forth in Chapter 1.23. The notice of decision on a land use permit shall be issued (and postmarked) within the prescribed number of days after the Department notifies the applicant that the application is complete or is found complete as provided in Section 13.05.010.D.3. The following time periods shall be exempt from the time period requirement:

a. Any period during which the applicant has been requested by the Department to correct plans, perform required studies, or provide additional required information due to the applicant's misrepresentation or inaccurate or insufficient information.

b. Any period during which an environmental impact statement is being prepared; however, in no case shall the time period exceed one year, unless otherwise agreed to by the applicant and the City's responsible official for SEPA compliance.

c. Any period for administrative appeals of land use permits.

d. Any extension for any reasonable period of time mutually agreed upon in writing between the applicant and the Department.

2. The 120-day time period established in Section 13.05.010.J.1 for applications to the Land Use Administrator shall not apply in the following situations:

a. If the permit requires approval of a new fully contained community as provided in RCW 36.70A.350, master planned resort as provided in RCW 36.70A.360, or the siting of an essential public facility as provided in RCW 36.70A.200.

b. If, at the applicant's request, there are substantial revisions to the project proposal, in which case the time period shall start from the date on which the revised project application is determined to be complete, per Section 13.05.010.E.3.

3. Decision when effective. A decision is considered final at the termination of an appeal period if no appeal is filed, or when a final decision on appeal has been made pursuant to either Chapter 1.23 or Chapter 1.70. In the case of a zoning reclassification, the first reading of the reclassification ordinance by the City Council shall be considered the final decision. First reading shall be considered a tentative approval, and does not constitute final rezoning of the property. However, first reading of the ordinance shall assure the applicant that the reclassification will be approved, provided that the application complies with all requirements and conditions for reclassification as may have been imposed by the Hearing Examiner or the City Council.

4. If unable to issue a final decision within the 120-day time period, a written notice shall be made to the applicant, including findings for the reasons why the time limit has not been met and the specified amount of time needed for the issuance of the final decision.

5. Time Computation. In computing any time period set forth in this chapter, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday, nor a legal holiday. Legal holidays are described in RCW 1.16.050. (Ord. 27431 § 5; passed Nov. 15, 2005: Ord. 27245 § 1; passed Jun. 22, 2004: Ord. 26843 § 2; passed Aug. 21, 2001: Ord. 26645 § 4; passed Jun. 27, 2000: Ord. 25852 § 1; passed Feb. 27, 1996)

13.05.020 Notice process.

A. Purpose. The purpose of this section is to provide notice requirements for land use applications.

B. Process I – Minor Land Use Decisions.

1. A notice of application shall be provided within 14 days following a notice of complete application being issued to the applicant as identified in Section 13.05.010.E. Examples of minor land use decisions are waivers, variances, shoreline permit exemptions, and time period extensions.

2. Notice of application shall be mailed by first-class mail to the applicant; property owner (if different than the applicant); neighborhood councils in the vicinity where the proposal is located; qualified neighborhood or community organizations; the Puyallup Indian Tribe for "substantial action" as defined in the "Agreement Between the Puyallup Tribe of Indians, Local Governments in Pierce County, the State of Washington, the United States of America, and Certain Private Property Owners," dated August 27, 1988; and to owners of property, as indicated by the records of the Pierce County Assessor/Treasurer, within the distances identified in Section 13.05.020.G.

3. Parties receiving notice of application shall be given 14 days from the date of mailing (including the day of mailing) to provide any comments on the proposed project to the Department. The notice shall indicate that a copy of the decision taken upon such application will be provided to any person who submits written comments on the application within 14 days of the mailing of such notice, or who requests receipt of a copy of the decision.

4. Decisions of the Land Use Administrator shall be mailed to the applicant and the property owner, if different than the applicant, by first class mail. Decisions of the Administrator requiring environmental review pursuant to the State Environmental Policy Act, WAC 197-11, and the provisions of TMC Chapter 13.12, shall also include a Threshold Determination by the Responsible Official for the Department. A decision shall be mailed by first-class mail to: owners of property as indicated by the Pierce County Assessor/Treasurer's records within the distance identified in Section 13.05.020.G; neighborhood councils in the vicinity where the proposal is located; qualified neighborhood or community organizations; and the Puyallup Indian Tribe for "substantial action" as defined in the "Agreement Between the Puyallup Tribe of Indians, Local Governments in Pierce County, the State of Washington, the United States of America, and Certain Private Property Owners," dated August 27, 1988.

5. A neighborhood or community organization shall be qualified to receive notice under this section upon a finding that the organization:

(a) has filed a request for a notification with the City Clerk in the form prescribed by rule, specifying the names and addresses of its representatives for the receipt of notice and its officers and directors;

(b) includes within its boundaries land within the jurisdiction of the permit authority;

(c) allows full participating membership to allow property owners/residents within its boundaries;

6. More than one neighborhood or community organization may represent the same area.

7. It shall be the duty of the neighborhood group to advise the City Clerk's office in writing of changes in its boundaries, or changes in the names and addresses of the officers and representatives for receipt of notice.

8. A public information sign (or signs), provided by the Department for applications noted in Table G (Section 13.05.020.G), indicating that a land use permit application for a proposal has been submitted, shall be erected on the site by the applicant, in a location specified by the Department, within seven calendar days of the date on which a notice of complete application is issued to the applicant. The sign shall remain on the site until the date of final decision, at which time the sign shall be removed by the applicant. The sign shall contain, at a minimum, the following information: type of application, name of applicant, description and location of proposal, and where additional information can be obtained.

C. Process II – Administrative Decisions Requiring an Environmental Determination and Height Variances, Shoreline Permits, Conditional Use, Special Development Permits, Wetland Development Permits, Wetland/Stream Assessments, and Wetland Delineation Verifications.

1. A notice of application shall be provided within 14 days following a notice of complete application being issued to the applicant as identified in Section 13.05.010.E.

2. Notice of application shall be mailed by first-class mail to the applicant; property owner (if different than the applicant); neighborhood councils in the vicinity where the proposal is located; qualified neighborhood or community organizations consistent with the requirements set forth for Process I land use permits; the Puyallup Indian Tribe for "substantial action" as defined in the "Agreement Between the Puyallup Tribe of Indians, Local Governments in Pierce County, the State of Washington, the United States of America, and Certain Private Property Owners," dated August 27, 1988; and to owners of property, as indicated by the records of the Pierce County Assessor/Treasurer, within the distances identified in Section 13.05.020.G. For major modifications to development approved in a PRD District rezone and/or site approval, the notice of application shall also be provided to all owners of property within the entire PRD District and owners of property, as indicated by the records of the Pierce County Assessor/Treasurer, within the distances identified in Section 13.05.020.G from the boundary of the PRD District.

3. Parties receiving notice of application shall be given 30 days, with the exception of five to nine lot preliminary plats which shall be given 20 days, and Wetland/Stream Assessments which shall be given 14 days from the date of mailing (including the day of mailing) to provide any comments on the proposed project to the Department, unless a Public Meeting is held, as provided by Section 13.05.020.F. The notice shall indicate that a copy of the decision taken upon such application will be provided to any person who submits written comments on the application within 30 days of the mailing of such notice, or who requests receipt of a copy of the decision.

4. A public information sign (or signs), provided by the Department for applications noted in Table G (Section 13.05.020.G), indicating that a land use permit application for a proposal has been submitted, shall be erected on the site by the applicant, in a location specified by the Department, within seven calendar days of the date on which a notice of complete application is issued to the applicant. The sign shall remain on the site until the date of final decision, at which time the sign shall be removed by the applicant. The sign shall contain, at a minimum, the following information: type of application, name of applicant, description and location of proposal, and where additional information can be obtained.

5. Notice shall be published in a newspaper of general circulation for applications identified in the table in subsection G of this section.

D. Process III – Decisions Requiring a Public Hearing.

1. A notice of application shall be provided within 14 days following a notice of complete application being issued to the applicant as identified in Section 13.05.010.C.

2. Notice of application, including the information identified in Section 13.05.020.E, shall be mailed by first-class mail to the applicant, property owner (if different than the applicant), neighborhood councils in the vicinity where the proposal is located; qualified neighborhood or community organizations; Puyallup Indian Tribe for "substantial action" as defined in the "Agreement Between the Puyallup Tribe of Indians, Local Governments in Pierce County, the State of Washington, the United States of America, and Certain Private Property Owners," dated August 27, 1988; and to owners of property, as indicated by the records of the Pierce County Assessor/Treasurer, within the distances identified in Section 13.05.020.G. For major modifications to development approved in a PRD District rezone

and/or site approval, the notice of application shall also be provided to all owners of property within the entire PRD District and owners of property, as indicated by the records of the Pierce County Assessor/Treasurer, within the distances identified in Section 13.05.020.G from the boundary of the PRD District.

3. The notified parties shall be allowed 21 days from the date of mailing to comment on the pre-threshold environmental determination under provisions of Chapter 13.12, after which time the responsible official for SEPA shall make a final determination. Those parties who comment on the environmental information shall receive notice of the environmental determination. If an appeal of the determination is filed, it will be considered by the Hearing Examiner at the public hearing on the proposal.

4. A public information sign (or signs), provided by the Department, indicating that a land use permit application for a proposal has been submitted, shall be erected on the site by the applicant, in a location specified by the Department, within seven calendar days of the date on which a notice of complete application is issued to the applicant. The sign shall remain on the site until the date of final decision, at which time the sign shall be removed by the applicant. The notice shall contain, at a minimum, the following information: type of application, name of applicant, location of proposal, and where additional information can be obtained.

5. Notice shall be published in a newspaper of general circulation for applications identified in the table in subsection G of this section.

E. Content of Public Notice of Application. Notice of application shall contain the following information, where applicable, in whatever sequence is most appropriate for the proposal:

1. Date of application;

2. Date of notice of completion for the application;

3. Date of the notice of application;

4. Description of the proposed project action;

5. List of permits included in the application;

6. List of studies requested;

7. Other permits which may be required;

8. A list of existing environmental documents used to evaluate the proposed project(s) and where they can be reviewed;

9. Public comment period (not less than 14 nor more than 30 days), statement of right to comment on the application, receive notice of and participate in hearings, request a copy of the decision when made, and any appeal rights;

10. Date, time, place and type of hearing (notice must be provided at least 15 days prior to the open record hearing);

11. Statement of preliminary determination of development regulations that will be used for project mitigation and of consistency;

12. A provision which advises that a "public meeting" may be requested by any party entitled to notice;

13. Any other information determined appropriate, e.g., preliminary environmental determination, applicant's analysis of code/policy applicability to project.

F. Public Comment Provisions. Parties receiving notice of application shall be given the opportunity to comment in writing to the department. A "public meeting" to obtain information, as defined in Section 13.05.005, may be held on applications which require public notification under Process II when:

1. The Land Use Administrator determines that the proposed project is of broad public significance; or

2. The neighborhood council in the area of the proposed project requests a "public meeting"; or

3. The owners of five or more parcels entitled to notice for the application make a written request for a meeting; or

4. The applicant has requested a "public meeting."

Requests for a meeting must be made in writing and must be in the Building and Land Use Services Division office within the comment period identified in the notice. One public meeting shall be held for a permit request regardless of the number of public meeting requests received. If a public meeting is held, the public comment period shall be extended 7 days beyond and including the date of the public meeting. Notice of the "public meeting" shall be mailed at least 14 days prior to the meeting to all parties entitled to original notice, and shall specify the extended public comment period; however, if the Land Use Administrator has determined that the proposed project is of broad public significance, or if the applicant requests a meeting, notification of a public meeting may be made with the notice of application**,** and shall allow the standard 30-day public comment period.

The comment period for permit type is identified in Section 13.05.020.G. When a proposal requires an environmental determination under Chapter 13.12, the notice shall include the time within which comments will be accepted prior to making a threshold determination of environmental significance or non-significance.

G. Notice and Comment Period for Specified Permit Applications. Table G 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 G - Notice, Comment and Expiration for Land Use Permits

Permit Type	Preapplication Meeting	Notice: Distance	Notice: Newspaper	Notice: Post Site	Comment Period	Decision	Hearing Required	City Council	Expiration of Permit
Interpretation/determination of code	Recommended	100 feet for site specific	For general application	Yes	14 days	LUA	No	No	None
Uses not specifically classified	Recommended	400 feet	Yes	Yes	30 days	LUA	No	No	None
Boundary line adjustment	Required	No	No	No	No	LUA	No	No	5 years***
Binding site plan	Required	No	No	No	No	LUA	No	No	5 years***
Environmental SEPA DNS/EIS	Optional	Same as case type	Yes if no hearing required	Yes for EIS	Same as case type	Dept. Director	No	No	None
Variance , height of main structure	Required	400 feet	No	Yes	30 days	LUA	No*	No	5 years
Open space classification	Required	400 feet	No	Yes	**	Hearing Examiner	Yes	Yes	None
Plats 10+ lots	Required	400 feet	Yes	Yes	21 days SEPA**	Hearing Examiner	Yes	Final Plat	5 years***
Plats 5-9 lots	Required	400 feet	Yes	Yes	20 days	LUA	No*	Final Plat	5 years***
Rezones	Required	400 feet	No	Yes	21 days SEPA**	Hearing Examiner	Yes	Yes	None
Shoreline/CUP/ variance	Required	400 feet	No	Yes	30 days*****	LUA	No*	No	2 years/ maximum 6
Short plat	Required	No	No	No	No	LUA	No	No	5 years***
Site approval	Optional	400 feet	No	Yes	30 days*****	LUA	No*	No	5 years
Conditional use	Required	400 feet	No	Yes	30 days*****	LUA	No*	No	5 years****
Special development	Optional	400 feet	No	Yes	30 days*****	LUA	No*	No	5 years
Variance	Optional	100 feet	No	Yes	14 days	LUA	No*	No	5 years
Waiver	Optional	100 feet	No	Yes	14 days	LUA	No*	No	Condition of permit
Wetland/stream development	Required	400 feet	No	Yes	30 days	LUA	No*	No	5 years
Wetland/stream assessment	Required	400 feet	No	Yes	14 days	LUA	No	No	5 years
Wetland delineation verification	Required	400 feet	No	Yes	30 days	LUA	No	No	5 years

INFORMATION IN THIS TABLE IS FOR REFERENCE PURPOSE ONLY.

* 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).

** Comment on land use permit proposal allowed from date of notice to hearing.

*** Must be recorded with the Pierce County Auditor within five years.

**** Special use permits for wireless communication facilities, including towers, are limited to two years from the effective date of the Land Use Administrator's decision.

***** If a public meeting is held, the public comment period shall be extended 7 days beyond and including the date of the public meeting.

(Ord. 27631 Ex. A; passed Jul. 10, 2007: Ord. 27431 § 6; passed Nov. 15, 2005: Ord. 27245 § 2; passed Jun. 22, 2004: Ord. 27158 § 1; passed Nov. 4, 2003: Ord. 26195 § 1; passed Jan. 27, 1998: Ord. 25852 § 1; passed Feb. 27, 1996)

13.05.030 Land Use Administrator – Creation and purpose – Appointment – Authority.

A. Creation and Purpose. The position of Land Use Administrator is hereby created. The Land Use Administrator shall act upon land use regulatory permits as specified in this chapter. In order to ensure that the Land Use Administrator is free from improper influence, no individual, City employee, and member of the City Council, or other City board, commission or committee shall interfere with the exercise of the Land Use Administrator's duties and responsibilities set forth herein.

B. Appointment. The Land Use Administrator shall be appointed by the Director of Public Works, upon advice of the Director of the Community and Economic Development Department and the City

Attorney. The Director of Public Works may also designate an Acting Land Use Administrator who shall, in the event of the absence or the inability of the Land Use Administrator to act, have all the duties and powers of the Land Use Administrator.

C. Authority. The Land Use Administrator shall have the authority to act upon the following matters:

1. Interpretation, enforcement, and administration of the City's land use regulatory codes as prescribed in this title;

2. Applications for conditional use permits;

3. Applications for site plan approvals;

4. Applications for special development permits;

5. Applications for variances;

6. Applications for waivers;

7. Applications for preliminary and final plats as outlined in Chapter 13.04, Platting;

8. Applications for Wetland and Stream Development Permits, Wetland Delineation Verifications, Wetland/Stream Assessments, and Exemptions as outlined in Chapter 13.11;

9. Applications for Shoreline Management Substantial Development Permits/conditional use/ variances as outlined in Chapter 13.10;

10. Modifications or revisions to any of the above approvals;

11. Approval of landscape plans;

12. Extension of time limitations;

13. Application for permitted use classification for those uses not specifically classified.

14. Boundary line adjustments, binding site plans, and short plats;

15. Approval of building or development permits requiring Land Use Code and Environmental Code compliance.

D. Interpretation and Application of Land Use Regulatory Code. In interpreting and applying the provisions of the Land Use Regulatory Code, the provisions shall be held to be the minimum requirements for the promotion of the public safety, health, morals or general welfare. It is not intended by this code to interfere with or abrogate or annul any easements, covenants or agreements between parties. Where this code imposes a greater restriction upon the use of buildings or premises or upon the heights of buildings or requires larger yards or setbacks and open spaces than are required in other ordinances, codes, regulations, easements, covenants or agreements, the provisions of this code shall govern. An interpretation shall be utilized where the factual basis to make a determination is unusually complex or there is some problem with the veracity of the facts; where the applicable code provision(s) is ambiguous or its application to the facts unclear; or in those instances where a person applying for a license or permit disagrees with a staff determination made on the application. Requests for interpretation of the provisions of the Land Use Regulatory Code shall be processed in accordance with the requirements of Section 13.05.040.

E. Permitted Uses – Uses Not Specifically Classified. In addition to the authorized permitted uses for the districts as set forth in this title, any other use not elsewhere specifically classified may be permitted upon a finding by the Land Use Administrator that such use will be in conformity with the authorized permitted uses of the district in which the use is requested. Notification of the decision shall be made by publication in a newspaper of general circulation.

F. Reasonable Accommodation. Any person claiming to have a handicap, or someone acting on his or her behalf, who wishes to be excused from an otherwise applicable requirement of this Land Use Code under the Fair Housing Amendments Act of 1988, 42 USC § 3604(f)(3)(b), or the Washington Law Against Discrimination, Chapter 49.60 RCW, must provide the Land Use Administrator with verifiable documentation of handicap eligibility and need for accommodation. The Administrator shall act promptly on the request for accommodation. If handicap eligibility and need for accommodation are demonstrated, the Administrator shall approve an accommodation, which may include granting an exception to the provisions of this Code. The City shall not charge any fee for responding to such a request. (Ord. 27539 § 1; passed Oct. 31, 2006: Ord. 27466 § 35; passed Jan. 17, 2006: Ord. 27431 § 7; passed Nov. 15, 2005: Ord. 27245 § 3; passed Jun. 22, 2004: Ord. 27017 § 5; passed Dec. 3, 2002: Ord. 26195 § 2; passed Jan. 27, 1998: Ord. 25852 § 1; passed Feb. 27, 1996)

13.05.040 Decision of the Land Use Administrator.

A. Effect of Land Use Administrator Decision. The Land Use Administrator's decision shall be final; provided, that pursuant to subsection H of this section, an appeal may be taken to the Hearing Examiner. The Land Use Administrator's decision shall be based upon the criteria set forth for the granting of such permit, the policies of the comprehensive plan, and any other applicable program adopted by the City Council. The decision of the Land Use Administrator shall be set forth in a written summary supporting such decision and

demonstrating that the decision is consistent with the applicable criteria and standards contained in this title and the policies of the comprehensive plan. The decision shall include the environmental determination of the responsible official.

B. Conditioning Land Use Approvals. When acting on any land use matter, the Land Use Administrator may attach any reasonable conditions found necessary to make the project compatible with its environment, to carry out the goals and policies of the City's comprehensive plan, including its Shoreline Master Program, or to provide compliance with applicable criteria or standards set forth in the City's Land Use Regulatory Codes. Such conditions may include, but are not limited to:

1. The exact location and nature of the development, including additional building and parking area setbacks, screening in the form of landscape berms, landscaping or fencing;

2. Mitigating measures, identified in applicable environmental documents, which are reasonably capable of being accomplished by the project's sponsor, and which are intended to eliminate or lessen the environmental impact of the development;

3. Provisions for low- and moderate-income housing as authorized by state statute;

4. Hours of use or operation, or type and intensity of activities;

5. Sequence in scheduling of development;

6. Maintenance of the development;

7. Duration of use and subsequent removal of structures;

8. Dedication of land or granting of easements for public utilities and other public purposes;

9. Construction of, or other provisions for, public facilities and utilities. In regard to the conditions requiring the dedication of land or granting of easements for public use and the actual construction of or other provisions for public facilities and utilities, the Land Use Administrator shall find that the problem to be remedied by the condition arises, in whole or significant part, from the development under consideration, the condition is reasonable, and is for a legitimate public purpose.

10. Wetland/stream development permits, wetland/stream assessments, wetland delineation verifications, and exemptions shall be subject to TMC Section 13.11.260.

Refer to Section 13.05.100 and 13.11.260 for procedures to enforce permit decisions and conditions.

C. Timing of Decision. After examining all pertinent information and making any inspections deemed necessary by the Land Use Administrator, the Land Use Administrator shall issue a decision within 120 days from the date of notice of a complete application, unless additional time has been agreed to by the applicant, or for other reasons as stated in Section 13.05.010.

In the event the Administrator cannot act upon a land use matter within the time limits set forth, the Administrator shall notify the applicant in writing, setting forth reasons the matter cannot be acted upon within the time limitations prescribed, and estimating additional time necessary for completing the recommendation or decision.

D. Mailing of Decision.

1. A copy of the decision shall be mailed to the applicant and the property owner, if different than the applicant, by first class mail. A copy of the decision shall be mailed to those who commented in writing or requested a copy of the decision within the time period specified in Section 13.05.020 and a summary of the decision shall also be mailed by first-class mail to owners of the property, as indicated by the records of the Pierce County Assessor/Treasurer, within the distances specified in Section 13.05.020.G; the Puyallup Indian Tribe for "substantial actions" as defined in the "Agreement Between the Puyallup Tribe of Indians, Local Governments in Pierce County, the State of Washington, the United States of America, and Certain Private Property Owners," dated August 27, 1988; neighborhood councils in the vicinity of the proposal; and qualified neighborhood or community organizations.

2. Notice to the State of Washington on Shoreline Permit Decisions/Recommendations. Copies of the original application and other pertinent materials used in the final decision in accordance with this section, State regulations, and, pursuant to RCW 90.58 or 43.21C, the permit and any other written evidence of the final order of the City relative to the application, shall be transmitted by the Land Use Administrator to the Attorney General of the State of Washington and the Department of Ecology in accordance with WAC 173-27-130 and RCW 90.58.140(6).

3. Notice shall be provided to property owners affected by the Administrator's decision that such owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation. Notice of the Land Use Administrator's decision shall also be provided to the Pierce County Assessor/Treasurer's Office.

E. Consolidated Review of Multiple Permit Applications and of Environmental Appeals with the

Underlying Land Use Action. Applications which require an open-record hearing shall be considered by the Hearing Examiner. When an open-record hearing is required, all other land use permit applications for a specific site or project shall be considered concurrently. Therefore, in this situation, applications for which the Land Use Administrator has authority shall be transferred to the jurisdiction of the Hearing Examiner to allow consideration of all land use actions concurrently.

F. Consolidated Review of Land Use Permitting on Multi-Jurisdictional Projects. Applications for projects that require land use permits from the City of Tacoma as well as from a neighboring jurisdiction, and where such neighboring jurisdiction's land use permitting processes require a pre-decision public hearing, the application for the City of Tacoma's land use permit shall be transferred to the jurisdiction of the Hearing Examiner for the purpose of conducting a joint hearing with the other permitting jurisdiction. Should a joint hearing not be arranged by agreement of the permitting jurisdictions, the matter shall be returned to the jurisdiction of the Land Use Administrator.

G. Reconsideration. A request for reconsideration may be made on any decision or ruling of the Land Use Administrator by any aggrieved person or entity having standing under this chapter. A request seeking reconsideration shall be in writing and shall set forth the alleged errors of procedure, fact, or law. The request for reconsideration shall be filed in the Building and Land Use Services Division of the Department within 14 calendar days of the issuance of the Land Use Administrator's decision, not counting the day of issuance of the decision. If the last day for filing the request for reconsideration falls on a weekend day or a holiday, the last day for filing shall be the next working day. It shall be within the discretion of the Land Use Administrator to determine whether the opposing party or parties will be afforded an opportunity to respond. After review of the matter, the Land Use Administrator shall take such further action deemed proper, which may include the issuance of a revised decision.

H. Appeal to the Hearing Examiner. Any aggrieved person having standing under this chapter shall have the right, within 14 calendar days of the issuance of the Land Use Administrator's decision, or within seven calendar days of the decision on a reconsideration, to appeal the Land Use Administrator's decision to the Hearing Examiner. Such appeal shall be in accordance with Section 13.05.050 of this chapter.

I. Compliance with Permit Conditions. Compliance with conditions established in a permit is required. Any departure from the conditions of approval or approved plans constitutes a violation of this title and shall be subject to enforcement actions and penalties. See Sections 13.05.100 and 13.05.110 for enforcement and penalties. (Ord. 27431 § 8; passed Nov. 15, 2005: Ord. 27245 § 4; passed Jun. 22, 2004: Ord. 27079 § 13; passed Apr. 29, 2003: Ord. 26585 § 2; passed Mar. 14, 2000: Ord. 26195 § 3; passed Jan. 27, 1998: Ord. 25852 § 1; passed Feb. 27, 1996)

13.05.050 Appeals of administrative decisions.

A. Purpose. The purpose of this section is to cross-reference the procedures for appealing administrative decisions on land use proposals.

B. Applicability. The provisions of this section shall apply to any order, requirement, permit, decision, or determination on land use proposals made by the Land Use Administrator. These may include, but are not limited to, variances, shoreline, short plat, wetland/stream development, site approval, conditional use, and special development permits, modifications to permits, interpretations of land use regulatory codes, and decisions for the imposition of fines. These provisions do not apply to decisions of the Land Use Administrator for revised shoreline permits (refer to Section 13.10.200).

C. Appeal to the Hearing Examiner. The Examiner shall have the authority to hear and decide appeals from any written order, requirement, permit, decision, or determination on land use proposals, except for appeals of decisions identified in Chapter 13.04, made by the Land Use Administrator. The Examiner shall consider the appeal in accordance with procedures set forth in Chapter 1.23 and the Hearing Examiner's rules of procedure.

D. Who May Appeal. Any decision or ruling of the Land Use Administrator may be appealed by any aggrieved person or entity having standing under the ordinance of the Land Use Administrator's written order. In this context, an "aggrieved person" shall be defined as a person who is suffering from an infringement or denial of legal rights or claims. An aggrieved person has "standing" when it is determined that the person or entity can demonstrate that such person or entity is within the zone of interest to be protected or regulated by the City law and will suffer direct and substantial impacts by the governmental action of which the complaint is made, different from that which would be experienced by the public in general.

E. Time Limit for Appealing. Appeals from decisions or rulings of the Land Use Administrator shall be made within 14 calendar days of the date of the written order or within seven calendar days of the date of issuance of the decision on a request for

reconsideration, not counting the day of issuance of the decision. If the last day for filing an appeal falls on a weekend day or a holiday, the last day for filing shall be the next working day.

F. Form of Appeal. An appeal of the Land Use Administrator shall take the form of a written statement of the alleged reason(s) the decision was in error, or specifying the grounds for appeal. The following information, accompanied by an appeal fee as specified in Section 2.09.500, of the Tacoma Municipal Code, shall be submitted:

1. An indication of facts that establish the appellant's right to appeal.

2. An identification of explicit exceptions and objections to the decision being appealed, or an identification of specific errors in fact or conclusion.

3. The requested relief from the decision being appealed.

4. Any other information reasonably necessary to make a decision on the appeal.

NOTE: Failure to set forth specific errors or grounds for appeal shall result in summary dismissal of the appeal.

G. Where to Appeal. The Office of the Hearing Examiner. (Ord. 27245 § 5; passed Jun. 22, 2004: Ord. 25852 § 1; passed Feb. 27, 1996)

13.05.060 Applications considered by the Hearing Examiner.

A. Reclassifications. A public hearing shall be held by the Hearing Examiner for parcel reclassification of property. The application shall be processed in accordance with provisions of Sections 13.05.010 and 13.05.020. Refer to Section 13.06.650 for criteria which apply to reclassification of property.

B. Subdivision of Property. A public hearing shall be conducted by the Hearing Examiner for preliminary plats with ten or more lots. The provisions of Chapter 13.04 for processing of the application shall apply.

C. Consolidated Review of Multiple Permit Applications and of Environmental Appeals Considered Concurrently. The Hearing Examiner shall consider concurrently all related land use permit applications for a specific site, and any accompanying environmental appeal. Applications for which the Land Use Administrator has authority shall be transferred to the jurisdiction of the Hearing Examiner to allow concurrent consideration of all land use actions, as prescribed in Section 13.05.040. (Ord. 26934 § 9; passed Mar. 5, 2002: Ord. 25852 § 1; passed Feb. 27, 1996)

13.05.070 Expiration of permits.

(Refer to Table G in Section 13.05.020).

A. Expiration Schedule. The following schedule indicates the expiration provisions for land use permits within the City of Tacoma.

	Type of Permit	Maximum Duration
1.	Conditional Use Permit	5 years
2.	Variance	5 years
3.	Site Approval	5 years
4.	Special Development Permit	5 years
5.	Waiver	5 years
6.	Wetland and Stream Development Permits and Wetland /Stream Assessments	5 years
7.	Wetland Delineation Verifications	5 years
8.	Preliminary Plats, Binding Site Plans, Short Plats, Boundary Line Adjustments	5 years to record with Pierce County Auditor
9.	Shoreline Permits	2 years to commence construction; 5 years maximum, possible one- year extension

Conditional use permits for wireless communication facilities, including towers, are limited to two years from the effective date of the Land Use Administrator's decision.

The Hearing Examiner or Land Use Administrator may, when issuing a decision, require a shorter expiration period than that indicated in subsection A of this section. However, in limiting the term of a permit, the Hearing Examiner or Land Use Administrator shall find that the nature of the specific development is such that the normal expiration period is unreasonable or would adversely affect the health, safety, or general welfare of people working or residing in the area of the proposal. The Land Use Administrator may adopt appropriate time limits as a part of action on shoreline permits, in accordance with WAC 173-27-090.

B. Commencement of Permit Term. The term for a permit shall commence on the date of the Hearing Examiner's or Land Use Administrator's decision; provided, that in the event the decision is appealed, the effective date shall be the date of decision on appeal. The term for a shoreline permit shall commence on the effective date of the permit as defined in WAC 173-27-090.

C. When Permit Expired. A permit under this chapter shall expire if, on the date the permit expires, the project sponsor has not submitted a complete application for building permit or the building permit has expired.

D. Extension of Shoreline Permits. In accordance with WAC 173-27-090, the Land Use Administrator may authorize a single extension before the end of the time limit for up to one year if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the Department of Ecology. The extension must be based on reasonable factors. (Ord. 27431 § 9; passed Nov. 15, 2005: Ord. 27245 § 6; passed Jun. 22, 2004: Ord. 26195 § 4; passed Jan. 27, 1998: Ord. 25852 § 1; passed Feb. 27, 1996)

13.05.080 Modification/revision to permits.

A. Purpose. The purpose of this section is to define types of modifications to permits and to identify procedures for those actions.

B. Minor Modifications. No additional review for minor modifications to previously approved land use permits is required, provided the modification proposed is consistent with the standards set forth below:

1. The proposal results in a change of use that is permitted outright in the current zoning classification.

2. The proposal does not add to the site or approved structures more than a 10 percent increase in square footage.

3. If a modification in a special condition of approval imposed upon the original permit is requested, the proposed change does not modify the intent of the original condition.

4. The proposal does not increase the overall impervious surface on the site by more than 25 percent.

5. Any additions or expansions approved through a series of minor modifications that cumulatively exceed the requirements of this section shall be reviewed as a major modification.

6. Wetland/Stream Development Permits, Wetland/Stream Assessments, and Wetland Delineation Verifications shall be subject to the provisions of TMC Sections 13.11.140.C.9 and 13.11.140.C.10.

C. Review Required - Major Modifications.

1. Any modification exceeding any of the standards for minor modifications shall follow the procedures currently required for the type of permit being modified.

2. A finding that addresses the applicability of any specific conditions of approval for the original permit shall be required.

3. Any modification that requires a permit other than the type granted for the original application shall be processed as a new permit.

D. Shoreline Permit Revision.

1. The applicant shall submit detailed plans and text describing the proposed changes in the permit, and how those changes are within the scope and intent of the original permit in accordance with WAC 173-27-100.

E. Conditional Use Permit Revision.

1. Conditional use permits issued for special needs housing facilities pursuant to Sections 13.06.535 and 13.06.640 shall, in addition to the above criteria, be subject to the following additional revision criteria:

a. Minor modifications shall include: changes in the number of residents up to 10 percent, minor modifications to the operational plan, and changes of the operating agency or provider to a parent organization or to an equivalent organization (e.g., from one supportive housing provider that is licensed by DSHS to another).

b. Major modifications shall include: changes in the mission of the organization, significant changes to the operational plan (changes that could potentially affect the impacts of the facility on the surrounding community), and substantial changes in staffing levels (e.g., increase in number of professional staff by more than 10 percent).

F. PRD District Modifications.

1. Proposed modifications to development approved in a PRD District rezone and/or site approval shall, in addition to the above criteria, be deemed minor only if all the following criteria are satisfied:

a. No new land use is proposed;

b. No increase in density, number of dwelling units, or lots is proposed; and

c. No reduction in the amount of approved open space is proposed, excluding reductions in private yards.

Examples of minor modifications could include, but are not limited to, lot line adjustments, minor relocations of buildings or landscaped areas, minor additions to existing buildings, the construction of accessory buildings, and minor changes in phasing and timing.

2. In addition to the standard criteria applicable to major modifications to a PRD District rezone and/or site approval, such major modifications to fully or partially developed PRD Districts shall only be approved if found to be consistent with the following additional decision criteria:

a. The proposed modification shall be designed to be compatible with the overall site design concept of the originally approved site plan. In determining compatibility, the decision maker may consider factors such as the design, configuration and layout of infrastructure and community amenities, the arrangement and orientation of lots, the layout of different uses, and the bulk and scale of buildings, if applicable, with a particular focus on transition areas between existing and proposed development.

b. The proposed modification shall be generally consistent with the findings and conclusions of the original PRD rezone decision.

c. If the existing PRD District is nonconforming to the current development standards for PRD District, the proposed modification does not increase the district's level of nonconformity to those standards. (Ord. 27631 Ex. A; passed Jul. 10, 2007: Ord. 27539 § 2; passed Oct. 31, 2006: Ord. 27431 § 10; passed Nov. 15, 2005: Ord. 27431 § 10, passed Nov. 15, 2005: Ord. 26195 § 5, passed Jan. 27, 1998: Ord. 25852 § 1; passed Feb. 27, 1996)

13.05.090 Land Use Administrator approval authority.

No building or development permit shall be issued without prior approval of the Land Use Administrator or his designee with regard to compliance with the Land Use Code or the Environmental Code. (Ord. 27017 § 6, passed Dec. 3, 2002)

13.05.100 Enforcement.

A. Enforcement.

1. The Land Use Administrator, and/or authorized representative, shall have the authority to enforce the land use regulations of the City of Tacoma.

2. The Land Use Administrator or duly authorized representative of the Land Use Administrator may, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued inspection warrant, enter at reasonable times any building or premises subject to the consent or warrant to perform the duties imposed by the Land Use Regulatory Code.

3. The Land Use Regulatory Code shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

4. It is the intent of this Land Use Regulatory Code to place the obligation of complying with its requirements upon the owner, occupier, or other person responsible for the condition of the land and buildings within the scope of this code.

5. No provision of, or term used in, this code is intended to impose upon the City, or any of its officers or employee, any duty which would subject them to damages in a civil action.

B. Investigation and Notice of Violation.

1. An investigation shall be made of any structure or use which the Department reasonably believes does not comply with the standards and requirements of this Land Use Regulatory Code.

2. If, after an investigation, it is determined that the standards or requirements of this title have been violated, a notice of violation shall be served, by first class mail, upon the owner, tenant or other person responsible for the condition.

3. Time to Comply. The compliance period shall not be less than two weeks, except where substantial life safety issues exist. (Ord. 27017 § 7; passed Dec. 3, 2002: Ord. 25852 § 1; passed Feb. 27, 1996)

13.05.105 Sign enforcement.

A. Compliance with Other Applicable Codes. All signs erected or altered must comply with all applicable federal, state, and local regulations relating to signs, including Tacoma Municipal Code ("TMC") 2.05. If any provision of this code is found to be in conflict with any provision of any zoning, building, fire, safety, or health ordinance or code of the City, the provision that establishes the higher standard shall prevail.

B. Sign Maintenance. All signs must be kept in good repair and in a safe manner at all times. The property owner must repair damaged or deteriorated signs within 30 days of notification by the City.

C. Civil Penalty.

1. Order to Correct Violation.

a. Issuance. Whenever a code enforcement officer determines that a violation of the sign regulations has occurred or is occurring, he/she may issue an order to correct the violation to the property owner or to any person causing, allowing, or participating in the violation.

b. Content. The code enforcement officer shall include the following in the order to correct the violation:

i. the name and address of the property owner or other person to whom the order to correct the violation is directed; and

ii. the street address or description sufficient for identification of the sign for which the violation has occurred or is occurring; and

iii. a description of the violation and a reference to that provision of the City's Sign Code which has been violated; and

iv. a statement of the action required to be taken to correct the violation as determined by the code enforcement officer, and a date or time by which correction is to be completed; and

v. a statement that a monetary penalty in an amount per day for each violation as specified in Section C.3.a shall be assessed against the person, firm, or corporation for whom the order to correct the violation is directed for each and every day on which the violation continues, following the date set for correction.

c. Service of Order. The code enforcement officer shall serve the Order to Correct Violation upon the person, firm, or corporation to whom it is directed, either personally or by mailing a copy of the Order to Correct Violation by first-class mail to such person, firm, or corporation at the last known address, or by posting a copy of the Order to Correct Violation conspicuously on the affected property or sign. Proof of service shall be made at the time of service by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service, and the manner by which the service was made.

d. Extension. Upon written request received prior to the correction date or time, the code enforcement officer may extend the date of correction for good cause.

2. Issuance of Civil Penalty.

a. General. Following the date or time by which the correction must be completed as required by an Order to Correct Violation, the code enforcement officer shall determine whether such correction has been completed.

b. Issuance. If the required correction has not been completed by the correction date or time specified in the Order to Correct Violation, the code enforcement officer may issue a civil penalty to each person, firm, or corporation to whom an Order to Correct Violation was directed; provided, however, that the code enforcement officer may issue a civil penalty without having issued an Order to Correct Violation when one of the following exists:

i. an emergency exists;

ii. the violation is a second or third violation; or

iii. the violation occurs on City right-of-way or on City property.

The civil penalty issued pursuant hereto represents a determination that a violation has been committed. This determination is final unless contested as provided herein.

c. Content. The code enforcement officer shall include all of the following in the civil violation:

i. all information required to be included in the Order to Correct Violation; and

ii. a statement that the person, firm, or corporation to whom the civil penalty was directed must complete correction of the violation and either pay to the City Clerk the monetary penalty imposed or appeal the civil violation.

d. Service of Civil Penalty. The code enforcement officer shall serve the civil penalty either personally or by mailing a copy of the civil penalty by first-class mail to such person, firm, or corporation at the last known address.

3. Monetary Penalty.

a. Amount. The amount of the monetary penalty per day, or portion thereof, for each civil penalty is as follows:

i. first violation - $125.00;

ii. second violation - $250.00;

iii. third and subsequent violations - $500.00.

b. Violations Defined. The first violation is defined as the first time the code enforcement officer notifies a person, firm, or corporation that a violation exists. Second and third violations are defined as subsequent substantially similar violations perpetrated by the same person, firm, or corporation.

c. Continued Duty to Correct. Payment of the monetary penalty pursuant to this chapter does not relieve a person of the duty to correct the violation. If the violation is not corrected by the date indicated on the civil penalty, additional monetary penalties may be imposed.

4. Review by the Land Use Administrator.

a. General. A person, firm, or corporation to whom a civil penalty is directed may request an administrative review of the civil penalty, including the determination that a violation exists.

b. How to Request Administrative Review. A person, firm, or corporation may request an administrative review of the civil penalty by filing a written request with the Building and Land Use Services Division of the Department of Public Works within 14 days of the issuance of the civil penalty. The request shall state in writing the reasons the Land Use Administrator should review the issuance of the civil penalty. Failure to state the basis for the review in writing shall be cause for dismissal of the review.

Upon receipt of the request for administrative review, the Land Use Administrator shall review the information provided.

After considering all of the information provided, including information from the code enforcement officer and the City Attorney, or his/her designee, the Land Use Administrator shall determine whether a violation has occurred, and shall affirm, vacate, suspend, or modify the amount of any monetary penalty imposed by the civil penalty. The Land Use Administrator's decision shall be mailed by first-class mail within seven days of the receipt of the request for administrative review.

The Land Use Administrator shall not modify or suspend the amount of any monetary penalty unless he/she finds that the intent of the request for administrative review was not solely to delay compliance, that the request is not frivolous, the applicant exercised reasonable and timely effort to comply with the Sign Code, and any other relevant factors.

5. Appeal to the Hearing Examiner. A person, firm, or corporation may appeal the issuance of a civil penalty, including the determination that a violation exists, by filing a written notice of appeal with the Office of the City Clerk within 14 days of the issuance of the decision or within seven days of the issuance of an administrative review decision of the Land Use Administrator. The appeal shall set forth the basis of appeal in writing. Failure to state the basis for appeal in writing shall be cause for dismissal of the appeal. Upon receipt of the appeal, the Hearing Examiner shall schedule a hearing to consider the appeal. The appellant shall be notified of the date, time, and place of the public hearing by first-class mail to the appellant's address as indicated on the appeal request.

6. Monetary Penalty. The monetary penalty for a continuing violation does not accrue pending the appeal hearing; however, the Hearing Examiner may impose a daily monetary penalty not to exceed $500.00 per day from the date of service of the civil penalty if he/she finds that the appeal is frivolous or intended to delay compliance.

7. Action of the Hearing Examiner.

a. The Hearing Examiner shall conduct a public hearing to consider the appeal. The hearing shall be conducted in accordance with the Rules and Procedures of the Hearing Examiner for contested cases. The Land Use Administrator or his/her designee, or the City Attorney or his/her designee, shall present the City's case at the hearing. The appellant shall then respond, setting forth the grounds for appeal and presenting any witnesses or exhibits. The code enforcement officer or City Attorney, or his/her designee, and the appellant shall have the opportunity for rebuttal.

b. After considering all testimony and exhibits presented at the public hearing, the Hearing Examiner shall determine whether the City has proven, by a preponderance of the evidence, that a violation has occurred, and shall affirm, vacate, suspend, or modify the amount of any monetary penalty imposed by the civil penalty, with or without written conditions. The Hearing Examiner's Decision on Appeal, including written findings of fact, shall be mailed by first-class mail to the appellant within 14 days of the hearing.

8. Appeals of the Hearing Examiner's Decision on Appeal. Appeals of the Hearing Examiner's Decision on Appeal shall be made in accordance with TMC 1.23.

9. Modification or Suspension of Monetary Penalty. The Hearing Examiner shall not modify or suspend the amount of any monetary penalty unless he/she finds that the intent of the appeal was not solely to delay compliance, that the appeal is not frivolous, that the applicant exercised reasonable and timely effort to comply with the Sign Code, and any other relevant factors.

10. Collection of Monetary Penalty.

a. The monetary penalty constitutes an obligation of the person, firm, or corporation to whom the civil penalty is directed. Any monetary penalty assessed must be paid to the Public Works Department within 30 calendar days from the date of service of the civil penalty or, if an appeal is filed, within 30 days of the final Decision on Appeal.

b. Civil penalties that are not paid within 30 days shall be referred to a collection agency, officially approved by the City of Tacoma, for collection.

D. Additional Enforcement Procedures. The provisions of this chapter may be used in addition to other enforcement provisions or remedies authorized by this code or other applicable law.

E. Inspection. The Building Official or his/her designee, pursuant to normal enforcement of the Tacoma Municipal Code, is empowered to inspect any building, structure, or premises in the City, upon which, or where a sign is located, for the purpose of inspection of the sign, its structural and electrical connections, and to insure compliance with the provisions of the Tacoma Municipal Code. Such inspections shall be carried out during business hours, unless an emergency exists. (Ord. 27245 § 7; passed Jun. 22, 2004: Ord. 27017 § 8; passed Dec. 3, 2002: Ord. 26435 § 2; passed Jun. 8, 1999)

13.05.110 Violations – Penalties.

A. Any person, firm, corporation, or other legal entity found to have violated any provision of the Land Use Regulatory Code shall be guilty of a misdemeanor and shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding 90 days, or by both such fine and imprisonment. Upon a first conviction, there shall be imposed a fine of not less than $100; upon a second conviction, there shall be imposed a fine of not less than $500; and, upon a third or subsequent conviction, there shall be imposed a fine of not less than $1,000, or imprisonment for not more than 90 days, or by both such fine and imprisonment. Upon a conviction, and pursuant to a prosecution motion, the court shall also order immediate action by the person, firm, corporation, or other legal entity to correct the condition constituting the violation and to maintain the corrected condition in compliance with this title. The mandated minimum fines shall include statutory costs and assessments.

B. Revocation of Permits. Any person, firm, corporation, or other legal entity found to have violated the terms and conditions of a discretionary land use permit within the purview of the Land Use Administrator, pursuant to Section 13.05.030, shall be subject to revocation of that permit upon failure to correct the violation. Permits found to have been authorized based on a misrepresentation of the facts that the permit authorization was based upon shall also be subject to revocation. When required, corrective action shall be completed within 90 days of the issuance of the order of the Land Use Administrator to correct such violations. Should a discretionary land use permit be revoked, the use rights attached to the site and/or structure in question shall revert to uses permitted outright in the underlying zoning district, subject to all development standards contained therein. Revocation of a permit does not preclude the assessment of penalties in subsection A above. Appeals of the revocation order shall be in accordance with Section 13.05.050. (Ord. 27539 § 3; passed Oct. 31, 2006: Ord. 25852 § 1; passed Feb. 27, 1996)

Chapter 13.06

ZONING[1]

Sections:

13.06.100	Residential Districts.
13.06.105	R-1 One-Family Dwelling District.
13.06.110	R-2 One-Family Dwelling District.
13.06.115	R-2SRD Residential Special Review District.
13.06.118	MR-SRD Mixed Residential Special Review District.
13.06.120	R-3 Two-Family Dwelling District.
13.06.125	R-4 Multiple-Family Dwelling District.
13.06.130	R-4-L Low-Density Multiple-Family Dwelling District.
13.06.135	R-5 Multiple-Family Dwelling District.
13.06.140	PRD Planned Residential Development District.
13.06.145	Supplemental provisions for single-family residential development.
13.06.150	Accessory dwelling units.
13.06.155	Day care centers.
13.06.200	Commercial Districts.
13.06.200.A	District purposes.
13.06.200.B	Districts established.
13.06.200.B.1	T Transitional District.
13.06.200.B.2	C-1 General Neighborhood Commercial District.
13.06.200.B.3	C-2 General Community Commercial District.
13.06.200.B.4	HM Hospital Medical District.
13.06.200.B.5	PDB Planned Development Business District.
13.06.200.C	Land use requirements.
13.06.200.D	Building envelope standards.
13.06.200.E	Maximum setback standards on designated streets.
13.06.200.F	Common requirements.
13.06.300	Mixed-Use Center Districts.
13.06.300.A	District purposes.
13.06.300.B	Districts established.
13.06.300.B.1	NCX Neighborhood Commercial Mixed-Use District.
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13.06.300.B.4	RCX Residential Commercial Mixed-Use District.
13.06.300.B.5	CIX Commercial Industrial Mixed Use District.

[1] Rezone ordinances are on file in the office of the City Clerk.

13.06.300.C Applicability and pedestrian streets designated.
13.06.300.D Land use requirements.
13.06.300.E Building envelope standards.
13.06.300.F Maximum setback standards.
13.06.300.G Common requirements.
13.06.400 Industrial Districts.
13.06.400.A Industrial district purposes.
13.06.400.B Districts established.
13.06.400.C Land use requirements.
13.06.400.D Building envelope standards.
13.06.410 *Repealed.*
13.06.420 *Repealed*
13.06.430 *Repealed*
13.06.500 Requirements in all preceding districts.
13.06.501 Building design standards.
13.06.502 Landscaping and/or buffering standards.
13.06.503 Residential compatiblity standards.
13.06.510 Off-street parking.
13.06.511 Transit support facilities.
13.06.512 Pedestrian and bicycle support standards.
13.06.520 Signs.
13.06.521 General sign regulations.
13.06.522 District sign regulations.
13.06.525 Adult uses.
13.06.530 Juvenile community facilities.
13.06.535 Special needs housing.
13.06.540 Surface mining.
13.06.545 Wireless communication facilities.
13.06.550 Work release centers.
13.06.555 View-Sensitive Overlay District.
13.06.600 Zoning code administration - General purposes.
13.06.602 General restrictions
13.06.603 Mineral resource lands.
13.06.605 Interpretation and application.
13.06.610 Enforcement of land use regulatory code.
13.06.620 Severability.
13.06.625 Violations – Penalties.
13.06.630 Nonconforming parcels/uses/structures.
13.06.635 Temporary use.
13.06.640 Conditional use permit.
13.06.645 Variances.
13.06.650 Application for rezone of property.
13.06.655 Amendments to the zoning regulations.
13.06.700 Definitions in all preceding districts.

13.06.100 Residential Districts.

The 100 series will contain regulations for all residential classifications, including the following:

The 100 series will contain regulations for all residential classifications, including the following:

R-1 One-Family Dwelling District

R-2 One-Family Dwelling District

R-2SRD Residential Special Review District

HMR-SRD Historic Mixed Residential Special Review District

R-3 Two-Family Dwelling District

R-4 Multiple-Family Dwelling District

R-4-L Low-Density Multiple-Family Dwelling District

R-5 Multiple-Family Dwelling District

PRD Planned Residential Development District

(Ord. 27432 § 1; passed Nov. 15, 2005: Ord. 27296 § 1; passed Nov. 16, 2004: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.105 R-1 One-Family Dwelling District.

The following are the regulations of the R-1 One-Family Dwelling District:

A. Use regulations. A building, structure, or land, and a building or structure hereafter built, altered, or enlarged, shall be used for only the following permitted uses:

1. One-family dwellings. No lot shall contain more than one dwelling unless each dwelling complies with the use regulations, height regulations, area regulations, and parking regulations of this district.

2. Golf courses, except midget golf courses, driving ranges, or similar commercial enterprises.

3. Accessory uses and buildings customarily associated with the above uses.

a. No more than two private garages or carport structures shall be permitted. The two allowable garage or carport structures shall contain parking for a total of no more than four vehicles, including recreational vehicles and boats on trailers.

b. Accessory buildings shall not occupy more than 50 percent of the required rear yard.

c. A stable shall be located not less than 25 feet from any street right-of-way line nor less than seven and one-half feet from any side lot line. The capacity of a private stable shall not exceed one horse for each 20,000 square feet of lot area.

d. An accessory building shall contain no habitable space. Plumbing shall not be permitted in an accessory building without a finding by the Building

Official that such plumbing is not to be utilized in conjunction with habitable space within an accessory building or will not permit the accessory building to be utilized as habitable space.

e. Detached accessory buildings shall be located on the same lot on which the main building is situated, except as follows: (1) the lot upon which an accessory building is proposed to be built is separated by no more than an alley right-of-way; or (2) the accessory building is located on an adjacent lot or parcel.

f. Detached accessory buildings shall be located behind the front wall line of the main building on a lot, and shall not be located in the required side yard area of the main building. If a lot has two frontages and cannot meet these required front and side yard setbacks, a locational variance shall be required.

g. A detached accessory building may remain on a lot (or as allowed under A.3.e above): (1) in the event the main structure on a lot is damaged or for other reason, is required to be removed; or (2) if the property is subdivided in such a manner that the detached accessory building would be located on a separate building site. In either case, a building permit for construction of a main structure shall be required to be obtained within one year of removal or division of property and substantial construction completed in accordance with the plans for which the permit was authorized.

h. Commercial shipping and/or storage containers in excess of 120 square feet in area shall not be a permitted type of accessory building in any residential zoning district.

4. Special needs housing, in accordance with the provisions of Section 13.06.535.

5. Family day care homes licensed by the state of Washington.

6. Home occupations, pursuant to the following criteria:

a. The occupation must be clearly incidental and subordinate to the use of the dwelling as a residence.

b. No outdoor display or storage of materials, goods, supplies, or equipment used in the home occupation shall be permitted on the premises.

c. There shall be no change in the outside appearance of the building or premises, or other visible evidence that the residence is being operated as a home occupation.

d. A home occupation use shall not generate nuisances such as traffic, on-street parking, noise, vibration, glare, odors, fumes, electrical interference, or hazards to any greater extent than what is usually experienced in the residential neighborhood.

e. Limited on-premises sales of products or stock-in-trade may be permitted in conjunction with a home occupation; provided, that the applicant can clearly demonstrate that such on-premises sales will not be inconsistent with the criteria set forth above.

f. No person other than members of the family residing on the premises shall be engaged in the home occupation.

g. The Land Use Administrator may attach additional conditions to a home occupation license to ensure that the criteria set forth above are met.

h. One non-illuminated nameplate not exceeding one and one-half square feet in area placed flat against the building shall be allowed for each dwelling containing a home occupation.

7. Foster home.

B. Height regulations.

1. A main building, structure, or portion thereof hereafter erected shall not exceed a height of 35 feet, except as provided in Sections 13.06.645 and 13.06.545.

2. An accessory building or structure shall not exceed a maximum height of 15 feet as measured to the highest point of the roof, except as provided in Section 13.06.645. In no case shall an accessory building with a flat roof exceed 15 feet, nor shall more than one accessory building on a lot be allowed to exceed 15 feet in height.

C. Area regulations. A building or structure hereafter built, enlarged, or moved shall provide the following yard and lot areas:

1. Front yard. There shall be a front yard having a depth of not less than 25 feet.

2. Side yard. On interior lots, there shall be a side yard on each side of the main building, and each side yard shall have a width of not less than seven and one-half feet. On corner lots, the side yard regulations shall be the same as for interior lots, except where the rear lot line of a corner lot abuts the side lot line of the lot in the rear. In this case, there shall be a side yard on the street side of such corner lot of not less than one-half of the required front yard of the lots in the rear, but such side yard need not exceed 12-1/2 feet in width. In no case, however, shall the side yard on the street side of a corner lot be less than seven and one-half feet. No accessory building on such corner lot shall project beyond the required front yard line of the lot in the rear, nor be located less than seven and one-half feet from the

side lot line of the lot in the rear. The interior side yard shall be the same as required for interior lots.

3. Rear yard. There shall be a rear yard having a depth of not less than 25 feet.

4. Lot area. Every lot shall have a minimum average width of 50 feet, a minimum lot frontage of 25 feet, and an area of not less than 7,500 square feet. A lot, which was a single unified parcel of land as indicated by the records of the Pierce County Auditor as of May 18, 1953, having an average width of less than 50 feet, a frontage of not less than 25 feet, or an area of less than 7,500 square feet of record at the time of the passage of this chapter may be occupied by a one-family dwelling only; provided, all yard requirements are complied with.

5. Supplemental provisions for single-family residential development are set forth in Section 13.06.145.

E. Parking regulations. Parking space for dwellings, and buildings other than dwellings, as required in Section 13.06.510 and shall be located in the rear portion of the lot, if suitable access is available. (Ord. 27562 §§ 3,5,7,9; passed Dec. 12, 2006: Ord. 27539 § 4; passed Oct. 31, 2006: Ord. 26966 § 1; passed Jul. 16, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.110 R-2 One-Family Dwelling District.

The following are the regulations of the R-2 One-Family Dwelling District:

A. Use Regulations. A building, structure, or land, and a building or structure hereafter built, altered, or enlarged, shall be used for only the following uses:

1. Any use permitted in the R-1 One-Family Dwelling District.

2. Accessory uses and buildings as permitted in the R-1 One-Family Dwelling District.

3. Provision of lodging for not more than two persons for compensation; provided, such use shall not be in connection with a foster home for children or a foster home for adults which may otherwise be authorized.

4. Christmas tree and/or Halloween pumpkin sales lot meeting the following criteria:

a. Sales shall occur for no more than one month each year, with setup for Christmas tree sales being allowed at Thanksgiving and removal and/or cleanup occurring immediately following Christmas, prior to the new year.

b. No permanent installations of structures and utility services shall be allowed specifically for this purpose.

c. Surrounding properties and residences shall be safeguarded against unsafe or unsightly conditions or prolonged nuisances occasioned either by noise, odor, smoke, debris, or other obnoxious conditions.

5. Special needs housing, in accordance with the provisions of Section 13.06.535.

B. Height regulations. A building, structure, or portion thereof, hereafter erected, shall not exceed a height of 35 feet, except as provided in Section 13.06.545.

C. Area regulations. A building or structure hereafter built, enlarged, or moved shall provide the following yard and lot areas:

1. Front yard. There shall be a front yard having a depth of not less than 20 feet.

2. Side yard. On interior lots, there shall be a side yard on each side of the main building, and each side yard shall have a width of not less than seven and one-half feet. On corner lots, the side yard regulations shall be the same as for interior lots, except where the rear lot line of a corner lot abuts the side lot line of a lot in the rear. In this case, there shall be a side yard on the street side of such corner lot of not less than one-half of the required front yard of the lots in the rear, but such side yard need not exceed ten feet in width. In no case, however, shall the side yard on the street side of a corner lot be less than seven and one-half feet. No accessory building on such corner lot shall project beyond the required front yard line of the lot in the rear, nor be located less than seven and one-half feet from the side lot line of the lot in the rear. The interior side yard shall be the same as required of interior lots.

3. Rear yard. There shall be a rear yard having a depth of not less than 25 feet.

4. Lot area. Every lot shall have a minimum average width of 50 feet, a minimum lot frontage of 25 feet, and an area of not less than 5,000 square feet. A lot, which was a single unified parcel of land as indicated by the record of the Pierce County Auditor as of May 18, 1953, having an average width of less than 50 feet, a frontage of not less than 25 feet, or an area of less than 5,000 square feet of record at the time of the passage of this chapter may be occupied by a one-family dwelling; provided, all yard requirements are complied with.

5. Supplemental provisions for single-family residential development are set forth in Section 13.06.145.

D. Parking regulations. Parking spaces for dwellings, and buildings other than dwellings, as required in Section 13.06.510, and shall be located in the rear portion of the lot, if suitable access is

available. (Ord. 27613 § 3; passed Aug. 14, 2007: Ord. 27594 § 3; passed Jul. 31, 2007: Ord. 27574 § 3; passed Mar. 20, 2007: Ord. 27544 § 3; passed Feb. 6, 2007: Ord. 27562 §§ 2,4,6; passed Dec. 12, 2006: Ord. 27380 § 3; passed Dec. 12, 2006: Ord. 27539 § 5; passed Oct. 31, 2006: Ord. 27471 § 3; passed Jul. 25, 2006: Ord. 27470 § 3; passed Apr. 25, 2006: Ord. 27420 § 3; passed Jan. 17, 2006: Ord. 27432 § 8; passed Nov. 15, 2005: Ord. 27407 § 3; passed Nov. 1, 2005: Ord. 27413 § 3; passed Oct. 4, 2005: Ord. 27362 § 3; passed Jun. 7, 2005: Ord. 27325 § 3; passed May 24, 2005: Ord. 26966 § 2; passed Jul. 16, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.115 R-2SRD Residential Special Review District.

The following are the regulations of the R-2SRD Residential Special Review District:

A. Intent. The R-2SRD District is an area-wide zoning classification designed for existing neighborhood areas which are characterized by predominantly detached, single-family, residential uses, but which also contain a limited number of two- and three-family dwellings, as well as a significant number of lots on which development or retention of one-family dwellings will be economically difficult, and where it is desirable to maintain and encourage such residential mixture. The R-2SRD District is most appropriately established in areas which, at one time, were zoned to permit residential development at densities greater than one-family and which did not substantially develop at the higher density, but in which some two- and three-family development has occurred, and where a limited potential exists for additional two- and three-family residential development. One-family detached dwellings will continue to be the predominant land use within R-2SRD Districts; however, two- and three-family dwellings in existence at the time of reclassification to R-2SRD will be permitted uses and additional two- and three-family development will be permitted by special development permit where the location, amount, and quality of such development will be compatible with the overall one-family environment of the area and will enhance its overall quality.

B. Use regulations.

1. Permitted uses. The following uses are allowed within the R-2SRD District as a matter of right; provided, the uses comply with all applicable provisions of this chapter and all other applicable statutes:

a. One-family dwellings. No lot shall contain more than a single one-family dwelling unless each dwelling complies with the height, area, and parking regulations of this district.

b. Accessory uses and buildings as permitted in the R-1 One-Family Dwelling District (Section 13.06.105).

c. Lodging for not more than two persons for compensation; provided, such use shall not be in connection with a foster home for children or adults.

d. Family day care homes licensed by the state of Washington.

e. Two- and three-family dwellings lawfully in existence at the time of reclassification to R-2SRD.

f. Special needs housing, in accordance with the provisions of Section 13.06.535.

g. Foster home.

2. Uses and developments requiring special development permit. Two- and three-family dwellings shall be permitted only upon issuance of a special development permit by the Land Use Administrator, in accordance with the procedures set forth in Chapter 13.05 and subject to the criteria and standards set forth below.

3. Criteria. The Land Use Administrator, in acting upon applications for special development permits, shall be guided by the following criteria:

a. The goals and policies of the City's comprehensive plan, including any applicable adopted neighborhood or community plan.

b. The intent and regulations of the R-2SRD District.

c. Special circumstances which make difficult development or continuation of a one-family dwelling on a site may include, but shall not be limited to, the following:

(1) Location on an arterial street;

(2) Location in close proximity to a more intensive zoning district;

(3) Unusually large lot for a one-family dwelling which, because of shape, topography, lack of suitable access or other factor affecting the lot, could not be subdivided and developed in conformance with the regulations of the district; and

(4) The existence on the site of a one-family dwelling with an above-grade floor area of more than 2,400 square feet, exclusive of garage area, in the case of an application for conversion to a two-family dwelling, or 3,200 square feet in the case of a conversion to a three-family dwelling.

d. The proposed use and development shall be compatible with the quality and character of surrounding residential development and shall not be materially detrimental to the overall one-family dwelling environment and character of the general

area, and in the case of conversion of an existing one-family dwelling to a two- or three-family dwelling, the existing architectural features shall be maintained to the extent practicable.

C. Application procedures. Applications for a special development permit shall be processed in accordance with provisions of Chapter 13.05. In addition to those requirements, the applicant shall submit, in conjunction with the application, site plan drawings and drawings of building elevations, information on building materials, a landscape plan, and complete information indicating the property is inappropriate for one-family development. The purpose of these plans and information shall be to show consistency with the required criteria.

D. Height regulations. A building, structure, or portion thereof hereafter erected shall not exceed a height of 35 feet, except as provided in Section 13.06.545.

E. Area regulations. A building or structure hereafter built, enlarged, or moved shall provide the following yard areas:

1. Front yard. There shall be a front yard having a depth of not less than 20 feet.

2. Side yard. Same as required in the R-2 One-Family Dwelling District (Section 13.06.110).

3. Rear Yard. Same as required in the R-2 One-Family Dwelling District (Section 13.06.110).

4. Lot area. Every lot shall have a minimum average width of 50 feet, a minimum lot frontage of 25 feet, and an area of not less than 5,000 square feet. The lot area for a one-family dwelling shall not be less than 5,000 square feet, and for a two- or three-family dwelling shall not be less than 3,000 square feet for each dwelling unit. A lot which was a single unified parcel of land as indicated by the records of the Pierce County Auditor as of May 18, 1953, having an average width of less than 50 feet, a frontage of not less than 25 feet, or an area of less than 5,000 square feet of record at the time of the passage of this section may be occupied by a one-family dwelling; provided, all yard requirements are complied with.

5. Additional area regulations pertaining to infill development in One-Family Dwelling Districts are set forth in Section 13.06.145.

F. Parking regulations. Parking spaces for dwellings, and buildings other than dwellings, as required in Section 13.06.510, and shall be located in the rear portion of the lot, if suitable access is available. (Ord. 27539 § 6; passed Oct. 31, 2006: Ord. 27432 § 4; passed Nov. 15, 2005: Ord. 27079 § 14; passed Apr. 29, 2003: Ord. 26966 § 3; passed Jul. 16, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.118 HMR-SRD Historic Mixed Residential Special Review District.

The following are the regulations of the HMR-SRD Historic Mixed Residential Special Review District.

A. Intent. The HMR-SRD Historic Mixed Residential Special Review District is an area-wide zoning classification designed to apply to existing neighborhood areas or portions of existing neighborhood areas which have been designated as an historic special review district because the buildings within reflect significant aspects of Tacoma's early history, architecture, and culture as set forth and according to the procedures in Chapter 13.07, and which are characterized by a mix of residential buildings, including single family residential dwellings and multiple family dwellings, and where it is desirable to protect, preserve, and maintain the historic buildings. One-family dwellings will continue to be the predominant land use within the HMR district. Conversion of existing multiple-family uses to single-family uses will be encouraged, but not required.

B. Use Regulations.

1. Permitted uses. The following uses are allowed within the HMR-SRD District as a matter of right; provided, the uses comply with all applicable provisions of this chapter, and all other applicable statutes.

a. Any use permitted in the R-2SRD Residential Special Review District.

b. Multiple family dwellings lawfully in existence on December 31, 2005, the time of reclassification to this District. Said multiple family dwellings may continue and may be changed, repaired, and replaced, or otherwise modified, provided, however, that the use may not be expanded beyond property boundaries owned, leased, or operated as a multiple family dwelling on December 31, 2005.

c. Accessory uses, and buildings as permitted in the R-1, One-Family Dwelling District.

d. Special needs housing, in accordance with the provisions of Section 13.06.535.

2. Uses and development requiring special development permit. Two-family and three-family dwellings shall be permitted only upon issuance of a Special Development Permit by the Land Use Administrator, in accordance with the procedures set forth in Chapter 13.05, and subject to the criteria and standards, and procedures set forth in Chapter 13.06.115.

C. Height regulations.

A building, structure, or portion thereof hereafter erected shall not exceed a height of 35 feet, except as provided in Section 13.06.545.

D. Area regulations.

A building or structure hereafter built, enlarged, or moved shall provide the following yard areas:

1. Front yard. There shall be a front yard having a depth of not less than 20 feet.

2. Side yard. Same as required in the R-2 One-Family Dwelling District.

3. Rear yard. Same as required in the R-2 One-Family Dwelling District.

4. Lot Area. Every lot shall have a minimum average width of 50 feet, a minimum lot frontage of 25 feet, and an area of not less than 5,000 square feet. The lot area for a one-family dwelling shall be not less than 5,000 square feet, and for a two-family, or three-family dwelling, shall not be less than 3,000 square feet for each dwelling unit. A lot which was a single unified parcel of land as indicated by the records of the Pierce County Auditor as of May 18, 1953, having an average width of less than 50 feet, a frontage of not less than 25 feet, or an area of less than 5,000 square feet of record at the time of passage of this section may be occupied by a one-family dwelling; provided all yard requirements are complied with.

5. Additional regulations pertaining to infill development in One-Family Dwelling Districts are set forth in Section 13.06.145.

E. Parking regulations.

Off-street parking spaces and parking spaces for dwellings, and buildings other than dwellings, shall be provided in accordance with and as required in Section 13.06.510, and shall be located in the rear portion of the lot if suitable access is available.

F. Historic Special Review District Consistency.

If any conflict is found between the above regulations of this section and the guidelines and criteria of the Historic Special Review Districts found in Chapter 13.07, the guidelines and criteria shall prevail. (Ord. 27539 § 7; passed Oct. 31, 2006: Ord. 27432 §§ 2-4; passed Nov. 15, 2005: Ord. 27296 § 6; passed Nov. 16, 2004)

13.06.120 R-3 Two-Family Dwelling District.

The following are the regulations of the R-3 Two-Family Dwelling District:

A. Use regulations. A building, structure or land, and a building or structure hereafter built, altered, or enlarged, shall be used for only the following permitted uses:

1. Any use permitted in the R-2 One-Family Dwelling District.

2. Two-family dwellings. No lot shall contain more than one dwelling unless each dwelling complies with the use regulations, height regulations, area regulations, and parking regulations of this district.

3. Accessory uses and buildings as permitted in the R-1 One-Family Dwelling District.

4. Lodging houses for not more than four college students only; provided, such use shall not be in connection with a foster home for children, a foster home for adults, or lodging which may otherwise be authorized.

5. Three-family dwellings; provided, existing one- or two-family dwellings shall not be enlarged, altered, extended, or occupied as a three-family dwelling, unless the entire building is made to comply with all new buildings; and, further provided, such existing structures shall not be enlarged or extended, unless such enlargement, extension, or alteration is made to conform to the height, area, and parking regulations of this district. No lot shall contain more than one dwelling, unless each dwelling complies with the use regulations, height regulations, area regulations, and parking regulations of this district.

6. Special needs housing, in accordance with the provisions of Section 13.06.535.

B. Height regulations. A building, structure, or portion thereof, hereafter erected, shall not exceed a height of 35 feet, except as provided in Section 13.06.545.

C. Area regulations. A building or structure hereafter built, enlarged, or moved shall provide the following yard and lot areas:

1. Front yard. There shall be a front yard having a depth of not less than 20 feet.

2. Side yard. Same as required in the R-2 One-Family Dwelling District.

3. Rear yard. Same as required in the R-2 One-Family Dwelling District.

4. Lot area. Every lot shall have a minimum average width of 50 feet, a minimum lot frontage of 25 feet, and an area of not less than 5,000 square feet. The lot area for a one-family dwelling shall not be less than 5,000 square feet and for a two-family or three-family dwelling shall not be less than 3,000 square feet for each dwelling unit. A lot, which was a single unified parcel of land as indicated by the records of the Pierce County Auditor as of

May 18, 1953, having an average width of less than 50 feet, a frontage of not less than 25 feet, or an area of less than 5,000 square feet of record at the time of the passage of this chapter may be occupied by a one-family dwelling; provided, all yard requirements are complied with.

5. Supplemental provisions for single-family residential development are set forth in Section 13.06.145.

D. Parking Regulations. Parking spaces for dwellings, and buildings other than dwellings, as required in Section 13.06.510, and shall be located in the rear portion of the lot, if suitable access is available. In the case of two-family and three-family dwellings in the R-3 District, off-street parking may not occupy more than 75 percent of the front yard, and where parking for such uses is located in the front yard, at least 25 percent of the front yard shall be landscaped in a manner to effectively screen the parking area. (Ord. 27594 § 3; passed Jul. 31, 2007: Ord. 27553 § 3; passed Jun. 19, 2007: Ord. 27575 § 3; passed Feb. 20, 2007: Ord. 27518 § 3; passed Nov. 14, 2006: Ord. 27539 § 8; passed Oct. 31, 2006: Ord. 27469 § 3; passed Jul. 18, 2006: Ord. 27393 § 3; passed Aug. 9, 2005: Ord. 26966 § 4; passed Jul. 16, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.125 R-4 Multiple-Family Dwelling District.

The following are the regulations of the R-4 Multiple-Family Dwelling District:

A. Use regulations. A building, structure, or land, and a building or structure hereafter built, altered, or enlarged, shall be used for only the following permitted uses:

1. Permitted uses.

a. Any use permitted in the R-3 Two-Family Dwelling District, except that more than one dwelling shall be permitted on a single lot; provided, all height regulations, area regulations, and parking regulations of this district are complied with.

b. Multiple-family dwellings.

c. Special needs housing, in accordance with the provisions of Section 13.06.535.

d. Day care centers with an enrollment of 50 or fewer children or adults.

e. Juvenile community facilities with not more than eight residents, subject to the development regulations found in Section 13.06.530.

f. Accessory uses and buildings as permitted in the R-1 One-Family Dwelling District (Section 13.06.105).

2. Conditional uses. When authorized by the Land Use Administrator, the following uses shall also be permitted in an R-4 District. The below-listed uses shall provide side yards as specified in Section 13.06.602, where required, otherwise the side yard provisions of this section shall be required:

a. Lodging houses;

b. Correctional facilities;

c. Day or hourly nurseries or nursery schools;

d. Educational and philanthropic institutions;

e. Group housing;

f. Student housing;

g. Hospitals (except animal clinics and hospitals); and

h. Private clubs and lodges (except those carried on as a commercial enterprise).

Application for a conditional use permit shall be made to the Public Works Department, in accordance with Chapter 13.05.

The intent and purpose of this section, and criteria for granting of conditional use permits by the Land Use Administrator, shall be the same as those stated in Section 13.06.640 regarding conditional use permits.

In authorizing a conditional use, the Land Use Administrator may attach thereto such conditions as are authorized by Chapter 13.05.

B. Height regulations. A building, structure, or portion thereof, hereafter erected, shall not exceed a height of 60 feet, except as provided in Section 13.06.545.

C. Area regulations. A building or structure hereafter built, enlarged, or moved shall provide the following yard and lot areas:

1. Front yard. There shall be a front yard having a depth of not less than 15 feet.

2. Side yard. Same as required in the R-3 Two-Family Dwelling District.

3. Rear yard. There shall be a rear yard having a depth of not less than 20 feet.

4. Lot area. Every lot shall have a minimum average width of 50 feet, a minimum lot frontage of 50 feet, and an area of not less than 5,000 square feet. The lot area for a one-family dwelling shall not be less than 5,000 square feet, and for a two-family, three-family, or multiple-family dwelling the lot area shall not be less than 6,000 square feet. A lot of record as of May 18, 1953, having an average width of less than 50 feet, a frontage of not less than 25 feet, or an area of less than 5,000 square feet of

record at the time of the passage of this chapter may be occupied by a one-family dwelling only; provided, all yard requirements are complied with.

5. Additional area regulations pertaining to infill development in One-Family Dwelling Districts are set forth in Section 13.06.145.

D. Parking regulations. Parking spaces for dwellings, and buildings other than dwellings, as required in Section 13.06.510, and shall be located in the rear portion of the lot, if suitable access is available. (Ord. 27539 § 9; passed Oct. 31, 2006: Ord. 27079 § 15; passed Apr. 29, 2003: Ord. 26966 § 5; passed Jul. 16, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.130 R-4-L Low-Density Multiple-Family Dwelling District.

The following are the regulations of the R-4-L Low-Density Multiple-Family Dwelling District:

Intent. The intent of the R-4-L Low-Density Multiple-Family Dwelling District is to permit the establishment of low-density apartments. It is also the intent of the district to permit the establishment of mobile home parks, retirement homes, and other group type living facilities in locations and on sites approved by the Land Use Administrator. Low-density apartments, retirement homes, group living facilities, and mobile home parks should be located in areas possessing the same amenities and services generally associated with one- and two-family residential dwelling districts.

In recognition of the more intensive development of land that is entailed, however, the R-4-L District should be located abutting, or adjacent to, arterial streets, expressways, or freeways. In addition, R-4-L Districts can serve as buffers between one- and two-family residential dwelling districts and (a) commercial or industrial districts, (b) areas possessing unique land use characteristics wholly or partially incompatible with one- and two-family residential dwelling districts, or (c) more intensive multiple-family dwelling districts.

The site development standards provided for in the R-4-L District are intended to minimize any adverse effect of permitted or conditional uses on adjoining land.

A. Use regulations.

1. Permitted uses. A building, structure, or land, and a building or structure hereafter built, altered, or enlarged, shall be used for only the following permitted uses:

a. Any use permitted in an R-3 Two-Family Dwelling District, except that more than one dwelling shall be permitted on a single lot; provided, all height regulations, area regulations, and parking regulations of this district are complied with.

b. Multiple-family dwellings.

c. Day care centers with an enrollment of 50 or fewer children or adults.

d. Accessory uses and buildings as permitted in the R-1 One-Family Dwelling District (Section 13.06.105), and including common utility and laundry facilities, business office, and recreational facilities for mobile home parks and multiple-family dwellings.

e. Special needs housing, in accordance with the provisions of Section 13.06.535.

2. Conditional uses. When authorized by the Land Use Administrator, the following uses shall also be permitted in an R-4-L District. The below listed uses shall provide side yards as specified in Section 13.06.602, where required, otherwise the side yard provisions of this section shall be required.

a. Mobile home parks, in accordance with provisions of this chapter and the minimum building use, area, height, buffer, and off-street parking standards prescribed in the Tacoma Municipal Code;

b. Correctional facilities;

c. Day or hourly nurseries or nursery schools;

d. Educational and philanthropic institutions;

e. Student housing;

f. Hospitals (except animal clinics and hospitals); and

g. Private clubs and lodges (except those carried on as a commercial enterprise).

Application for a conditional use permit shall be made to the Public Works Department, in accordance with provisions of Chapter 13.05.

The intent and purpose of this section, and criteria for granting of conditional use permits by the Land Use Administrator, shall be the same as those stated in Section 13.06.640 regarding conditional use permits.

In authorizing such a use, the Land Use Administrator may attach thereto such conditions as are authorized by Chapter 13.05.

B. Height regulations. A building, structure, or portion thereof, hereafter erected, shall not exceed a height of 35 feet, except as provided in Section 13.06.545.

C. Area regulations. A building or structure hereafter built, enlarged, or moved shall provide the following yard and lot areas:

1. Front yard. There shall be a front yard having a depth of not less than 20 feet.

2. Side yard. Same as required in the R-2 One-Family Dwelling District, except that a mobile home park shall have a ten-foot side yard. Where a mobile home park is adjoining or contiguous to a one- or two-family dwelling district, a 20-foot side yard shall be provided. No building or structure used for an accessory shall be within a required side yard adjoining or contiguous to a one- or two-family dwelling district.

3. Rear yard. Same as required in the R-2 One-Family Dwelling District, except that in the case of a mobile home park there shall be a rear yard having a depth of not less than 20 feet; and, further provided, no building or structure used for an accessory use in any given mobile home park shall be located within such required rear yard where it is adjoining or contiguous to a one- or two-family dwelling district.

4. Lot area. Every lot shall have a minimum average width of 50 feet and a minimum lot frontage of 50 feet.

a. One-family dwellings. The minimum lot area for a one-family dwelling shall be 5,000 square feet.

b. Two-family or three-family dwellings. The minimum lot area for a two-family or three-family dwelling shall be 6,000 square feet.

c. Multiple-family dwellings. The minimum lot area for a multiple-family dwelling shall be 6,000 square feet. An additional 1,500 square feet of lot area shall be provided for each dwelling unit in excess of four, except as modified in Section 13.06.602.

d. Mobile home parks. The minimum area of a mobile home park shall be three and one-half acres; provided, such area shall contain not less than 3,500 square feet for each mobile home lot, except as modified in Section 13.06.602.

e. Lot of record. A lot, which was a single unified parcel of land as indicated by the records of the Pierce County Auditor as of March 18, 1953, having an average width of less than 50 feet, a frontage of not less than 25 feet, or an area of less than 5,000 square feet, may be occupied by a one-family dwelling only; provided, all yard requirements are complied with.

5. The yards and areas specified above may be used for traffic circulation and off-street parking and loading, except for required screening areas as provided for in this section.

6. Lot coverage. Buildings shall not occupy more than 35 percent of a lot, except as modified in Section 13.06.602.

7. Supplemental provisions for single-family residential development are set forth in Section 13.06.145.

D. Buffers. Mobile home parks shall be permanently screened from adjoining and contiguous R-1, R-2, and R-3 Districts by a wall, fence, evergreen hedge, or other suitable enclosure of minimum height four and one-half feet and maximum height of seven feet placed at least five feet from the side and rear lot lines. The area between such enclosures and the property lines shall be landscaped to form a permanent screening area. A landscaped screening area at least five feet in depth must be provided along street frontage on a non-arterial street forming a boundary between a mobile home park site and an R-1, R-2, or R-3 District and must be located between the street curbline and a line five feet inside and parallel with the front lot line. No signs shall be permitted on any part of a screening enclosure or within a screening area. The Land Use Administrator may waive the requirement for a screening enclosure and/or screening area if equivalent screening is provided by existing parks, parkways, recreation areas, or by topography or other natural conditions.

E. Site development for utilities and other regulations. Development of mobile home parks is subject to the regulations of the Tacoma Municipal Code as to minimum site planning, water and sewerage facilities, plumbing, electrical wiring and lighting, fire protection, management, registration of guests, and operating rules of health and safety.

F. Parking regulations. Off-street parking spaces and parking spaces for dwellings, and buildings other than dwellings, shall be provided in accordance with and as required in Section 13.06.510, and shall be located in the rear portion of the lot, if suitable access is available. (Ord. 27594 § 2; passed Jul. 31, 2007: Ord. 27575 § 2; passed Feb. 20, 2007: Ord. 27544 § 2; passed Feb. 6, 2007: Ord. 27562 § 8; passed Dec. 12, 2006: Ord. 27539 § 10; passed Oct. 31, 2006: Ord. 27470 § 2; passed Apr. 25, 2006: Ord. 27079 § 16; passed Apr. 29, 2003: Ord. 26966 § 6; passed Jul. 16, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.135 R-5 Multiple-Family Dwelling District.

The following are the regulations of the R-5 Multiple-Family Dwelling District:

A. Use regulations. A building, structure, or land, and a building or structure hereafter built, altered, or

enlarged, shall be used for only the following permitted uses:

1. Permitted uses.

a. Any use permitted in the R-4 Multiple-Family Dwelling District.

b. Residential hotels, retirement homes, apartment-hotels, and apartments, within which may be permitted minor retail businesses such as drugstores, soda fountains, newsstands, beauty parlors, and restaurants providing for the needs of the people living within the building.

c. Day care centers with an enrollment of 50 or fewer children or adults.

d. Accessory uses and buildings as permitted in the R-4-L District.

e. Special needs housing, in accordance with the provisions of Section 13.06.535.

2. Conditional uses. When authorized by the Land Use Administrator, the following uses shall also be permitted in the R-5 District. The below listed uses shall provide side yards, as specified in Section 13.06.602 where required; otherwise the side yard provisions of this section shall be required:

a. Lodging houses;

b. Correctional facilities;

c. Day or hourly nurseries or nursery schools;

d. Educational and philanthropic institutions;

e. Student housing;

f. Hospitals (except animal clinics and hospitals); and

g. Private clubs and lodges (except those carried on as a commercial enterprise).

Application for a conditional use permit shall be made to the Public Works Department, in accordance with provisions of Chapter 13.05.

The intent and purpose of this section, and criteria for granting of a conditional use permit by the Land Use Administrator, shall be the same as those stated in Section 13.06.640 regarding conditional use permits.

In authorizing such a use, the Land Use Administrator may attach thereto such conditions as are authorized by Chapter 13.05.

B. Height regulations. A building, structure, or portion thereof, hereafter erected, shall not exceed a height of 150 feet, except as provided, for uses specified in Sections 13.06.640 and 13.06.545.

C. Area regulations. A building or structure hereafter built, enlarged, or moved shall provide the following yard and lot areas:

1. Front yard. There shall be a front yard having a depth of not less than ten feet.

2. Side yard. On the interior lots there shall be side yards on each side of the main building, and each side yard, for a building not exceeding six stories in height, shall have a width of not less than seven and one-half feet; for a building exceeding six stories in height, each side yard shall be increased one foot in width for each additional story or part thereof such building exceeds six stories. On corner lots the side yard regulations shall be the same as for interior lots, except where the rear lot line of a corner lot abuts the side lot line of the lot in the rear. In this case, there shall be a side yard on the street side of such corner lot of not less than one-half of the required front yard of the lots in the rear but such side yard need not exceed ten feet in width. In no case, however, shall the side yard on the street side of a corner lot be less than seven and one-half feet. No accessory building on such corner lot shall project beyond the required front yard line of the lot in the rear, nor be located less than five feet from the side lot line of the lot in the rear. The interior side yard shall be the same as required for interior lots.

3. Rear yard. There shall be a rear yard having a depth of not less than 20 feet.

4. Lot area. Same as required in R-4 Multiple-Family Dwelling District.

5. Supplemental provisions for single-family residential development are set forth in Section 13.06.145.

D. Parking regulation. Parking space for dwellings, and buildings other than dwellings, as required in Section 13.06.510, and shall be located in the rear portion of the lot, if suitable access is available. (Ord. 27539 § 11; passed Oct. 31, 2006: Ord. 27335 § 3; passed Jun. 14, 2005: Ord. 27079 § 17; passed Apr. 29, 2003: Ord. 26966 § 7; passed Jul. 16, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.140 PRD Planned Residential Development District.

A. Intent. The PRD Planned Residential Development District is intended to: provide for greater flexibility in large scale residential developments; promote a more desirable living environment than would be possible through the strict regulations of conventional zoning districts; encourage developers to use a more creative approach in land development; provide a means for reducing the improvements required in development

through better design and land planning; conserve natural features; and facilitate more desirable, aesthetic, and efficient use of open space.

The PRD District is intended to be located in areas possessing the amenities and services generally associated with residential dwelling districts, and in locations which will not produce an adverse influence upon adjacent properties.

Land classified as a PRD District shall also be classified as one or more of the regular residential zoning districts and shall be designated by a combination of symbols (e.g., R-3-PRD planned residential development district).

B. Procedures. Application for reclassification to a PRD District shall be made in accordance with the provisions of Chapter 13.05 and Section 13.06.650. Applications for reclassification to a PRD District shall bear the written consent of the owners of all property within the proposed PRD. Applications for a major modification to an existing PRD District shall bear the written consent of the owners of the specific properties proposed to be modified.

An application for site approval shall accompany a request for reclassification to a PRD District. Applications filed subsequent to such a reclassification shall be considered by the Land Use Administrator. Where only a portion of the development is submitted for site approval, a preliminary plan for the remainder of the development shall also be submitted, indicating the intended layout for the remainder of the development.

The Hearing Examiner shall conduct a public hearing on all applications for site approval which accompany a reclassification request. In acting upon a request for site approval, the Hearing Examiner or Land Use Administrator shall consider, but not be limited to, the following criteria:

1. The site development plan shall be consistent with the goals and policies of the comprehensive plan.

2. The plan shall be consistent with the intent and regulations of the PRD District and any other applicable statutes and ordinances.

3. The proposed development plan for the PRD District is not inconsistent with the health, safety, convenience, or general welfare of persons residing or working in the community. The findings of the Hearing Examiner or Land Use Administrator shall be concerned with, but not limited to, the following:

a. The generation of noise or other nuisances which may be injurious or to the detriment of a significant portion of the community.

b. Availability and/or adequacy of public services which may be necessary or desirable for the support of the development. These may include, but shall not be limited to, availability of utilities; transportation systems, including vehicular, pedestrian, and public transportation systems; and education, police, and fire services, and social and health services.

c. Adequacy of landscaping, recreation facilities, screening, yard setbacks, open spaces, or other development characteristics necessary to provide a sound and healthful living environment and mitigate the impact of the development upon neighboring properties and the community.

d. The compliance of the site development plan with any conditions to development stipulated by the City Council at the time of the establishment of the PRD District.

An application for site approval shall include:

4. A plan or plans at a scale of not less than one inch equals 200 feet for the proposed development showing:

a. Proposed name of the development, north point, scale, date, legal description, and names and addresses of the developer, engineer, surveyor, land planner, and landscape architect.

b. The basic layout of the site or portion thereof, including lot design, if any, building locations, street layout, and roadway widths.

c. Horizontal alignment data for all streets and vehicular accessways.

d. Any areas proposed to be dedicated or reserved for public parks, schools, or playgrounds, or otherwise dedicated or reserved for public purposes.

e. Other undedicated open space set aside for the use of the residents of the development in common.

f. A general land use plan for the proposed district indicating the areas to be used for the various purposes.

g. Types of dwellings and site locations therefor.

h. Proposed locations of off-street parking areas with dimensions.

i. Pedestrian walks, malls, and other trails, both public and private.

j. A circulation plan indicating the proposed movement of vehicles, goods, and pedestrians within the district, and to and from adjacent public thoroughfares. Any special engineering features and traffic regulation devices needed to facilitate or insure the safety of this circulation shall be shown.

k. The stages to be built in progression, if any.

l. Finished contours at a five-foot interval.

m. The location of adjacent utilities intended to serve the development and a layout of the utilities within the development.

n. Land within the tract not to be developed as a part of the PRD District, with indication of existing and/or intended use or uses.

o. Necessary building setback lines, including those required for sight distance purposes.

p. Existing zoning boundaries.

5. The intended time schedule for development.

6. Tables showing the density and lot coverage of the overall development and of each zoning district within the development.

C. General requirements.

1. The site approval shall be binding upon the development and substantial variations from the plan shall be subject to approval by the Land Use Administrator.

2. No building permit shall be issued without a site approval.

3. The site approval shall expire as provided in Chapter 13.05.

4. The Hearing Examiner and Land Use Administrator, in granting site approval, may attach conditions as authorized in Chapter 1.23, or, in the case of approval by the Land Use Administrator, Chapter 13.05, and unless other arrangements are agreed to by the City, the owner and/or developers shall be responsible for paying the cost of construction and/or installation of all required on- and off-site improvements. This responsibility shall be the subject of a contractual agreement between the owner and/or developer and the City. Such contract shall require that, in lieu of the actual construction of the required improvements, the owner and/or developer shall deposit a performance bond or cash deposit with the Department of Public Works, in an amount not less than the estimate of the City Engineer for the required improvements, and provide security satisfactory to the Department of Public Utilities, guaranteeing that the required improvements shall be completed in accordance with the requirements of the City of Tacoma and within the time specified in the contractual agreement. Also, such contract and recorded covenants, governing all land within the PRD District, shall provide for compliance with the regulations and provisions of the district and the site plan as approved.

5. Not more than one-third of the gross area of the site shall have a finished grade exceeding 20 percent, consist of bodies of water, or consist of tidelands, unless otherwise permitted by the decision.

6. The development of the property in the manner proposed will not be detrimental to the public welfare, will be in keeping with the general intent and spirit of the zoning regulations and comprehensive plan of the City of Tacoma, and will not impose an abnormal burden upon the public for improvements occasioned by the proposed development.

7. The plan for the proposed development shall present a unified and organized arrangement of buildings and service facilities which are compatible with the properties adjacent to the proposed development.

8. The PRD District shall be located on property which has an acceptable relationship to major thoroughfares, and the thoroughfares within the vicinity of the PRD District shall be adequate to carry the additional traffic generated by the development.

9. A PRD District shall make provisions for existing and future streets and undeveloped areas adjacent to the development to allow for the proper and logical development of such areas.

10. The internal circulation system within the PRD District shall be designed and constructed to insure the safety and convenience of pedestrian and vehicular traffic by providing proper horizontal and vertical alignments, widths, physical improvements, parking provisions (on- and/or off-street), pedestrian facilities, sight distances, necessary traffic control regulations and signs, and necessary directional and identification signs.

Placement and maintenance of traffic, directional, and identification signs for private vehicular accessways shall be the responsibility of the developer.

11. The grades and alignments and other construction details for all vehicular accessways and utilities, both public and private, shall be established and approval granted by the City of Tacoma prior to commencement of any construction within the area for which site approval was granted.

12. Subject to width variations, all vehicular accessways within the PRD District, both public and private, shall be constructed and improved to meet or exceed minimum City of Tacoma standards; except that all public and private vehicular accessways shall be paved with an impervious surface with necessary base preparations, in accordance with City of Tacoma standards.

13. The developer shall guarantee, to the satisfaction of the Building Official, the improvement of all streets and accessways, both public and private, to minimum City of Tacoma standards prior to the occupancy of any dwelling units served by such streets and accessways.

14. The internal circulation within the PRD District shall permit vehicular access to each building for fire protection and such other purposes as may be necessary.

15. Fire hydrants and facilities shall be provided in accordance with the standards of the National Board of Fire Underwriters.

16. All utilities, including storm drainage, within the PRD District shall be provided as set forth by the City of Tacoma.

17. Due consideration shall be given by the developer or subdivider to the allocation of suitable areas for schools, parks, playgrounds, and other necessary facilities to be dedicated for public use or purposes.

18. The initial stage of development shall be of sufficient size and dimension to produce the intended environment of a PRD District, and shall provide an equitable amount of open space, off-street parking, and other amenities commensurate with the zoning and density of said initial stage. The requirements of any subsequent stage may be determined in conjunction with the approved standards of all previous stages in order to determine its conformance to the overall requirements of this district.

19. All nonconforming uses within a PRD District shall be removed or provisions made for their removal prior to the issuance of a building permit.

20. There shall be adequate provisions to insure the perpetual maintenance of all nondedicated accessways and all other areas used, or available for use, in common by the occupants of the PRD District.

D. Use regulations. A building, structure, or land, and a building or structure hereafter built, altered, or enlarged, shall be used for only the following permitted uses:

1. The uses of property permitted in the regular zoning district with which the PRD District is combined.

2. Townhouses in all PRD Districts.

3. Multi-family dwellings in R-3-PRD Districts.

4. Indoor and outdoor recreational facilities and structures for the exclusive use of the residents of the PRD District.

5. Day care centers with an enrollment of 50 or fewer children or adults.

6. Special needs housing, in accordance with the provisions of Section 13.06.535.

E. Height regulations. The height of buildings, structures, or portions thereof, shall be the same as the residential district with which the PRD District is combined.

F. Area regulations.

1. Yard regulations. A minimum 20-foot building setback shall be maintained from the district property line on the perimeter of the PRD District. Setbacks from dedicated arterial streets within the PRD District shall be maintained in accordance with the requirements of the residential district with which it is combined.

The distance separating buildings, exclusive of accessory buildings, shall be not less than 15 feet, except that a building on a platted lot may be attached to any building or buildings on any adjoining platted lot or lots, or, if unattached, a building setback of not less than seven and one-half feet all be maintained from such adjoining lot line or lines. Accessory buildings shall not be permitted within required setback areas.

Building setbacks from the PRD District boundary, from dedicated streets adjacent to and within the PRD District, and from other buildings shall be increased by one-half foot for each one foot the height of such a building or structure exceeds 35 feet.

2. Site area. The minimum gross site area for a PRD District shall be as follows:

R-1-PRD District	ten acres
R-2-PRD District	five acres
R-3-PRD District	two acres
R-4-L-PRD District	three and one-half acres
R-4-PRD District	five acres
R-5-PRD District	ten acres

except, PRD Districts with lesser site area may be permitted when contiguous to, and planned simultaneously with, another PRD District; provided, the total of all such PRD Districts has an area of not less than that required by the included District having the largest site requirements (e.g., a combination of an R-3-PRD District and an R-5-PRD District) shall have a site area of not less than ten acres (the area required for an R-5-PRD District), and a combination of an R-2-PRD District, R-3-PRD District, and an R-4-L-PRD District shall have a site area of not less

than five acres (the area required for an R-2-PRD District).

One-half of the area of public street right-of-way on the perimeter of the site and all of the area of street right-of-way entirely within the boundaries of the sites may be included in determining the gross area of the district for minimum site area and density purposes; provided, limited access freeways may not be so included in determining gross area for site and density purposes.

3. Density. The maximum density of dwelling units within a PRD District shall be as follows (the gross area of the PRD District may be considered for computing density, and retirement home guest rooms and/or guest suites shall be construed as dwelling units for purposes of computing density):

R-1-PRD District – 7,500 square feet of gross site area per dwelling unit.

R-2-PRD District – 5,000 square feet of gross site area per dwelling unit.

R-3-PRD District – 3,000 square feet of gross site area per dwelling unit.

R-3-PRD District Retirement Homes – The Hearing Examiner shall determine the minimum lot area per dwelling unit, guest room, or guest suite; provided, the lot area so determined shall not be less than 1,500 square feet nor more than 3,000 square feet.

R-4-L-PRD District – 1,500 square feet of gross site area per dwelling unit.

R-4-PRD District – 1,500 square feet of gross site area per dwelling unit.

R-5-PRD District – 1,500 square feet of gross site area per dwelling unit.

R-4-L-PRD, R-4-PRD and R-5-PRD District retirement homes – the Hearing Examiner or Land Use Administrator shall determine the minimum lot area per dwelling unit, guest room, or guest suite; provided, the lot area so determined shall not be less than 750 square feet nor more than 1,500 square feet.

4. Minimum dimensions. The minimum average width and depth of any PRD District shall not be less than 120 feet, except that the minimum average width and depth of an R-5-PRD District shall not be less than 200 feet.

5. Site coverage. Buildings and structures shall not occupy more than one-third of the gross area of the PRD District.

6. Common Open Space. A minimum of one-third of the gross site area of the PRD District shall be provided as common open space. For the purpose of this section, common open space shall be defined as land which is provided or maintained for the general enjoyment of the residents of the PRD District or the general public and not used for buildings, dedicated public rights-of-way, private access/road easements, driveways, traffic circulation and roads, private yards, required sidewalks, utility areas, storm water facilities (unless also developed as a recreational area), parking areas, or any kind of storage. Common open space includes, but is not limited to woodlands, open fields, streams, wetlands, other water bodies, habitat areas, steep slope areas, landscaped areas, parks, beaches, gardens, courtyards, or recreation areas.

a. A minimum of one-third of this required common open space shall be devoted to recreation area for use by the residents of the PRD District or the general public. For the purpose of this section, recreation area includes, but is not limited to trails, athletic fields and courts, playgrounds, swimming pools, picnic areas or similar facilities. Such recreation area(s) shall be located in a central area of the district or spread throughout the district to provide convenient access to all residents. The recreation area(s) shall be of a size, topography and configuration so as to accommodate a variety of recreational functions for residents, with the overall intent of consolidating amenity areas to avoid fragmented areas of marginal utility. Said recreation areas shall not entirely consist of concrete or other hardscape.

b. Common open space areas shall be located and configured to protect mature trees and critical areas, provide for recreational opportunities, and create open space corridors, green belts and connections between existing or planned parks, trails or open space.

c. Such common open space shall be available for use or enjoyment by all of the residents of the PRD District or the general public. The common open space shall be dedicated, reserved or otherwise held in common by a homeowners association or by a proportional ownership interest shared among all of the property owners within the PRD, or alternatively, and only if acceptable to the receiving public agency, dedicated to the public.

d. Permanent provisions for the maintenance and management of open space, private trails, private parks and recreation areas, and other common areas shall also be provided. These provisions shall run with the land and be recorded.

G. Parking regulations. Off-street parking space shall be provided in accordance with Section 13.06.510. Required off-street parking for dwellings shall not be located more than 100 feet from the dwelling or dwellings it is intended to serve

unless otherwise permitted by the Hearing Examiner or Land Use Administrator.

Required parking spaces shall be surfaced with an impervious surface.

H. Modifications. Modifications to existing PRDs shall be subject to further review and approval, in accordance with the criteria and standards contained in Section 13.05.080, including the additional provisions in subsection 13.05.080.F., and the expanded notice provisions in Sections 13.05.020.C.2 and 13.05.020.D.2. (Ord. 27631 Ex. B; passed Jul. 10, 2007: Ord. 27539 § 12; passed Oct. 31, 2006: Ord. 27471 § 2; passed Jul. 25, 2006: Ord. 27079 § 18; passed Apr. 29, 2003: Ord. 26966 § 8; passed Jul. 16, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.145 Supplemental provisions for single-family residential development.

A. Purpose. These regulations are intended to supplement and amend the regulations pertaining to one-family residential development to provide flexibility in meeting the height and bulk regulations of the R-1, R-2, R-2SRD, HMR-SRD, R-3, R-4, R-4-L and R-5 Districts, and other districts in which residential uses are permitted. These regulations are intended primarily to promote residential infill development within the City to be consistent with the mandate of the State Growth Management Act and the City's comprehensive plan, to encourage growth within urban areas, and to minimize sprawl.

By providing flexibility in meeting the setback requirements, lots which have remained undeveloped and parcels legally existing prior to May 18, 1953, and which do not conform to present-day lot width and lot area requirements, may be developed without the necessity for variances. These regulations will provide substantially the same protection to adjoining properties as they will to residential areas in general. In no case may these regulations be construed to allow creation of or development on newly created parcels which are substandard to minimum lot width and area requirements.

B. Intent. The intent of these regulations is to encourage and support residential infill and redevelopment.

C. Regulations. The following additional regulations apply to the R-1, R-2, R-2SRD, HMR-SRD, R-3, R-4, R-4-L and R-5 Dwelling Districts and other districts which allow single-family dwellings:

1. Height regulations. A building or structure, or portion thereof, hereafter erected, shall not exceed the maximum height permitted for the zoning district in which it is located.

Single-family dwellings hereafter built, enlarged, or moved on-site in R-1, R-2, R-2SRD, HMR-SRD, R-3, R-4, R-4-L or R-5 Dwelling Districts, and which do not conform to minimum area or width requirements, shall be erected with a minimum 4/12 pitched roof to the average height of adjacent structures on either side, or to the height permitted in the zoning district in which it is located, whichever is less. In no case, however, shall a dwelling be restricted to a height of less than 25 feet.

2. Area regulations.

a. The front yard setback shall be either the average of the front yards of the single-family structures on either side or the minimum setback required for the zoning district in which it is located, whichever is less.

(1) In the case of a corner lot or where an adjacent lot is vacant, averaging shall be calculated by adding the front yard setback of the adjacent developed lot and the minimum setback of the district in which located and dividing by two.

(2) In no case shall averaging be construed to require a greater setback than the minimum required by the basic regulations of the district.

b. Side yard averaging. The main building may satisfy the side yard requirement by providing a side yard which averages the minimum side yard required for the zoning district in which it is located. The side yard average shall be calculated as follows:

(1) The area lying between the side wall of the main building and the side property line shall be divided by the length of the side wall.

(2) All measurements shall be made perpendicular to the side lot line.

c. The side yard setback shall be the average for the entire depth of the structure, except that:

(1) Roof overhangs, chimneys, and uncovered, unenclosed decks, carports, or porches shall not be included in calculating the depth of structure.

(2) Portions of the side yard which are more than 15 feet from the side lot line shall be assumed to be set back 15 feet for averaging purposes.

d. All portions of the side wall, including bays and bay windows, shall be used in averaging.

(1) In no case shall the side wall be less than five feet from the side property line.

(2) Notwithstanding the provisions of Section 13.06.602, no portion of a structure, including chimneys, roof overhangs, gutters, etc., shall be less than three feet to the side property line.

e. Side yard setbacks of lots not meeting minimum area or width requirements shall have a minimum average width of five feet, calculated by the same method, as set forth in subparagraphs 2.a through 2.d, above. The following exceptions apply:

(1) Portions of the side yard which are more than ten feet from the side lot line shall be assumed to be set back ten feet for averaging purposes.

(2) In no case shall the side wall be less than three and one-half feet from the side property line.

(3) Notwithstanding the provisions of Section 13.06.602, no portion of a structure, including chimneys, roof overhangs, gutters, etc., shall be less than three feet from the side property line.

D. Additions to nonconforming structures. Certain additions may extend into a required front or rear yard when the existing single-family structure is already nonconforming with respect to that yard. The nonconforming portion shall be at least 60 percent of the total width of the respective wall of the structure prior to the addition. The addition may extend five feet into the required front or rear yard or to the extent of the nonconforming portion, whichever is less. Additions may extend up to the height limit and may include basement additions. (Ord. 27432 § 5; passed Nov. 15, 2005: Ord. 27296 § 9; passed Nov. 16, 2004: Ord. 27079 § 19; passed Apr. 29, 2003: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.150 Accessory dwelling units.

A. Intent. Accessory dwelling units (hereinafter referred to as "ADUs") are intended to:

1. Provide homeowners with a means of providing for companionship and security.

2. Add affordable units to the existing housing supply.

3. Make housing units within the City available to moderate income people.

4. Provide an increased choice of housing that responds to changing needs, lifestyles (e.g., young families, retired), and modern development technology.

5. Protect neighborhood stability, property values, and the single-family residential appearance by ensuring that ADUs are installed in a compatible manner under the conditions of this section.

6. Increase density in order to better utilize existing infrastructure and community resources and to support public transit and neighborhood retail and commercial services.

B. Procedures. Any property owner seeking to establish an ADU in the City of Tacoma shall apply for approval in accordance with the following procedures:

1. Application. Prior to installation of an ADU, the property owner shall apply for an ADU permit with the Building and Land Use Services Division of the Public Works Department. A complete application shall include a properly completed application form, floor and structural plans for modification, fees as prescribed in subsection B.2 below, and an affidavit of owner occupancy as prescribed in subsection B.3 below.

2. Fees. Fees shall be required in accordance with Section 2.09.020. Upon sale of the property, a new owner shall be required to sign a new affidavit and to register the ADU, paying the applicable fee in accordance with Section 2.09.020.

3. Affidavit. The property owner shall sign an affidavit before a notary public affirming that the owner occupies either the main building or the ADU, and agrees to all requirements provided in subsection C.

4. Permit. Upon receipt of a complete application, application fees, and a notarized affidavit, and upon approval of the structural plans, an ADU permit shall be issued to the property owner.

5. Concomitant agreement. Upon issuance of the ADU permit, the property owner shall record with the Pierce County Auditor a notarized concomitant agreement. Such agreement shall be in a form as specified by the Building and Land Use Services Division, and shall include as a minimum: (a) the legal description of the property which has been permitted for the ADU; and (b) the conditions necessary to apply the restrictions and limitations contained in this section. The property owner shall submit proof that the concomitant agreement has been recorded prior to inspection and issuance of a certificate of approval by the Building and Land Use Services Division. The concomitant agreement shall run with the land as long as the ADU is maintained on the property. The property owner may, at any time, apply to the Building and Land Use Services Division for a termination of the concomitant agreement. Such termination shall be granted upon proof that the ADU no longer exists on the property.

6. Inspection. After the City has: (a) received a completed application, application fees, and a signed affidavit; (b) approved an ADU permit; and (c) received a recorded concomitant agreement, the City shall inspect the property to confirm that minimum and maximum size limits, required parking and design standards, and all applicable building, health, safety, energy, and electrical code standards are met. Satisfactory inspection of the property shall result in the issuance of a certificate of approval.

7. Notification. Upon inspection and issuance of a certificate of approval for the ADU, the City will send a non-appealable notice to owners of property within 400 feet of the site, enclosing requirements for the ADU and a copy of the concomitant agreement signed by the applicant.

8. Reports. The Building and Land Use Services Division of the Public Works Department shall report annually to the City Council regarding ADU applications. The report shall include: (a) the number of units established; (b) the geographic distribution of the units; (c) the average size of the units; and (d) the number and type of completed regulatory enforcement actions. The ADU ordinance will be reassessed every five years, or sooner, if records show that 20 percent of the single-family structures within any census tract or City-wide have ADUs.

9. Violations. A violation of this section regarding provision of ownership shall be governed by subsection C.5, and a violation of provision of legalization of nonconforming ADUs shall be governed by subsection C.10. Violations of any other provisions shall be governed by Section 13.06.625.

C. Requirements. The creation of an ADU shall be subject to the following requirements, which shall not be subject to variance.

1. Number. One ADU shall be allowed per residential lot as a subordinate use in conjunction with any new or existing single-family structure in the City of Tacoma.

2. Occupancy. Occupancy shall be limited to the following: No more than two persons in a unit of 300 to 400 square feet, no more than three persons in a unit ranging from 401 to 600 square feet, and no more than four persons in a unit ranging from 601 to 800 square feet.

3. Location. The ADU shall be permitted as a second dwelling unit added to or created within the main building.

4. Composition. The ADU shall include facilities for cooking, living, sanitation, and sleeping.

5. Size. The ADU, excluding any garage area and other non-living areas, such as workshops or greenhouses, shall not exceed 33 percent of the total square footage of the main building and the ADU combined after modification. The ADU shall not contain less than 300 square feet or more than 800 square feet.

6. Ownership. The property owner (i.e., title holder or contract purchaser) must maintain his or her occupancy in the main building or the ADU. Owners shall sign an affidavit which attests to their occupancy and attests that, at no time, shall they receive rent for the owner-occupied unit. Falsely attesting owner-residency shall be a misdemeanor subject to a fine not to exceed $5,000, including all statutory costs, assessments, and fees. In addition, ADUs shall not be subdivided or otherwise segregated in ownership from the main building.

7. Design. An ADU shall be designed to maintain the architectural design, style, appearance, and character of the main building as a single-family residence. If an ADU extends beyond the current footprint or existing height of the main building, such an addition must be consistent with the existing facade, roof pitch, siding, and windows. Only one entrance for the main building is permitted to be located in the front facade of the dwelling. If a separate outside entrance is necessary for an ADU, it must be located either off the rear or side of the main building. Such entrance must not be visible from the same view of the building which encompasses the main entrance to the building and must provide a measure of visual privacy.

8. Parking. One off-street parking space shall be required for the ADU, in addition to the off-street parking required for the main building, pursuant to Section 13.06.510. Such parking must be provided in the rear of the lot where adequate access is available. Adequate access shall be defined as a dedicated street or alley with a minimum gravel surface.

9. Home occupations. Home occupations shall be allowed, subject to existing regulations, in either the ADU or the main building, but not both.

10. Concomitant Agreement. Upon issuance of an ADU permit by the City, a property owner must record with the Pierce County Auditor a concomitant agreement. Specific procedures are identified in subsection B.5.

11. Legalization of Nonconforming ADUs. Nonconforming ADUs existing prior to the enactment of these requirements may be found to be legal if the property owner applied for an ADU permit prior to December 31, 1995, and brings the unit up to Minimum Housing Code standards. After January 1, 1996, owners of illegal ADUs shall be guilty of a misdemeanor and, upon conviction thereof, subject to a fine not to exceed $1,000, including all statutory costs, assessments, and fees, plus $75 per day after notice of the violation has been made. All owners of illegal ADUs shall also be required to either legalize the unit or remove it. (Ord. 27245 § 8; passed Jun. 22, 2004: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.155 Day care centers.

A. Purpose. It is found and declared that day care centers are facilities which perform a needed community service. The City of Tacoma recognizes

the need for locating day care centers within areas which they service. When locating in R-1, R-2, R-2SRD, HMR-SRD, and R-3 Districts, day care centers shall obtain a conditional use permit. Day care centers with an enrollment of more than 50 children or adults in PRD Districts and in R-4-L, R-4, and R-5 Multiple-Family Dwelling Districts shall also obtain a conditional use permit. The purpose of requiring a conditional use permit is to ensure, to the extent possible, that day care centers in residential districts will be compatible with the neighborhood and will not adversely affect neighboring properties.

B. Development standards. The following development standards are hereby established for the location, design, and operation of day care centers in addition to any other requirements of law:

1. In residential zoning districts, the lot size and setbacks for day care centers shall conform to the requirements for single-family homes in the underlying zoning district. In addition, day care centers with an enrollment of more than 50 children or adults shall provide minimum side yard setbacks of 20 feet in all residential zoning districts, except that on corner lots the side yard facing the street shall provide the same setback as that required for a single-family dwelling.

2. Day care centers located in R-1, R-2, R-2SRD, HMR-SRD, and R-3 Districts shall be limited to one building face sign with a maximum area of six square feet. Sign regulations for day care centers located in PRD and multiple-family districts shall be the same as those specified in the R-4 Multiple-Family Residential District.

3. No structured area for active play shall be located in a front yard. Play structures shall maintain a minimum ten-foot setback from any side or rear lot line.

4. In R-1, R-2, R-2SRD, HMR-SRD, and R-3 Districts, the site shall be landscaped in a manner consistent with adjacent residences. In all zoning districts, day care centers shall be landscaped in a manner approved by the Land Use Administrator prior to the operation of the day care center.

5. Day care centers in existing structures which are located in residential districts shall maintain a residential appearance. Any new building, building addition, or building exterior which is remodeled shall be designed to be compatible with the residential character of the surrounding neighborhood. Elevations of the proposed structure shall be approved by the Land Use Administrator prior to the issuance of any building permits for the day care center.

C. Waiver. The Land Use Administrator may waive any of the aforementioned development standards where a finding is made that such waiver(s) does not violate the spirit or intent of such development standards or the comprehensive plan. Applications for waivers shall be processed in accordance with the provisions of Chapter 13.05. (Ord. 27432 § 6; passed Nov. 15, 2005: Ord. 27296 § 10; passed Nov. 16, 2004: Ord. 27079 § 20; passed Apr. 29, 2003: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.200 Commercial Districts.

A. District purposes. The specific purposes of the Commercial Districts are to:

1. Implement goals and policies of the City's comprehensive plan.

2. Implement Growth Management Act goals, county-wide, and multi-county planning policies.

3. Create a variety of commercial settings matching scale and intensity of use to location.

4. Attract private investment in commercial and residential development.

5. Provide for predictability in the expectations for development projects.

6. Allow for creative designs while ensuring desired community design objectives.

B. Districts established.

1. T Transitional District. This district is intended as a transition between commercial or institutional areas and residential areas. It may also provide a transition between residential districts and commercial districts on arterial street segments supported by the comprehensive plan. It primarily consists of office uses with negligible off-site impacts. It is characterized by lower traffic generation, fewer operating hours, smaller scale buildings, and less signage than general commercial areas. Residential uses are also appropriate. A T Transitional District may, in limited circumstances, also be applied to locations that meet the unique site criteria of the comprehensive plan. This classification is not appropriate inside a designated mixed-use center.

2. C-1 General Neighborhood Commercial District. This district is intended to contain low intensity land uses of smaller scale, including office, retail, and service uses. It is characterized by less activity than a community commercial district. Building sizes are limited for compatibility with surrounding residential scale. Residential uses are appropriate. Land uses involving vehicle service or alcohol carry greater restriction. This classification is not appropriate inside a plan designated mixed-use center or single-family intensity area.

3. C-2 General Community Commercial District. This district is intended to allow a broad range of medium- to high-intensity uses of larger scale. Office, retail, and service uses that serve a large market area are appropriate. Residential uses are also appropriate. This classification is not appropriate inside comprehensive plan designated mixed-use centers or low-intensity areas.

4. HM Hospital Medical District. This district is intended for limited areas that contain hospitals and/or similar large scale medical facilities with limitations on non-medical uses to only allow uses which may serve typical needs of medical centers such as food and lodging. It is not intended for introduction into areas not containing or non-contiguous to a hospital or similar facility. Residential uses are also appropriate. This classification is not appropriate inside comprehensive plan designated low-intensity areas.

5. PDB Planned Development Business District. This district is intended to provide limited areas for a mix of land uses that includes warehousing, distribution, light assembly, media, education, research, and limited commercial. The developments in this district are intended to have fewer off-site impacts than would be associated with industrial or community commercial areas. Retail uses are size limited and signage is reduced. These areas should be designed for improved residential compatibility on boundaries by landscaping and other design elements. Sites should have reasonably direct access to a highway or major arterial. This district is not appropriate inside comprehensive plan designated mixed-use centers or low-intensity areas.

C. Land use requirements.

1. Applicability. The following tables compose the land use regulations for all districts of Section 13.06.200. All portions of Section 13.06.200 and applicable portions of Section 13.06.500 apply to all new development of any land use variety, including additions and remodels, in all districts in Section 13.06.200, unless explicit exceptions or modifications are noted. The requirements of Section 13.06.200.A through Section 13.06.200.C are not eligible for variance. When portions of this section are in conflict with other portions of Chapter 13.06, the more restrictive shall apply.

2. Use requirements. The following use table designates all permitted, limited, and prohibited uses in the districts listed. Use classifications not listed in this section or provided for in Section 13.06.500 are prohibited, unless permitted via Section 13.05.030.E. Certain street level use restrictions may apply; see Section 13.06.200.C.4 below.

[See next page for table.]

3. Use table abbreviations.

P	=	Permitted use in this district.
CU	=	Conditional use in this district. Requires conditional use permit,
TU	=	Temporary use consistent with Section 13.06.635.
N	=	Prohibited use in this district.

4. District use table.

Uses	T	C-1	C-2	HM	PDB	Additional Regulations
Adult retail and entertainment	N	N	N	N	N	Prohibited except as provided for in Section 13.06.525.
Adult family home	P	P	P	P	P	See definition for bed limit.
Ambulance services	N	P	P	P	P	
Animal sales and service	N	P	P	N	N	Must be conducted entirely within an enclosed building. See Table 13.06.200.D for setback requirements specific to animal sales and service.
Art/craft production	N	P	P	N	P	Contained entirely within a building.
Assembly facility	CU	P	P	N	P	
Building materials and services	N	N	P	N	N	
Brewpubs/taverns	N	N	P	N	N	2,400 barrel annual brewpub production maximum, equivalent volume winery limit.
Business support services	N	P	P	N	P	
Carnivals	TU	TU	TU	TU	TU	Subject to Section 13.06.635.
Cemetery/internment services	N	N	N	N	N	Enlargement of cemeteries in existence at the time of adoption of this chapter may be approved in any zoning district, subject to a conditional use permit.
Commercial parking facility	P	P	P	P	P	
Commercial recreation and entertainment	N	N	P	N	N	
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	
Cultural institution	P	P	P	N	N	
Day care, family	P	P	P	P	P	
Day care, center	P	P	P	P	P	Subject to regulations set forth in Section 13.06.155.
Detoxification center	N	N	N	CU	N	
Drive-throughs with any permitted use	N	N	P	N	N	Prohibited in any commercial district combined with a VSD View-Sensitive Overlay District and adjacent to a Shoreline District (i.e., Old Town Area).
Dwellings/residential	P	P	P	P	P	

Uses	T	C-1	C-2	HM	PDB	Additional Regulations
Eating and drinking	N	P	P	P	P	a. In C-1 and PDB, live entertainment limited to that consistent with a Class "C" Cabaret license as designated in Chapter 6.14; b. In C-2, live entertainment limited to that consistent with either a Class "B" or Class "C" Cabaret license as designated in Chapter 6.14; c. Alcohol service, in C-1 and PDB, requires a conditional use permit. (See Table 13.06.200.D for size limitation in HM and PDB)
Emergency and transitional housing	CU	CU	P	CU	CU	See Sections 13.06.535 and 13.06.640.
Extended care facility	P	P	P	P	P	See Section 13.06.535.
Food and non-alcoholic beverage production and processing, limited	N	N	P	N	P	Not to exceed 4,000 square feet or 45 percent of the gross floor area, whichever is less, and must include a retail component fronting the street at the sidewalk level.
Foster home	P	P	P	P	P	
Funeral homes	P	P	P	P	N	
Gas stations	N	P	P	N	N	
Golf course	P	P	P	P	P	
Group housing	P	P	P	P	P	
Heliport	N	N	N	CU	N	
Hospital	N	CU	CU	P	N	
Hotel/motel	N	N	P	P	P	
Intermediate care facility	P	P	P	P	P	See Section 13.06.535.
Juvenile community facility	N	N	N	N	N	Prohibited except as provided for in Section 13.06.530.
Lodging house	P	P	P	P	P	
Microbrewery/winery	N	N	N	N	N	
Mobile home/trailer court	N	N	CU	N	N	
Nursery	N	N	P	N	N	
Office	P	P	P	P	P	
Parking areas	P	P	P	P	P	All parking areas shall comply with Sections 13.06.502 and 13.06.510.
Park and recreation	P	P	P	P	P	
Passenger terminal	N	N	P	N	N	
Personal services	N	P	P	P	P	See Table 13.06.200.D for size limitation in PDB and HM.
Public safety facility	P	P	P	P	P	
Religious assembly	P	P	P	P	P	
Research and development industry	N	N	N	N	P	
Residential care facility for youth	P	P	P	P	P	See Section 13.06.535. See definition for bed limit.

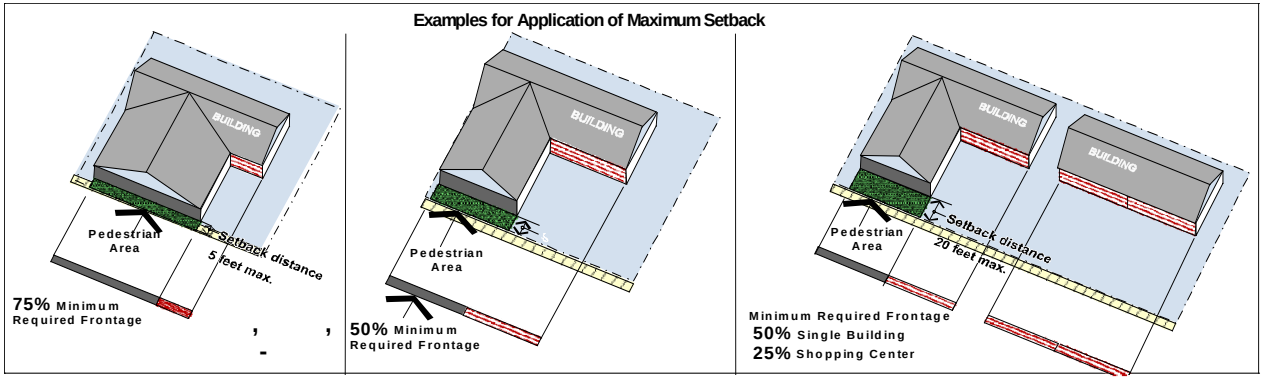
Uses	T	C-1	C-2	HM	PDB	Additional Regulations
Residential chemical dependency treatment facility	P	P	P	P	P	See Section 13.06.535.
Retirement home	P	P	P	P	P	See Section 13.06.535.
Repair services	N	P	P	N	N	Must be contained within a building with no outdoor storage. Engine repair, see Vehicle Repair.
Retail	N	P	P	P	P	See Table 13.06.200.D for size limitation in PDB and HM.
Schools, public or private	P	P	P	P	P	
Self-storage	N	N	P	N	P	Any other use of the facility shall be consistent with this section.
Staffed residential home	P	P	P	P	P	See Section 13.06.535. See definition for bed limit.
Student housing	P	P	P	P	P	
Surface mining	CU	CU	CU	CU	CU	See specific requirements in Section 13.06.540.
Temporary uses	TU	TU	TU	TU	TU	Subject to Section 13.06.635.
Theater	N	P	P	N	N	Movie theaters are limited to 4 screens. This does not include adult entertainment.
Utilities	CU	CU	CU	CU	CU	
Vehicle rental and sales	N	N	P	N	N	Prohibited in any commercial district combined with a VSD View-Sensitive Overlay District and adjacent to a Shoreline District (i.e., Old Town Area).
Vehicle service and repair	N	N	P	N	N	Car washes: limited to 2 stalls in C-1. Washing bays shall be enclosed on at least 2 sides covered with a roof. No water shall spray or drain off-site. Subject to development standards contained in Section 13.06.510.E. Prohibited in any commercial district combined with a VSD View-Sensitive Overlay District and adjacent to a Shoreline District (i.e., Old Town Area).
Vehicle service and repair, industrial	N	N	N	N	N	
Vehicle storage	N	N	N	N	N	
Wholesale/distribution	N	N	N	N	P	
Wireless communication facility	P*/CU**	P*/CU**	P*/CU**	P*/CU**		*Wireless communication facilities are also subject to Section 13.06.545.D.1. **Wireless communication facilities are also subject to Section 13.06.545.D.2.
Work release center	N	N	N	N	N	Prohibited except as provided for in Section 13.06.550.
Designated Pedestrian Streets: For segments here noted, additional use limitations apply to areas with C-2 Commercial District zoning to ensure continuation of development patterns in certain areas that enhance opportunity for pedestrian based commerce. North 30th Street from 200 feet east of the Starr Street centerline to 190 feet west of the Steele Street centerline: street level uses are limited to retail, personal services, eating and drinking, and customer service offices.						

D. Building envelope standards.

	T	C-1	C-2	HM	PDB
Minimum Lot Area	0 non-residential; 1,500 square feet per residential unit	0	0	0	0
Minimum Lot Width	0	0	0	0	0
Maximum Lot Coverage	None	None	None	None	None
Minimum Front Setback	In all districts listed above, 0 feet, unless abutting a residential zoning, then equal to the residential zoning district for the first 100 feet from that side. Maximum setbacks (Section 13.06.200.E) supercede this requirement where applicable. Animal sales and service: shall be setback from residential uses or residential zoning district boundaries at least 20 feet.				
Minimum Side Setback	In all districts listed above, 0 feet, unless created by requirements in Section 13.06.502. Animal sales and service: shall be setback from residential uses or residential zoning district boundaries at least 20 feet.				
Minimum Rear Setback	In all districts listed above, 0 feet, unless created by requirements in Section 13.06.502. Animal sales and service: shall be setback from residential uses or residential zoning district boundaries at least 20 feet.				
Maximum Setback from Designated Streets	See Section 13.06.200.E for application with any district listed above on designated segments of North 30th Street and 6th Avenue.				
Maximum Height Limit	35 feet	35 feet	45 feet	150 feet	45 feet
	Height will be measured consistent with Building Code, Height of Building, unless a View-Sensitive Overlay District applies. Height may be further restricted in View-Sensitive Overlay Districts.				
Maximum Height Exceptions	1. Schools, libraries, structures for religious assembly, colleges: In districts with a height limit of 35 feet, these facilities, when permitted as a use, are allowed at a maximum 45 feet in height. 2. Structures, above height limits: Chimneys, tanks, towers, steeples, flagpoles, smokestacks, silos, elevators, fire or parapet walls, and/or similar necessary building appurtenances may exceed the district height limit provided all structural or other requirements of the City of Tacoma are met and no usable floor space above the district height limit is added.				
Maximum Gross Floor Area per Building	None	30,000 square feet gross floor area	None	7,000 square feet gross floor area for eating and drinking, retail and personal service uses	7,000 square feet gross floor area for eating and drinking, retail and personal service uses

E. Maximum setback standards on designated streets. To achieve a pedestrian supportive environment, where buildings are located in close proximity to the street and designed with areas free of pedestrian and vehicle movement conflicts, maximum building setbacks are required as follows:

Designated Pedestrian Streets in Commercial Districts	Requirements
1. Designated Pedestrian Streets Requiring Maximum Setback	a. 6th Avenue (Madison Street to Alder Street). b. 6th Avenue (Sprague Avenue to I Street). c. North 30th Street (from 200 feet east of the Starr Street centerline to 190 feet west of the Steele Street centerline).
2. Maximum Setback Applied	a. 10 feet maximum front and/or corner side setback from property lines at the public right-of-way shall be provided for at least 75 percent of building facing the designated street frontage. b. When the site is adjacent to a designated pedestrian street, that street frontage shall be utilized to meet the maximum setback requirement with the front, side, and/or corner side of the facade as indicated above. c. This requirement supercedes any stated minimum setback. d. Maximum setback areas shall be designed to be sidewalk, pedestrian plaza, public open space, landscaping, and/or courtyard and to be free of motor vehicles at all times.
3. Exceptions	a. Additions to legal, nonconforming buildings are exempt from maximum setbacks, provided the addition does not increase the level of nonconformity as to maximum setback. b. Buildings that are 100 percent residential do not have a maximum setback. c. The primary building of a gas station, where gas stations are allowed, is subject to the maximum setback on only one side of the building on corner parcels. Kiosks without retail and intended for fuel payment only are exempt.



F. Common requirements. To streamline the Zoning Code, certain requirements common to all districts are consolidated under Section 13.06.500. These requirements apply to Section 13.06.200 by reference.

Refer to Section 13.06.500 for the following requirements in Section 13.06.200 districts:

13.06.501 Building design standards.

13.06.502 Landscaping and/or buffering standards.

13.06.503 Residential compatiblity standards.

13.06.510 Off-street parking.

13.06.511 Transit support facilities.

13.06.512 Pedestrian and bicycle support standards.

13.06.520 Signs.

(Ord. 27644 Ex. A; passed Sept. 18, 2007: Ord. 27613 § 2; passed Aug. 14, 2007: Ord. 27628 § 3; passed Aug. 7, 2007: Ord. 27612 §§ 2,3; passed Jul. 31, 2007: Ord. 27553 §§ 2,3; passed Jun. 19, 2007: Ord. 27543 §§ 2;3 passed Feb. 6, 2007: Ord. 27380 § 2; passed Dec. 12, 2006: Ord. 27518 § 2; passed Nov. 14, 2006: Ord. 27539 § 13; passed Oct. 31, 2006: Ord. 27469 § 2; passed Jul. 18, 2006: Ord. 27420 § 2; passed Jan. 17, 2006: Ord. 27432 § 7; passed Nov. 15, 2005: Ord. 27413 § 2; passed Oct. 4, 2005: Ord. 27393 § 2; passed Aug. 9, 2005: Ord. 27335 § 2; passed Jun. 14, 2005: Ord. 27362 § 2; passed Jun. 7, 2005: Ord. 27325 § 2; passed May 24, 2005: Ord. 27279 § 2; passed Mar. 29, 2005: Ord. 27324 § 1; passed Mar. 22, 2005: Ord. 27296 § 11; passed Nov. 16, 2004: Ord. 27245 § 9; passed Jun. 22, 2004: Ord. 27079 § 22; passed Apr. 29, 2003: Ord. 26966 § 9; passed Jul. 16, 2002: Ord. 26947 § 1-50; passed Apr. 23, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.300 Mixed-Use Center Districts.

A. District Purposes. The specific purposes of the Mixed-Use Center Districts regulations are to:

1. Increase the variety of development opportunities in Tacoma by encouraging greater integration of land uses within specific districts in a manner consistent with the Growth Management Act, the Regional Plan: Vision 2020, the County-Wide Planning Policies for Pierce County, and the City's comprehensive plan.

2. Strengthen the City's economic base by encouraging more efficient use of existing infrastructure and limited land supply through mixed-use, density, and design, as well as transit and pedestrian orientation in specified centers.

3. Allow and encourage a variety of housing options within mixed-use centers, including residences over businesses that can promote live-work arrangements which reduce demands on the transportation system.

4. Help provide employment opportunities closer to home and reduce vehicular trips for residents of the City and surrounding communities by encouraging mixed-use development.

5. Create a variety of suitable environments for various types of commercial and industrial uses, and protect them from the adverse effects of inharmonious uses.

6. Allow commercial and industrial growth in specified centers and/or districts while minimizing its impact on adjacent residential districts through requirements of buffering, landscaping, compatible scale, and design.

7. Accommodate and support alternative modes of transportation, including transit, walking, and bicycling, to reduce reliance on the automobile by making specified centers more "pedestrian-oriented" and "transit-oriented" through the provision of street amenities, landscaping, windows, continuous building frontages, limited curb cuts, and direct pedestrian entrances adjacent to the right-of-way and/or public sidewalk.

8. Ensure the provision of adequate off-street parking and loading facilities in a manner which will not conflict with the previously described transit and pedestrian-oriented design. Examples include building location at the street, parking location to the rear, adequate screening, avoidance of pedestrian-vehicle conflicts, and conveniently located transit stops.

B. Districts established. The following specific districts are established to implement the purposes of this section and the goals and policies of Tacoma's comprehensive plan:

1. NCX Neighborhood Commercial Mixed-Use District. To provide areas primarily for immediate day-to-day convenience shopping and services at a scale that is compatible and in scale with the surrounding neighborhood, including local retail businesses, professional and business offices, and service establishments. This district is intended to enhance, stabilize, and preserve the unique character and scale of neighborhood centers and require, where appropriate, continuous retail frontages largely uninterrupted by driveways and parking facilities with street amenities and direct pedestrian access to the sidewalk and street. Residential uses are encouraged as integrated components in all development.

2. CCX Community Commercial Mixed-Use District. To provide for commercial and retail businesses intended to serve many nearby neighborhoods and draw people from throughout the City. These areas are envisioned as evolving from traditional suburban development to higher density urban districts. Walking and transit use are facilitated through designs which decrease walking distances and increase pedestrian safety. Uses include shopping centers with a wide variety of commercial establishments; commercial recreation; gas stations; and business, personal, and financial services. Residential uses are encouraged in CCX Districts as integrated development components.

3. UCX and UCX-TD Urban Center Mixed-Use District. To provide for dense concentration of residential, commercial, and institutional development, including regional shopping centers, supporting business and service uses, and other regional attractions. These centers are to hold the highest densities outside the Central Business District. An urban center is a focus for both regional and local transit systems. A TD designation is used for the Urban Center Mixed-Use District in the Tacoma Dome area to provide specific transit-oriented development, consistent with the Tacoma Dome Area Plan. Walking and transit use is facilitated through designs which decrease walking distances and increase pedestrian safety. Residential uses are encouraged in UCX Districts as integrated development components.

4. RCX Residential Commercial Mixed-Use District. To provide sites for medium- and high-intensity residential development in centers, with opportunities for limited mixed use. This district is primarily residential in nature and provides housing density on the perimeter of more commercial mixed-use zones.

Commercial uses in this district are small in scale and serve the immediate neighborhood. These uses provide opportunities for employment close to home. This district frequently provides a transition area to single-family neighborhoods.

5. CIX Commercial Industrial Mixed-Use District. To provide sites for a mix of commercial establishments and limited industrial activities, including light manufacturing, assembly, distribution, and storage of goods, but no raw materials processing or bulk handling. Larger scale buildings are appropriate. Residential uses are permitted.

C. Applicability and pedestrian streets designated.

Applicability. The following tables compose the land use regulations for all Mixed-Use Center Districts. All portions of Section 13.06.300 and applicable portions of Section 13.06.500, apply to all new development of any land use variety, including additions and remodels, in all Mixed-Use Center Districts, unless explicit exceptions or modifications are noted. The requirements of Sections 13.06.300.A through 13.06.300.D are not eligible for variance. When portions of this section are in conflict with other portions of Chapter 13.06, the more restrictive shall apply.

TABLE C.1 MIXED-USE CENTER PEDESTRIAN STREETS ESTABLISHED	
The following pedestrian streets are considered key streets in the development and utilization of Tacoma's mixed-use centers, due to pedestrian use, traffic volumes, transit connections, and/or visibility. They are designated for use with other tables herein as follows:	
Mixed-Use Center	Designated Pedestrian Streets (All portions of the streets within Mixed-Use Center District zoning, unless otherwise noted.)
6th Avenue and Pine Street	6th Avenue
CBD (Tacoma Dome)	Puyallup Avenue; East 25th Street*; East 26th Street; East D Street
Lower Portland Avenue	Portland Avenue
North 26th Street and Proctor Street	North 26th Street; North Proctor Street
North 1st Street and Tacoma Avenue (Stadium)	Division Avenue from North 2nd Street to Tacoma Avenue; Tacoma Avenue*; North 1st Street; North I Street
South 11th Street and Martin Luther King Jr. Way	Martin Luther King Jr. Way*; South 11th Street; South 12th Street; 6th Avenue
South 38th Street and G Street (Lincoln)	South 38th Street; South G and Yakima Avenue from South 36th Street to South 39th Street
South 56th Street and South Tacoma Way	South Tacoma Way; South 56th Street
South 72nd Street and Portland Avenue	South 72nd Street; Portland Avenue
South 72nd Street and Pacific Avenue	South 72nd Street; Pacific Avenue
Tacoma Central Allenmore	Union Avenue
Tacoma Mall Area	South 47th/48th Transition Street; Steele Street
TCC/James Center	Mildred Street; South 19th Street
Westgate	Pearl Street; North 26th Street
*Indicates primary designated pedestrian streets for use with certain requirements of Chapter 13.06.	

D. Land use requirements.

1. Use requirements. The following use table designates all permitted, limited, and prohibited uses in the districts listed. Use classifications not listed in this section or provided for in Section 13.06.500 are prohibited, unless permitted via Section 13.05.030.E.

2. Use table abbreviations.

P	=	Permitted use in this district.
CU	=	Conditional use in this district. Requires conditional use permit,
TU	=	Temporary use consistent with Section 13.06.635.
N	=	Prohibited use in this district.

3. District use table.

Type of Mixed-Use Center District	NCX	CCX	UCX	UCX-TD	RCX*	CIX	Additional Regulations* The gross floor area of any development in RCX must be at least 75 percent residential unless otherwise noted.
Adult retail and entertainment	N	N	N	N	N	N	Prohibited, except as provided for in Section 13.06.525.
Adult family home	P	P	P	P	P	P	See definition for bed limit. Prohibited at street level along designated pedestrian streets in NCX. Not subject to minimum densities found in Section 13.06.300.E.
Ambulance services	N	CU	CU	CU	N	P	
Animal sales and service	P	P	P	P	N	P	Must be conducted entirely within an enclosed building. See Table 13.06.200.D for setback requirements specific to animal sales and service. Must be set back 20 feet from any adjacent residential district or use.
Art/craft production	P	P	P	P	P	P	
Assembly facility	P	P	P	P	CU	P	Prohibited at street level along designated pedestrian streets in NCX.
Brewpubs/taverns	P	P	P	P	P	P	Brewpubs located in NCX, CCX, UCX, and RCX shall be limited to producing, on-premises, a maximum of 2,400 barrels per year of beer, ale, or other malt beverages, as determined by the annual filings of barrelage tax reports to the Washington State Liquor Control Board. UCX-TD is limited to 5,000 barrels in the same manner. Equivalent volume winery limits apply.
Building materials and services	N	P	P	CU	N	P	
Business support services	P	P	P	P	N	P	In NCX, all activities must occur within buildings; outdoor storage/repair is prohibited. Customer service offices must be located at building fronts on designated pedestrian streets in NCX.
Carnivals	TU	TU	P	TU	N	TU	Subject to Section 13.06.635.

Type of Mixed-Use Center District	NCX	CCX	UCX	UCX-TD	RCX*	CIX	Additional Regulations* The gross floor area of any development in RCX must be at least 75 percent residential unless otherwise noted.
Cemetery/internment services	N	N	N	N	N	N	Enlargement of cemeteries in existence at the time of adoption of this chapter may be approved in any zoning district subject to a conditional use permit. See Section 13.06.640.
Commercial recreation and entertainment	P	P	P	P	N	P	
Commercial parking facility	P	P	P	P	N	P	In UCX-TD, only permitted if provided in a structure or below ground facility. Prohibited at street level on designated pedestrian streets in NCX.
Communication facility	CU	CU	P	P	N	P	Prohibited at street level along designated pedestrian streets in NCX.
Confidential shelter	P	P	P	P	P	P	See Section 13.06.535. Prohibited at street level along designated pedestrian streets in NCX. Not subject to minimum densities founding Section 13.06.300.E.
Continuing care retirement community	P	P	P	P	P	P	See Section 13.06.535. Prohibited at street level along designated pedestrian streets in NCX.
Correctional facility	N	N	N	N	N	N	
Cultural institutions	P	P	P	P	N	P	
Day care, family	P	P	P	P	P	N	
Day care**,** center	P	P	P	P	P	P	Not subject to RCX residential requirement.
Detoxification center	N	N	N	N	N	CU	
Drive-throughs with any use	P	P	P	P	N	P	Drive-through driveways must be located at least 150 feet from any bus stop or transit center. Drive-through windows shall not face or orient toward any designated pedestrian street, and waiting and/or stacking lanes shall be screened from view. Drive-through uses that are not located within a building are prohibited from locating within 100 feet of a light rail street.
Dwellings/ residential	P	P	P	P	P	P	Prohibited at street level along designated pedestrian streets in NCX. See Section 13.06.300.E for minimum densities.
Eating and drinking	P	P	P	P	P	P	Outdoor seating permitted with a 12-seat Maximum in RCX. In RCX live entertainment limited to that consistent with a Class “C” Cabaret license, as designated in Chapter 6.14. In all other districts, live entertainment limited to that consistent with a either a Class “B” or Class “C” Cabaret license, as designated in Chapter 6.14.
Emergency and transitional housing	CU	P	P	P	CU	N	See Section 13.06.535. Prohibited at street level along designated pedestrian streets in NCX.
Extended care facility	P	P	P	P	P	P	See Section 13.06.535.
Food and non-alcoholic beverage production and processing, limited	P	P	P	P	N	P	Not to exceed 4,000 square feet or 45 percent of the gross floor area, whichever is less, and must include a retail component fronting the street at the sidewalk level.
Foster home	P	P	P	P	P	P	
Funeral homes	P	P	P	P	N	P	
Gas stations	N	P	P	P	N	P	

Type of Mixed-Use Center District	NCX	CCX	UCX	UCX-TD	RCX*	CIX	Additional Regulations* The gross floor area of any development in RCX must be at least 75 percent residential unless otherwise noted.
Golf course	P	P	P	P	P	P	
Group housing	P	P	P	P	P	P	Prohibited at street level along designated pedestrian streets in NCX.
Heliport	N	N	N	N	N	CU	
Hospitals	N	CU	CU	CU	N	P	
Hotel/motel	P	P	P	P	N	P	
Industry, limited	N	N	N	P	N	P	In UCX-TD, only permitted if 50 percent of site contains an enclosed building.
Intermediate care facility	P	P	P	P	P	P	See Section 13.06.535. Prohibited at street level along designated pedestrian streets in NCX.
Juvenile community facility	P	P	P	P	P/CU	P	Permitted with no more than 16 residents in the NCX, CCX, UCX, and CIX zoning districts. Permitted with no more than 8 residents in the RCX zoning district. Permitted with a Conditional Use Permit for more than 8, but not more than 16, residents in the RCX zoning district. All development is subject to Section 13.06.530.
Lodging house	P	P	P	P	P	P	Prohibited at street level along designated pedestrian streets in NCX.
Microbreweries/ wineries	N	N	N	P	N	P	Microbreweries shall be limited to 15,000 barrels per year of beer, ale, or other malt beverages, as determined by the filings of barrelage tax reports to the Washington State Liquor Control Board. Equivalent volume winery limits apply.
Mobile home/trailer court	N	N	N	N	N	N	
Nurseries	P	P	P	N	N	P	
Office	P	P	P	P	P	P	Not subject to RCX residential requirement for properties fronting the west side of South Pine Street between South 40th Street and South 47th Street.
Park and recreation	P	P	P	P	P	P	Not subject to RCX residential requirement.
Parking area	P	P	P	P	P	P	Parking may be located in structures, consistent with Section 13.06.510.
Passenger terminals	P	P	P	P	N	P	
Personal services	P	P	P	P	P	P	
Public safety facilities	P	P	P	P	P	P	Not subject to RCX residential requirement.
Religious assembly	P	P	P	P	P	P	Not subject to RCX residential requirement.
Repair services	P	P	P	P	N	P	In NCX, all activities must occur within buildings; outdoor storage/repair is prohibited.
Research and development industry	N	N	N	N	N	P	
Residential care facility for youth	P	P	P	P	P	P	See Section 13.06.535. See definition for bed limit. Prohibited at street level along designated pedestrian streets in NCX. Not subject to minimum densities found in Section 13.06.300.E.
Residential chemical dependency treatment facility	P	P	P	P	P	P	See Section 13.06.535.

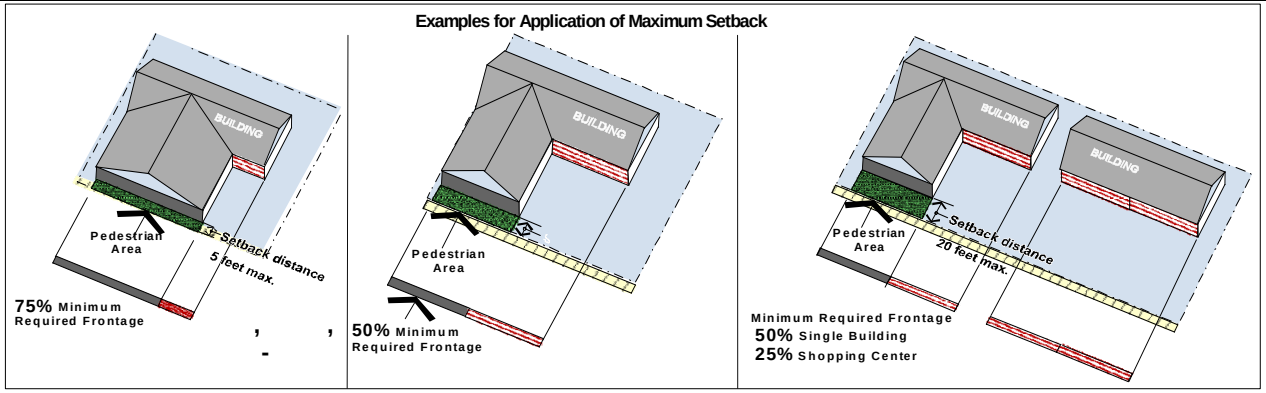
Type of Mixed-Use Center District	NCX	CCX	UCX	UCX-TD	RCX*	CIX	Additional Regulations* The gross floor area of any development in RCX must be at least 75 percent residential unless otherwise noted.
Retirement home	P	P	P	P	P	P	See Section 13.06.535. Prohibited at street level along designated pedestrian streets in NCX.
Retail	P	P	P	P	P	P	
Schools, public or private	P	P	P	P	P	P	Not subject to RCX residential requirement.
Self-storage	N	P	P	P	N	P	
Staffed residential home	P	P	P	P	P	P	See Section 13.06.535. See definition for bed limit. Prohibited at street level along designated pedestrian streets in NCX. Not subject to minimum densities found in Section 13.06.300.E.
Student housing	P	P	P	P	P	P	Prohibited at street level along designated pedestrian streets in NCX.
Surface mining	CU	CU	CU	CU	CU	CU	
Temporary uses	TU	TU	TU	TU	TU	TU	
Theater	P	P	P	P	N	P	Theaters only permitted up to 4 screens in NCX and CCX. Theaters only permitted up to 6 screens in CIX.
Utilities	CU	CU	CU	CU	CU	CU	Prohibited at street level along designated pedestrian streets in NCX. Not subject to RCX residential requirement.
Vehicle rental and sales	N	P	P	P	N	P	In UCX-TD, only permitted if 50 percent of site contains an enclosed building. Use permitted in the 56th Street and South Tacoma Way Mixed-Use Center NCX only, if all activities occur within buildings; outdoor storage repair, and sales are prohibited.
Vehicle service and repair	N	P	P	P	N	P	All activities must occur within buildings; outdoor storage and/or repair is prohibited. In UCX-TD, only permitted if 50 percent of site contains an enclosed building. Use permitted in the 56th Street and South Tacoma Way Mixed-Use Center NCX only, if all activities occur within buildings; outdoor storage and/or repair is prohibited.
Vehicle service and repair, industrial	N	N	P	P	N	P	
Vehicle storage	N	N	N	N	N	P	Subject to development standards contained in Section 13.06.510.D.
Warehouse, storage						P	
Wholesale or distribution	N	N	N	N	N	P	
Wireless communication facility	P*/CU**	P*/CU**	P*/CU**	P*/CU**	P*/CU**	P*/CU**	*Wireless communication facilities are also subject to Section 13.06.545.D.1. **Wireless communication facilities are also subject to Section 13.06.545.D.2.
Work release center	N	N	CU	N	N	CU	Permitted with no more than 15 residents in the UCX and no more than 25 residents in the CIX, subject to a Conditional Use Permit and the development regulations found in Section 13.06.550.

E. Building envelope standards. The following table contains the primary building envelope requirements:

	NCX	CCX	UCX	UCX-TD *	RCX	CIX	Additional Requirements
Minimum lot area	0 square feet minimum	0 square feet minimum	0 square feet minimum	0 square feet minimum	0 square feet minimum	0 square feet minimum	
Minimum lot width	0 feet minimum	0 feet minimum	0 feet minimum	0 feet minimum	0 feet minimum	0 feet minimum	
Minimum yards: • Front • Side • Corner side • Rear	0 feet minimum	0 feet minimum	0 feet minimum	0 feet minimum	0 feet minimum	0 feet minimum	See Section 13.06.300.F; see Section 13.06.503. If a buffer is required, a minimum setback is created.
Maximum height of structures (feet)	45 feet; 75 feet in the North 1st Street and Tacoma Avenue Mixed-Use Center NCX (Stadium District).	60 feet; 75 feet, if at least 25 percent of gross floor area is residential.	75 feet; 120 feet, if at least 25 percent of gross floor area is residential.	75 feet*, 120 feet, if for a cultural institution or at least 25 percent of gross floor area is residential, including hotels.	60 feet; unless an RCX zone abuts a NCX zone then the maximum height shall equal the abutting NCX maximum height.	75 feet	Height will be measured consistent with Building Code, Height of Building.
	***** In UCX-TD, for all properties lying south of a line running parallel to the center line of the alley between East 26th Street and East 27th Street starting at the western district boundary of the UCX-TD zone and running east to the center line of East E Street, then north to the center line of East 26th Street, then east to the eastern district boundary of the UCX-TD zone, height is 120 feet, if at least 4 of the design elements found in Section 13.06A.080 (excluding Section 13.06A.080(8)) are incorporated into the project. Height can be increased to 225 feet, if at least 4 of the design elements are incorporated and 2 of the special features found in Section 13.06A.090 (excluding Section 13.06A.090(7)) are included.						
Upper story setback	None	None	None	10 feet from adjacent lot line for portion over 50 feet in height	None	None	See Section 13.06.503; residential compatibility requirement may also apply.
Maximum business occupancy size (gross floor area)	30,000 square feet; 45,000 square feet for full service grocery stores only.	None	None	None	25 percent of building's gross floor area. (75 percent of gross floor area must be residential.)	None	See Section 13.06.300.D for limited exemption for RCX District
Minimum density (units/acre)	9	15	30	30	15	None	One-family dwellings are exempt from minimum-density requirements.

F. Maximum setback standards. To achieve a pedestrian serviceable environment, where buildings are located in close proximity to the street and designed with areas free of pedestrian and vehicle movement conflicts, maximum building setbacks are required as follows:

	Non-residential buildings and/or shopping centers of 30,000 square feet or less gross floor area	Non-residential buildings greater than 30,000 square feet gross floor area	Shopping centers greater than 30,000 square feet gross floor area
NCX, RCX, and UCX-TD Districts	• 5 feet maximum front and corner side setback from the property lines at the public right-of-way for 75 percent of front and corner side facade.	• 5 feet maximum setback from property lines at the public right-of-way for 75 percent of front and corner side facade.	• 5 feet maximum setback from property lines at the public right-of-way for at least 75 percent of the front and corner side street frontage of the shopping center.
CCX Districts	• 10 feet maximum front and corner side setback from the property lines at the public right-of-way for 50 percent of front and corner side facade.	• 10 feet maximum setback from the property line at the public right-of-way for 50 percent of the front or side of the facade.	• 10 feet maximum setback from the property lines at the public right-of-way for at least 25 percent of the front and corner side street frontage of the shopping center.
UCX and CIX Districts	• 20 feet maximum front and corner side setback from the property lines at the public right-of-way for 50 percent of front and corner side facade.	• 20 feet maximum setback from the property line at the public right-of-way on either 50 percent of the front or side of the facade.	• 20 feet maximum setback from the property lines at the public right-of-way for at least 25 percent of the front and corner side street frontage of the shopping center.
Pedestrian Streets	• When the site is adjacent to a designated pedestrian street(s), that street(s) frontage shall be utilized to meet the maximum setback requirement with the front, side, and/or corner side of the facade, as indicated above. • When the site has more than two pedestrian street frontages, the primary pedestrian street frontage shall be utilized to meet the maximum setback requirement.		
Motor Vehicles	• Maximum setback areas shall be designed to be sidewalk, pedestrian plaza, public open space, landscaping, and/or courtyard, and to be free of motor vehicles at all times.		
Exceptions	• In UCX-TD, setback distance beyond the maximum may be used if the additional area is devoted to pedestrian plazas, public open spaces, and/or courtyards, with no motor vehicle use and at least 25 percent of the building frontage meets the maximum setback. • In the Tacoma Mall RCX, for all non-residential buildings located on properties fronting the west side of South Pine Street between South 40th Street and South 47th Street, the developer may choose either a five-foot maximum front and corner side setback from the property lines at the public right-of-way for 50 percent of front and corner side facade or a ten-foot maximum front and corner side setback from the property lines at the public right-of-way for 75 percent of front and corner side facade.		
Exemptions in all Mixed-Use Center Districts	• Additions to legal, nonconforming buildings are exempt from maximum setbacks, provided, the addition reduces the level of nonconformity as to maximum setback. • Buildings that are 100 percent residential do not have a maximum setback. • The primary building of a gas station, where gas stations are allowed, is subject to the maximum setback on only one side of the building on corner parcels. Kiosks without retail, and intended for fuel payment only, are exempt.		



G. Common requirements. To streamline the Zoning Code, certain requirements common to all districts are consolidated under Section 13.06.500. These requirements apply to Section 13.06.300 by reference.

Refer to Section 13.06.500 for the following requirements for development in Mixed-Use Center Districts:

13.06.501 Building design standards.

13.06.502 Landscaping and/or buffering standards.

13.06.503 Residential compatiblity standards.

13.06.510 Off-street parking.

13.06.511 Transit support facilities.

13.06.512 Pedestrian and bicycle support standards.

13.06.520 Signs.

(Ord. 27644 Ex. A; passed Sept. 18, 2007: Ord. 27539 § 14; passed Oct. 31, 2006: Ord. 27407 § 2; passed Nov. 1, 2005: Ord. 27375 § 1; passed Jun. 28, 2005: Ord. 27364 § 2,3; passed Jun. 28, 2005: Ord. 27296 § 18; passed Nov. 16, 2004: Ord. 27245 § 10; passed Jun. 22, 2004: Ord. 27079 § 23; passed Apr. 29, 2003: Ord. 26947 § 51; Ord. 26966 § 10; passed Jul. 16, 2002: Ord. 26947 § 51; passed Apr. 23, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.400 Industrial Districts.

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

M-1 Light Industrial District

M-2 Heavy Industrial District

PMI Port Maritime & Industrial District

(Ord. 27574 §§ 2,3; passed Mar. 20, 2007: Ord. 27079 § 24; passed Apr. 29, 2003: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.400.A Industrial district purposes.

The specific purposes of the Industrial districts are to:

1. Implement goals and policies of the City's comprehensive plan.

2. Implement Growth Management Act goals, county-wide planning policies, and multi-county planning policies.

3. Create a variety of industrial settings matching scale and intensity of use to location.

4. Provide for predictability in the expectations for development projects. (Ord. 27079 § 25; passed Apr. 29, 2003)

13.06.400.B Districts established.

M-1 Light Industrial District

M-2 Heavy Industrial District

PMI Port Maritime & Industrial District

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

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

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

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

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

Expansion should only be considered contiguous to the existing PMI District. This classification is only appropriate inside comprehensive plan areas designated

for high intensity uses. (Ord. 27362 § 3; passed Jun. 7, 2005: Ord. 27079 § 26; passed Apr. 29, 2003)

1. Applicability. The following tables compose the land use regulations for all districts of Section 13.06.400. All portions of Section 13.06.400 and applicable portions of Section 13.06.500 apply to all new development of any land use variety, including additions and remodels. Explicit exceptions or modifications are noted. When portions of this section are in conflict with other portions of Chapter 13.06, the more restrictive shall apply.

2. Use Requirements. The following use table designates all permitted, limited, and prohibited uses in the districts listed.

Use classifications not listed in this section or provided for in Section 13.06.500 are prohibited, unless permitted via Section 13.05.030.E.

Ord. 27362 § 3; passed Jun. 7, 2005: Ord. 27079 § 26; passed Apr. 29, 2003)

13.06.400.C Land use requirements.

1. Applicability. The following tables compose the land use regulations for all districts of Section 13.06.400. All portions of Section 13.06.400 and applicable portions of Section 13.06.500 apply to all new development of any land use variety, including additions and remodels. Explicit exceptions or modifications are noted. When portions of this section are in conflict with other portions of Chapter 13.06, the more restrictive shall apply.

2. Use Requirements. The following use table designates all permitted, limited, and prohibited uses in the districts listed.

Use classifications not listed in this section or provided for in Section 13.06.500 are prohibited, unless permitted via Section 13.05.030.E.

3. Use table abbreviations.

[See table below]

P = Permitted use in this district.
CU = Conditional use in this district. Requires conditional use permit consistent with the criteria and procedures of Section 13.06.640.
N = Prohibited use in this district.

4. District use table.

Type of Industrial District	M-1	M-2	PMI	Additional Regulations
Adult retail and entertainment	P	P	P	Subject to development standards contained in Section 13.06.525.
Adult family home	P	N	N	See Section 13.06.535.
Ambulance services	P	P	P	
Animal sales and service	P	P	N	
Art/craft production	P	P	P	
Assembly facility	P	P	N	
Brewpubs/taverns	P	P	P	
Building material and services	P	P	P	
Business support services	P	P	P	
Carnival	P	N	N	
Construction/demolition/ land-clearing (CDL) recycling	CU	CU	P	
Commercial parking facility	P	P	P	
Commercial recreation and entertainment	P	P	N	
Communication facility	P	P	P	

Type of Industrial District	M-1	M-2	PMI	Additional Regulations
Confidential shelter	P	N	N	See Section 13.06.535.
Continuing care retirement community	P	N	N	See Section 13.06.535.
Correctional facility	P	P	P	
Cultural institution	P	P	N	
Day care, family	P	N	N	
Day care, center	P	P	N	Subject to development standards contained in Section 13.06.155.
Detoxification center	CU	CU	N	
Drive-throughs with any permitted use	P	P	P	
Dwellings/residential	P	N+	N+	*Quarters for caretakers and watchpersons are permitted as is temporary worker housing to support uses located in these districts.
Eating and drinking	P	P	P	
Emergency and transitional housing	P	N	N	See Section 13.06.535.
Extended care facility	P	N	N	See Section 13.06.535.
Foster home	P	N	N	
Funeral homes	P	P	N	
Gas stations	P	P	P	
Golf course	P	P	N	
Group housing	P	N	N	
Heliport	CU	CU	CU	
Hospitals	P	P	N	
Hotel/motel	P	N	N	
Industry, light	P	P	P	
Industry, heavy	N	P	P	Animal slaughter, fat rendering, acid manufacture, smelters, and blast furnaces allowed in the PMI District only.
Intermediate care facility	P	N	N	See Section 13.06.535.
Juvenile community facility	P	P	P	See Section 13.06.530 for resident limits and additional regulations.
Lodging house	P	N	N	
Microbreweries/wineries	P	P	P	
Mobile home/trailer court	N	N	N	
Nurseries	P	P	N	
Office	P	P	P	
Park and recreation	P	P	P	
Parking area	P	P	P	
Passenger terminal	P	P	P	
Personal services	P	P	P	

Type of Industrial District	M-1	M-2	PMI	Additional Regulations
Port, terminal, and industrial; water-dependent or water-related (as defined in Chapter 13.10)	N	N	P*	*Preferred use.
Public safety facilities	P	P	P	
Religious assembly	P	P	P	
Repair services	P	P	P	
Research and development industry	P	P	N	
Residential care facility for youth	P	N	N	See Section 13.06.535.
Residential chemical dependency treatment facility	P	N	N	See Section 13.06.535.
Retirement home	P	N	N	See Section 13.06.535.
Retail	P	P	P*	*Limited to 7,000 square feet of gross floor area, per development site, in the PMI District.
Schools, public or private	P	P	P*	*General K through 12 education not permitted.
Self-storage	P	P	P	
Staffed residential home	P	N	N	See Section 13.06.535.
Student housing	P	N	N	
Surface mining	CU	CU	CU	
Temporary uses	P	P	P	Subject to development standards contained in Section 13.06.635.
Theater	P	N	N	
Transportation/freight terminals	P	P	P	
Utilities	P	P	P	
Vehicle rental and sales	P	P	P	Subject to development standards contained in Section 13.06.510.
Vehicle service and repair	P	P	P	Subject to development standards contained in Section 13.06.510.
Vehicle service and repair, industrial	P	P	P	Subject to development standards contained in Section 13.06.510.
Vehicle storage	P	P	P	Subject to development standards contained in Section 13.06.510.
Warehouse/storage, limited	P	P	P	
Warehouse/storage	P	P	P	Storage and treatment facilities for hazardous wastes are subject to the state locational standards adopted pursuant to the requirements of Chapter 70.105 RCW and the provisions of any groundwater protection ordinance of the City of Tacoma, as applicable.
Wholesale or distribution	P	P	P	

Type of Industrial District	M-1	M-2	PMI	Additional Regulations
Wireless communication facility	P*/CU**	P*/CU**	P*/CU**	*Wireless communication facilities are also subject to Section 13.06.545.D.1. **Wireless communication facilities are also subject to Section 13.06.545.D.2.
Work release center	CU	CU	P	Subject to development standards contained in Section 13.06.550.
Uses not prohibited by City Charter and not prohibited herein	N	N	P	

(Ord. 27644 Ex. A; passed Sept. 18, 2007: Ord. 27539 § 15; passed Oct. 31, 2006: Ord. 27245 § 11; passed Jun. 22, 2004: Ord. 27079 § 27; passed Apr. 29, 2003)

13.06.400.D Building envelope standards.

	M-1	M-2	PMI
Minimum Lot Area	N/A	N/A	N/A
Minimum Lot Width	N/A	N/A	N/A
Maximum Lot Coverage	None	None	None
Minimum Front Setback	In all districts listed above, 0 feet, unless: • Created by requirements in Section 13.06.502; or • Abutting a dwelling district, then equal to the dwelling district setback for the first 100 feet from that side. The above setback requirements may be waived if demonstration is made that a 20-foot vertical grade between the properties offers comparable protection.		
Minimum Side Setback	In all districts listed above, 0 feet, unless created by requirements in Section 13.06.502, which may be waived if demonstration is made that a 20-foot vertical grade between the properties offers comparable protection.		
Minimum Rear Setback	In all districts listed above, 0 feet, unless created by requirements in Section 13.06.502, which may be waived if demonstration is made that a 20-foot vertical grade between the properties offers comparable protection.		
Maximum Height Limit	75 feet	100 feet, unless such building or structure is set back on all sides one foot for each four feet such building or structure exceeds 100 feet in height.	100 feet, unless such building or structure is set back on all sides one foot for each four feet such building or structure exceeds 100 feet in height.
Maximum Height Exceptions	See Sections 13.06.602.A.2 and 13.06.545.		

(Ord. 27079 § 28; passed Apr. 29, 2003)

13.06.410 M-1 Light Industrial District.

Repealed by Ord. 27079

(Ord. 27079 § 29; passed Apr. 29, 2003: Ord. 26966 § 11; passed Jul. 16, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.420 M-2 Heavy Industrial District.

Repealed by Ord. 27079

(Ord. 27079 § 30; passed Apr. 29, 2003: Ord. 26966 § 12; passed Jul. 16, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.430 M-3 Heavy Industrial District.

Repealed by Ord. 27079

(Ord. 27079 § 31; passed Apr. 29, 2003: Ord. 26966 § 13; passed Jul. 16, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.500 Requirements in all preceding districts.

Applicability. The regulations of this section are applicable in all zoning districts, with exceptions only as noted. Regulations may refer to districts by class of districts, for example Districts or Industrial Districts, this means that all districts carrying the designated prefix or suffix are required to meet the given regulation. Overlay districts are combined with an underlying zoning district and supplement the regulations of that district. Overlay districts only apply to land carrying the overlay district designation. (Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.501 Building design standards.

A. General applicability. The design standards of this section are required to implement the urban design goals of the comprehensive plan of the City of Tacoma.

The building design standards apply to all new development in C-1, C-2, HM, T, PDB, and Mixed-Use Center Districts, except as follows:

1. Standards. Each item of this section shall be addressed individually. Exceptions and exemptions noted for specific development situations apply only to the item noted.

2. Additions. Additions of less than 5,000 square feet of gross floor area are exempt from the design standards of this section; provided they do not exceed 75 percent of the existing gross floor area.

3. Super regional malls. Additions to super regional malls of less than 10,000 square feet of gross floor area are exempt from the design standards of this section.

4. Temporary. Temporary structures are exempt from the design standards of this section.

5. Remodel. Remodel projects valued below 60 percent of the building value, as determined by the Building Code, are exempt from the design standards of this section.

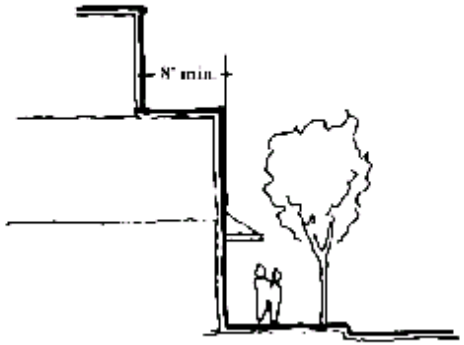
6. Residential and/or mixed-use. The standards apply only to residential structures of five dwelling units or greater. The standards apply to all mixed-use structures.

7. Historic. In any conflict between these standards and those applied by the Tacoma Landmarks Preservation Commission, the standards of the commission shall prevail.

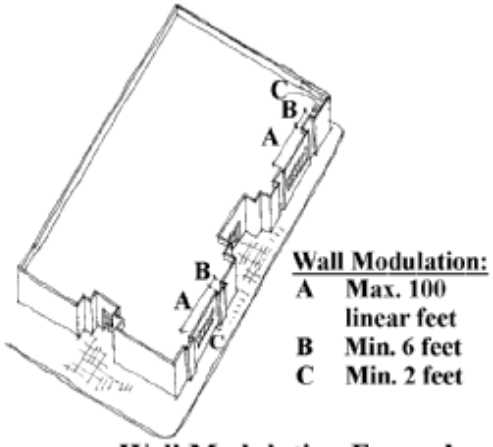
8. Religious assembly and religious facilities which can demonstrate that the design standards impose a substantial burden, administratively or financially, on their free exercise of religion, shall be exempt from compliance.

[See next page for table.]

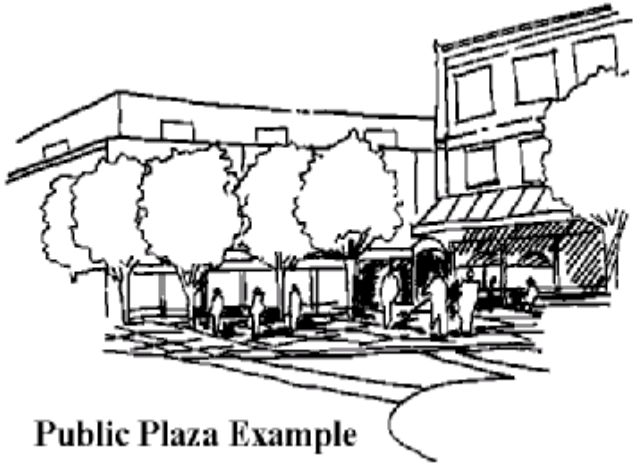
B. Mass Reduction. The design choices of this item are intended to help reduce the apparent mass of structures and achieve a more human scale environment by providing physical breaks in the building volume that reduce large, flat, geometrical planes on any given building elevation.	
1. Size to choice ratio for 2 below	a. Buildings under 7,000 square feet gross floor area are not required to provide mass reduction. b. Buildings from 7,000 square feet gross floor area to 30,000 square feet gross floor area shall provide at least one mass reduction feature. c. Buildings over 30,000 square feet gross floor area shall provide at least two mass reduction features.
2. Mass reduction choices	a. Upper story. Buildings with a maximum footprint of 7,000 square feet gross floor area, that do not exceed 14,000 square feet gross floor area, may count use of a second story as a mass reduction feature. b. Upper story setback. An 8 feet minimum setback for stories above the second story for elevations facing the street or parking lots over 20 stalls. This requirement applies to a maximum of 2 elevations. c. Wall modulation. Maximum 100 feet of wall without modulation, then a minimum 2 feet deep and 15 feet wide offset of the wall and foundation line on each elevation facing the street, parking lots over 20 stalls, or residential uses. d. Public plaza. A public plaza of at least 800 square feet of gross floor area or 5 percent of gross floor area, whichever is greater. The plaza shall be located within 50 feet of and visible to the primary public entrance; and contain a minimum of a bench or other seating, tree, planter, fountain, kiosk, bike rack, or art work for each 200 square feet of gross floor area. Plaza contents may count toward other requirements when meeting the required criteria. Walkways do not count as plazas. Plazas shall not be used for storage. Required parking stalls may be omitted to the minimum necessary if needed to provide the plaza. e. Housing. The provision of upper story residential dwelling units at a site density consistent with the applicable land use intensity designation of the comprehensive plan.



Upper Story Setback

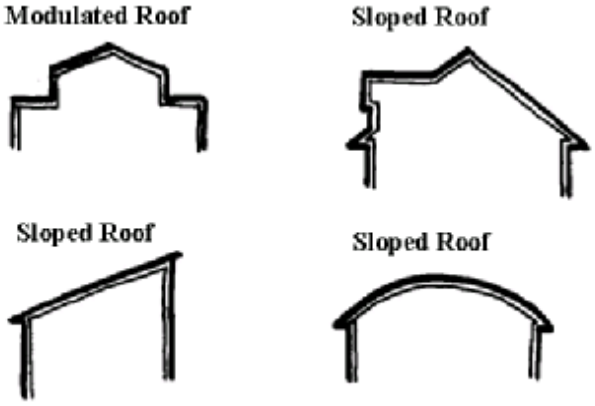


Wall Modulation Example

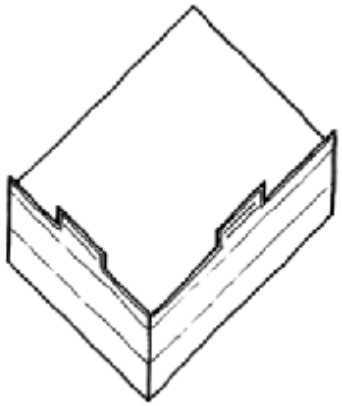


Public Plaza Example

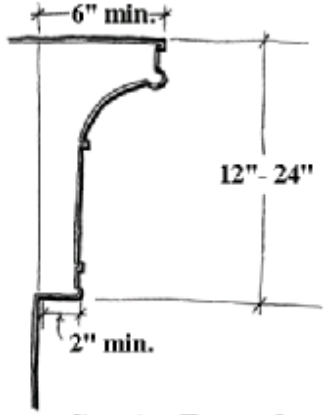
C. Rooflines. These requirements are intended to ensure that roofline is addressed as an integral part of building design to avoid flat, unadorned rooflines that can result in an industrial appearing, monotonous skyline. Roofline features are also intended to further reduce apparent building volume and further enhance features associated with residential and human scale development.	
Roofline Choices (All buildings shall use one or more of the roofline options)	1. Sloped roof. Use of a roof form with a pitch no flatter than 5/12. Rounded, gambrel, and/or mansard forms may be averaged. 2. Modulated roof. Use of features such as a terracing parapet, multiple peaks, jogged ridge lines, dormers, etc., with a maximum of 100 feet uninterrupted roofline between roof modulation elements. Modulation elements shall equal a minimum of at least 15 percent of the roofline on each elevation. The maximum shall be 50 feet of uninterrupted roofline along the eave between roof modulation elements in C-1 Districts and on sides facing residential uses or districts. Roof forms with a pitch flatter than 5/12 are permitted with this option; provided, the appropriate modulation is incorporated. 3. Corniced roof*. A cornice of two parts with the top projecting at least 6 inches from the face of the building and at least 2 inches further from the face of the building than the bottom part of the cornice. The height of the cornice shall be at least 12 inches high for buildings 10 feet or less in height; 18 inches for buildings greater than 10 feet and less than 30 feet in height; and 24 inches for buildings 30 feet and greater in height. Cornices shall not project over property lines, except where permitted on property lines abutting public right-of-way. 4. Canopy Exemption. Gas station canopies, drive-through canopies, or similar canopies are exempt from roofline requirements.



Roofline Examples

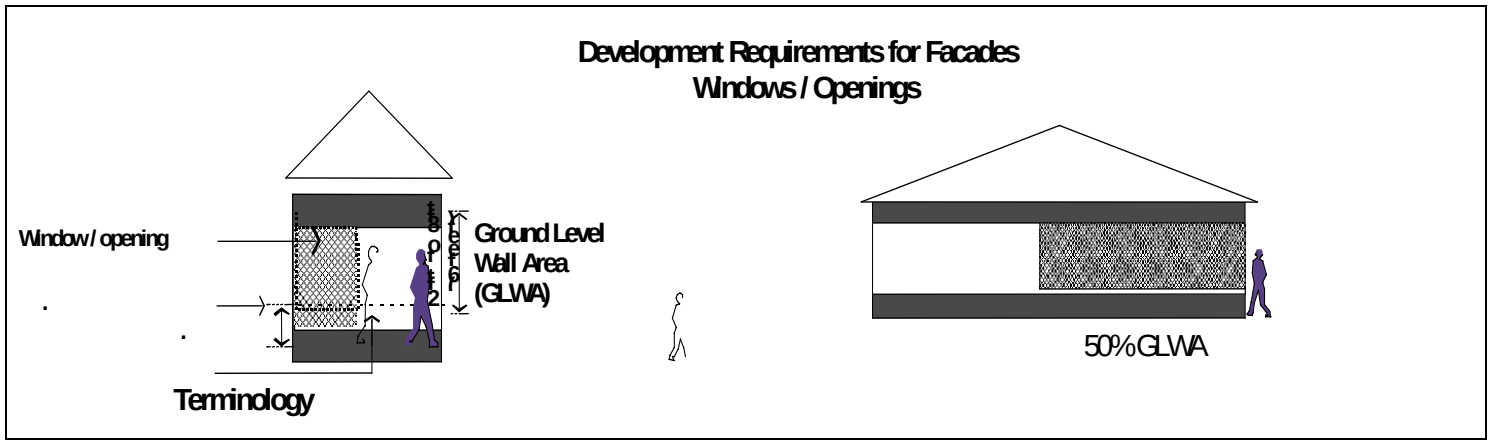


Modulated Roof Example



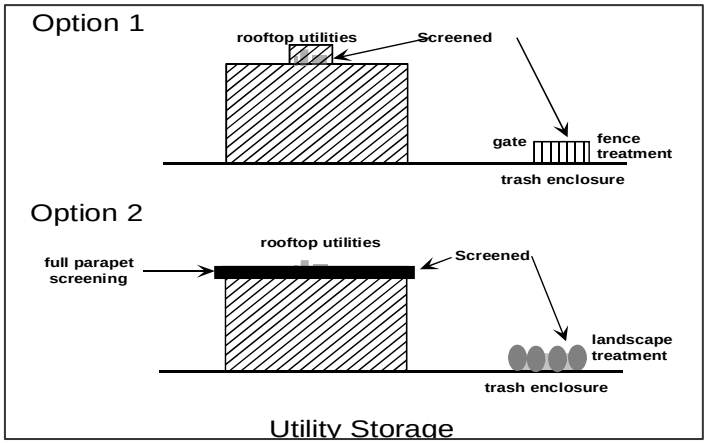
Cornice Example

D. Windows and openings. These requirements are intended to increase public visibility for public safety, to provide visual interest to pedestrians that helps encourage pedestrian mobility, and to provide architectural detailing and variety to building elevations on each story.	
1. Street level	a. Front, side, or corner side exterior walls facing streets or that contain customer entrances and face customer parking lots of 20 stalls or greater shall have transparent window or openings for at least 50 percent of the area of the ground level wall area, which is defined as the area between 2 feet and 8 feet above the sidewalk on a minimum of 2 such building elevations. The window and opening requirements shall be reduced to 40 percent of the ground level wall area for building elevations that are impacted by steep grades, as outlined below in the steep grade exemption section. The requirement shall be further reduced to 20 percent of the ground level wall area in instances where the application of this standard is not possible due to steep grades and the correlating location of the floor plates of the building. Rough openings are used to calculate this requirement. b. Mixed-Use Center District designated pedestrian streets. All requirements in 4.a.1. above except the minimum transparent window or openings is 60 percent of the area of the ground level wall area. c. Required view. Required windows or openings must provide either views into building work areas, sales areas, lobbies, merchandise displays, or artworks. d. Limited alternatives. Alternatives of decorative grilles, art work, or similar features can be substituted for those portions of uses where the provision of natural light can be demonstrated to nullify the intended use (examples include movie theater viewing areas and light sensitive laboratories) and for parking structures, provided an equivalent wall area is covered.
2. Upper levels	a. Front, side, or corner side exterior walls facing streets or walls that contain customer entrances and face customer parking lots of 20 stalls or greater shall use a combination of transparent windows or openings and architectural relief that provide visual demarcation of each floor on a minimum of 2 such building elevations. b. Upper level windows shall be a different type than the ground level windows on the same elevation. c. For purposes of this requirement, a window type is either a grouping of windows, a window size, or a window shape.
3. Exemptions	a. Steep grades. The window and opening requirement shall not apply to that portion of a facade where the grade level of the sidewalk of the abutting street is 4 feet or more above or below the adjacent floor level of the building. b. Residential privacy. On sides where C, HM, T, PDB, or Mixed-Use Center District boundaries adjoin R-1, R-2, R-2SRD, or R-3 District boundaries, structures within the C, HM, T, PDB, or Mixed-Use Center District that are set back at least 7 feet from the property line and screened by landscaping to a minimum height of 6 feet are exempt from the window and opening requirements on the effected side. c. Residential buildings. Residential buildings or residential portions of mixed-use buildings are exempt from street level windows or openings.



E. Facade Surface. These requirements are intended to help reduce the apparent mass of structures and achieve a more human scale environment by providing visual breaks at more frequent intervals to the building volume that reduce large, flat, geometrical planes on any given building elevation, especially at the first story. The choices are also intended to encourage variety in the selection of facade materials and/or treatment and to encourage more active consideration of the surrounding setting.	
1. Blank wall limitation	a. Unscreened, flat, blank walls on the first story more than 25 feet in width are prohibited facing a public street and/or highway right-of-way, residential zone, or customer parking lot. These walls shall use modulation, windows, openings, landscaping, or architectural relief such as visibly different textured material to achieve the required visual break. The visual break shall be at least 1 foot in width. Items provided for other requirements may satisfy this requirement as appropriate. Stored or displayed merchandise, pipes, conduit, utility boxes, air vents, and/or similar equipment do not count toward this requirement. b. NCX District facades. Pedestrian access to uses above or below street level shall not exceed a maximum of 25 percent of the width of the structure's front facade.
2. Facade variety	a. Buildings under 2,000 square feet gross floor area are exempt from the variety requirement. b. Buildings from 2,000 square feet gross floor area to 30,000 square feet gross floor area shall use at least 2 different materials, textures, or patterns on each building elevation. c. Buildings over 30,000 square feet gross floor area shall use at least 3 different materials, textures, or patterns on each building elevation. d. For purposes of this requirement, each material, texture, or pattern must cover a minimum of 10 percent of each building elevation. Glass does not count toward this requirement. Different texture or pattern shall be visibly different from adjacent public right-of-way or parking area.
3. Building face orientation	a. The building elevation(s) facing street or highway public rights-of-way shall be a front, side, or corner side and shall not contain elements commonly associated with a rear elevation appearance, such as loading docks, utility meters, and/or dumpsters. b. This requirement applies to a maximum of 2 building elevations on any given building.
F. Pedestrians. These requirements are intended to enhance pedestrian mobility and safety in commercial areas by providing increased circulation, decreasing walking distances required to enter large developments, and providing walkways partially shielded from rain and/or snow.	
1. Customer entrances	a. Additional entrances. An additional direct customer entrance(s) shall be provided to the same building elevation which contains the primary customer entrance so that customer entrances are no further than 250 feet apart when such elevations face the public street or customer parking lot. If a corner entrance is used, this requirement applies to only 1 elevation. b. Designated streets. Non-residential or mixed-use buildings on designated pedestrian streets noted in Section 13.06.200.E or Section 13.06.300.C shall provide at least 1 direct customer entrance, which may be a corner entrance, within 20 feet, facing, and visible to the designated street. For such buildings over 30,000 square feet of gross floor area, the maximum distance is increased to 60 feet.
2. Street level weather protection	a. Weather protection shall be provided above a minimum of 25 percent of the length of hard surfaced, public or private walkways and/or plazas along facades containing customer and/or public building entries or facing public street frontage. b. Mixed-Use Center District designated pedestrian streets. Weather protection shall be provided above a minimum of 80 percent of the length of hard surfaced, public or private walkways and/or plazas along facades containing customer and/or public building entries or facing public street frontage. c. Weather protection may be composed of awnings, canopies, arcades, overhangs, marquees, or similar architectural features. It is required to cover only hard surfaced areas intended for pedestrian use and not areas such as landscaping. d. Weather protection must cover at least 5 feet of the width of the public or private sidewalk and/or walkway, but may be indented as necessary to accommodate street trees, street lights, bay windows, or similar building accessories to not less than 3 feet in width.

G. Fencing and Utilities. These requirements are intended to minimize visibility of utilities, mechanical equipment, and service areas to mitigate visual impact on residential privacy, public views, and general community aesthetics.	
1. Utility screening	a. Rooftop. All rooftop mechanical for new construction shall be screened with an architectural element such as a high parapet, a stepped or sloped roof form or an equivalent architectural feature which is at least as high as the equipment being screened. Fencing is not acceptable. The intent of the screening is to make the rooftop equipment minimally visible from public rights-of-way within 125 feet of the building, provided said rights-of-way are below the roof level of the building. In those instances where the rights-of-way within 125 feet of the building are above the roof level of the building, the mechanical equipment should be the same color as the roof to make the equipment less visible. The function of the HVAC equipment may not be compromised by the screening requirement. b. All ground level. Mechanical or utility equipment, loading areas, and dumpsters shall be screened from adjacent public street right-of-way, including highways, or residential uses. Items that exceed 4 feet in height must use fencing, structure, or other form of screening, except landscaping. c. Small ground level. Items that do not exceed 4 feet above ground level may be screened with landscaped screening. All landscape screening should provide 50 percent screening at the time of planting and 100 percent screening within 3 years of planting. Types: Chain link fencing, with or without slats, is prohibited for required screening.
2. Fencing type limitation	a. Barbed or razor wire. The use of barbed or razor wire is limited to those areas not visible to a public street or to an adjacent residential use. b. Chain link. Chain link or similar wire fencing is prohibited between the front of a building and a public street, except for wetland preservation and recreation uses. c. Electrified. The use of electrified fencing is prohibited in all zoning districts.



(Ord. 27278 § 1; passed Oct. 26, 2004: Ord. 27079 § 32; passed Apr. 29, 2003: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.502 Landscaping and/or buffering standards.

General requirements. The landscaping requirements, as a whole, are intended to contribute to the aesthetic environment of the City; provide green spaces that can support wildlife, such as birds, in the urban environment; help reduce storm water runoff; filter pollution; and buffer visual impacts of development.

Section 13.06.502.A Residential District Landscaping	**R-1, R-2, R-2-SRD, MR-SRD, R-3, R-4, R-4-L, R-5, R-1-PRD, R 2-PRD, R-3-PRD, R-4-PRD, R-4-L-PRD, R-5-PRD**
Applicability	
• A landscaping plan shall be provided consistent with this table for all new development of structures and/or parking lots. • Additions of more than 5,000 square feet of gross floor area shall meet the requirements of this table at a ratio of at least 5 to 1 (a 5 percent increase in gross floor area requires provision of 25 percent of the requirements of this table for the site). • Any requirement resulting in a fraction, when applied, shall be rounded up or down from the midpoint as appropriate. • All planting ratios shall be applied proportionately to all sites. The same planting may satisfy more than one requirement, except as noted.	
Exemptions	
• Single-family, two-family, and three-family homes are exempt from all landscaping requirements contained in this table. • Remodel projects valued at less than 60 percent of the building value, as calculated in the Building Code, are exempt from all landscaping requirements contained in this table. • Parking lots of 20 stalls or less, located behind buildings and accessed by alleys, are exempt from the perimeter strip, buffer and interior landscaping distribution requirements below. This exemption does not apply to the minimum landscaping area requirement; provided, the minimum area is fully planted with a mixture including the required quantity of trees, shrubs, and/or groundcovers. • Parking lots of 20 stalls or less and loading areas are exempt from the interior landscaping distribution requirements to allow flexibility in placement of required landscaping.	
Maintenance	
Landscaping meeting the standards of this section shall be installed by the time of occupancy. Landscaping shall be maintained in a healthy, growing, and safe condition for the life of the project. Modifications to the landscaping shall be in conformance with these standards.	

Minimum Landscaping Area	
Overall site	• A minimum of 5 percent of the entire site minus the area covered by structures in R-4-L, R-4, and R-5 Districts, and conditional uses permitted in Section 13.06.640. • The percentage identified above is the *minimum* requirement for these districts. Requirements that follow may necessitate more landscaping than this minimum. • Parking lots of 20 stalls or less, located behind buildings and accessed by alleys, are only required to meet the minimum percent for overall site landscaping, outlined above. • These landscaped areas shall be covered with a mixture of trees, shrubs, and/or groundcovers.
Site perimeter strip	• A minimum 7-foot wide site perimeter strip on sides without abutting street trees. • A minimum 5-foot wide site perimeter strip on sides with abutting street trees. • The perimeter strip may be reduced to 5 feet for parcels of 150 feet or less in depth. • The perimeter strip shall be covered with a mixture of trees, shrubs, and/or groundcovers. • Perimeter strips may be broken only for vehicle lanes, walkways, or primary structures.
Planting Requirements. These requirements are intended to provide trees of sufficient maturity at planting to provide more immediate mitigation to the site, to provide trees adequate space to avoid damage and continue growth, and to visually break up parking lots.	
Tree size and quantity	• Minimum 1 tree of at least 2-inch caliper per 1,000 square feet of parking lot area. • For parking areas behind buildings of 20 stalls or less that are shielded by buildings from public street view, a minimum of 1 tree at least 2-inch caliper per 2,000 square feet of parking lot area. • If more trees are needed to meet distribution or street tree requirements, that total is the minimum requirement.
Minimum unpaved planting area per tree	• Parking lot trees and street trees on private property; 60 square feet, 5-foot minimum width. • Street trees in right-of-way; 24 square feet; 4-foot minimum width. • Street trees in right-of-way with tree grates; 16 square feet; 4-foot minimum width.
Minimum tree trunk setbacks	• 2 feet from a sidewalk or curb, 5 feet from a structure.
Interior landscaping distribution	• Trees and planting areas shall be at aisle ends and evenly distributed throughout the parking lot with no stall more than 50 feet from a tree trunk. • At least 1 tree shall be located within 10 feet of required walkway for each 40 feet of said walkway.
Street trees	• 3 trees per 100 feet of site street frontage, including buildings; at least 2-inch caliper; compatible with other trees in the vicinity by variety, species, and planting pattern. • Trees and grates must comply with adopted business area improvement plans and/or the City's Tree Planting Program. • Trees planted within the right-of-way or within 10 feet of the right-of-way or property line boundary are considered street trees for purposes of this requirement.
Native landscaping	The use of native landscaping is encouraged and permitted for any and all landscaping.
Credit for Retaining Existing Trees. These requirements are provided to encourage tree preservation because of the greater visual and ecological benefits of mature trees.	
Credit ratios	The following tree planting credits are available for existing trees, provided an arborist's or landscape architect's appraisal determines that the tree(s) is healthy and can be saved: ◦ One required tree for every retained tree of at least equal size; ◦ Two required trees for every retained tree that is 25 inches to 63 inches in circumference (measured 4.5 feet from the ground); ◦ Three required trees for every retained tree 63 inches to 100 inches in circumference; ◦ Four required trees for every retained tree over 100.5 inches in circumference. • If retained trees are damaged during or after construction, replacement shall be based upon the same ratios.

Section 13.06.502.B Commercial and X-District Landscaping	**T, C-1, C-2, HM, PDB, RCX, NCX, CCX, UCX, UCX-TD, CIX**
Applicability	
• A landscaping plan shall be provided consistent with this table for all new development of structures and/or parking lots**,** unless exempted below. • Any requirement resulting in a fraction, when applied, shall be rounded up or down from the midpoint as appropriate. • The same planting may satisfy more than one requirement, except as noted.	
Exemptions	
• Single-family, two-family, and three-family homes are exempt from all landscaping requirements contained in this table. • New buildings that are less than 250 square feet of gross floor area are exempt from all landscaping requirements contained in this table. However, such new buildings shall not be constructed within required Buffer Planting Areas. • Building remodels are exempt from all landscaping requirements contained in this table. • Building additions and buildings added to sites with existing structures are exempt from the landscaping requirements contained in this table, except for street tree requirements and Buffer Planting Areas. Street trees and Buffer Planting Areas are only required along property lines adjacent to the building addition. If the required Buffer Planting Area cannot be provided because of legally existing development, the maximum possible Buffer Planting Area shall be provided and this area shall be planted with a mixture of trees, shrubs, and groundcover. • Parking lots of 20 stalls or less, loading areas, and gas stations are exempt from the Interior Landscaping Distribution requirements contained in the Planting Requirements section of this table, to allow flexibility in placement of required landscaping. • Parking lots of 20 stalls or less, located behind buildings and accessed by alleys, are exempt from the Perimeter Strip, Buffer and Interior Landscaping Distribution requirements below. • C, T, HM, PDB, or X District property across an arterial street from R-District property is not required to provide a Buffer Planting Area along the affected property line abutting the arterial street.	
Minimum Landscaping Area (unless exempted above)	
Overall site	• A minimum of 10 percent of the entire site minus the area covered by structures in T, C-1, C-2, HM, PDB, CCX, UCX, and CIX Districts. • A minimum of 5 percent of the entire site minus the area covered by structures in NCX, UCX-TD, and RCX Districts, and conditional uses permitted in Section 13.06.640. • Parking lots of 20 stalls or less, located behind buildings and accessed by alleys, are only required to meet the minimum percent for overall site landscaping, outlined above. • Landscaped areas shall be covered with a mixture of trees, shrubs, and/or groundcover.
Site perimeter strip	• A minimum 7-foot wide site perimeter strip on sides without abutting street trees. • A minimum 5-foot wide site perimeter strip on sides with abutting street trees. • The perimeter strip may be reduced to 5 feet for parcels of 150 feet or less in depth. • The perimeter strip shall be covered with a mixture of trees, shrubs, and/or groundcover. • Perimeter strips may be broken only for vehicle lanes, walkways, or primary structures.

Buffer Planting Areas. In addition to the intent of the landscaping requirements noted above, buffer planting areas are intended to provide substantial vegetative screening between dissimilar zoning districts to soften visual and aesthetic impacts (unless exempted above).	
C, T, HM, PDB, or X District property abutting R-District property	• A continuous planting area on the required property with a minimum width of 15 feet that contains: • A minimum of 6 trees, at least 2-inch caliper, per 100 lineal feet of abutting property line. • A minimum of 12 shrubs, minimum 3-gallon size per 100 lineal feet of abutting property line. • Where the property required to provide a buffer is 150 feet or less in depth, measured perpendicularly from the residential parcel, the buffer can be reduced to the minimum 7-foot wide buffer listed below.
C, T, HM, PDB, or X District property across the street or alley from R-District property; or adjacent to R-District property within a mixed-use center	• A continuous planting area on the required property with a minimum width of 7 feet that contains: • A minimum of 4 trees, at least 2-inch caliper, per 100 lineal feet of abutting property line. • A minimum of 10 shrubs, minimum 3-gallon size per 100 lineal feet of abutting property line. • Street trees are not required on frontage where a buffer is required, but may be used to satisfy buffer tree requirements. • Buffer planting areas may be broken only for vehicle lanes and/or walkways.
Tacoma Mall RCX	• Any non-residential development located on property fronting the west side of Pine Street between South 40th Street and South 47th Street shall provide a continuous planting area with a minimum width of seven feet at the rear property line that contains: • A minimum of 4 trees, at least 2.5-inch caliper, per 100 lineal feet of abutting property line. • A minimum of 10 shrubs, minimum 3-gallon size per 100 lineal feet abutting property line. • All sites shall meet the tree and shrub requirements in a proportionate manner based on the 4:100 ratio. (Fractions will be rounded up from the midpoint.)
Planting Requirements. These requirements are intended to provide trees of sufficient maturity at planting to provide more immediate mitigation to the site, to provide trees adequate space to avoid damage and continue growth, and to visually break up parking lots (unless exempted above).	
Tree size and quantity	• Minimum 1 tree of at least 2-inch caliper per 1,000 square feet of new parking lot area. • For parking areas behind buildings of 20 stalls or less that are shielded by buildings from public street view, a minimum of 1 tree at least 2-inch caliper per 2,000 square feet of parking lot area. • If more trees are needed to meet distribution or street tree requirements, that total is the minimum requirement.
Minimum unpaved planting area per tree	• Parking lot trees and street trees on private property. 60 square feet; 5-foot minimum width. • Street trees in right-of-way. 24 square feet; 4-foot minimum width. • Street trees in right-of-way with tree grates. 16 square feet; 4-foot minimum width.
Minimum tree trunk setbacks	• 2 feet from a sidewalk or curb, 5 feet from a structure.
Interior landscaping distribution	• Trees and planting areas shall be at aisle ends and evenly distributed throughout the new parking lot with no stall more than 50 feet from a tree trunk. • At least 1 tree shall be located within 10 feet of required walkway for each 40 feet of said walkway.
Street trees	• 3 trees per 100 feet of site street frontage, including buildings; at least 2-inch caliper; compatible with other trees in the vicinity by variety, species, and planting pattern. • Trees and grates must comply with adopted business area improvement plans and/or the City's Tree Planting Program. • Trees planted within the right-of-way or within 10 feet of the right-of-way or property line boundary are considered street trees for purposes of this requirement.
Native landscaping	Required landscape planting quantities may be reduced by 20 percent when installing Pacific Northwest native planting materials for required landscaping1.

[1] Landscape planting quantities means the total number of plants for the site required by this table.

Credit for Retaining Existing Trees and Shrubs. These requirements are provided to encourage tree and shrub preservation because of the greater visual and ecological benefits of mature plantings.	
Credit ratios	The following tree planting credits are available for existing trees, provided an arborist's or landscape architect's appraisal determines that the tree(s) is healthy and can be saved: • One required tree for every retained tree of at least equal size; • Two required trees for every retained tree that is 25 inches to 63 inches in circumference (measured 4.5 feet from the ground); • Three required trees for every retained tree 63 inches to 100 inches in circumference; • Four required trees for every retained tree over 100.5 inches in circumference. • If retained trees are damaged during or after construction, replacement shall be based upon the same ratios. • Existing shrubs, which comply with the minimum plant size specifications of this table, may count towards the required landscape plantings. Invasive plants such as blackberry, scotch broom, etc. shall not count towards the required plantings.
Maintenance	
Landscaping meeting the standards of this section shall be installed by the time of occupancy. Landscaping shall be maintained in a healthy, growing, and safe condition for the life of the project. Modifications to the landscaping shall be in conformance with these standards.	
SECTION 13.06.502.C **Port Maritime and Industrial District Landscaping**	**M-1, M-2, PMI**
Applicability	
• A landscaping plan shall be provided consistent with this table for all new development of parking areas over 20,000 square feet of gross lot area, for perimeter strips adjacent to arterial street frontages, and for buffer plantings abutting R-District property. • Any requirement resulting in a fraction, when applied, shall be rounded up or down from the midpoint as appropriate. • The same planting may satisfy more than one requirement, except as noted. • Required landscaping and perimeter strips may be substituted with central landscaping. Central landscaping is in equal proportion to that which would have been required and that which can be provided with variations in spacing and/or grouped to accommodate driveways, building entrances, etc. Required landscaping and perimeter strips are those not otherwise exempted by the provisions in this section.	
Exemptions	
• Required landscaping and perimeter strips may be exempted if demonstrated that such requirement would interfere with adjacent or intersecting railroads, including private spur railroads, existing storm water ditches, or national security requirements, or if demonstrated that there is a 20-foot vertical grade difference between the properties that offers comparable protection. • When there is a 20-foot vertical grade difference between M or PMI District property that is abutting R-District property, no buffer is required along the affected property line if such grade difference is demonstrated to provide comparable protection. • When there is a 20-foot vertical grade difference between M or PMI District property that is located across the street or alley from R-District property or adjacent to R-District property within a mixed-use district center, no buffer is required along the affected property line if such grade difference is demonstrated to provide comparable protection.	

Minimum Landscaping Area (unless exempted above)	
Overall site	• Five percent of parking areas over 20,000 square feet of gross lot area. Not more than 5 percent is required for such parking areas, but this requirement is separate from the required site perimeter strip or buffer plantings. • These landscaped areas shall be covered with a mixture of trees, shrubs, and/or groundcovers.
Site perimeter strip	• A minimum 5-foot wide perimeter strip along arterial street frontages, unless otherwise exempt herein. • The perimeter strip may be reduced to 5 feet for parcels of 150 feet or less in depth. • The perimeter strip shall be covered with a mixture of trees, shrubs, and/or groundcovers. • Perimeter strips may be broken only for vehicle lanes, walkways, or primary structures.
Buffer Planting Areas. In addition to the intent of the landscaping requirements noted above, buffer planting areas are intended to provide substantial vegetative screening between dissimilar zoning districts to soften visual and aesthetic impacts, (unless exempted above).	
M or PMI District property abutting R-District property	• A continuous planting area on the required property with a minimum width of 15 feet that contains: • A minimum of 6 trees, at least 2-inch caliper, per 100 lineal feet of abutting property line. • A minimum of 12 shrubs, minimum 3-gallon size per 100 lineal feet of abutting property line. • Where the property required to provide a buffer is 150 feet or less in depth, measured perpendicularly from the residential parcel, the buffer can be reduced to the minimum 7-foot wide buffer listed below.

M or PMI District property across the street or alley from R-District property; or adjacent to R-District property within a mixed-use center	• A continuous planting area on the required property with a minimum width of 7 feet that contains:
	  • A minimum of 4 trees, at least 2-inch caliper, per 100 lineal feet of abutting property line.
	  • A minimum of 10 shrubs, minimum 3-gallon size per 100 lineal feet of abutting property line.
	• Street trees are not required on frontage where a buffer is required, but may be used to satisfy buffer tree requirements.
	• Buffer planting areas may be broken only for vehicle lanes and/or walkways.

Planting Requirements. These requirements are intended to provide trees of sufficient maturity at planting to provide more immediate mitigation to the site, to provide trees adequate space to avoid damage and continue growth, and to visually break up parking lots, (unless exempted above).	
Tree size and quantity	• Minimum 1 tree of at least 2-inch caliper per 1,000 square feet of new parking lot area. • If more trees are needed to meet distribution or street tree requirements, that total is the minimum requirement.
Minimum unpaved planting area per tree	• Parking lot trees and street trees on private property; 60 square feet; 5-foot minimum width. • Street trees in right-of-way. 24 square feet; 4-foot minimum width. • Street trees in right-of-way with tree grates. 16 square feet; 4-foot minimum width.
Minimum tree trunk setbacks	• 2 feet from a sidewalk or curb, 5 feet from a structure.
Interior landscaping distribution	• Trees and planting areas shall be at aisle ends and evenly distributed throughout the new parking lot with no stall more than 50 feet from a tree trunk. • At least 1 tree shall be located within 10 feet of required walkway for each 40 feet of said walkway.
Street trees	• 3 trees per 100 feet of site street frontage, including buildings; at least 2-inch caliper; compatible with other trees in the vicinity by variety, species, and planting pattern. • Trees and grates must comply with adopted business area improvement plans and/or the City's Tree Planting Program. • Trees planted within the right-of-way or within 10 feet of the right-of-way or property line boundary are considered street trees for purposes of this requirement.
Native landscaping	Required landscape planting quantities may be reduced by 20 percent when installing Pacific Northwest native planting materials for required landscaping2.

[2] Landscape planting quantities means the total number of plants for the site required by this table.

Credit for Retaining Existing Trees and Shrubs. These requirements are provided to encourage tree and shrub preservation because of the greater visual and ecological benefits of mature plantings.	
Credit ratios	The following tree planting credits are available for existing trees, provided an arborist's or landscape architect's appraisal determines that the tree(s) is healthy and can be saved: • One required tree for every retained tree of at least equal size; • Two required trees for every retained tree that is 25 inches to 63 inches in circumference (measured 4.5 feet from the ground); • Three required trees for every retained tree 63 inches to 100 inches in circumference; • Four required trees for every retained tree over 100.5 inches in circumference. • If retained trees are damaged during or after construction, replacement shall be based upon the same ratios. • Existing shrubs, which comply with the minimum plant size specifications of this table, may count towards the required landscape plantings. Invasive plants such as blackberry, scotch broom, etc. shall not count towards the required plantings.
Maintenance	
Landscaping meeting the standards of this section shall be installed by the time of occupancy. Landscaping shall be maintained in a healthy, growing, and safe condition for the life of the project. Modifications to the landscaping shall be in conformance with these standards.	

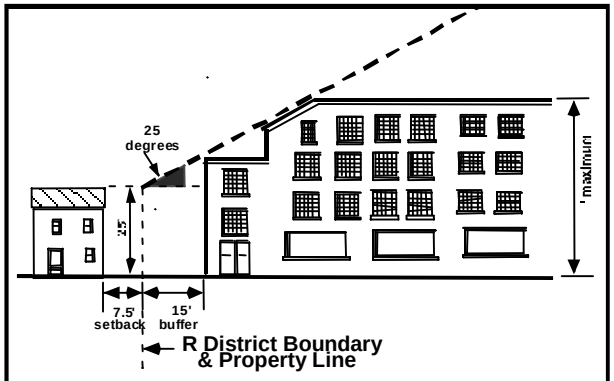
(Ord. 27296 § 21; passed Nov. 16, 2004: Ord. 27278 § 2; passed Oct. 26, 2004: Ord. 27079 § 33; passed Apr. 29, 2003: Ord. 26947 § 52; passed Apr. 23, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.503 Residential compatibility standards.

The following items are required to help ensure compatibility between non-residential development and adjacent residential districts, in terms of building bulk and scale, location of activity areas for privacy and noise reduction, provision of greenspace, and visual separation:

[See next page for table.]

A. Upper Story Setback	Structures shall not intercept a 25-degree daylight plane inclined into the C, T, PDB, HM, M, PMI, or Mixed-Use Center District from a height of 25 feet above existing grade at any R-District / C, T, PDB, HM, M, PMI, or X District boundaries, excluding boundaries with R-4 Districts, R-5 District, and/or non-residential uses in any R District.
B. Storage and/or Service Openings	Vehicle ingress, vehicle egress, and/or loading bay doors of self-storage uses and/or vehicle service uses shall not face any residentially-zoned property.
C. Buffer Planting Areas	*SEE SECTION 13.06.502.*
D. Lighting	1. Light trespass. Light trespass from sites in non-residential zoning districts shall not exceed 3 lux (0.3 foot candles) at parcel boundaries with residential zoning districts. This luminance value shall be measured at the eye in a plane perpendicular to the line-of-sight when looking at the brightest source in the field of view at any point on the property line of any residential parcel. 2. Residential light pollution. To ensure control of and to minimize glare, any lighting within 100 feet of an R District shall use luminaires which meet the Illuminating Engineering Society's cutoff light distribution specification. 3. General light pollution. To control and minimize glare, all other luminaries for area and/or off-street parking shall meet the Illuminating Engineering Society's semi-cutoff light distribution specification. Lighting shall be directed toward the site, with cutoff shields or other means, to prevent spillover glare to adjacent properties or vehicular traffic. Luminaires with a light source not greater than 1800 lumens (100 watt incandescent) are exempt from this requirement. 4. View-Sensitive Overlay Districts. Parking lot lighting shall not exceed 20 feet in height. 5. Any lighting from a non-residential development located within the Tacoma Mall RCX zone on property fronting the west side of Pine Street between South 40th Street and South 47th Street and within 100 feet of the rear property line shall meet this standard.



Building Height Setback at R District Boundaries (except R4 & R5)

(Ord. 27079 § 34; passed Apr. 29, 2003: Ord. 26947 § 53; passed Apr. 23, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.510 Off-street parking and storage areas.

A. Purpose. To ensure the safe and adequate flow of traffic in public right-of-way, it is deemed in the interest of the public health, safety, and general welfare that off-street parking areas be required as a necessary part of the development and use of land, and to ensure that required parking areas are designed to perform in a safe and efficient manner.

Minimum parking requirements are particularly important in order to ensure resident, visitor, customer, and employee parking within reasonable distance to the uses served, reduce congestion on adjacent streets; and to minimize, to the extent possible, spillover parking into adjacent residential areas. The requirements herein set forth are also established to discourage under-used parking facilities and to minimize the amount of land dedicated to parking, consistent with the comprehensive plan, that encourages economic development, transit use, carpooling, energy conservation, and air quality improvement by providing for: only the minimum number of stalls necessary, compact stalls, shared parking between uses, transportation demand management, and incentives for reducing the size of parking areas.

Applicability. Buildings, structures, or uses hereafter established, built, enlarged, increased in capacity, or changed in principal use in all districts shall provide the following off-street parking areas:

1. Off-street parking spaces - quantity. The quantity of off-street parking shall be provided in accordance with the standards of the tables below.

a. Fractions. Fractions resulting from required parking calculations will be rounded up or down from the midpoint as appropriate.

b. Multiple uses. Where an establishment on a lot contains multiple types of uses, the required parking spaces shall be equal to the total spaces determined by computing each use type separately, except where specifically stated otherwise herein.

c. Use not listed. In the case of a use not specifically mentioned in this section, the requirements for off-street parking facilities shall be determined by the City Traffic Engineer. Such determination shall be based upon the requirements for the use specified in this section that is most nearly comparable to the unspecified use and traffic engineering principles and studies.

TABLE 1 – Required Off-Street Parking Spaces [9, 14]

Use	Unit	Required parking spaces
		Min.
Residential		
Single-family dwelling, Adult family home, Staffed residential home [1, 2, 12]	Dwelling.	2.00
Two-family dwelling in all districts [1, 2, 12]	Dwelling.	2.00
Three-family in R-2SRD, HMR-SRD and R-3 [1, 2, 12]	Dwelling.	2.00
Lots not conforming to area/width [3]	Dwelling.	1.00
Multiple-family dwelling and mobile home park [1, 2, 12]		
Located in R-4-L, T, HMR-SRD, and PRD Districts [12]	Dwelling.	1.50
Located in R-4, C-1, C-2, HM, and M-1 Districts [12]	Dwelling.	1.25
Located in R-5 District [12]	Dwelling.	1.00
Mixed-Use Center District	See TABLE 2 (next table).	
Retirement homes, apartment hotels, residential hotels, residential clubs, fraternities, sororities, and group living quarters of a university or private club [1]	Guest room, suite, or dwelling.	Same as for multiple-family.
Residential in DR, DCC, DMU, and WR Districts	See Chapter 13.06A.	

TABLE 1 – Required Off-Street Parking Spaces [9, 14]		
Retail [10 (View-Sensitive)]		
Retail commercial establishments, except as otherwise herein, less than 15,000 square feet of gross floor area	1,000 square feet of gross floor area.	2.50
Shopping Center	1,000 square feet of gross floor area.	4.00
Retail commercial establishments, except as otherwise herein	1,000 square feet of gross floor area.	4.00
Eating and drinking establishments [11] (View-Sensitive)	1,000 square feet of gross floor area.	10.00
Office		
Business and professional offices	1,000 square feet of gross floor area.	3.00
Medical and dental clinics	1,000 square feet of gross floor area.	3.00
Lodging		
Hotel [1]	Guestroom or suite.	0.50
Motel [1]	Guestroom or suite.	1.00
Institutional		
Libraries, museums, art galleries	1,000 square feet of gross floor area.	2.50
Hospitals	Bed.	1.75
Special needs housing, as listed in the use table in Section 13.06.535.B and not otherwise listed in this table	Bed	0.10 plus one per employee
Extended care facilities	Bed.	0.33
Religious assembly	Seat[4]	0.20
Elementary, middle, and junior high schools	Teaching station.	1.20
High school	Student.	0.40
College and university	Student.	0.75
Work release or juvenile rehabilitation	Employee.	1.00 [5]
Recreational		
Auditoriums, stadiums, and theaters	Seat [4]	0.25
Miniature golf course	1,000 square feet of lot area, excluding parking.	2.50
Skating rink	1,000 square feet of gross floor area.	6.00
Bowling establishment	Lanes.	5.00
Public dance halls and private clubs	1,000 square feet of gross floor area.	7.50
Marina	Moorage space.	0.50
Boat launch	Ramp.	25.00 [6]
Recreational uses not listed elsewhere	Same as retail, based on size.	
Warehouse/Industrial [13]		
Self-service storage	Storage unit.	See note 7.
Warehousing	1,000 square feet of gross floor area.	1.00

TABLE 1 – Required Off-Street Parking Spaces [9, 14]		
Industrial/manufacturing	1,000 square feet of gross floor area.	1.50
Services		
Laundromat	Washing and dry-cleaning machine.	0.50
Car wash	Wash stall or 25 feet of wash lane.	4.00 [8]
Day-care centers	Each 10 children in care.	2.00

TABLE 1 Footnotes

1. Guest rooms or suites in retirement homes, apartment hotels, residential hotels, and residential clubs shall be construed to be dwelling units for purposes of determining the number of off-street parking stalls required. The parking requirements may be reduced to one parking space every three dwelling units; provided, the following conditions exist:

   a. The use will provide residency for retirement age persons with an estimated average persons-per-dwelling unit factor of 1.5 or less, or low-income elderly persons, or a combination thereof;

   b. Yard space is available on the same lot the use is to be located upon or an adjoining lot, where off-street parking at a future time could be provided should the use be converted to an apartment or for other reasons additional parking is needed to serve the premises.

   If these conditions do not exist, a variance of the number of parking spaces to be provided is required.

2. For purposes of this regulation, a mobile home shall be construed to be a single-family dwelling. Tandem parking is permitted for single-family, two-family, and three-family dwellings.

3. Single unified parcel of land as indicated by the records of the Pierce County Auditor as of May 18, 1953, having an average width of less than 50 feet and an area of less than 5,000 square feet.

4. Seat, 18 inches of bench or 25 square feet of floor space.

5. There shall be 2 visitor-parking stalls provided for each 10 required employee stalls.

6. Parking spaces shall be minimum 10 feet wide and 40 feet long.

7. Parking shall be provided by parking/driving lanes adjacent to the buildings. These lanes shall be at least 20 feet wide when storage facilities open onto one side of the lane only and at least 25 feet wide when storage facilities open onto both sides of the lane. Driving lanes shall be designed to accommodate single unit vehicles. Two parking spaces shall be provided adjacent to the manager's quarters. One parking space for every 200 storage spaces or fraction thereof shall be located adjacent to, or within 100 feet of, the office. A minimum of two such spaces shall be provided. Required1 parking spaces may not be rented as, or used for, long-term vehicular storage.

8. The required stalls may include waiting and finishing or drying space.

9. The number and size of required handicapped accessible parking spaces shall be consistent with the Uniform Building Code.

10. In commercial districts combined with a View-Sensitive Overlay District and adjacent to a shoreline district (i.e., Old Town), 0 stalls are required for the first 3,000 square feet of retail space.

11. In commercial districts combined with a View-Sensitive Overlay District and adjacent to a shoreline district (i.e., Old Town), 0 stalls are required for the first 750 square feet of eating and drinking establishments.

12. Additional off-street parking for existing residential uses, including those nonconforming as to off-street parking, in all "R" Residential Dwelling Districts shall only be required if the number of dwelling units is increased.

13. Storage warehousing, distribution warehousing, and industrial uses.

a. The off-street parking requirements, set forth in Table 1 of this section, shall not include space devoted to office or other non-industrial related use. Where a warehousing or industrial facility contains office or other non-industrial related use, off-street parking for such spaces shall be computed utilizing the requirements set forth in Table 1.

b. In determining whether to apply the parking standard based on floor area or the standard based on the number of employees, the City shall consider the following:

(1) The extent to which automation is utilized in the operation of the facility;

(2) The long-term versus the short-term nature of the use;

(3) The means of product delivery and distribution;

(4) The need for storage of company vehicles on-site;

(5) The availability of accurate employee counts;

(6) Future expansion plans;

(7) The amount of available area which could be converted to additional off-street parking should the need arise; for example, due to an increase in the work force or change in use.

If, after reviewing the project in light of the above factors, the City finds that the off-street parking standard based on number of employees more accurately reflects the parking needs of the facility while still protecting the general health, safety, and welfare of the community, such standards shall be applied.

14. In instances where the parking requirement is based on number of employees and the employees work in shifts, the number of regular employees in the largest shift shall be used for the purpose of determining the required number of parking stalls.

TABLE 2 – Parking in Mixed-Use Center Districts	
Quantity	Residential Uses. Minimum 1.0 stall per unit. Commercial or Office Uses. Minimum 2.5 stalls per 1000 square feet of gross floor area. UCX-TD Commercial or Office Uses (including retail, service and eating and drinking establishments). Minimum 0 stalls per 1000 square feet of gross floor area. See Section 13.06.510.B.2.f for use of compact stalls.
Exemptions	No parking is required for any structure in existence upon the adoption of these regulations in any Mixed-Use Center District. New development shall provide parking as required. In NCX, CCX, and UCX Districts, no parking is required for the first 3,000 square feet of retail and service space or the first 750 square feet of patron-serving area in a ground-level eating and drinking establishment.

TABLE 2 – Parking in Mixed-Use Center Districts	
Location.	
NCX, RCX, and UCX-TD Districts	Parking shall be located to the rear, side, within, or under a structure, or on a separate lot. Parking located to the side of a structure shall not exceed a maximum of 60 feet in width for paved vehicular area along designated pedestrian street frontages.
CCX, UCX, and CIX Districts	Parking may be located on any side provided maximum setback requirements are met.
Loading Spaces	In NCX and RCX Districts, off-street loading spaces for retail sales and service uses shall only be required in shopping centers.
Driveways.	
NCX/RCX driveway location	Driveways shall be located from an alley; or street without pedestrian designation: If no alley or street without arterial or pedestrian designation is available to the site, then from an arterial street without pedestrian designation. If none of the previous options are available to the site then from a street with pedestrian designation.
Driveway size	The maximum driveway width shall be 25 feet on designated pedestrian streets and 30 feet on all other streets.
Pedestrian street driveway frequency	Driveways shall be no closer than 150 feet to another driveway as measured from centerlines on designated pedestrian streets. The centerline of a driveway shall be no closer than 50 feet to a designated pedestrian street corner.
Review of new driveways	New driveways in Mixed-Use Center Districts are subject to review and approval by the City Engineer pursuant to Chapter 10.14, taking into account safe traffic flow, existing and planned transit operations, the objectives and requirements of this chapter, and the efficient functioning of the development. When portions of Chapter 10.14 or this chapter are in conflict, the more restrictive shall apply. Exceptions may be allowed by the City Engineer for public safety or if strict application of these standards would prohibit vehicular access to a development, pursuant to Chapter 10.14. Any proposed exception to the standards and/or requirements for driveways in Chapter 10.14 or this chapter shall be forwarded to Pierce Transit for review and comment.

2. Off-site parking. Parking areas for all uses shall be located on the same parcel with such uses; however, it is recognized that more efficient use of land, business, or organization growth, safety, or similar considerations may make off-site parking desirable. Therefore, an exception is provided that off-street parking areas may be constructed on a parcel separate from the main building or buildings occupied by such uses, under the following circumstances:

a. Where allowed. The parking area shall be considered an extension of the use it serves. The

parking area shall be permitted, prohibited, or subject to conditional use permit in the same manner as the associated land use.

b. Proximity to use. The parcel(s) for such off-site parking area shall be located within 500 feet of the parcel(s) to be served. The distance shall be measured between the nearest point of public access between the two parcels.

c. Availability confirmation. Required parking spaces within such an off-site parking area are owned or under legal contract by the owner(s) or lease holder(s) of the property intended to be served.

d. Sign. A sign with a maximum area of 1.5 square feet shall be posted on the principal site providing notice of the availability and location of the additional parking. Said sign area will not be subtracted from any sign allowance in Section 13.06.520.

e. Pedestrians. Upon review, the Traffic Engineer, or designee, may require sidewalk or pedestrian crossing improvements or fence openings to enhance pedestrian safety and mobility from the off-site parking to the use it serves when conditions warrant such improvements.

3. Shared parking. Parking areas for all uses shall be located on the same parcel with such uses; however, it is recognized that more efficient use of land, business, or organization growth, safety, or similar considerations may make shared parking desirable. Therefore, two or more uses may share common parking facilities, subject to the following:

a. Off-site. The shared parking site shall comply with the provisions of off-site parking (subsection 2 above).

b. Performance. The applicant shall show that there is no substantial conflict in the principal operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed.

c. Availability confirmation. Required parking spaces within such a shared parking area are owned or under legal contract by the owner(s) or lease holder(s) of the property intended to be served.

d. Total spaces. When two or more uses share common parking facilities, the total number of parking spaces required shall be the sum of spaces required for those uses individually.

(1) General exception. Where the uses involved are both daytime and nighttime uses, as defined below, the total required parking for all uses may be reduced by 50 percent of the daytime use requirement or the nighttime use requirement, whichever is smaller.

(2) Religious assembly and school exception. All of the parking spaces required by this section for a religious assembly or for an auditorium incidental to a public or private school, college, or university may be supplied by the off-street parking areas provided by daytime uses.

(3) Daytime uses established. For the purposes of this section, the following uses are considered as daytime uses: banks; business and professional offices; retail stores; manufacturing and warehouse buildings; and similar primarily daytime uses as determined by the City Engineer.

(4) Nighttime uses established. For the purposes of this section, the following uses are considered as nighttime uses: auditoriums incidental to a public or private school; college; or university; churches; bowling alleys; dance halls; theatres; taverns; cocktail lounges; night clubs; or restaurants; and similar primarily nighttime uses as determined by the City Engineer.

e. Pedestrians. Upon review, the Traffic Engineer, or designee, may require sidewalk and pedestrian crossing improvements or fence openings to enhance pedestrian safety and mobility between the uses sharing parking and the parking area shared when conditions warrant such improvements.

4. Other limitations on parking areas.

a. Where the principal use is changed and additional parking space is required as a result, it is unlawful and a violation of this chapter to begin or maintain such altered use until such time as the required off-street parking provisions of this chapter are complied with.

b. Where the minimum number of required off-street parking spaces has been provided to serve a use, such parking area shall not be subsequently reduced in the number of parking spaces provided.

c. Where off-street parking areas are developed and operated as a business and where a parking fee is charged, the parking area shall be located only in a commercial or industrial district.

B. Off-street parking area development standards.

1. Intent. In order to assure proper and uniform development of safe parking areas, protect adjoining property from undue invasion of privacy and peace, provide for pedestrian circulation, minimize nuisance factors, and maintain in appropriate locations a landscaped setting in keeping with accepted, sound standards of residential landscaping practice, every parcel of land hereafter used as an off-street parking area, as defined in this chapter, shall be developed in accordance with the following minimum standards.

2. Minimum standards. A parking area for five or more motorized vehicles, trailers, or a combination

thereof, shall be developed in accordance with the following requirements:

a. Entrances and exit. The location and design of all entrances and exits shall be subject to the review and approval of the City Engineer, taking into consideration factors including, but not limited to, emergency vehicle mobility, safe turn movements, right–of–way width, speed limits, proximity to street intersections and/or other entrances or exits, street classification for motorists and/or bicyclists, pedestrian mobility, transit mobility, and retention of landscaping. Such entrances or exits shall not be designed to require vehicles to back into, or otherwise utilize a designated arterial street right-of-way as an aisleway for a parking area.

b. Parking aisles. Any aisle serving two-way traffic or providing one-way access to spaces at right angles to the aisle shall have a minimum width of 20 feet. Aisles providing one-way access to spaces at an angle of 60 degrees to the aisle shall have a minimum width of 18 feet. Aisles providing one-way access to spaces at an angle of 45 degrees to the aisle shall have a minimum width of 14 feet. On dead end aisles, aisles shall extend five feet beyond the last stall to provide adequate turnaround.

c. Border barricades. A bumper curb of a height and strength sufficient to retain all vehicles and trailers completely within the given parking area shall be provided, except at access points. Bumper curbs shall be designed and located in such a manner as to prevent vehicles parked within a parking area from protruding beyond the parking area property line and into public right-of-way and/or adjacent private property.

d. Surfacing of parking areas. Off-street parking areas shall be surfaced with a minimum all-weather surface, consisting of a crushed rock base with an asphalt concrete or cement concrete surface. Such surface shall have a standard thickness of two inches, unless otherwise specified by the City Engineer. Such a parking area shall provide a drainage system to the approval of the City Engineer. Alternatives to the all-weather surface may be provided, subject to the approval of the City Engineer. The alternative must provide results equivalent to paving. All surfacing must provide for the following minimum standards of approval:

(1) Dust is controlled;

(2) Stormwater is treated to City standards; and

(3) Rock and other debris is not tracked off-site.

The applicant shall be required to prove that the alternative surfacing provides results equivalent to paving. If, after construction, the City determines that the alternative is not providing the results equivalent to paving or is not complying with the standards of approval, paving shall be required.

e. Grades of access driveways. The grade of access driveways for off-street parking areas shall be subject to the approval of the City Engineer, as outlined in the driveway regulations contained in Chapter 10.14.

f. Parking space standards.

(1) Standard parking spaces shall have a minimum width of eight and one-half feet, a minimum length of 16.5 feet. The minimum clearance above the parking space shall be consistent with the Uniform Building Code.

(2) Compact parking spaces shall have a minimum width of seven and one-half feet and a minimum length of 15 feet. The minimum clearance above the parking space shall be consistent with the Uniform Building Code. A maximum 30 percent of the total parking spaces provided may be composed of compact stalls. The parking area shall be arranged such that a row of compact stalls has an exclusive aisleway or shares an aisleway with full size stalls. In no case shall two rows of compact stalls share the same aisleway. Aisleway widths shall conform to the requirements of full size parking. All compact stalls shall be clearly marked “COMPACT.”

g. Landscaping. Provide landscaping consistent with Section 13.06.502.

h. Lighting standards.

(1) Light trespass. Light trespass from sites in non-residential zoning districts shall not exceed three lux (0.3 footcandles) at parcel boundaries with residential zoning districts. This illuminance value shall be measured at the eye in a plane perpendicular to the line-of-sight when looking at the brightest source in the field of view at any point on the property line of any residential parcel.

(2) Residential light pollution. To ensure control of and to minimize glare, any lighting within 100 feet of an R District shall use luminaires which meet the cutoff light distribution specification of the Illuminating Engineering Society.

(3) General light pollution. To control and minimize glare, all other luminaries for area and/or off-street parking shall meet the semi-cutoff light distribution specification of the Illuminating Engineering Society. Lighting shall be directed toward the site, with cutoff shields or other means, to prevent spillover glare to adjacent properties or vehicular traffic. Luminaires with a light source not greater than 1,800 lumens (100 watt incandescent) are exempt from this requirement.

(4) View-Sensitive Overlay Districts. Parking lot lighting shall not exceed 20 feet in height.

i. Walkways. See Section 13.06.512 for minimum requirements. The exact location of walkways shall be subject to the approval of the City Engineer.

C. Loading spaces.

1. Intent. It is the intent of this regulation to require all future commercial, business, or industrial development to provide off-street loading facilities, in order to guarantee full utilization of existing rights-of-way to accommodate present and future traffic demands. Off-street loading facilities are intended to provide adequate space to accommodate outside deliveries from large vehicles which cannot be functionally served by normal parking stalls. Off-street loading facilities must be located in such a manner that service vehicles do not block or intrude into public rights-of-way or block driveways or parking area circulation.

2. Minimum standards.

a. Loading Space Required Quantity Table.

Use	Unit	Required Space
Offices	gross floor area 0-10,000 square feet.	1 stall, an adjacent parking lot may be used for loading in off-peak hours to satisfy the requirement.
	10,001-25,000 square feet.	1 stall.
	25,001-100,000 square feet.	2 stalls.
	Over 100,000 square feet.	1 stall for each additional 100,000 square feet or fraction thereof over 100,000 square feet.
Retail and wholesale sales warehouses and industrial	gross floor area 0-10,000 square feet.	1 stall.
	10,001-25,000 square feet.	2 stalls.
	Over 25,000 square feet.	2 stalls plus 1 stall for each additional 25,000 square feet thereof over 25,000 square feet.
Hospitals	gross floor area 0-5,000 square feet.	1 stall.
	5,000-20,000 square feet.	2 stalls.
	Over 20,000 square feet.	2 stalls plus 1 stall for each additional 20,000 square feet or fraction thereof over 20,000 square feet.
Restaurants		An adjacent parking lot which can be used during off-peak business hours for loading stall purposes.
Self-service storage facilities, multi-storied facilities		3 loading stalls per 200 storage units.

b. Dimensions. The off-street loading spaces herein required shall each have minimum dimensions of ten feet in width, 25 feet in length, with a clear space above approved by the Traffic Engineer, and shall be accessible to an alley, court, or street with said access subject to approval by the Traffic Engineer.

c. Screening. Where off-street loading is located adjacent to a public street right-of-way or residential zone, the off-street loading area shall be screened by landscaping or vegetative screen.

d. Application. The foregoing regulations shall apply in all zoning districts with exceptions only as noted. The Traffic Engineer may otherwise specify

off-street loading requirements where necessary to protect the public interest. The Traffic Engineer may also administratively lower the number of required loading spaces upon request of an applicant and making a finding that the characteristics of a proposed development do not necessitate the stated minimum.

D. Storage areas and vehicle storage areas.

1. Intent. It is the intent of this regulation to require minimum standards for all storage areas and vehicle storage areas in order to protect adjoining property, minimize nuisances, and maintain a landscaped setting along street frontages. Storage areas and vehicle storage areas are places where minimal movement of equipment and vehicles occur. These areas are not to be construed as parking lots or areas with high traffic movement.

2. Minimum standards.

a. Screening. Where storage areas and vehicle storage areas are located adjacent to a public street right-of-way or residential zones, the area shall be screened by a six-foot tall, opaque screening fence. Storage areas in the PMI District shall be exempt from this screening requirement.

b. Surfacing of storage areas. Surfacing of storage areas and vehicle storage areas must provide for the following minimum standards of approval:

(1) Dust is controlled;

(2) Stormwater is treated to City standard; and

(3) Rock and other debris is not tracked off-site.

If, after construction, the City determines that the surfacing is not providing the standards listed above, paving shall be required.

Entrances and exits shall be provided in accordance with Section 13.06.510.B.2.a above.

d. If provided, lighting shall meet requirements of Section 13.06.510.B.2.h above.

e. Application. The foregoing regulations shall apply in all zoning districts with exceptions only as noted.

E. Vehicle services and repair; and vehicle service and repair, industrial.

1. Intent. It is the intent of this regulation to require minimum standards for all vehicle repair uses in order to protect adjoining property, minimize nuisances, and maintain a landscaped setting along street frontages.

2. Minimum standards.

a. Screening. Vehicles awaiting repair must be fully screened from public view. These areas shall be screened by a six-foot tall, opaque screening fence.

b. Junk vehicles and auto parts must be stored inside an enclosed building, except in the M, PMI, UCX, or UCX-TD Districts.

c. Customer vehicles awaiting repair or pickup must be parked on business property and not on City right-of-way..

d. All repairs must be conducted entirely within an enclosed building.

e. No windows or openings are allowed if facing a residential district.

3. Application. The foregoing regulations shall apply in all zoning districts with exceptions only as noted. (Ord. 27644 Ex. A; passed Sept. 18, 2007: Ord. 27539 § 16; passed Oct. 31, 2006: Ord. 27432 § 9; passed Nov. 15, 2005: Ord. 27296 § 22; passed Nov. 16, 2004: Ord. 27245 § 12; passed Jun. 22, 2004: Ord. 27079 § 35; passed Apr. 29, 2003: Ord. 26966 § 14; passed Jul. 16, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.511 Transit support facilities.

A. Purpose. It is found and declared that new development and redevelopment in the City of Tacoma creates a need for transit support facilities, namely benches and shelters, and that such development should provide for such facilities based on existing or potential transit ridership and Pierce Transit standards. Such seating and weather protection, where warranted, are needed for those who depend on transit for daily transportation; these facilities also help encourage use of the transit system, which is consistent with the comprehensive plan.

B. Applicability. These provisions apply Citywide to all new development, remodels exceeding 60 percent of building value as determined by the Building Code, and additions to existing buildings over 5,000 square feet of gross floor area or 75 percent of gross floor area on streets where regularly scheduled transit service is provided.

C. Projects required to provide transit support facilities. Any single-family or multiple-family residential or commercial or industrial project that will be located on, or within 500 feet of, a street where regularly scheduled transit service is provided, and meets the project size thresholds in Table 13.06.511.D.1 below, shall be required to provide a concrete pad(s) for the required transit support facilities and pay to Pierce Transit the costs of providing and installing such facilities, unless mutually agreeable alternative arrangements for

providing support facilities that conform to Pierce Transit's standards are agreed to between the project applicant and Pierce Transit. For projects subject to the transit support facilities standard, evidence of compliance with this requirement shall be provided to the Building and Land Use Services Division prior to issuance of a certificate of occupancy.

D. Facility standards. Two benches and foundation pads are to be provided at a bus stop within 500 feet of the proposed project where at least five transit riders are expected to board buses on an average weekday. Two foundation pads and shelters are to be provided at a bus stop within 500 feet of the proposed project where at least ten transit riders are expected to board buses on an average weekday. Where there are multiple transit stops within 500 feet of the project site, Pierce Transit shall be consulted as to the need for an appropriate location for the transit support facilities.

TABLE 13.06.511.D.1	**2 Benches and Foundation Pads (for future transit provided shelters)**	**2 Foundation Pads and Shelters**
Office	16,000–32,000 square feet of gross floor area.	Over 32,000 square feet.
Retail and service	5,000–10,000 square feet of gross floor area.	Over 10,000 square feet.
Shopping center	4,000–8,000 square feet of gross floor area.	Over 8,000 square feet.
Convenience market	2,000-4,000 square feet of gross floor area.	Over 4,000 square feet
Fast-food restaurant	1,000-2,000 square feet of gross floor area.	Over 2,000 square feet
Manufacturing	45,000–90,000 square feet of gross floor area.	Over 90,000 square feet.
Single-Family Housing	60–120 dwelling units	More than 120 dwelling units
Duplexes, Triplexes and Multi-family Housing	30–60 dwelling units	More than 60 dwelling units

Note: These project thresholds are generally based on trip generation rates published in the Institute of Transportation Engineers (ITE) Trip Generation Manual, 6th Edition, and Pierce Transit data showing 3% of weekday vehicular trips are on transit.

E. Exemptions. Where the required transit support facility(ies) (a bench or shelter) already exist(s) at the nearest bus stop pair (the closest stops on both sides of the street), projects shall be exempt from these requirements. (Ord. 27562 Exhibit A; passed Dec. 12, 2006: Ord. 27079 § 36; passed Apr. 29, 2003: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.512 Pedestrian and bicycle support standards.

A. General Applicability.
1. Application. The pedestrian and bicycle support standards apply to all new development, except the follows.
2. Standards. Each item of this section shall be addressed individually. Exceptions and exemptions noted for specific development situations apply only to the item noted.
3. Additions. Additions of more than 5,000 square feet of gross floor area or 75 percent of gross floor area, whichever is less, shall meet the requirements of this table at a ratio of at least 5 to 1 (a 5 percent increase in gross floor area will necessitate provision of 25 percent of the requirements of this table for the site).
4. Super regional malls. Additions to super regional malls which add 10,000 or more square feet of gross floor area shall meet the requirements of this table at a ratio of at least 3 to 1 (a 5 percent increase in gross floor area will necessitate a provision of 15 percent of the requirements of this table for the entire mall site). Additions to a super regional mall of an anchor tenant or 140,000 or more square ft. will require full provision of these requirements for the entire mall site.
5. Temporary. Temporary structures are exempt from the standards of this section.
6. Remodel. Remodel projects valued below 60 percent of the building value, as determined by the Building Code are exempt from the standards of this section.
7. Residential or Mixed-Use. The standards apply only to residential structures of 5 dwelling units or greater. The standards apply to all mixed-use structures.
8. Historic. In any conflict between these standards and those applied by the Tacoma Landmarks Preservation Commission, the standards of the commission shall prevail.
9. Fractions. Any requirement resulting in a fraction when applied shall be rounded up or down from the midpoint as appropriate.
B. Walkways (Illustrated). To support transportation choices, including walking, the following standards shall be met to assist pedestrian safety, comfort, and mobility, including access to uses from public ways and access from parking areas.
1. Direct. A direct walkway shall be provided between all customer and/or public entrances and the nearest public sidewalk.
2. Multiple use sites. Shopping centers and sites with multiple uses shall provide a walkway network along building facades and through the parking lot that provides pedestrian circulation within the development and that links all building entrances to the public sidewalk.
3. Minimum connection frequency. Additional walkways are required when needed to provide at least one connection to the public sidewalk for each 250 feet of street frontage. Walkways shall be located to provide the shortest practical route from the public sidewalk or walkway network to building entrances.
4. Size and materials. All walkways must either be a raised sidewalk or composed of materials different from parking lot paving and must be at least 5 feet wide, excluding vehicular overhang. When more than one walkway is required, at least one walkway must be 10 feet wide.
5. Transit access. A direct walkway shall be provided between the principal building entry and any bus stop adjacent to the site. This may be the same as the walkways above. A separate walkway is required if the bus stop is not within 100 feet of a walkway connection to the sidewalk.

C. Street Furniture. To support transportation choices, including walking, the following standards shall be met to assist pedestrian safety, comfort, and mobility, including resting places at reasonable intervals.
1. Minimum. A minimum of one fixed bench or equivalent seating area for every 250 feet of street frontage. This requirement determines quantity and not distribution, not required if site has less than 250 feet of street frontage. Projects in the PMI District are exempt from this requirement.
2. Minimum on designated pedestrian streets in Mixed-Use Center Districts. A minimum of one fixed bench or equivalent seating area for every 150 feet of street frontage. This requirement determines quantity and not distribution, not required if site has less than 150 feet of street frontage.
3. Plan consistency. Furniture shall be consistent with any applicable adopted business area improvement plans.
4. Credit. Any adjacent public street furniture can be counted toward this requirement.
D. Bicycle Parking. To support transportation choices, including biking, the following standards shall be met for more visible and secure locations for bicycle parking.
1. Quantity in T, C-1, C-2, HM, and PDB. Minimum 3 percent of the requirement for automobile parking spaces for the first 300 car stalls and 1 percent of car stalls in excess of 300. A minimum of 2 bike spaces is required, except sites requiring 5 or fewer car stalls are exempt from bike parking. Adjacent public bike racks can be counted toward this requirement.
2. Quantity in Mixed-Use Center Districts. Five percent of the requirement for automobile parking spaces for the first 300 car stalls and 1.5 percent of car stalls in excess of 300. A minimum of 2 bike spaces is required, except sites requiring 5 or fewer car stalls are exempt from bike parking. Adjacent public bike racks can be counted toward this requirement. Any form of vehicle storage, including auto dealers, counts only customer and employee parking to determine bike parking requirement.
3. Location. Bicycle parking shall be located within 50 feet of the primary building entrance for individual sites. Bicycle parking may be grouped near an owner designated primary entrance in shopping centers. Bicycle parking may be shared at a common location on the same block and same side of the street; provided, the quantity meets the total requirement and is no more than 100 feet from any site served. Bicycle parking shall not block pedestrian use of a walkway.

(Ord. 27245 § 13; passed Jun. 22, 2004: Ord. 27079 § 37; passed Apr. 29, 2003: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.520 Signs.

A. Purpose. The purpose of this section is to establish sign regulations that support and complement land use objectives set forth in the comprehensive plan, including those established by the Highway Advertising Control Act (Scenic Vistas Act). Signs perform important communicative functions. The reasonable display of signs is necessary as a public service and to the proper conduct of competitive commerce and industry. The sign standards contained herein recognize the need to protect the safety and welfare of the public and the need to maintain an attractive appearance in the community. This code regulates and authorizes the use of signs visible from public rights-of-way, with the following objectives:

1. To establish uniform and balanced requirements for new signs;

2. To ensure compatibility with the character of the surrounding area;

3. To promote optimum conditions for meeting sign users' needs while, at the same time, improving the visual appearance of an area which will assist in creating a more attractive environment;

4. To achieve quality design, construction, and maintenance of signs so as to prevent them from becoming a potential nuisance or hazard to pedestrian and vehicular traffic.

B. Scope.

1. The provisions and requirements of this section shall apply to signs in all zones as set forth in this chapter. Applicable sign regulations shall be determined by reference to the regulations for the zone in which the sign is to be erected.

2. The regulations of this section shall regulate and control the type, size, location, and number of signs.

No sign shall hereafter be erected or used for any purpose or in any manner, except as permitted by the regulations of this section.

3. The provisions of this code are specifically not for the purpose of regulating the following: traffic and directional signs installed by a governmental entity; signs not readable from a public right-of-way or adjacent property; merchandise displays; point of purchase advertising displays, such as product dispensers; national flags, flags of a political subdivision, and symbolic flags of an institution or business; legal notices required by law; historic site plaques; gravestones; structures intended for a separate use, such as Goodwill containers and phone booths; scoreboards located on athletic fields; lettering painted on or magnetically flush-mounted onto a motor vehicle operating in the normal course of business; and barber poles.

4. Regulations pertaining to signs in Shoreline Districts are found in Chapter 13.10.

C. Definitions.

Abandoned sign. A sign that no longer correctly directs any person or advertises a bona fide business, lessor, owner, product, or activity conducted or available on the premises where such sign is located.

A-Board sign (sandwich board sign). A sign which consists of two panels hinged or attached at the top or side, designed to be movable and stand on the ground.

Animated sign. A sign that uses movement, by either natural or mechanical means, to depict action to create a special effect or scene.

Architectural blade. A sign structure which is designed to look as though it could have been part of the building structure, rather than something suspended from or standing on the building.

Awning sign. A sign affixed to the surface of an awning and which does not extend vertically or horizontally beyond the limits of such awning.

Banner sign. A sign intended to be hung either with or without a frame, possessing characters, letters, illustrations, or ornamentations applied to paper, plastic, or fabric of any kind.

1. Commercial banner. A banner used for commercial purposes, which includes “For Lease,” “Grand Opening,” “Sale,” etc.

2. Cultural, civil, and educational banner. A banner used for cultural, civic, or educational events, displays, or exhibits.

Blade sign - pedestrian oriented. A double-faced sign intended for pedestrian viewing installed perpendicular to the building facade for which it identifies.

Billboard sign. A sign which advertises goods, products, events, or services not necessarily sold on the premises on which the sign is located; however, a person, business, or event located on the premises shall not be identified. The sign may consist of:

1. Poster panels or bulletins normally mounted on a building wall or freestanding structure with advertising copy in the form of posted paper.

2. Painted bulletins, where the message of the advertiser is painted directly on the background of a wall-mounted or freestanding display area.

Building face or wall. All window and wall area of a building in one plane or elevation.

Center identification sign. Any sign which identifies a shopping, industrial center, or office center by name, address, or symbol. Center identification signs may also identify individual businesses and activities located within the center.

Changing message center. An electronically controlled sign, message center, or readerboard where copy changes of a public service or commercial nature are shown on the same lamp bank (i.e., time, temperature, date, news, or commercial information of interest to the traveling public).

Changeable copy sign (manual). Any sign that is designed so that characters, letters, or illustrations can be changed or rearranged by hand, without altering the face or the surface of the sign (i.e., readerboards with changeable pictorial panels).

Construction sign. A temporary sign giving the name or names of principal contractors, architects, lending institutions, or other persons or firms responsible for construction on the site where the sign is located, together with other information included thereon.

Corporate logo sign. A logo sign consists of a symbol or identifying mark(s) used as part of a corporation identification scheme that is meant to identify a corporation, company, or individual business or organization. Internally illuminated cabinet signs shall not be allowed for use as a logo sign above 35 feet in any of the downtown districts.

Directional sign. Any sign which serves solely to designate the location of any place, area, or business within the City limits of Tacoma, whether on-premises or off-premises.

Directory sign. A sign on which the names and locations of occupants or the use of a building is given.

Electrical sign. A sign or sign structure in which electrical wiring, connections, and/or fixtures are used as any part of the sign.

Flashing sign. An electrical sign or portion which changes light intensity in sudden transitory bursts, but not including signs which appear to chase or flicker and not including signs where the change in light intensity occurs at intervals of more than one second.

Freestanding sign. A permanently installed, self-supporting sign resting on or supported by means of poles, standards, or any other type of base on the ground.

Frontage.

1. Freestanding sign. For the purpose of computing the size of a freestanding sign, frontage shall be the length of the property line parallel to and abutting each public right-of-way bordered.

2. Building mounted sign. For the purpose of computing the size of building mounted signs, frontage shall be the length of that portion of the building containing the business oriented onto a right-of-way or parking lot. For a business with more than one frontage, the largest frontage with a public entrance shall be used.

Graphics. An aggregate of designs, shapes, forms, colors, and/or materials located on an exterior wall and relating to or representing a symbol, word, meaning, or message.

Ground sign. A sign that is six feet or less in height above ground level and is supported by one or more poles, columns, or supports anchored in the ground.

Identification or directory sign. A combination sign used to identify numerous buildings, persons, or activities which relate to one another, which is used as an external way-finding for both vehicular and pedestrians traffic.

Illuminated sign. A sign designed to give forth any artificial or reflected light, either directly from a source of light incorporated into or connected with such sign or indirectly from a source intentionally directed upon it, so shielded that no direct illumination from it is visible elsewhere than on the sign and in the immediate proximity thereof.

Incidental sign. A small sign intended primarily for the convenience and direction of the public on the premises, which does not advertise but is informational only, and includes information which denotes the hours of operation, telephone number, credit cards accepted, sales information, entrances and exits, and information required by law. Incidental information may appear on a sign having other copy as well, such as an advertising sign.

Landscaping. Any material used as a decorative feature, such as planter boxes, pole covers, decorative framing, and shrubbery or planting materials, used in conjunction with a sign, which expresses the theme of the sign but does not contain advertising copy.

Marquee sign. A sign attached to and made part of a marquee. A marquee (or canopy) is defined as a permanent roof-like structure attached to and supported by the building and projecting beyond a building, but does not include a projecting roof.

Multiple business center. A grouping of two or more business establishments which either share common parking and/or access drives on the lot where they are located or which occupy a single structure or separate structures which are physically or functionally related or attached. In order to be considered a separate business establishment, a business shall be physically separated from other businesses; however, businesses which share certain common internal facilities, such as reception areas, checkout stands, and similar features shall be considered one business establishment.

Mural. A decorative design or scene intended to provide visual enjoyment that is painted or placed on an exterior building wall. A mural contains no commercial messages, logo, or corporate symbol.

Nonconforming sign. A nonconforming sign shall mean any sign which does not conform to the requirements of this section.

Neutral surface. The building surface, cabinetry, and opaque surfaces which are not an integral part of the sign message.

Off-premises sign. A sign that identifies or gives directional information to a commercial establishment not located on the premises where the sign is installed or maintained.

Off-premises open house or directional sign. A sign advertising a transaction involving:

1. A product sold in a residential zone;

2. A product that cannot be moved without a permit; and/or

3. A product with a size of at least 3,200 cubic feet.

On-premises sign. Any sign identifying or advertising a business, person, activity, goods, products, or services primarily located on the premises where the sign is installed or maintained.

Parapet. A false front or wall extension above the roof line.

Person. Person shall mean and include a person, firm, partnership, association, corporation, company, or organization, singular or plural, of any kind.

Political sign. A temporary sign which supports the candidacy of any candidate for public office or urges

action on any other matter on the ballot in a primary, general, or special election.

Portable sign. Any sign not permanently attached to the ground or a building. (Includes A-frame, sandwich boards, and portable readerboards.)

Projecting sign. A sign, other than a wall sign, which is attached to and projects from a structure or building face.

Public Facility. Any facility funded in whole or part with public funds, which provides service to the general public, including, but not limited to, public schools, public libraries, community centers, public parks, government facilities, or similar use.

Public information sign. A sign erected and maintained by any governmental entity for traffic direction or for designation of, or direction to, any school, hospital, historical site, or public service, property, or facility. Public signs include those of such public agencies as the Port of Tacoma, Pierce Transit, the Tacoma School District, and the MetroParks Tacoma.

Readerboard. A sign consisting of tracks to hold letters, which allows for frequent changes of copy; usually such copy is not electronic.

Real estate sign. Any sign which is only used for advertising the sale or lease of ground upon which it is located or of a building located on the same parcel of ground.

Repair. To paint, clean, or replace damaged parts of a sign, or to improve its structural strength, but not in a manner that would change the size, shape, location, or character.

Roof line or ridge line. The top edge of the roof or top of a parapet, whichever forms the top line of the building silhouette.

Roof sign. Any sign erected upon, against, or directly above a roof or parapet of a building or structure.

Rotating signs. Any sign or portion thereof which physically revolves about an axis.

Searchlight. An apparatus for projecting a beam or beams of light.

Sign. Any object, device, display, structure, or part thereof, which is used to advertise, identify, direct, or attract attention to a product, business, activity, place, person, institution, or event using words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images.

Sign area. The total area of a sign, as measured by the perimeter of the smallest rectangle enclosing the extreme limits of the letter, module, or advertising message visible from any one viewpoint or direction, excluding the sign support structure, architectural embellishments, decorative features, or framework which contains no written or advertising copy. (Includes only one side of a double-faced sign, unless noted otherwise.)

1. Individual letter signs, using a wall as the background without added decoration or change in wall color, shall be calculated by measuring the smallest rectangle enclosing each letter. The combined total area of each individual letter shall be considered the total area of the sign.

2. For a multiple face sign, the sign area shall be computed for the largest face only. If the sign consists of more than one section or module, all areas will be totaled.

3. Neutral surfaces (i.e., graphic design, wall murals and colored bands), shall not be included in the calculation. (See definition of "Neutral Surface.")

4. The area of all regulated signs on a business premises shall be counted in determining the permitted sign area.

Sign height. The vertical distance measured from the adjacent grade at the base of the sign to the highest point of the sign structure; provided, however, the grade of the ground may not be built up in order to allow the sign to be higher.

Sign structure. Any structure which supports, has supported, is designed to support, or is capable of supporting a sign, including a decorative cover.

Street. A thoroughfare which provides the principal means of access to abutting property.

Swinging sign. A sign installed on an arm or spar that is fastened to an adjacent wall or upright pole, which sign is allowed to move or swing to a perceptible degree.

Temporary off-premises sign. An off-premises advertising sign attached to temporary fencing during the time of construction.

Temporary sign. An on-premises sign, banner, balloon, pennant, valance, A-board, or advertising display constructed of cloth, canvas, fabric, paper, cardboard, plywood, wood, wallboard, plastic, sheet metal, or other similar light material, with or without a frame, which is not permanently affixed to any sign structure and which is intended to be displayed for a limited time only.

Under-marquee sign. Signs or other information-conveying devices that are affixed to the underside of a marquee and project down from the bottom of the marquee.

User. A user shall be understood to mean the lessee or purchaser of any sign.

Unlawful sign. Any sign which was erected in violation of any applicable ordinance or code governing such erection or construction at the time of its erection, which sign has never been in conformance with all applicable ordinances or codes.

Wall sign (fascia sign). A sign painted on or attached to or erected against the wall of a building with the face in a parallel plane of the building wall.

Warning Sign. Any sign which is intended to warn persons of prohibited activities such as "no hunting" and "no dumping."

Window sign. A sign painted on, affixed to, or installed inside a window for purposes of viewing from outside the premises. (Ord. 27245 § 14; passed Jun. 22, 2004: Ord. 27079 § 38; passed Apr. 29, 2003: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.521 General sign regulations.

A. Administration.

1. Land Use Administrator. The Land Use Administrator shall interpret, administer, and enforce the sign code in accordance with Chapter 13.05.

2. Building Official. The Building Official shall issue all permits for the construction, alteration, and erection of signs in accordance with the provisions of this section and related chapters and titles of the Tacoma Municipal Code (see Chapter 2.05). In addition, all signs, where appropriate, shall conform to the current Washington State Energy Code (see Chapter 2.10), National Electrical Code, and the National Electrical Safety Code. Exceptions to these regulations may be contained in the Tacoma Landmarks Special Review District regulations, Chapters 1.42 and 13.07.

3. Applicability. All new permanent signs, painted wall signs, and temporary off-premises advertising signs require permits. Permits require full conformance with all City codes, particularly Titles 2 and 13. Signs not visible from a public right-of-way or adjacent property are not regulated herein, but may require permits pursuant to the provision of Title 2.

B. Exempt signs. The following signs shall be exempt from all requirements of this section and shall not require permits; however, this subsection is not to be construed as relieving the user of such signage from responsibility for its erection and maintenance, pursuant to Title 2 or any other law or ordinance relating to the same.

1. Changing of the advertising copy or message on a sign specifically designed for the use of replaceable copy.

2. Repainting, maintenance, and repair of existing signs or sign structures; provided, work is done on-site and no structural change is made.

3. Signs not visible from the public right-of-way and beyond the boundaries of the lot or parcel.

4. Incidental and warning signs.

5. Sculptures, fountains, mosaics, murals, and other works of art that do not incorporate business identification or commercial messages.

6. Signs installed and maintained on bus benches and/or shelters within City right-of-way, pursuant to a franchise authorized by the City Council.

7. Seasonal decorations for display on private property.

8. Memorial signs or tablets, names of buildings and date of erection, when cut into any masonry surface or when constructed of bronze or other incombustible material.

9. Signs of public service companies indicating danger and aid to service or safety.

10. Non-electric bulletin boards not exceeding 12 square feet in area for each public, charitable, or religious institution, when the same are located on the premises of said institutions.

11. Construction signs denoting a building which is under construction, structural alterations, or repair, which announce the character of the building enterprise or the purpose for which the building is intended, including names of architects, engineers, contractors, developers, financiers, and others; provided, the area of such sign shall not exceed 32 square feet.

12. Window sign.

13. Political signs, as set forth in Title 2.

14. Real estate signs, 12 square feet or less, located on the site. Condominiums or apartment complexes shall be permitted one real estate sign with up to 12 square feet per street frontage. Such sign(s) may be used as a directory sign that advertises more than one unit in the complex.

15. Off-premises open house or directional signs, subject to the following regulations:

a. The signs may be placed on private property or on the right-of-way adjacent to said private property, with the permission of the abutting property owner. The signs shall be displayed in such a manner as to not constitute a traffic hazard or impair or impede pedestrians, bicycles, or disabled persons. If either condition is not met, the abutting property owner or the City may remove the sign.

b. Signs shall not be fastened to any utility pole, street light, traffic control device, public structure, fence, tree, shrub, or regulatory municipal sign.

c. A maximum of three off-premises open house or directional signs will be permitted per single-family home. One additional open house or directional sign identifying the open house shall be permitted at the house being sold.

d. Signage shall not exceed four square feet in area per side (eight square feet total) and three feet in height. Off-premises open house or directional signs shall not be decorated with balloons, ribbons, or other decorative devices.

e. Signage shall only be in place between the hours of 11:00 a.m. and 6:00 p.m., when the seller of the product, or the seller's agent, is physically present at the location of the product.

f. Each off-premises open house or directional sign that is placed or posted shall bear the name and address of the person placing or posting the sign in print not smaller than 12 point font. The information identifying the name and address of the person placing or posting the sign is not required to be included within the content of the speakers' message, but may be placed on the underside of the sign or in any other such location.

g. New plats may have up to a maximum of eight plat directional signs for all new homes within the subdivision. New plat directional signs shall identify the plat and may provide directional information but shall not identify individual real estate brokers or agents. New plat directional signs shall be limited in size and manner of display to that allowed for off-premises open house or directional signs. Off-premises open house or directional signs shall not be permitted for new homes within new plats.

h. A maximum of three off-premises open house or directional signs shall be allowed per condominium or apartment complex.

16. Professional name plates two square feet or less.

17. Changing plex-style faces in existing cabinets; provided, work is done on-site without removing sign.

C. Prohibited signs. The following commercial signs are prohibited, except as may be otherwise provided by this chapter:

1. Signs or sign structures which, by coloring, wording, lighting, location, or design, resemble or conflict with a traffic control sign or device, or which make use of words, phrases, symbols, or characters in such a manner as to interfere with, mislead, or confuse persons traveling on the rights-of-way or which, in any way, create a traffic hazard.

2. Signs which create a safety hazard by obstructing the clear view of pedestrians or vehicular traffic, or which obstruct a clear view of official signs or signals.

3. Signs, temporary or otherwise, which are affixed to a tree, rock, fence, lamppost, or bench; however, construction, directional, and incidental signs may be affixed to a fence or lamppost.

4. Any sign attached to a utility pole, excluding official signs as determined by Tacoma Public Utilities.

5. Signs on public property, except when authorized by the appropriate public agency.

6. Signs attached to or placed on any stationary vehicle or trailer so as to be visible from a public right-of-way for the purpose of providing advertisement of services or products or for the purpose of directing people to a business. This provision shall not apply to the identification of a firm or its principal products on operable vehicles operating in the normal course of business. Public transit buses and licensed taxis are exempt from this restriction.

7. Roof signs, except where incorporated into a building to provide an overall finished appearance.

8. All portable signs not securely attached to the ground or a building, including readerboards and A-frames on trailers, except those allowed by the regulations of the appropriate zoning district.

9. Abandoned or dilapidated signs.

10. Portable readerboard signs.

11. Inflatable signs and blimps.

12. Off-premises sign, except pursuant to Section 13.06.521.L.

D. Special regulations by type of sign. In addition to the general requirements for all signs contained in this section, and the specific requirements for signs in each zone, there are special requirements for the following types of signs:

1. Wall signs.
2. Projecting signs.
3. Freestanding signs.
4. Marquee signs.
5. Under-marquee signs.
6. Canopy and awning signs.
7. Temporary signs.
8. Off-premises directional signs.
9. Billboards (outdoor advertising sign).

The special requirements for these signs are contained in subsections E through M of this section.

E. Wall Signs. Special regulations governing wall signs are as follows:

1. A wall-mounted sign shall not extend above the wall to which attached or above the roofline.

2. A wall sign shall not extend more than 18 inches from the wall to which it is attached.

3. No wall sign shall cover wholly or partially any wall opening nor project beyond the corner of the wall to which it is attached.

4. Where a wall sign extends over a public or private walkway, a vertical clearance of eight feet shall be maintained above such walkway.

5. For the purposes of this subsection, any building with an actual or false mansard roof may use such walls or roof for wall sign installation.

6. An architectural blade designed primarily for the placement of signs may be erected on top of a wall, parapet, roof, or building face and shall comply with all applicable height limitations. All supporting structure for such signs shall be completely enclosed.

7. Painted signs, on the building, shall be calculated with the allowed sign area for a business.

F. Projecting signs. Special regulations governing projecting signs are as follows:

1. No projecting sign shall extend nearer than two feet to the face of the nearest curb line, measured horizontally.

2. The maximum projection permitted for any one sign shall be six and one-half feet or two-thirds of the width of the sidewalk below the location of the projecting sign, whichever is less.

3. A projecting sign shall not rise above the roofline or the wall to which it is attached.

4. Minimum clearance. All projecting signs over the public right-of-way shall have a minimum clearance to the ground as follows:

a. Over alleys and driveways, 14-1/2 feet; provided, said projection is no more than 12 inches;

b. Over automobile parking lots and other similar areas where vehicles are moved or stored, 14-1/2 feet;

c. Over footpaths, sidewalks, and other spaces accessible to pedestrians, eight feet;

d. All parts of electric reflector lamps or other illuminating devices extending over the sidewalk space shall be at least ten feet above the sidewalk, and the projection horizontally over the sidewalk space may not be more than six and one-half feet, but no closer than two feet from the curb line.

5. No projecting sign shall be erected in such a position as to completely block visibility of another projecting sign already in place on either side.

6. All projecting signs shall be installed in such a manner that the support structure above a roof, building face, or wall shall be minimally visible.

7. Supporting framework for a projecting sign may rise 12 inches above a parapet; however, where there is a space between the edge of the sign and the building face, such framework must be enclosed.

G. Freestanding signs. Special regulations governing freestanding signs are as follows:

1. No freestanding sign shall be located within 15 feet of a residentially-zoned district, and where the side of a commercially zoned property abuts the side of a residentially-zoned property the first 100 feet of the commercial frontage shall have a sign setback requirement of 15 feet.

2. Minimum clearance. All freestanding signs shall have a minimum clearance to the ground as follows:

a. Over parking lots and other similar areas where vehicles are moved or stored, 14-1/2 feet;

b. Over footpaths, sidewalks, and other spaces accessible to pedestrians, eight feet.

3. Signs shall be located upon the frontage for which the sign area is calculated.

4. No freestanding sign shall project over a public right-of-way, unless an adjacent structure or sign is built out to or over the property line that blocks visibility to a freestanding sign on the adjoining property; then, such freestanding sign may be located so that the sign structure is on private property and the sign cabinet may project over the right-of-way, subject to all the provisions regulating projecting signs which project over rights-of-way.

5. Signs placed on public property and/or right-of-way, abutting the business for which they identify, will require a Street Occupancy Permit. Sign regulations shall be determined by the zoning district of the abutting property.

H. Marquee signs. Special regulations governing marquees are as follows:

1. Signs may be placed on, attached to, or constructed in a marquee. Such signs shall, for the purpose of determining projection, clearance, height, and material, be considered a part of and shall meet the requirements for a marquee as specified in the Uniform Building Code.

I. Under-marquee signs. Special regulations governing under-marquee signs are as follows:

1. Signs may be located under a marquee if a vertical clearance of eight feet is maintained between the sign and the grade below.

2. Under-marquee signs shall be limited to a maximum vertical height of 12 inches and a maximum sign area of seven square feet.

J. Canopy and awning signs. Special regulations governing canopy and awning signs are as follows:

1. Signs are permitted along the faces and edges of canopies and awnings; provided, they are printed, marked, stamped, or otherwise impressed upon the awning in a professional manner.

2. A sign below a fixed rain protection feature, such as a canopy or awning, may project the full width of such feature. Such a sign must clear the sidewalk by a minimum of eight feet, not exceed seven square feet in area, and be placed at a right angle to the sidewalk.

3. Signs designed as an integral part of a canopy or awning and located along the face or edge may be illuminated. Sign area calculation shall include all illuminated areas, except that area providing illumination to the sidewalk below.

4. Signs located on canopies and awnings shall designate only the name of the business and/or the place and kind of business. A decorative design and/or the emblem or initials of the business occupying the premises may be placed flat on the main portions of the canopy or awning.

5. Awnings and canopies may extend over public property, but no portion of any awning or canopy shall extend nearer than two feet to the face of the nearest curb line, measured horizontally. Awnings shall project a minimum of three feet and not more than seven feet, when over public property, from the face of the supporting building. Canopies shall not extend more than 11 feet, when over public property, from the face of the supporting building.

6. Awnings and canopies shall maintain a minimum clearance of eight feet and shall not extend above 15 feet in overall height from grade to top of awning or canopy. Awnings and canopies shall not rise above the wall, roofline, or parapet to which it is attached.

7. Awnings and canopies which have support systems attached to public property, right-of-way or sidewalk will require a Street Occupancy Permit.

K. Temporary signs. Special regulations governing temporary signs are as follows:

1. The duration of display of a temporary sign shall not exceed six months in any 12-month period, unless otherwise noted.

2. No flashing temporary signs of any type shall be permitted.

3. All temporary signs must be located on private property.

4. All temporary signs shall be securely fastened and positioned in place so as not to constitute a hazard to pedestrians or motorists.

5. No temporary sign shall project over or into a public right-of-way or property except properly authorized banners over streets (see Title 9).

6. All temporary signs shall meet vehicular sight distance requirements established by the Traffic Engineer.

7. The regulations governing the size, number, and type of temporary signs are located in Section 13.06.522.

L. Off-premises directional signs. Special regulations governing off-premises directional signs are as follows:

1. Off-premises directional signs shall be limited to a maximum of 15 square feet in area and 6 feet in height.

2. Off-premises directional signs shall contain only the name of the principal use and directions to the use in permanent lettering.

3. Off-premises directional signs shall be placed on or over private property, except that business district identification signs may be located and comply with the applicable requirements of Title 9.

4. Off-premises directional signs are permitted when on-premises signs are inadequate to identify the location of a business. If applicable, only one such sign shall be allowed.

M. Billboards (outdoor advertising signs). Special regulations governing billboards are as follows:

1. a. Any person, firm, or corporation who maintains billboard structures and faces within the City of Tacoma shall be authorized to maintain only that number of billboard structures and faces that they maintained on April 12, 1988, except for transfers permitted in subsection 1.c of this section. A person who maintains any such billboard structures and faces may, thereafter, relocate a billboard face or structure to a new location as otherwise authorized by this section. No other billboards shall be authorized, and there shall be no greater total number of billboard structures and faces within the City than the number that were in existence on April 12, 1988. That number of structures and faces shall include those for which permit applications had been filed prior to April 13, 1988. As unincorporated areas are annexed to the City of Tacoma, the total number of billboard structures and faces in that area will constitute an addition to the number authorized in the City of Tacoma.

b. Upon removal of an existing billboard face or structure, a relocation permit shall be issued authorizing relocation of the face to a new site. There shall be no time limit on the billboard owner's eligibility to utilize such relocation permits. In the event that a billboard owner wishes to remove a billboard and does not have immediate plans for replacement at a new location, an inactive relocation permit shall be issued. There shall be no time limit

on the activation of the inactive permit and such permits are transferable. The application for a relocation permit shall include an accurate site plan and vicinity map of the billboard face or structure to be removed, as well as a site plan and vicinity map for the new location. Site plans and vicinity maps shall include sufficient information to determine compliance with the regulations of this chapter. The above provisions shall not apply to billboards whose permit applications were applied for prior to April 13, 1988, and not erected, unless the applicants or owners agree within 60 days to have such billboards, subject to all the provisions of this chapter.

c. Relocation permits shall be transferable upon the billboard owner's written permission.

d. In no case shall the number of billboard faces or structures increase, and the square footage of billboard sign area to be relocated shall be equal to or less than the square footage of billboard sign area to be removed. Removal of a billboard structure shall also require the issuance of a demolition permit, and removal of billboard faces and structures shall be completed prior to the installation of relocated billboard faces or structures. The billboard owner shall have the right to accumulate the amount of square footage to be allowed, at the owner's discretion, to new sign faces and structures permitted under this chapter.

2. All billboards shall be maintained in good repair in compliance with all applicable building code requirements. The exposed area of backs of billboards must be covered to present an attractive and finished appearance.

3. Each sign structure must, at all times, include a facing of proper dimensions to conceal back bracing and framework of structural members. During periods of repair, alteration, or copy change, such facing may be removed for a maximum period of 48 consecutive hours.

4. a. Not more than a total of four billboard faces attached to not more than two support structures shall be permitted on both sides of a street within any distance of 1,000 feet measured laterally along the right-of-way, with a minimum of 100 feet between such structures.

b. There shall be at least 300 linear feet of land, which is properly zoned, which permits billboards on one side of the street in order to erect one billboard structure on that side of the street. There shall be at least 600 linear feet of land, which is properly zoned, which permits billboards on one side of the street in order to erect more than one billboard structure on that side of the street.

c. The property on the opposite side of the street from the proposed billboard location must also be properly zoned to permit billboards.

5. The maximum area of any one sign shall be 300 square feet, with a maximum vertical sign face dimension of 12.5 feet and maximum length of 25 feet, inclusive of any border and trim, but excluding the base or apron, supports, and other structural members; provided, cut-outs and extensions may add up to 20 percent of additional sign area.

6. Indirect or internal lighting shall be the only allowable means of illumination. No flashing signs shall be permitted.

7. No billboard shall be located on, in, or within 250 feet of:

a. A residential district;

b. Any publicly-owned open space, playground, park, or recreational property, as recognized in the adopted "Recreation and Open Space Facilities Plan," as amended;

c. Any church or school; or

d. Any designated historic district, whether on the federal, state, or local register of historic properties.

8. No billboard shall be located on, in, or within 375 feet of any shoreline district.

9. Rooftop (billboard) signs are prohibited.

10. The maximum height of all billboard signs shall be 30 feet, except in the PMI District, where the maximum height shall be 45 feet. For the purpose of this section, height shall be the distance to the top of the normal display face from the main traveled way of the road from which the sign is to be viewed.

11. Billboard signs which advertise a business, event, or person located on the same premises as the billboard sign shall be considered an on-premises sign and must meet all criteria for the location of on-premises signs.

N. Nonconforming signs. It is the intent of this subsection to allow the continued existence of legal nonconforming signs, subject, however, to the following restrictions:

1. No sign that had previously been erected in violation of any City Code shall, by virtue of the adoption of this section, become a legal nonconforming sign.

2. No nonconforming sign shall be changed, expanded, or altered in any manner which would increase the degree of its nonconformity, or be structurally altered to prolong its useful life, or be moved, in whole or in part, to any other location

where it would remain nonconforming. However, a legal nonconforming on-premises sign may be altered if the degree of nonconformity for height and sign area is decreased by 25 percent or greater. For purposes of this subsection, normal maintenance and repair, including painting, cleaning, or replacing damaged parts of a sign, shall not be considered a structural alteration.

3. Any sign which is discontinued for a period of 90 consecutive days, regardless of any intent to resume or not to abandon such use, shall be presumed to be abandoned and shall not, thereafter, be reestablished, except in full compliance with this chapter. Any period of such discontinuance caused by government actions, strikes, material shortages, acts of God, and without any contributing fault by the sign user, shall not be considered in calculating the length of discontinuance for purposes of this section.

4. Any nonconforming sign damaged or destroyed, by any means, to the extent of one-half of its replacement cost new shall be terminated and shall not be restored.

5. All existing billboards within the City which are not in compliance with the requirements of this section on July 22, 1997, are considered to be nonconforming billboards. Nonconforming billboards shall be made to conform with the requirements of this section under the following circumstances:

a. When any new sign for which a sign permit is required by this section is proposed to be installed on a premises upon which is located a nonconforming billboard, the billboard shall be removed or brought into conformance with this section for each new sign installed for a particular business.

b. Whenever a building, or portion thereof, upon which is located a nonconforming rooftop (billboard) sign is proposed to be expanded or remodeled, all nonconforming rooftop billboard signs located on that portion of the building being remodeled or expanded shall be removed or brought into compliance with this section if such expansion or remodel adds to the building the lesser of:

(1) Twenty percent or more of the gross floor area of the existing building;

(2) One thousand square feet gross floor area; and

(3) A value for the new construction or remodeling greater than or equal to 50 percent of the assessed value of the existing building.

c. Whenever any modification is to be made to the structure, frame, or support of any nonconforming billboard sign, such nonconforming billboard sign shall be removed or brought into conformance with this section.

d. Whenever the facade of a building upon which is located a nonconforming billboard wall sign is remodeled or renovated, all nonconforming billboard wall signs located on the portion of the facade being renovated shall be brought into conformance with this section.

6. The provisions of subsection 5 shall control, except in those instances where an applicant or owner can demonstrate that there exists a binding contract to allow a billboard sign that contains financial penalty provisions for early termination or the absence of termination provisions in the contracts with billboard companies. In those instances, a permit may be issued on the condition that when the contract for the billboard expires, or an option for renewal occurs, the billboard will then be removed, pursuant to subsection 5 above.

a. To insure compliance with this section, the property owner shall enter into an agreement with the City that identifies the termination date of the contract to allow the billboard and a provision that, if the billboard is not removed, the sign permit issued pursuant to this section will be revoked and the sign will be removed, pursuant to subsection c below.

b. This provision shall only apply to contracts entered into prior to the adoption of these regulations (July 22, 1997).

c. Any business owner or property owner seeking to obtain a sign permit for a property that has a nonconforming billboard located on it, and can demonstrate that there are either penalty provisions or the absence of termination provisions in the contracts with billboard companies in the City, shall apply for approval in accordance with the following procedures:

(1) Application. Prior to installation of a sign, the property owner shall apply for a sign permit with the Building and Land Use Services Division of the Public Works Department. A complete application shall include a properly completed application form, structural plans, and fees, as prescribed in subsection c.(2) below.

(2) Fees. An applicant shall pay a fee for the inspection, notification, recording, and enforcement related to the continuation of nonconforming billboards, pursuant to Section 2.09.080, and is in addition to any other required fees.

(3) Concomitant agreement. Prior to the approval of the sign permit, the property owner shall execute a concomitant agreement with the City. Such agreement shall be in a form as specified by the Building and Land Use Services Division of the

Public Works Department, and approved by the City Attorney, and shall include, at a minimum: (a) the legal description of the property which has been permitted for the sign permit; and (b) the conditions necessary to apply the restrictions and limitations contained in this section. The concomitant agreement will be recorded prior to issuance of a sign permit by the Building and Land Use Services Division. The concomitant agreement shall run with the land until the nonconforming billboard is removed from the property. The property owner may, at any time, apply to the Building and Land Use Services Division for a termination of the concomitant agreement. Such termination shall be granted, upon proof that the business sign no longer exists on the property or upon proof that the nonconforming billboard no longer exists on the property.

(4) Permit issuance. Upon receipt of a complete application, application fees, completed concomitant agreement, and upon approval of the structural plans, a sign permit shall be approved.

(5) Violations. A violation of this section regarding provision of ownership shall be governed by Section 13.05.105.

(6) Amortization. All legal nonconforming billboard signs shall be discontinued and removed or made conforming within ten years from the effective date of this section, on or before August 1, 2007, and all billboard signs, which are made nonconforming by a subsequent amendment to this section, shall be discontinued and removed or made conforming within ten years after the date of such amendment (collectively the "amortization period"). Upon the expiration of the amortization period, the billboard sign shall be brought into conformance with this section, with a permit obtained, or be removed. Nonconforming billboard signs that are removed prior to the end of the amortization period shall be given an inactive relocation permit, pursuant to subsection M.1.b. of this section.

O. Sign variances. Refer to Section 13.06.645.B.5. (Ord. 27562 Exhibit A; passed Dec. 12, 2006: Ord. 27245 § 15; passed Jun. 22, 2004: Ord. 27079 § 39; passed Apr. 29, 2003: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.522 District sign regulations.

A. R-1 Sign regulations. One non-illuminated sign, not exceeding 12 square feet in area shall be allowed pertaining to the lease, rental, or sale of a building or premises on which it is located. One non-illuminated nameplate, not exceeding one and one-half square feet in area, placed flat against the building, shall be allowed for each adult family home, staffed residential home, group home, residential care facility, and family day care home. One ground sign shall be allowed, with a maximum area of 30 square feet identifying a subdivision. A subdivision identification sign shall be approved by the Land Use Administrator. A 32-square-foot temporary sign advertising a subdivision during construction shall be allowed adjacent to each street abutting the site, in conformance with Chapter 13.04.

B. R-2 Sign Regulations. Sign regulations shall be the same as stated for the R-1 One-Family Dwelling District, except that one non-illuminated nameplate not exceeding one and one-half square feet in area, placed flat against the building, shall be allowed for each boarding home.

C. R-2SRD and HMR-SRD Sign Regulations. Sign regulations shall be the same as stated for the R-2 One-Family Dwelling District, except that boarding and lodging houses shall be allowed one non-illuminated nameplate not exceeding one and one-half square feet in area, placed flat against the building.

D. R-3 Sign regulations. Sign regulations shall be the same as stated for the R-2 One-Family Dwelling District, except that boarding and lodging houses shall be allowed one nonilluminated nameplate not exceeding one and one-half square feet in area placed flat against the building.

E. R-4 Sign Regulations.

1. One freestanding sign not exceeding 30 square feet in area for all faces and not greater than six feet in height, or one building face sign of the same maximum dimensions, shall be allowed for each development site.

2. Indirect illumination, floodlighting, or internal illumination shall be the only allowable means of illumination of signs. All external lighting shall be directed away from adjacent properties to minimize the effects of light and glare upon adjacent uses. No bare bulb or neon illumination of signs shall be allowed. No flashing or animated signs shall be allowed. No electrical wire or cable serving an electric or illuminated sign shall be laid on the surface of the ground.

3. Signs shall only identify the name of the development or business and may contain secondary information related to rental or sale of units. Public identification signs may be placed upon public service structures such as telephone booths and bus shelters.

4. All signs shall be of permanent materials (no cardboard, cloth, paper, etc.). No flags, banners, or other devices shall be displayed for the purpose of attracting attention to a development or site. No temporary or portable signs shall be allowed. The

display of the national flag, state flag, and flags of other political subdivisions shall not be restricted.

5. No sign shall be placed in a location which obstructs sight distance for an adjacent driveway or street right-of-way. No signs for a development shall be placed in any public right-of-way. No sign shall be erected which imitates or resembles any official traffic sign, signal, or device. Incidental public service signs less than four square feet in area, which contain no advertising but are intended for the convenience of the public and provide such messages as "entrance," "exit," "emergency entrance," "no parking," or other incidental service messages, shall be allowed.

6. All signs shall be submitted for the review of the Buildings Division of the Department of Public Works, as required by the Building Code and the Electrical Sign Code. Additionally, the proposed design of all signs shall be submitted to the Building and Land Use Services Division of the Department of Public Works prior to construction for review to insure conformance with the standards listed hereinabove.

F. R-4-L sign regulations. Sign regulations shall be the same as stated for the R-4 Multiple-Family Dwelling District.

G. R-5 sign regulations. Sign regulations shall be the same as stated for the R-4 Multiple-Family Dwelling District.

H. PRD sign regulations. Sign regulations shall be the same as specified herein for the R-4 Multiple-Family Dwelling District. Design of signs shall be submitted with development plans at the time of site approval for review and approval of the Hearing Examiner. A single identification sign for the overall development shall be allowed at each major access to the PRD District; provided, only one overall development sign shall be allowed adjacent to each right-of-way frontage of the PRD District, irrespective of the fact that more than one major access may enter said right-of-way.

I. Sign regulations for conditional uses in residential districts and specified uses in all districts.

1. Application. The following regulations apply to conditional uses as designated. These regulations also apply to the uses noted as permitted uses in any district when the provisions below provide the greater sign allowance, in whole or in part.

2. For conditional uses in residential districts limited to public and private schools, public park facilities, and churches on sites that are over one acre in area and have a minimum of 100 feet of street frontage, one freestanding sign, not exceeding 40 square feet in area per face and not greater than 15 feet in height, and one building face sign, of the same maximum dimension, shall be allowed for each conditional use. Building face signs shall not extend above or beyond the edge of any wall or other surface to which they are attached, nor shall they extend more than 12 inches beyond the surface to which they are attached.

3. For conditional uses in residential districts, other than public and private schools, public park facilities, and churches, and all conditional uses in residential districts, on sites less than one acre or sites with less than 100 feet of frontage, one freestanding sign, not exceeding 30 square feet in area for all faces and not greater than six feet in height, and one building face sign, of the same maximum dimensions for each conditional use; provided, the total area for the freestanding and building face signs may not exceed 30 square feet. Building face signs shall not extend above or beyond the edge of any wall or other surface to which they are attached, nor shall they extend more than 12 inches beyond the surface to which they are attached.

4. Lighting. Indirect illumination, floodlighting, or internal illumination shall be the only allowable means of illumination of signs. All external lighting shall be directed away from adjacent properties to minimize the effects of light and glare upon adjacent uses. No bare bulb or neon illumination of signs shall be allowed. No flashing or animated signs shall be allowed. No electric wire or cable serving an electric or illuminated sign shall be laid on the surface of the ground.

5. All signs shall be of permanent materials (no cardboard, cloth, paper, etc.). No flags, banners, or other devices shall be displayed for the purpose of attracting attention to a development or site. No temporary or portable signs shall be allowed. The display of the national flag, state flag, and flags of other political subdivisions shall not be restricted.

6. No sign shall be placed in a location which obstructs sight distance for an adjacent driveway or street right-of-way. No signs for a development shall be placed in any public right-of-way. No sign shall be erected which imitates or resembles any official traffic sign, signal, or device. Incidental public service signs less than four square feet in area which contain no advertising, but are intended for the convenience of the public and provide such messages as "entrance," "exit," "emergency entrance," "no parking," or other incidental service messages, shall be allowed.

7. Freestanding signs larger than 30 square feet for all faces or taller than six feet shall be located a minimum of 50 feet from a lot occupied by a single-family residence. Freestanding signs for conditional uses may be constructed to the front property line.

8. In addition to the signage otherwise permitted, one sponsor identification logo sign may be included on a freestanding or wall sign for a conditional use. The sponsor identification logo shall not be internally illuminated and shall be limited to a maximum of one square foot per sign face.

[See next page for table.]

Section 13.06.522.J	DCC, DMU	WR	DR
Signage Allocation			
Total sign area allocation for signs attached to buildings and freestanding signs	Each business, 1-1/2 square feet per 1 foot building or street frontage on which the sign(s) will be located (area is calculated from frontage occupied by the business it identifies).	Same as DCC.	1 square foot per 1 foot of building frontage occupied by the business.
Signs Attached to Buildings			
Maximum number	Each business allowed 2 signs per frontage, but no more than 3 signs total for the business, no maximum number for public facility over 5 acres.	Same as DCC.	Same as DCC.
Maximum area per sign	Non-residential, 150 square feet per sign. Public facility over 5 acres, 300 square feet. Residential, 20 square feet.	Non-residential, 200 square feet per sign. Residential, 20 square feet.	Non-residential, 100 square feet per sign. Residential, 20 square feet.
Minimum sign area	First floor, 30 square feet. Second floor, 25 square feet.	Same as DCC.	Same as DCC.
Wall	Provisions of Section 13.06.521.E shall apply. Shall not exceed 35 feet above grade level, except for 1 corporate logo sign of 150 square feet allowed per building above 35 feet. Public facility over 5 acres not limited to 35 feet above grade.	Same as DCC.	Same as WR, except no corporate logo allowed.
Awning, canopy, marquee, under marquee	Provisions of Sections 13.06.521.H, I, and J shall apply.	Same as DCC.	Same as DCC.
Projecting	Provisions of Section 13.06.521.F shall apply with one per building allowed if no freestanding sign exists on the same frontage, shall not extend above 35 feet. Public facility over 5 acres not limited to 35 feet above grade.	Same as DCC.	Same as DCC.
Blade	1 per business, shall not exceed 8 square feet per side, shall be illuminated only by indirect lighting, maximum projection of 3-1/2 feet, maximum wide thickness of 12 inches, and shall maintain a minimum clearance of 8 feet above the sidewalk. Area increase of 25% when using symbolic shape, rather than rectangle or square.	Same as DCC.	Same as DCC.
Rooftop signs	Prohibited.	Prohibited.	Prohibited.
Billboards	Prohibited.	Prohibited.	Prohibited.
Freestanding Signs			
Maximum number	1 per street frontage, per site not use and no more than 2 per site. 1 per street frontage(s) for public facility over 5 acres.	Same as DCC.	Same as DCC.
Maximum area per sign	30 square feet. 300 square feet for public facility over 5 acres.	100 square feet.	30 square feet.

Section 13.06.522.J	DCC, DMU	WR	DR
When not allowed	When building signage exceeds the sign area limit, not allowed on the same frontage as a projecting sign.	Same as DCC.	Same as DCC.
Maximum height	6 feet. 30 feet for public facility over 5 acres.	20 feet.	6 feet.
Directionals	Shall be limited to 4 feet in height.	Same as DCC.	Same as DCC.
Setback	None, but signs shall be on private property.	Same as DCC.	Same as DCC.
Billboards	Prohibited.	Prohibited.	Prohibited.
Sign Features			
Lighting	Indirect, flood lighting, internal illumination, neon, and bare bulb allowed.	Same as DCC.	Bare bulb illumination prohibited.
Rotating, animated	Allowed.	Same as DCC.	Prohibited.
Flashing	Prohibited.	Prohibited.	Prohibited.
Changing message center	Allowed.	Same as DCC.	Same as DCC.
Temporary Signs			
A-boards	1 permitted each business, shall not exceed 12 square feet in area nor 4 feet in height and shall not be placed on sidewalks less than 12 feet in width.	Same as DCC.	Same as DCC.
Banners	1 banner per business with a 60 square feet maximum displayed no longer than 6 months per year. Banners for cultural purposes shall not exceed 400 square feet and are not limited in number or duration.	1 banner per business with a 60 square feet maximum displayed no longer then 6 months per year.	Not allowed.
Flags	Shall be on private property, no advertising allowed except logos.	Same as DCC.	Same as DCC.
Window signs	Exempt, but shall not exceed 25 percent of the window area.	Same as DCC.	Same as DCC.
Searchlights, beacons	1 allowed per site, displayed no longer than 7 days per year. No restrictions during an event for public facility over 5 acres.	Same as DCC.	Prohibited.
Temporary off-premises advertising signs	Section 13.06.521.C shall apply, except public facility sites in DCC shall be allowed temporary advertising signs of 32 square feet, including banners not to exceed 160 square feet, attached to temporary fencing during the time of construction.	Prohibited.	Prohibited.

Section 13.06.522.K	C-2, CIX, CCX, UCX, UCX-TD, M-1, M-2, PMI	C-1
Signage Allocation		
Maximum total sign area	Wall signage, 1 square foot per 1 linear foot of the building frontage with the public entrance. Freestanding signage, 1 square foot per 1 linear foot of street frontage(s).	Same as C-2.
Signs Attached to Buildings		
Maximum number	3 per business, 25 percent allocation allowed on building wall(s) without a public entrance. (Note: 50 percent is allowed provided only 2 signs are installed at the business.) No maximum number for public facility over 5 acres.	Same as C-2.
Maximum area per sign	200 square feet. 400 square feet for public facility over 5 acres.	100 square feet.
Minimum sign area	Each business allowed 30 square feet regardless of frontage.	Same as C-2.
Wall	Provisions of Section 13.06.521.E shall apply.	Same as C-2.
Awning, canopy, marquee, under-marquee	Provisions of Section 13.06.521.H, I, and J shall apply.	Same as C-2.
Projecting	Provisions of Section 13.06.521.F shall apply, maximum projection 6-1/2 feet. Single business, in lieu of freestanding sign. Multi-business, not allowed.	Same as C-2.
Blade	1 per business, maximum 8 square feet per side, illuminated only by indirect lighting, maximum projection of 3-1/2 feet, maximum wide thickness of 12 inches, and shall maintain a minimum clearance of 8 feet above the sidewalk. Area increase of 25% when using symbolic shape, rather than rectangle or square.	Same as C-2.
Roof signs	Prohibited.	Prohibited.
Billboards	Allowed only in C-2, M-1, M-2, and PMI. Provisions of Section 13.06.521.M shall apply.	Prohibited.
Freestanding Signs		
Maximum number	1 per street frontage, each 300 feet considered separate street frontage, corner sites require a minimum 300 feet on both frontages for an additional sign.	Same as C-2.
Maximum area per sign	200 square feet (additional 100 square feet allowed for name of shopping center), sites with freeway frontage shall not exceed 75 percent of the maximum allowed. 400 square feet for public facility over 5 acres.	100 square feet.
When not allowed	No freestanding sign shall be on same frontage as a projecting sign.	Same as C-2.
Maximum height	35 feet maximum; signs located 300 feet or less from residential district shall not exceed height of building it identifies. Sign height for site with freeway frontage is prohibited to exceed height of building it identifies. 45 feet for public facility over 5	6 feet for sites with less than 100 feet of frontage, 15 feet for sites with frontage between 100 feet and 300 feet, no sign shall

Section 13.06.522.K	C-2, CIX, CCX, UCX, UCX-TD, M-1, M-2, PMI	C-1
	acres.	exceed the height of the building it identifies.
Directionals	Shall be limited to 4 feet in height, except 15 feet shall be allowed in PMI.	Same as C-2.
Off-premises directionals	Provisions of Section 13.06.521.L shall apply, except 25 square feet shall be allowed in PMI with a maximum height of 15 feet and a maximum number of four per business.	Same as C-2.
Setback	Provisions of Section 13.06.521.G shall apply, minimum 200 feet separation from other freestanding signs, sites with freeway frontage shall locate signs on the abutting parallel frontage, no signs shall be allowed adjacent to the freeway.	Same as C-2.
Billboards	Allowed only in C-2, M-1, M-2, and PMI. Provisions of Section 13.06.521.M shall apply.	Prohibited.
Sign Features		
Lighting	Indirect, flood lighting, internal illumination, neon and bare bulb allowed.	Bare bulb illumination prohibited.
Rotating, animated	Allowed.	Prohibited.
Flashing	Not to exceed 15 percent of sign face, nor visible within 400 feet of residential zone.	Prohibited.
Changing message center	Allowed.	Same as C-2.
Temporary Signs		
A-boards	1 per business, on private property, 12 square feet per side, 4 feet height.	Same as C-2.
Banners	1 per business, 60 square feet maximum, 6 months per year. Banners for cultural purposes shall not exceed 400 square feet and are not limited in number or duration.	Prohibited.
Flags, pennants	Shall be on private property, no advertising allowed, except logos.	Same as C-2.
Window signs	Exempt, but shall not exceed 25 percent of the window area.	Same as C-2.
Searchlights, beacons	One allowed per site, displayed no longer than 7 days per year. No restrictions during an event for public facility over 5 acres.	Prohibited.
Temporary off-premises advertising signs	Provisions of Section 13.06.521.C shall apply, except public facility sites in UCX-TD shall be allowed temporary advertising signs of 32 square feet each, including banners not to exceed 160 square feet, attached to temporary fencing during the time of construction.	Prohibited.

13.06.522.L	T, NCX, Non-Residential Districts with VSD	HM
Signage Allocation		
Maximum total sign area	1-1/2 square feet per 1 linear feet of building frontage abutting a street frontage, applies to the first 50 feet, with 1/2 square foot per 1 linear foot of building frontage over 50 feet.	HM sign regulations for use by hospitals only, all other uses in HM to follow T sign regulations.
Signs Attached to Buildings		
Maximum number	2 per primary frontage (1 may be ground sign), 1 per perpendicular frontage(s), 1 per alley frontage with a public entrance.	One per elevation.
Maximum area per sign	Shall not exceed size allocation on primary frontage, 50 square feet on perpendicular frontage(s), 25 square feet on alley frontage, 10 square feet on upper story or basement uses.	Identification signs at 75 square feet. Directional signs at 25 square feet.
Minimum sign area	30 square feet, except for upper story or basement uses.	
Wall	Provisions of Section 13.06.521.E shall apply.	Same as T.
Awning, canopy	Provisions of Section 13.06.521.J shall apply.	Same as T.
Marquee, under-marquee	Provisions of Section 13.06.521.H and I shall apply.	Same as T.
Projecting	40 square feet with frontage of at least 25 feet and not allowed on alleys, provisions of Section 13.06.521.F shall apply.	Provisions of Section 13.06.521.G shall apply.
Roof signs	Prohibited.	Same as T.
Billboards	Prohibited.	Same as T.
Freestanding Signs		
Maximum number	1 per site, sign area shared with building sign allocation (not allowed on an alley).	1 per right-of-way frontage or 1 per access, regardless the number of major accesses on one right-of-way frontage.
Maximum area per sign	30 square feet.	Identification or directory signs at 50 square feet. Directional signs at 25 square feet.
When not allowed	When the building signage has utilized the allowed sign area for wall signage or when a projection sign exists on the site.	N/A.
Maximum height	6 feet.	Identification or directory signs at 15 feet.
Directionals	Shall be limited to 4 feet in height.	Shall be limited to 6 feet in height.
Setback	None, but signs shall be on private property.	Same as T.
Billboards	Prohibited.	Same as T.

13.06.522.L	T, NCX, Non-Residential Districts with VSD	HM
Sign Features		
Lighting	Indirect, flood lighting, or internal illumination allowed. No bare bulb illumination allowed. All external lighting to be directed away from adjacent properties to minimize effects of light and glare upon adjacent uses.	Same as T.
Rotating, animated	Prohibited.	Same as T.
Flashing	Prohibited.	Same as T.
Changing message center	Allowed.	Same as T.
Temporary Signs		
A-boards	1 per business, on private property, 12 square feet per side, 4 feet height.	Prohibited.
Banners, pennants	Prohibited.	Banners allowed at 30 square feet.
Flags	Prohibited, except for the national flag, state flag, flags of other political subdivisions.	Same as T.
Window signs	Exempt, but shall not exceed 25 percent of the window area.	Same as T.
Incidental public service signs	Less than 4 square feet, contains no advertising, intended to provide messages such as "no parking," "exit," "entrance," etc.	Same as T.
Searchlights, beacons	Prohibited.	Same as T.

Section 13.06.522.M	PDB	RCX
Signage Allocation		
Maximum total sign area	Single business (wall signs), ½ square foot per 1 linear foot of building frontage.	1 square foot per 1 linear foot of building frontage abutting a street frontage, applies to the first 50 feet, with 1/2 square foot per 1 linear foot of building frontage over 50 ft.
Signs Attached to Buildings		
Maximum number	Single business, 1 per elevation, 2 total. Multi-business, 1 per business.	2 per primary frontage (1 may be a ground sign), 1 per perpendicular frontage(s), 1 per alley frontage with a public entrance.
Maximum area per sign	Single business, 75 square feet per elevation, total 150 square feet for all signs. Multi-business, 20 square feet.	30 square feet maximum on perpendicular frontage(s), but not to exceed size area allocation, 10 square feet on alley frontage, upper story and basement uses.

Section 13.06.522.M	**PDB**	**RCX**
Minimum sign area	Single business, 30 square feet each business regardless of frontage. Multi-business, 20 square feet each business regardless of frontage.	20 square feet each business regardless of frontage.
Wall	Provisions of Section 13.06.521.E shall apply.	Same as PDB.
Awning, canopy, marquee, under-marquee	Provisions of Section 13.06.521.H, I, and J shall apply .	Same as PDB.
Roof signs	Prohibited.	Prohibited.
Billboards	Prohibited.	Prohibited.
Freestanding Signs		
Maximum number	1 per site (single or multi-business) located in landscaped area.	1 per site (not allowed on an alley).
Maximum area per sign	30 square feet.	25 square feet.
Maximum height	6 feet.	4 feet.
Directionals	Shall be limited to 4 feet in height.	Same as PDB.
Setback	Minimum 5 feet from property lines.	None, but signs shall be on private property.
Billboards	Prohibited.	Prohibited.
Sign Features		
Lighting	Indirect, flood lighting, or internal illumination allowed. No bare bulb or neon illumination allowed. All external lighting shall be directed away from adjacent properties to minimize effects of light and glare upon adjacent uses.	Same as PDB.
Rotating, animated	Prohibited.	Same as PDB.
Flashing	Prohibited.	Same as PDB.
Changing message center	Allowed.	Prohibited.
Temporary Signs		
A-boards	Prohibited.	1 per business, on private property, 12 square feet per side, 4 feet in height.
Banners, pennants	Prohibited.	Prohibited.
Window signs	Exempt, but shall not exceed 25 percent of the window area.	Same as PDB.
Flags	Prohibited, except the national flag, state flag, flags of other political subdivisions.	Same as PDB.
Incidental public service signs	Less than 4 square feet, contains no advertising, intended to provide messages such as “no parking,” “exit,” “entrance,” etc.	Same as PDB.
Searchlights, beacons	Prohibited.	Prohibited.

(Ord. 27432 § 10; passed Nov. 15, 2005: Ord. 27296 § 23; passed Nov. 16, 2004: Ord. 27245 § 16; passed Jun. 22, 2004: Ord. 27079 § 40; passed Apr. 29, 2003: Ord. 26966 § 15; passed Jul. 16, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

[See next page for text.]

13.06.525 Adult uses.

A. Adult entertainment, activity, retail, or use shall mean all of the following:

1. Adult theater shall mean a building or enclosure, or any portion thereof, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified "sexual activities" or "specified anatomical areas," as defined in this section, for observation by patrons therein, which excludes minors by virtue of age.

2. Adult entertainment shall mean any commercial premises or club to which any patron is invited or admitted and where adult entertainment, as defined by Section 6.36.010.A, is provided on a regular basis or is provided as a substantial part in the premises activity.

3. Adult retail means a commercial establishment such as a bookstore, video store, or novelty shop which, as its principal business purpose, offers for sale or rent, for any form of consideration, any one or more of the following:

a. Books, magazines, periodicals, or other printed materials, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas; or

b. Instruments, devices, or paraphernalia designed for use in connection with any specified sexual activities.

For the purpose of this definition, the term "principal business purpose" shall mean the business purpose that constitutes 50 percent or more of the stock in trade of a particular business establishment. The stock in trade of a particular business establishment shall be determined by examining either: (i) the retail dollar value of all sexually-oriented materials compared to the retail dollar value of all non-sexually-oriented materials readily available for purchase, rental, view, or use by patrons of the establishment, excluding inventory located in any portion of the premises not regularly open to patrons; or (ii) the total volume of shelf space and display area reserved for sexually-oriented materials compared to the total volume of shelf space and display area reserved for non-sexually-oriented materials.

4. Specified anatomical areas shall mean the following:

a. Less than completely and opaquely covered human genitals, anus, pubic region, buttock, or female breast below a point immediately above the top of the areola; or

b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

5. Specified sexual activities shall mean any of the following:

a. Human genitals in a state of sexual stimulation or arousal;

b. Acts of human masturbation, sexual intercourse, sodomy, oral copulation, or bestiality;

c. Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts, whether clothed, of oneself, or of one person by another; or

d. Excretory functions as part of or in connection with any of the activities set forth in this section.

Activities and uses defined as adult entertainment, activity, retail, or use are only permitted in the zone where that term is specifically listed as an allowable use and only in conformance to the requirements as stated for that use.

B. Location and development standards.

1. Any new adult use may not locate or be conducted closer than the distance noted below to any of the following, whether in or out of the City:

a. Within 2,000 feet of any residential zone;

b. Within 1,000 feet of any single-family or multi-family residential use;

c. Within 1,000 feet of any park;

d. Within 1,000 feet of any library;

e. Within 1,000 feet of any day care center for children, nursery, or preschool;

f. Within 1,000 feet of any church or other facility or institution used primarily for religious purposes;

g. Within 1,000 feet of any public or private elementary or secondary school;

h. Within 2,500 feet of any other adult uses; provided, adult retail uses may locate within 1,000 feet of each other;

2. Exterior portions or window displays of any adult use shall not consist of any display of graphic adult merchandise or sexually explicit materials, as defined in subsection A.3 above.

3. The separation required between an adult use and any sensitive use described above in sections B.1.a through B.1.g shall be measured from the nearest edge or corner of the property of each sensitive uses or zone. The separation required between adult uses shall be measured from the point of public access among the buildings housing such uses. The portions

of any parcels or buildings not included within the above-referenced buffer areas may be used for adult uses.

4. No variance shall be permitted for any of the above distance or separation requirements.

C. Any adult entertainment, activity, use, or retail use in existence within the City limits as of November 19, 2000, shall be considered a nonconforming use. (Ord. 27432 § 11; passed Nov. 15, 2005: Ord. 27245 § 17; passed Jun. 22, 2004: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.530 Juvenile community facilities.

A. Intent. It is found and declared that juvenile community facilities are essential public facilities which provide a needed community service. However, the public interest dictates that they shall be subject to special regulations. The intent of these regulations is to reduce incompatible uses within established neighborhoods, to encourage equitable regional and statewide distribution of such essential public facilities, and to promote the public health, safety, and general welfare.

B. Conditional use permit required. A conditional use permit shall be required for juvenile community facilities in the following instances: a juvenile community facility for no more than eight residents in the R-1, R-2, R-2SRD, HMR-SRD, R-3, R-4-L, and C-1 Districts. A juvenile community facility for greater than eight residents, but no more than 16 residents, in the R-4, R-5, and RCX Districts. The Land Use Administrator, in reviewing a request for a conditional use permit for juvenile community facilities, shall use the criteria found in subsection D below, as well as the conditional use permit criteria found in Section 13.06.640.

C. Standards.

1. Maximum number of residents. No juvenile community facility shall house more than eight residents in the R-1, R-2, R-2SRD, HMR-SRD, R-3, R-4-L, and C-1 Districts. No juvenile community facility shall house more than 16 residents in the R-4, R-5, RCX, NCX, CCX, UCX, CIX, C-2, M-1, M-2, and PMI Districts.

2. Location requirements.

a. The lot line of any new or expanding juvenile community facility shall be located one-half mile or more from any other juvenile community facility.

b. The Land Use Administrator shall determine whether the proposed facility meets the dispersion criteria from maps which shall note the location of current juvenile community facilities. Any person who disputes the accuracy of the maps may furnish the Land Use Administrator with the information and, if determined by the Land Use Administrator to be accurate, this information shall be used in processing the application.

3. In addition to compliance with local siting and development requirements, the Department of Social and Health Services ("DSHS"), or a private or public entity under contract with DSHS, shall comply with the siting process found in RCW 72.05.400 and RCW 72.62.220, as incorporated below:

a. DSHS shall conduct public meetings in the local communities affected, as well as provide for written and oral comments in the following manner:

(1) If there are more than three sites initially selected as potential locations and the selection process by DSHS, or the service provider reduces the number of possible sites for a community facility to not fewer than three, DSHS, or the chief operating officer of the service provider, shall notify the public of the possible siting and hold at least two public hearing in each community where a community facility may be sited.

(2) When DSHS, or the service provider, has determined the location of the community facility, DSHS, or the chief operating officer of the service provider, shall hold at least one additional public hearing in the community where the community facility will be sited.

(3) When DSHS has entered negotiations with a service provider and only one site is under consideration, then at least two public hearings shall be held.

(4) To provide adequate notice of, and opportunity for interested persons to comment on, a proposed location, DSHS, or the chief operating officer of the service provider shall provide, at least 14 days advance notice of the meeting to all newspapers of general circulation in the community, all radio stations, television stations, and cable networks available to persons in the community, any school district in which the community facility would be sited or whose boundary is within two miles of a proposed community facility, any private schools or kindergartens whose boundary is within two miles of a proposed community facility, any library district in which the community facility would be sited, local business or fraternal organizations, local chamber of commerce or local economic development agencies that request notification from the secretary or agency, and any government offices, person, or property owner within a one-half mile radius of the proposed community facility. Before initiating this process, the department shall contact local government planning agencies in the community containing the proposed community facility. The department shall coordinate with local government agencies to ensure that opportunities are provided for effective citizen

input to reduce the duplication of notice and meetings.

b. Compliance with the siting process must be completed before local permits are issued. The applicant shall provide verifiable proof of compliance with the above siting requirements.

4. Persons convicted of serious violent offenses, as defined in RCW 9.94A.030(31), and/or sexually violent offenses, as defined in RCW 71.09.020(6), are not permitted in juvenile community facilities within the City.

D. Criteria. The Land Use Administrator's decision shall be based on the applicable goals and policies of the comprehensive plan and applicable ordinances of the City, the conditional use criteria, as found in Section 13.06.640, and the additional following criteria:

1. The extent to which the proposed location furthers the equitable distribution ("fair sharing") of essential public facilities within various areas of the City.

2. The extent to which the applicant has demonstrated that the facility will be made secure. The applicant shall submit a proposed security plan to the Land Use Administrator for review. The security plan shall address, but is not limited to, the following:

a. Plans to monitor and control the activities of residents, including methods to verify the presence of residents at jobs or training programs, policies on sign-outs for time periods consistent with the stated purpose of the absence for unescorted trips by residents away from the facility, methods of checking the records of persons sponsoring outings for juvenile community facility residents, and policies on penalties (i.e., placement back in the prison system for drug or alcohol use by residents); and

b. Qualified staff numbers, level of responsibilities, and scheduling.

3. The extent to which the applicant can demonstrate that the site size and building size is adequate for housing the requested number of residents. A copy of the American Corrections Association ("ACA") Residential Standards shall be supplied with the project application to demonstrate compliance with this criteria. The Hearing Examiner, Land Use Administrator, or other presiding administrative body shall take into consideration, but not be limited to, the ACA Residential Standards and Title 2.

4. The extent to which proposed lighting is located so as to minimize spillover light on surrounding properties while maintaining appropriate intensity and hours of use to ensure that security is maintained.

5. The extent to which the landscape plan of the facility meets the requirements of the zone while allowing visual supervision of the residents of the facility.

6. The extent to which appropriate measures are taken to minimize noise impacts on surrounding properties. Measures to be used for this purpose may include landscaping, sound barriers or fences, berms, location of refuse storage areas, and limiting the hours of use of certain areas.

7. The extent to which the impacts of traffic and parking are mitigated by increasing on-site parking or loading spaces to reduce overflow vehicles or changing the access to and location of off-street parking.

8. The extent to which the facility is well-served by public transportation or to which the facility is committed to a program of encouraging the use of public or private mass transportation.

9. Verification from DSHS, or applicable federal authority, that the proposed juvenile community facility meets DSHS standards, or the standards of the applicable federal authority, for such facilities and that the facility will meet state and local laws and requirements.

E. Discontinuance of Use. Any authorized conditional use, which has been discontinued, shall not be reestablished or recommence, except pursuant to a new conditional use permit. The following shall constitute conclusive evidence that the conditional use has been discontinued:

1. A permit to change the use of the property has been issued and the new use has been established; or

2. The property has not been devoted to the authorized conditional use for more than 12 consecutive months.

Property which is vacant, except for dead storage of materials or equipment of the conditional use, shall not be considered as being devoted to the authorized conditional use. The expiration of licenses necessary for the conditional use shall be evidence that the property is not being devoted to the conditional use. (Ord. 27432 § 12; passed Nov. 15, 2005: Ord. 27296 § 24; passed Nov. 16, 2004: Ord. 27079 § 41; passed Apr. 29, 2003: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.535 Special needs housing.

A. Intent. It is found and declared that special needs housing facilities are essential public facilities which provide a needed community service. It is also recognized that these types of facilities often need to be located in residential neighborhoods. Thus, in order to protect the established character of existing residential neighborhoods, the public interest dictates that these facilities be subject to certain restrictions. The intent of these regulations is to minimize

concentrations of certain types of facilities, mitigate incompatibilities between dissimilar uses, preserve the intended character and intensity of the City's residential neighborhoods, and to promote the public health, safety, and general welfare.

B. Use Requirements. The following use table designates all permitted, limited, and prohibited uses in the districts listed.

Special Needs Housing – Use Table
(P = Permitted Outright, CU = Conditional Use Permit Required, N = Not Permitted)

*Note: See Subsection C, below, for additional siting restrictions

**Note: The residency limitations indicated in this use table apply to the number of residents housed at a facility, exclusive of any support or care staff. Where specific residency limitations are provided in the definition of the use, the size information herein is provided for reference only.

	Size (number of residents)	R-1, R-2, R-2SRD, HMR-SRD	R-3	R-4L, R-4, R-5, PRD, RCX, NCX, T, C-1, HM, PDB	UCX, UCX-TD, CCX, CIX, C-2, M-1, DCC, DMU, DR, WR	M-2, PMI
Emergency and Transitional Housing	Limit 6	N	N	CU	P	N
Emergency and Transitional Housing	7-15	N	N	CU	P	N
Emergency and Transitional Housing	16 or more	N	N	CU	P	N
Confidential Shelter, Adult Family Home, Staffed Residential Home	Limit 6	P	P	P	P	N
Confidential Shelter, Extended Care Facility, Intermediate Care Facility, Continuing Care Retirement Community, Retirement Home, Residential Care Facility for Youth	7-15	N	P	P	P	N
Confidential Shelter, Residential Chemical Dependency Treatment Facility, Extended Care Facility, Intermediate Care Facility, Continuing Care Retirement Community, Retirement Home, Residential Care Facility for Youth	16 or more	N	N	P	P	N

C. Dispersion requirement.

1. Facilities lawfully in existence on the adoption date of this section, are exempt from the dispersion requirement. Such facility shall be permitted to expand from the site it lawfully occupied at the time of the passage of this section only onto contiguous property owned by or under lease to the use at the time of the adoption of this section.

2. This requirement shall apply only to development in the PRD, R-4-L, R-4, R-5, and RCX districts.

3. The lot line of any emergency and transitional housing shall be located 600 feet or more from the lot line of any other emergency and transitional housing. Where existing proximity to a limited access highway or freeway affords comparable protection, the 600 foot distance requirement may be waived.

4. The City shall determine whether a proposed facility meets the dispersion requirement criteria from maps which shall note the location of emergency and transitional housing. Such maps shall be generated and maintained by the City as a reference document. Any person who disputes the accuracy of the maps may furnish the staff with the information and, if determined by the staff to be accurate, this information shall be used in processing the application.

D. Should the state adopt siting requirements in excess of those required by this section, this section shall be considered amended to be in compliance with state law.

E. Facilities allowed by conditional use permit. Applications for conditional use permits for special needs housing facilities shall be processed in accordance with the standard procedures and requirements for conditional use permits, as outlined in Chapter 13.05 and Section 13.06.640, with the following additional requirements.

1. Pre-application community meeting. Prior to submitting an application for a conditional use permit to the City, the applicant shall hold a public informational meeting with adjacent community members. The purpose of the meeting is to provide an early, open dialogue between the applicant and the neighborhood surrounding the proposed facility. The meeting should acquaint the neighbors of the proposed facility with the operators and provide for an exchange of information about the proposal and the community, including the goals, mission, and operation and maintenance plans for the proposed facility; the background of the operator, including their capacity to own, operate, and manage the proposed facility; and the characteristics of the surrounding community and any particular issues or concerns of which the operator should be made aware. The applicant shall provide written notification of the meeting to the appropriate neighborhood council, qualified neighborhood and community organizations, and to the owners of property located within 400 feet of the project site.

2. Pre-application site inspection. Prior to submitting an application for a conditional use permit to the City, the applicant shall allow for an inspection by the appropriate Building Inspector and appropriate Fire Marshall to determine if the facility meets the Building and Fire Code standards for the proposed use. The purpose of this inspection is not to ensure that a facility meets the applicable Code requirements or to force an applicant to bring a proposed facility up to applicable standards prior to application for a conditional use permit, but instead, is intended to ensure that the applicant, the City, and the public are aware, prior to making application, of the building modifications, if any, that would be necessary to establish the use.

3. Required submittals. Applications for conditional use permits for special needs housing facilities shall include the following:

a. A Land Use Permit Application containing all of the required information and submissions set forth in Section 13.05.010 for conditional use permits.

b. Written confirmation from the applicant that a pre-application public meeting has been held, as required under subsection E.1 above.

c. Demonstration of inspection by the appropriate Fire Marshal and Building Inspector, as required under subsection E.2 above, to include a description of any necessary building modifications identified during the inspection.

d. An Operation Plan that provides information about the proposed facility and its programs, per the requirements of the Building and Land Use Services Division.

4. Review criteria. Applications for conditional use permit for special needs housing facilities shall be subject to the specific review criteria contained in Section 13.06.640.E.

5. Concomitant Agreement. Upon issuance of a conditional use permit for a special needs housing facility, the applicant shall sign and record with the Pierce County Auditor a notarized concomitant agreement. Such agreement shall be in a form specified by the Building and Land Use Services Division and subject to the approval of the City Attorney, and shall include as a minimum: (a) the legal description of the property which has been permitted for the special needs housing facility, and (b) the conditions of the permit and applicable standards and limitations. The property owner shall submit proof that the concomitant agreement has been recorded prior to issuance of a certificate of occupancy by the Building and Land Use Services Division. The concomitant agreement shall run with the land as long as the facility is maintained on the property. The property owner may, at any time, apply to the Building and Land Use Services Division for termination of the concomitant agreement. Such termination shall be granted upon

proof that the facility no longer exists on the property.

F. Registration of existing special needs housing. Facilities existing as of November 13, 2006, shall be required to register with the Building and Land Use Services Division by May 13, 2007. Such registration shall be in a form provided by the Building and Land Use Services Division and shall include the following information:

1. The type of facility;

2. The location of the facility;

3. The size of the facility, including the number of clients served and number of staff; and

4. Contact information for the facility and its operator.

G. Abandonment. Any existing special needs housing facility that is abandoned for a continuous period of one year or more shall not be permitted to be re-established, except as allowed in accordance with the standards and requirements for establishment of a new facility. (Ord. 27644 Ex. A; passed Sept. 18, 2007: Ord. 27539 § 17; passed Oct. 31, 2006: Ord. 27432 § 13; passed Nov. 15, 2005: Ord. 27296 § 25; passed Nov. 16, 2004: Ord. 26966 § 16; passed Jul. 16, 2002)

13.06.540 Surface mining.

A. Intent. The Growth Management Act ("GMA"), under RCW 36.70A.170, requires the designation of mineral resource lands. Mineral resources of Tacoma consist of rock and gravel deposits. The legislature has found that the extraction of these minerals by surface mining is an essential activity making an important contribution to the economic well-being of the state and nation. This section allows for surface mining, in accordance with Section 13.06.700.S, where the applicant can show that such uses are:

1. Located in an area sufficiently removed from existing residential or commercial developments;

2. That a safe and reasonable re-use of the property shall be possible upon expiration of the operation;

3. That adjoining properties and residences shall be safeguarded against undue, hazardous, or prolonged nuisances occasioned either by noise, odor, smoke, dust, debris, or other unsightly or obnoxious conditions. Special requirements for construction in residential districts within 400 feet of a mineral resource lands area can be found in Section 13.06.603.B.

B. Process. A conditional use permit shall be required for all surface mining activities in all zoning districts and shall be processed in accordance with Section 13.05 and with the criteria in Section 13.06.640. In addition to the conditional use permit criteria found in Section 13.06.640, the applicant shall submit plans and other necessary information justifying the proposed use or uses as follows:

1. Plans for surface mining shall consist of a topographic map showing ten-foot contours, with cross-sections to show the topography of the property and its relation to streets, alleys, and surrounding property, and a map showing the extent of the proposed surface mining and the finished contours of the ground after the removal of the material and replacement of topsoil has been completed.

2. The plans shall be reviewed by the Department of Public Works, which shall advise the Land Use Administrator regarding the effect of the intended surface mining upon streets and alleys, either existing or contemplated, and adjoining properties.

3. The Land Use Administrator, before issuing a conditional use permit, shall make a finding whether the proposed surface mining will interfere with logical future development of the tract for building or other purposes in accordance with the comprehensive plan.

C. Standards. The above conditional use permit shall be subject to the following standards:

1. The planned, finished slope of the material in such a surface mining operation shall not exceed a slope steeper than one and one-half horizontal feet to one vertical foot, unless the applicant submits a written statement from a civil engineer, licensed by the state of Washington, and experienced in erosion control, to the effect that the planned, finished slope of the material in such an surface mining shall be equal to the angle of repose of said material. The angle of repose for a face of a surface mining operation that is composed of more than one type of soil, each of which has its own individual angle of repose, shall be equal to the angle of repose of the material that required the flattest angle. The planned, finished slope shall also provide permanent, safe, and stable lateral support to all surrounding lands. Where the angle of repose and the slope necessary for permanent, safe, and stable lateral support differ, the flatter slope will be considered as the required maximum slope.

In no case, however, shall the planned, finished slope of the material in such a surface mining operation exceed a slope steeper than one horizontal foot to one vertical foot.

2. The streets which are adjacent to such surface mining shall be kept free from sand, gravel, and debris occasioned by the surface mining operation.

3. All open surface mining which results in impounding water, issued a permit under provisions of this section, shall have a substantial, properly

maintained fence at least six feet in height, with suitable gates, completely enclosing that portion of the property in which the surface mining is located, and such fences shall be located at all points at safe distance from the face of the surface mining walls on ground under which lateral support is not to be disturbed; provided, however, this shall not include excavation necessary for the construction of a structure for which a building permit has been duly issued. Said fence, or any portion thereof, shall be sight obscuring where deemed necessary to promote the purpose and intent of this section.

4. A rock crusher, cement plant, or other crushing, grinding, polishing, or cutting machinery, or other physical or chemical processes for treating the product, may be permitted in surface mining operations where it is determined that no undue, hazardous, or prolonged nuisances, including noise, dust, smoke, odors, or other obnoxious or unsightly influences will be made on surrounding land inconsistent with the purpose and intent of the zoning district in which the area is located.

D. Cash deposit or surety bond. The applicant shall file or deposit with the Department of Public Works a bond or cash amount equal to the cost, plus 10 percent, of restoring the premises to the condition required by the Land Use Administrator, prior to commencement of work. The amount of the bond or cash deposit shall be fixed by the Land Use Administrator at the time the conditional use permit is authorized to be issued, and the Land Use Administrator shall, upon advisement, determine the amount necessary to restore the premises to a healthy, safe, and lawful condition, as required by the Tacoma Municipal Code. The sureties on the bond filed shall be approved by the Director of Finance, and the form of the bond shall be approved by the City Attorney.

E. Review of bond or cash amount. The Department of Public Works, or permittee, may initiate a review of the amount of the bond or cash deposit where the conditional use permit is for a period in excess of 12 months. Review shall not be made within the first year of the permit, and review shall not be made more than once every six months after the first year; provided, where the permittee is in violation of the conditions of the permit or the provisions of this chapter, this limitation shall not apply. The Land Use Administrator may increase or decrease the amount of the bond or cash deposit where a change in circumstances justifying such action is warranted, and a statement of the change of circumstances upon which action is taken shall be set forth in a written order of the Land Use Administrator.

F. Release of sureties – payment on bond. The cash deposit shall not be returned, or the surety released, upon his bond until the Land Use Administrator, or his or her designee, has inspected and found that the conditions of the conditional use permit and the provisions of this chapter have been satisfied. In the event the Land Use Administrator finds that the conditions of the permit or the provisions of this chapter have not been satisfied, then a notice and order, by certified or registered mail, shall be sent to the permittee and his surety, if any, stating that the conditions of the permit or the provisions of this chapter that have not been satisfied and specifying a reasonable time within which such conditions must be satisfied. The notice and order shall be sent to the address shown on the application for the conditional use permit; provided, the permittee or surety may change the address of receiving notice by giving written notification to the Land Use Administrator.

In the event the permittee or surety fails to comply with the conditions of the permit or the provisions of this chapter within the time specified by the Land Use Administrator, or appeal therefrom, as hereinafter provided, the surety shall pay to the Public Works Department the face amount of the bond. The funds obtained from the surety, or the cash deposit of the permittee, shall be used to satisfy the conditions of the permit or the provisions of this chapter and the remainder, if any, after deduction of 10 percent of the amount expended for costs of supervision by the Land Use Administrator, shall be returned to the party furnishing said funds. The Land Use Administrator may, in addition, revoke the conditional use permit where the permittee has failed to comply with the conditions of the permit or the provisions of this chapter, after notification as hereinabove provided.

G. Inspection. The Department of Public Works may inspect the premises, or any part thereof, at all reasonable times. (Ord. 27245 § 18; passed Jun. 22, 2004: Ord. 27079 § 42; passed Apr. 29, 2003: Ord. 26966 § 17; passed Jul. 16, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.545 Wireless communication facilities.

A. Purpose. These standards were developed to protect the public health, safety, and welfare, and minimize visual impacts on residential areas and Mixed-Use Center Districts, while furthering the development of wireless communication services in the City. These standards were designed to comply with the Telecommunication Act of 1996. The provisions of this section are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting wireless communication services. This section shall not be applied in such a manner as to unreasonably discriminate among providers of functionally equivalent wireless communication services. This section shall not be used to regulate

uses and development activity located within street rights-of-way.

To the extent that any provision of this section is inconsistent or conflicts with any other City ordinance, this title shall control. Otherwise, this section shall be construed consistently with the other provisions and regulations of the City.

B. Exemptions. The following are exempt from the provisions of this section and shall be permitted in all zones:

1. Antennas and related equipment no more than three feet in height.

2. Wireless radio utilized for temporary emergency communications in the event of a disaster.

3. Licensed amateur (ham) radio stations not exceeding the permitted height requirements of the underlying zone. Towers or antenna support structures exceeding the height limit shall comply solely with the provisions of Section 13.06.640. Modification or use of such towers for commercial use shall require full compliance with this section.

4. Satellite dish antennas less than seven feet in diameter, including direct to home satellite services, when used as an accessory use of the property.

5. Routine maintenance or repair of a wireless communication facility and related equipment (excluding structural work or changes in height or dimensions of antenna, tower, or buildings), provided that compliance with the standards of this regulation are maintained.

6. A COW or other temporary wireless communication facility shall be permitted for a maximum of 90 days during the construction of a permitted, permanent facility or during an emergency.

7. Residential television antennas as an accessory installation on a residential dwelling unit.

C. Permits required.

1. Where a transmission tower or antenna support structure is located in a zoning district, which allows such use as a permitted use activity, administrative review, and a building permit shall be required, subject to the project's consistency with the development standards set forth in Section 13.06.545.H. In instances where the antenna height exceeds the height of the zoning district or is not allowed as a permitted use activity, a conditional use permit and building permit shall be required in addition to a demonstration of consistency with all required development standards. Table A, below, specifies the permits required for the various types of wireless service facilities that meet the standards of this ordinance.

D. Required submittals.

1. Administrative review-building permit. Application for administrative review and building permit shall include the following:

a. A site elevation and landscaping plan indicating the specific placement of the facility on the site, the location of existing structures, trees, and other significant site features, the type and location of plant materials used to screen the facility, including the related equipment facilities, and the proposed color(s) of the facility. The landscape plan shall address the required method of fencing, finished color, and, if applicable, the method of camouflage and illumination.

b. A signed statement indicating that:

(i) the applicant for a new tower has provided notice to all other area wireless service providers of its application to encourage the collocation of additional antennas on the structure. Notice shall be published in a newspaper of general circulation once per week, for a minimum period of 30 days, and an affidavit of publication shall be provided at the time of application as proof that the required notice has occurred. This requirement shall not apply to the development of concealed or camouflaged towers; and

(ii) the applicant and/or landlord agree to remove the facility within one year after abandonment.

c. Copies of any environmental documents required, pursuant to the State Environmental Policy Act ("SEPA") (WAC 197-11). Project actions which are categorically exempt from SEPA shall also be exempt from this requirement. Copies of any environmental documents required by a federal agency. These shall include the environmental assessment required by FCC Para. 1.1307, or, in the event that a FCC environmental assessment is not required, a statement that describes the specific factors that obviate the requirement for an environmental assessment.

d. An engineered and stamped site plan clearly indicating the location, type, and height of the proposed tower and antenna, the anticipated antenna capacity of the tower, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower, and any other proposed structures.

e. Legal description of the parcel and Pierce County Assessor's Parcel Number.

f. A letter signed by the applicant stating the tower will comply with all FAA regulations and applicable standards, and all other applicable federal, state, and local laws and regulations.

g. A signed statement indicating that such installation, repair, operation, upgrading, maintenance, and removal of antenna(s) by the wireless communication provider shall be lawful and in compliance with all applicable laws, orders, ordinances, and regulations of federal, state, and local authorities having jurisdiction.

h. The wireless communication service provider must demonstrate that it is licensed by the FCC if required to be licensed under FCC regulations.

i. The applicant, if not the wireless communication service provider, shall submit proof of lease agreements with an FCC licensed wireless communication provider, if such wireless communication provider is required to be licensed by the FCC.

2. Conditional use permit-building permit. Application for conditional use permit and building permit shall include the following:

a. All the required submittals set forth in Section 13.06.545.D.1 above.

b. Photo-simulations of the proposed facility. The required photo-simulations shall be taken from at least four line-of-site views. The photo-simulations shall be labeled as to the view depicted, the maximum height and elevation of the structure, including antennas, the elevation from which the photo-simulation was taken, proposed color scheme, and method of screening.

c. A current map showing the location of the proposed tower and associated wireless service facilities, the locations of other wireless service facilities operated by the applicant, and those proposed by the applicant that are within the City or outside of the City, but within one-half mile of the City boundary.

d. The approximate distance between the proposed tower or antenna and the nearest residentially-zoned property.

e. At the time of site selection, the applicant should demonstrate how the proposed site fits into its existing overall network within the City.

f. Confirmation from the applicant and/or the applicable Neighborhood Council Board ("NCB") that a pre-application public meeting has been held, or is scheduled to occur (unless the requirement for the meeting has been waived by the NCB), with the applicant to discuss the siting of the proposed wireless communication tower or antenna and any issues related to such siting.

E. Wireless communication towers and facilities use category.

1. Wireless communication towers or wireless communication facilities. Wireless communication towers or wireless communication facilities use type refers to facilities used in the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. These types of facilities also include central office switching units, remote switching units, telecommunications radio relay stations, and ground level equipment structures.

Level 1: Modification, including the complete replacement of an existing wireless communication tower or antenna support structure to its existing height, to accommodate collocation, or the installation of a concealed antenna. Also, an antenna attached to the roof or sides of a building, an existing tower, water tank, or a similar structure. This level is limited to the following types of antenna(s): an omni-directional or whip antenna no more than seven inches in diameter and extending no more than 16 feet above the structure to which it is attached; a panel antenna no more than 16 square feet in total area per panel and extending above the structure to which it is attached by no more than 16 feet; or a parabolic dish no greater than three feet in diameter per dish and extending no more than 16 feet above the structure to which it is attached.

Level 2: Wireless communication towers with associated antennas or dishes to a height of 60 feet.

Level 3: Wireless communication towers with associated antennas or dishes over 60 feet in height and not exceeding 140 feet in height.

Level 4: Wireless communication towers with associated antennas or dishes over 140 feet in height.

Wireless Communication Tower or Wireless Facility Use Category	**Zoning District Classifications - Table A**					
	R-1; R-2; R-2SRD; R-3; R-4; R-4-L; R-5; PRD; T; HM; DR	**PDB**	**C-1; C-2**	**NCX; CCX; RCX**	**UCX; UCX-TD; CIX; M-1; M-2; PMI**	**DCC; DMU; WR**
Level 1	A [1, 3, 4]	A[3]	A[3]	A[3]	A	A
Level 2	S[4]	S[2]	S[2]	S[2]	A	A
Level 3	S[4]	S	S	S	A	S
Level 4	S[4]	S	S	S	S	S

Notes – Symbols

A - Administrative review - Subject to building permit.

S - Requires conditional use permit and building permit.

1 - Permitted on public facility sites, subject to administrative review and building permit.

2 - Allowed 16 feet above underlying zoning district height limit, except in the C-1, C-2, and NCX Districts.

3 - Attached, rooftop antennas are permitted outright, a maximum of 16 feet over the height of an existing building or water tank, regardless of the height of the structure

4 - New wireless communication towers and antennas prohibited in R-1, R-2, R-2SRD, and R-3 Districts, except on public or quasi-public property developed with existing public or quasi-public facilities and properties developed with existing wireless communication facilities.

F. Site selection criteria. The following criteria shall be utilized to evaluate all conditional use permits, in addition to the criteria set forth in Section 13.06.640:

1. Any applicant proposing to construct an antenna support structure, or mount an antenna on an existing structure, shall demonstrate by engineering evidence that the antenna must be located at the site to satisfy its function in the applicant's grid system. Further, the applicant must demonstrate, by engineering evidence, that the height requested is the minimum height necessary to fulfill the site's function within the grid system, and that collocation is not feasible. If a technical dispute arises, the Land Use Administrator may require a third-party technical study to resolve the dispute. The cost of the technical study shall be borne by the applicant or wireless service provider.

2. Applications for necessary permits will only be processed when the applicant demonstrates either that it is an FCC-licensed wireless communication provider or that it has agreements with an FCC-licensed wireless communication provider for use or lease of the support structure.

3. Wireless service facilities shall be located and designed to minimize any significant adverse impact on residential uses. Facilities shall be placed in locations where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening.

4. In all zones, location and design of facilities shall consider the impact of the facility on the surrounding neighborhood and the visual impact within the zoning district.

G. Priority for siting and type of facility. The order of priority for the siting of new wireless communication towers and facilities is intended as guidance to applicants for the development of sites with wireless communication towers, antennas, and associated facilities. The priority for the type of facility shall be subject to the provisions set forth in Section 13.06.545.G.3.a(4).

1. Priority for siting.

a. Place antennas on appropriate rights-of-ways and existing public and private structures, such as buildings, towers, water towers, and smokestacks.

b. Place antennas and any necessary support structures, on public property developed with existing public facilities and properties developed with existing telecommunication facilities and, if practical, on non-residentially-zoned sites.

c. Place antennas and any necessary support structures, in M-1, M-2, and PMI Industrial Districts.

d. Place antennas and any necessary support structures in UCX, UCX-TD, and CIX Mixed-Use Center Districts.

e. Place antennas and any necessary support structures in other non-residentially-zoned property.

f. Place antennas and any necessary support structures on public property developed with existing public facilities and, if practical, on multiple-family structures in residentially-zoned sites.

g. Place antennas and any necessary support structures in R-4-L, R-4, R-5, NCX, RCX, CCX, T, and HM Districts. Such placement shall be subject to the following criteria:

(1) An applicant that proposes to locate a new antenna support structure in a residential, mixed commercial, or transitional zone shall demonstrate that a diligent effort has been made to locate the proposed wireless communications facility on a public facility, a private institutional structure, or other appropriate existing structures within a non-residential zone, and that due to valid considerations including physical constraints, and economic, or technological feasibility, no appropriate location is available.

(2) Applicants are required to demonstrate:

(a) That in the R-4-L, R-4, R-5, NCX, RCX, CCX, T, and HM Districts, they have contacted the owners of structures in excess of the permitted height of the applicable district within a one-quarter mile radius of the site proposed and which, from a location and height standpoint, could provide part of a network for transmission of signals; and

(b) After proposing a lease agreement for the site consistent with the documented average market rate for similar properties, were denied permission to use such property or, due to other onerous lease-related terms, chose not to pursue the lease.

(3) The information submitted by the applicant shall include:

(a) a map of the area served by the tower or antenna;

(b) its relationship to other cell sites in the applicant's network; and

(c) an evaluation of existing buildings as addressed by Section 13.06.545.G.1.g(2)(a) within one-quarter mile of the proposed tower or antenna, which, from a location and height standpoint, could provide part of a network to provide transmission of signals.

h. Place antennas and any necessary support structures on public property developed with existing public facilities and properties developed with existing wireless communication facilities in R-1, R-2, R-2SRD, and R-3 Districts.

i. New antennas and necessary support structures shall be prohibited in R-1, R-2, R-2SRD, and R-3 Districts, except as noted above.

2. Siting priority on public property. Where public property is sought to be utilized by an applicant, priority for the use of City-owned land for wireless communication facilities shall be given to the following entities in descending order:

a. City of Tacoma, General Government and Public Utilities; and

b. Other governmental agencies.

3. Priority for type of facilities.

a. Facility preference. Proposed antennas, associated structures, and placement shall be evaluated, based on available technologies, for approval and use in the following order of preference:

(1) Collocation of facilities and the installation of concealed antennas and attached facilities;

(2) Free-standing facilities, which extend no more than 16 feet above adjacent existing vegetation or structures, only when subsection (1) cannot be reasonably accomplished;

(3) Free-standing facilities, which extend more than 16 feet above adjacent existing vegetation or structures, only when subsections (1) and (2) cannot be reasonably accomplished; or

(4) If the applicant chooses to construct new free-standing facilities, the burden of proof shall be on the applicant to show a facility of a higher order of preference cannot reasonably be accommodated on the same or other properties. The City reserves the right to retain a qualified consultant, at the applicant's expense, to review the supporting documentation for accuracy.

H. Development standards. The following special requirements and performance standards shall apply to any wireless communication tower or wireless facility:

1. Visual impacts. Wireless communication towers or antenna support structures and related facilities shall be located and installed in such a manner so as to minimize the visual impact on the skyline and surrounding area. The use of attached antennas, concealed facilities, or the camouflaging of towers, antennas, and associated equipment is strongly encouraged, to the greatest degree possible, in all residential districts and in the RCX, NCX, and CCX

Mixed-Use Center Districts. Visual impacts shall be addressed in the following manner:

a. Site location and development shall preserve the pre-existing character of the surrounding buildings, land use, and the zoning district to the extent possible, while maintaining the function of the communications equipment. Wireless communication facilities shall be integrated through location, siting, and design to blend in with the existing characteristics of the site through application of as many of the following measures as possible:

(1) Existing on-site vegetation shall be preserved, insofar as possible, or improved, and disturbance of the existing topography shall be minimized, unless such disturbance would result in less visual impact of the site to the surrounding area;

(2) Towers or mounts shall be screened by placement of the structure among and adjacent to, within 20 feet, of three or more trees at least 50 percent of the height of the facility;

(3) Location of facilities close to structures of a similar height;

(4) Location of facilities toward the center of the site, and location of roof-mounted facilities toward the interior area of the roof and the use of screening, in order to minimize view from adjacent properties and rights-of-way;

(5) Provision of required setbacks; and

(6) Incorporation of the antenna, associated support structure, and equipment shelter as a building element or architectural feature.

b. Related equipment facilities used to house wireless communications equipment shall be located within buildings or placed underground when possible. When they cannot be located in existing buildings or placed underground, equipment shelters or cabinets shall be limited to a maximum floor area of 400 square feet and a maximum height of 12 feet, shall be screened, and shall be insulated to ensure noise levels do not exceed the ambient pre-development noise level at any residential receiving property abutting the site with a maximum sound pressure level of 40 dB, pursuant to the 1993 ASHRAE Hardbook. Alternate methods for screening may include the use of building or parapet walls, sight-obscuring fencing and/or landscaping, screen walls, or equipment enclosures or camouflaging; and

c. Wireless communication facilities and related equipment facilities shall be of neutral colors such as white, gray, blue, black, or green, or other appropriate color designed to disguise, conceal, or camouflage the facility or equipment, or similar in building color in the case of facilities incorporated as part of the features of a building, unless specifically required to be painted another color by a federal or state authority. Other screening methods, such as the use of siding which is architecturally compatible with adjacent buildings, or site-obscuring fencing materials may also be utilized. Wooden poles are not required to be painted.

2. Setbacks.

a. Towers up to 60 feet in height shall provide the setbacks required for the underlying zone. Where a conditional use permit is required, minimum setbacks of 20 feet from all property lines or the setbacks of the underlying zone, whichever are greater, shall be required. Towers over 60 feet shall provide one additional foot of setback for every foot over 60 feet of height.

b. Towers located in M-1, M-2, and PMI Districts, which meet the height limit of the underlying zone and abut residential zones, shall provide the required setback of the underlying zone. Towers located in M-1, M-2, and PMI Districts, which exceed the height of the underlying zone, shall be setback from the abutting residential district one additional foot for each foot of height over the maximum height permitted by the zone.

c. All setbacks shall be measured from the property lines of the site to the base of a monopole, lattice tower, or equipment mount, or in the case of a guyed tower, from the property lines of the site to the base of the guy wires which support it.

d. Attached facilities located on existing structures, which are nonconforming as to setback requirements, shall be allowed no closer to a property line than the nonconforming structure.

e. Equipment structures shall comply with the setback requirements of the underlying zone, except in the R-1, R-2, R-2SRD, and R-3 Districts, in which case a minimum setback of 20 feet from all property lines shall be provided, or the minimum setback of the underlying zone, whichever is greater.

3. Tower separation. An applicant will be required to demonstrate why it is necessary, from a technical standpoint, to have a tower within one-half mile of a tower, whether it is owned or utilized by the applicant or another provider, as well as why collocation is not feasible. The distance shall be measured tower-to-tower regardless of property lines and rights-of-way. If a technical dispute arises, the Land Use Administrator may require a third-party technical study to resolve the dispute. The cost of the technical study shall be borne by the applicant or wireless service provider.

4. Security fencing. Security fencing a minimum of six feet in height shall be required around the perimeter of any tower site. The required fencing

shall be colored or should be of a design which blends into the character of the existing environment. No razor or ribbon wire may be utilized in conjunction with the fence installation.

5. Signage. No signs shall be permitted on towers. One non-illuminated identification sign, with a maximum area of six square feet for all faces, shall be required per development site. The design of the sign and its location on the site shall be subject to the approval of the Land Use Administrator and shall include the name and telephone number of the provider(s).

6. Lights and signals. No lights or signals shall be permitted on towers unless required by the FCC or the FAA. Building-mounted lighting and aerial-mounted floodlighting shall be shielded from above in such a manner that the bottom edge of the shield shall be below the light source. Ground-mounted floodlighting or light projecting above the horizontal plane is prohibited. All lighting, unless required by the FAA, or other federal or state authority, shall be shielded so that the direct illumination is confined to the property boundaries of the sight source.

7. Noise. No equipment shall be operated so as to produce noise in violation of Section 13.06.545.H.1.b and the maximum noise levels set forth in WAC 173-60.

8. Minor modifications. Minor modifications to existing wireless communication facilities, including the installation of additional antenna and associated equipment, for which a valid conditional use permit exists, may be approved by the Building and Land Use Services Division, provided it is determined there is minimal or no change in the visual appearance and said modifications comply with the performance standards set forth in this section.

9. Waiver of development standard requirements. The Land Use Administrator may, in such cases as deemed appropriate, waive any of the aforementioned development standards upon a finding that: (a) reasonable alternatives are to be provided to said standards which are in the spirit and intent of this section; or (b) strict enforcement of the standards would cause undue or unnecessary hardship due to the unique character or use of the property. Applications for waivers shall be processed in accordance with the provisions of Chapter 13.05. In the case where a conditional use permit is required, the waiver's consistency with the criteria necessary to be met for the authorization shall be addressed under the conditional use permit and shall not require a separate application and fee.

I. Non-Use/Abandonment. Not less than 30 days prior to the date that a wireless communication provider plans to abandon the operation of a facility, the provider must notify the City, by certified mail, of the proposed date of abandonment. In the event that such notice is not provided, the records of the City of Tacoma, Department of Public Utilities, shall be utilized to determine the date of abandonment. Upon such abandonment, the provider shall have one year to reactive the use of the facility or dismantle and remove it. If the tower, antenna, foundation, and/or associated facility are not removed within one year, the City may remove them at the expense of the wireless communication providers.

Nothing in this subsection shall be construed to require the removal of architectural elements, including, but not limited to, false church steeples or flag poles that have been installed, pursuant to a valid building or conditional use permit, to conceal wireless communication facilities.

J. Enforcement. Enforcement of the provisions set forth in this section shall be in accordance with the provisions set forth in Section 13.05.100.
(Ord. 27432 § 14; passed Nov. 15, 2005: Ord. 27296 § 26; passed Nov. 16, 2004: Ord. 27245 § 19; passed Jun. 22, 2004: Ord. 27079 § 43; passed Apr. 29, 2003: Ord. 26966 § 18; passed Jul. 16, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.550 Work release centers.

A Intent. It is found and declared that work release centers are essential public facilities which provide a needed community service. However, the public interest dictates that work release centers shall be subject to special regulations. The intent of these regulations is to reduce incompatible uses within established neighborhoods, to encourage equitable regional and statewide distribution of such essential public facilities, and to promote the public health, safety, and general welfare.

B. Conditional use permit required. A conditional use permit is required for new or expanding work release centers in the UCX, CIX, M-1, and M-2 Districts. The Land Use Administrator, in reviewing a request for a conditional use permit for work release centers, shall use the criteria found in subsection D below, as well as the conditional use permit criteria found in Section 13.06.640.

C. Standards.

1. Maximum number of residents. No work release center shall house more than 30 persons, excluding resident staff, in the UCX District; no more than 25 persons, excluding resident staff, in the CIX District; 25 persons, excluding resident staff, in the M-1, and M-2 Districts; and 75 persons, excluding resident staff, in the PMI District.

2. Location requirements.

a. Buffers. The lot line of any new or expanding work release center shall be located 600 feet or more from any residential zone, RCX zone, the lot line of a day care center or church with a day care center, the lot line of any state-licensed family day care, the lot line of any crisis care facility, the lot line of any special needs housing, the lot line of any public or private school, or any lot line of a public park.

The City shall determine whether a proposed facility meets the buffer requirement from maps which shall note the location of existing day care centers, churches with day care centers, state-licensed family day care, crisis care facilities, special needs housing, public or private schools, or any public park. Such maps shall be generated and maintained by the City as a reference document.

b. Dispersion. The lot line of any new or expanding work release center shall be located at least one-half mile from any other work release facility in the UCX, CIX, M-1, and M-2 Districts. No dispersion shall be required for work release centers located in the M-3 District. The City shall determine whether a proposed facility meets the dispersion requirement from maps which shall note the location of existing work release centers. Such maps shall be generated and maintained by the City as a reference document.

3. Siting. In addition to compliance with local siting and development requirements, the Department of Corrections ("DOC"), or a private or public entity under contract with the DOC, shall comply with a facility siting process found in RCW 72.65.220, or as later amended. Compliance with the siting process found in RCW 72.65.220 must be completed before local permits are issued. The applicant shall provide verifiable proof of compliance with the siting requirements found in RCW 72.65.220.

D. Criteria. The Land Use Administrator's decision shall be based on the applicable goals and policies of the comprehensive plan and applicable ordinances of the City, the conditional use criteria, as found in Section 13.06.640, and the additional following criteria:

1. The extent to which the proposed location furthers the equitable distribution ("fair sharing") of essential public facilities within various areas of the City, unless otherwise provided by state law.

2. The extent to which the applicant can demonstrate that the site size and building size is adequate for housing the requested number of residents. A copy of the ACA Residential Standards shall be supplied with the project application to demonstrate compliance with this criteria. The Hearing Examiner, Land Use Administrator, or other presiding administrative body shall take into consideration, but not be limited to, the ACA Residential Standards and Title 2.

3. The extent to which proposed lighting is located so as to minimize spillover light on surrounding properties while maintaining appropriate intensity and hours of use to ensure that security is maintained.

4. The extent to which the facility's landscape plan meets the requirements of the zone while allowing visual supervision of the residents of the facility.

5. The extent to which appropriate measures are taken to minimize noise impacts on surrounding properties. Measures to be used for this purpose may include landscaping, sound barriers or fences, berms, location of refuse storage areas, and limiting the hours of use of certain areas.

6. The extent to which the impacts of traffic and parking are mitigated by increasing on-site parking or loading spaces to reduce overflow vehicles or changing the access to and location of off-street parking.

7. The extent to which the facility is well-served by public transportation or to which the facility is committed to a program of encouraging the use of public or private mass transportation.

8. Verification from the DOC, or applicable federal authority, that the proposed work release center meets DOC standards, or the standards of the applicable federal authority, for such facilities and that the facility will meet state and local laws and requirements.

E. Discontinuance of use. Any authorized conditional use which has been discontinued shall not be reestablished or recommence except pursuant to a new conditional use permit. The following shall constitute conclusive evidence that the conditional use has been discontinued:

1. A permit to change the use of the property has been issued and the new use has been established; or

2. The property has not been devoted to the authorized conditional use for more than 12 consecutive months.

Property which is vacant, except for dead storage of materials or equipment of the conditional use, shall not be considered as being devoted to the authorized conditional use. The expiration of licenses necessary for the conditional use shall be evidence that the property is not being devoted to the conditional use. (Ord. 27079 § 44; passed Apr. 29, 2003: Ord. 26991 § 1; passed Oct. 8, 2002: Ord. 26966 § 19; passed Jul. 16, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.555 View-Sensitive Overlay District.

A building, structure, or portion thereof, hereafter erected, shall not exceed a height of 25 feet, except as

provided in Sections 13.06.640 and 13.06.645.B.3. This section shall not apply to any building, structure, or portion thereof within any development or subdivision which is greater than 30 acres in size and which has an approved site plan or residential plat; provided, such site plans must have established the height or elevation of buildings, and such residential plats must have active architectural control committees, of which a resident or property owner of the plat shall be a member, and recorded covenants which give consideration to protection of views, and the architectural control committee must have reviewed and approved the plans of the building or structures before submittal to the City. (Ord. 27562 § 10; passed Dec. 12, 2006: Ord. 27432 § 15; passed Nov. 15, 2005: Ord. 27245 § 20; passed Jun. 22, 2004: Ord. 26966 § 20; passed Jul. 16, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.600 Zoning code administration - General purposes.

The broad purposes of the zoning provisions of the Tacoma Municipal Code are to protect and promote the public health, safety, and general welfare, and to implement the policies of the comprehensive plan of the City of Tacoma. More specifically, the zoning code is intended to:

A. Provide a guide for the physical development of the City in order to:

1. Preserve the character and quality of residential neighborhoods;

2. Foster convenient, harmonious, and workable relationships among land uses; and

3. Achieve the arrangement of land uses described in the comprehensive plan.

B. Promote the economic stability of existing land uses that are consistent with the comprehensive plan and protect them from intrusions by inharmonious or harmful land uses.

C. Promote intensification of land use at appropriate locations, consistent with the comprehensive plan, and ensure the provision of adequate open space for light, air, and fire safety.

D. Foster development patterns that offer alternatives to automobile use by establishing densities and intensities that help make frequent transit service feasible, and encourage walking and bicycling. This emphasis on alternative transportation will also have air quality benefits and will conserve energy.

E. Establish review procedures to ensure that new development is consistent with the provisions of this chapter and all other requirements of this code.

(Ord. 27079 § 45; passed Apr. 29, 2003: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.602 General restrictions.

A. Except as hereinafter provided, and except where modified by the provisions of Chapter 13.06A relating to Downtown Districts and 13.10 relating to Shoreline Management:

1. Use. Any building, structure, premises, or part thereof, shall be erected, raised, moved, reconstructed, extended, enlarged, or altered; or any land shall be used or occupied; only for the uses or purpose of accommodating the uses permitted in the district in which such building, structure, premises, or land is located, and then only after applying for and securing all permits and licenses required by law and city ordinances. While listed uses may not be varied, dimensional and/or design requirements contained in the additional regulations listed in the use tables may be varied; however, this does not allow uses to be varied.

2. Height. Any building, structure, or portion thereof, hereafter erected, shall not exceed the height limits established for the district wherein such building or structure is located except:

a. As provided in Section 13.06.640 relating to conditional uses.

b. As provided in Section 13.06.645 relating to height variances for residential structures located in the View-Sensitive Districts.

c. Schools, libraries, structures for religious assembly, colleges. In districts with a height limit of 35 feet, these facilities, when permitted as a use, are allowed at a maximum 45 feet in height.

d. Structures, above height limits. Chimneys, tanks, towers, steeples, flagpoles, smokestacks, silos, elevators, fire or parapet walls, and/or similar necessary building appurtenances may exceed the district height limit provided all structural or other requirements of the City of Tacoma are met and no usable floor space above the district height limit is added.

e. Shipping cranes or other freight moving equipment is exempt from height limits.

3. Area and yards. Any building or structure hereafter built, enlarged, or moved on a lot shall conform to the area regulations of the district in which such building or structure is located.

a. No lot area, now existing or hereafter established, shall be so reduced or diminished that the yards, open spaces, or total lot area be made smaller than required by the chapter, except in conformity with the regulations of this chapter.

b. No yard or other open space, now provided for any building or structure or hereafter provided in compliance with the regulations of this chapter, shall be considered as any part of a yard or open space for any other building or structure, nor shall any yard or open space of abutting property be considered as providing a yard or open space for a building or structure on a lot it abuts.

c. No permit for the construction, alteration, enlarging, or moving of any building or structure shall be granted where it shall appear from the records of the Building Official that the plat, as required by Chapter 13.04, contains any lot or tract of land, or a part of any lot or tract of land previously designated as the plat, or part of the plat, for any building or structure, for the construction, alteration, enlarging, or moving of which a permit has been granted, if the original plat will thereby be reduced to an area which will not comply with the lot area and yard requirements of this chapter.

d. No yard shall include any land dedicated, reserved, or set aside for street purposes, except as provided in this chapter.

e. No yard shall include any land condemned for or upon which notice of condemnation has been given for public purposes.

f. Side yards for schools, religious assemblies, and institutions. Public schools, public libraries, religious assemblies, colleges, universities, fraternities, sororities, private clubs, lodges, hospitals, sanitariums, educational institutions, philanthropic institutions, and other institutions, hereafter built in an R-1, R-2, R-3, HMR-SRD, or R-4-L District, shall provide a side yard on each side of the building of not less than 20 feet in width.

g. Side yards, institutions in Multiple-Family Dwelling Districts. Side yards for public schools, public libraries, religious assemblies, colleges, universities, fraternities, sororities, private clubs, lodges, hospitals, sanitariums, educational institutions, philanthropic institutions, and other institutions, hereafter built in an R-4 Multiple-Family Dwelling District, shall be not less than 25 feet in width and, in an R-5 Multiple-Family Dwelling District, not less than 30 feet in width.

h. Side yard regulations. For the purpose of side yard regulations, a semi-detached two-family dwelling or four-family dwelling, or a row house having common-party walls, shall be considered as one building occupying one lot.

i. Yards for group buildings.

(1) In the case of group buildings on one site, including institutions and dwellings, the yards on the perimeter of the site or lot shall not be less than required for one building on one lot in the district in which the property is located.

(2) The distance separating buildings, exclusive of accessory buildings, shall not be less than 15 feet.

(3) For a building exceeding six stories in height, separation from other buildings on the site shall be increased by one foot in width for each additional story or part thereof that such building exceeds six stories. Where two adjacent buildings on one site both exceed six stories in height, the building separations between them shall be increased by two feet in width for each additional story or part thereof that such buildings exceed six stories.

(4) No multiple-family dwelling court shall be less than 25 feet in width.

(5) In the case of row houses or dwellings rearing on one side yard and fronting upon another, in districts where multiple-family dwellings are permitted, the side yard on which dwellings rear shall be increased one foot for each dwelling unit abutting on such side yard, and the side yard on which dwellings front shall be not less than 20 feet in width.

j. Rear yard includes one-half of alley. In computing the depth of a rear yard, where such yard abuts on an alley, one-half of the width of such alley may be assumed to be a portion of such rear yard.

k. Through lots. Through lots having a frontage on two streets shall provide the required front yard on each street.

l. Projections into yards. Every part of a required yard shall be open, from the ground to the sky, and unobstructed, except for the following:

(1) Accessory building in the rear yard.

(2) Ordinary building projections such as cornices, eaves, belt courses, sills, or similar architectural features, may project into any yard not more than 24 inches.

(3) Chimneys may project into any yard not more than 24 inches.

(4) Uncovered balconies or fire escapes may project into a front or rear yard four feet.

(5) Uncovered terraces or platform which do not extend above the level of the first floor of the building may project or extend into a front or rear yard not more than eight feet or into a court not more than six feet.

(6) An uncovered landing which does not extend above the level of the first floor of the building may project or extend into a required side yard not more than three feet.

m. Lot area modifications for mobile home parks, multiple-family dwellings, retirement homes, apartment hotels, and residential hotels. In the case of a lot which abuts more than one street, computation of lot area may include one-half the area of the second and additional streets so abutting for the purpose of determining the number of mobile home lots or dwelling units, guest rooms, and guest suites that may be permitted on such lot; provided, said streets exceed 50 feet in width; and provided, said total street area so computed shall not exceed 33-1/3 percent of the actual net area of the lot contained within its lot lines.

n. Lot coverage modifications for mobile home parks and multiple-family dwellings, retirement homes, apartment hotels, and residential hotels. In the case of a lot which abuts more than one street, computation of lot area may include one-half the area of the second and additional streets so abutting for the purpose of determining lot coverage for main buildings; provided, such streets exceed 50 feet in width; and provided, such total street area so computed shall not exceed 25 percent of the actual net area of the lot contained within its lot lines.

B. Annexed land. All territory, which may hereafter be annexed to the City of Tacoma and for which no zoning classification has been previously established, shall automatically become an R-1 One-Family Dwelling District until the Planning Commission shall make a thorough study of the new City area and report its recommendation to the City Council regarding the appropriate changes to the comprehensive plan of the City, to incorporate the newly annexed area into said program and the final zoning classification(s) for the annexed area. Any classification established by Pierce County, and in effect at the time of annexation, shall be continued in effect on an interim basis until final zoning classification(s) shall be established as herein provided.

C. Split zoning. Whenever a zone boundary line passes through a single unified parcel of land as indicated by record of the Pierce County Auditor as of May 18, 1953, and such parcel is of an area equal to the minimum requirements of either zone, the entire parcel may be used in accordance with the provisions of the least restrictive of the two zones; provided, more than 50 percent of the parcel is located within the least restrictive of the two zones. (Ord. 27432 § 16; passed Nov. 15, 2005: Ord. 27296 § 27; passed Nov. 16, 2004: Ord. 27079 § 46; passed Apr. 29, 2003: Ord. 26966 § 21; passed Jul. 16, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.603 Mineral resource lands.

A. -Classification. Mineral resource lands shall be classified based on geologic, environmental, and economic factors. The City shall use maps and information on location and extent of mineral deposits provided by the Washington State Department of Natural Resources. Sand, gravel, and valuable metallic substances must be classified.

B. Standards. An applicant who builds, alters, enlarges, or moves any buildings or structure on a lot in a residential zoning district adjacent to or within 400 feet of a mineral resource lands area shall provide a notice on title to alert all future owners of the proximity of a mineral resource lands area. An applicant who plats or short plats any property adjacent to or within 400 feet of a mineral resource lands area shall provide a notice on such plat or short plant and notice on title on all the lots of the plat or short plat to alert all future owners of the proximity of a mineral resource lands area. Such notice shall explain that the mineral resource lands area is a legally existing use which may continue in the future. Such notice shall be recorded prior to the issuance of any necessary building permits. (Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.605 Interpretation and application.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, morals, or general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants, or agreements between parties. Where this chapter imposes a greater restriction upon the use and/or development of any buildings, land, or premises than are required in other ordinances, codes, regulations, easements, covenants, or agreements, the provisions of this chapter shall govern. (Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.610 Enforcement of land use regulatory code.

A. Enforcement.

1. The Land Use Administrator, and/or authorized representative, shall have the authority to enforce the land use regulations of the City of Tacoma.

2. The Land Use Administrator, or duly authorized representative of the Land Use Administrator, may enter, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued inspection warrant, at reasonable times any building or premises subject to the consent or warrant to perform inspections for the purpose of enforcing the requirements of the Land Use Regulatory Code.

3. The Land Use Regulatory Code is enforced for the benefit of the health, safety, and welfare of the general public, and not for the benefit of any particular person or class of persons.

4. It is the intent of this Land Use Regulatory Code to place the obligation of complying with its requirements upon the owner, occupier, or other person responsible for the condition of the land and buildings within the scope of this code.

5. No provision of, or term used in, this code is intended to impose upon the City, or any of its officers or employee, any duty, which would subject them to damages in a civil action.

B. Investigation and notice of violation.

1. Investigation. An investigation may be made of any structure or use which the Department reasonably believes does not comply with the standards and requirements of this Land Use Regulatory Code.

2. Notice. If, after an investigation, it is determined that the standards or requirements of this title have been violated, a notice of violation may be served, by first-class mail, upon the owner, tenant, or other person responsible for the condition. (Ord. 27017 § 9; passed Dec. 3, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.620 Severability.

Should any section, clause, or provision of this chapter be declared by the court to be invalid, the same shall not affect the validity of the chapter as a whole or any part thereof, other than the part so declared to be invalid. (Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.625 Violations — Penalties.

Any person, firm, corporation, or other legal entity found to have violated any provision of the Land Use Regulatory Code shall be guilty of a misdemeanor and shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding 90 days, or by both such fine and imprisonment. Upon a first conviction, there shall be imposed a fine of not less than $100; upon a second conviction, there shall be imposed a fine of not less than $500; and, upon a third or subsequent conviction, there shall be imposed a fine of not less than $1,000, or imprisonment for not more than 90 days, or by both such fine and imprisonment. Upon a conviction, and pursuant to a prosecution motion, the court shall also order immediate action by the person, firm, corporation, or other legal entity to correct the condition constituting the violation and to maintain the corrected condition in compliance with this title. The mandated minimum fines shall include statutory costs and assessments. (Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.630 Nonconforming parcels/uses/ structures.

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

Parcels, uses, and/or structures shall be considered legally nonconforming if such parcel, uses, and/or structure were legally created prior to May 18, 1953, or if such legally created parcel, use, and/or structure became nonconforming by reason of subsequent changes in this chapter.

Pre-existing uses or structures located within a wetland, stream or their associated buffers that were lawfully permitted prior to adoption of the Tacoma Municipal Code (TMC) Chapter 13.11, Critical Areas Preservation Ordinance (CAPO), but were not in compliance with the CAPO, shall be subject to the applicable provisions of this section and TMC Sections 13.11.140 and 13.11.160.

B. Nonconforming parcels. Except as otherwise required by law, a legal nonconforming parcel, which does not conform to the minimum lot area, minimum lot width, and/or minimum lot depth requirements of this title, nevertheless, may be developed subject to all other development standards, use restrictions, and other applicable requirements established by this title.

C. Nonconforming use.

1. Continuation of nonconforming use. Except as otherwise required by law, a legal nonconforming use, within a building or on unimproved land, may continue unchanged. In the event that a building, which contains a nonconforming use, is damaged by fire, earthquake, or other natural calamity, such use may be resumed at the time the building is repaired; provided, the extent of such damage to the building is

less than 75 percent of the current replacement cost, as set forth in Section 2.02.300. Further, such restoration shall be undertaken only under a valid building permit for which a complete application was submitted within 18 months following said damage, which permit must be actively pursued to completion.

The use of unimproved land which does not conform to the provisions of this chapter shall be discontinued one year from the adoption date of the change to this chapter that creates the nonconformity; provided, however, exception may be made for the nonconforming use of unimproved land abutting a lot occupied by a building containing a nonconforming use and which nonconforming use is continuous and entire in the building and over said abutting land, all being in one ownership, and such use shall have been legally established prior to the adoption date of the change to the chapter that creates the nonconformity.

2. Allowed changes to and expansions of nonconforming use. Changes to a nonconforming use shall be allowed only under the following circumstances:

a. A nonconforming use, or a portion of a nonconforming use, may be changed to a use that is allowed in the zoning district in which it is located.

b. A nonconforming use may be changed to another nonconforming use if the proposed use is permitted outright within the zoning district to which the existing use has nonconforming rights, based on the records of the City's official files on determinations of nonconforming rights, and subject to the standards outlined below. If a change of use is proposed and a prior determination of nonconforming rights has not been made, the proposed nonconforming use shall be allowed if it is a permitted use in the lowest intensity zoning district where the current nonconforming use is permitted outright, and subject to the standards outlined below. In addition, an existing nonconforming use may be expanded to occupy a larger portion of its existing building, subject to the following standards:

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

(2) The proposed change or expansion will not result in an increase in noise such that it exceeds maximum noise levels identified in WAC 173-60;

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

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

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

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

3. Abandonment or vacation of nonconforming use. When a nonconforming use is vacated or abandoned for 12 consecutive months or for 18 months during any three-year period, the nonconforming use rights shall be deemed extinguished and the use shall, thereafter, be required to be in accordance with the regulations of the zoning district in which it is located.

D. Continued occupancy of nonconforming structure. Except as otherwise required by law and consistent with all other requirements of this chapter, a legal nonconforming structure may continue unchanged.

E. Nonconforming structure and nonconforming commercial, industrial, and institutional uses. A legal nonconforming structure, that is also nonconforming as to use, may only be expanded and/or modified in the following cases:

1. Ordinary repairs and maintenance, including painting, repair, or replacement of wall surfacing materials and the repair or replacement of fixtures, wiring, and plumbing are permitted; provided, such repair or maintenance will not result in noise exceeding levels identified in WAC 173-60, light, or glare at the boundary lines of the subject property.

2. The enlargement or modification is required for safety upon order of the City, or otherwise required by law to make the structure conform to any applicable provisions of law.

3. Such enlargement and/or modification does not result in an intensification of the use as addressed by Section 13.06.630.C.2.b.

4. Such enlargement and/or modification complies with the requirements of TMC Chapter 13.11.

F. Nonconforming structure and conforming commercial, industrial, and institutional uses. A

legal conforming use located in a structure that is nonconforming as to setback, location, maximum height, lot coverage, or other development regulations may be replaced, enlarged, moved, or modified in volume, area, or space; provided, such replacement, enlargement, movement, or modification complies with all current development regulations as provided by this chapter, and with the requirements of TMC Chapter 13.11.

G. Nonconforming structure and nonconforming residential use. Nothing in this chapter shall prohibit the enlargement of a residential structure, which is nonconforming as to use and development regulations, if such expansion does not increase the number of dwelling units or reduce existing lot area or off-street parking. Such expansion, including the construction of accessory buildings, shall be limited to compliance with the setback, height, and location requirements of the zoning district in which the subject site is located, and with the requirements of TMC Chapter 13.11.

H. Nonconforming residential structures and conforming residential uses. A legal nonconforming structure which is nonconforming as to setback, location, maximum height, lot area, lot coverage, or other development regulation may be replaced, enlarged, moved, or modified in volume, area, or space; provided, such replacement, enlargement, movement, or modification complies with the setback, height, and location requirements of the zoning district in which the subject site is located, and with the requirements of TMC Chapter 13.11.

I. Restoration of damaged or destroyed nonconforming commercial, industrial, institutional, and residential structures. Restoration of a legal nonconforming building or structure which has been damaged by fire, earthquake, or other natural calamity is permitted; provided, the extent of such damage is less than 75 percent of the current replacement cost, as set forth in Section 2.02.300. In the event that the extent of such damage exceeds 75 percent of current replacement cost, the nonconforming building or structure may be restored or rebuilt only to an extent which complies fully with the property development and performance standards of the applicable zoning district, as provided by this title, and with the requirements of TMC Chapter 13.11. In either case, such restoration shall be undertaken only under a valid building permit for which a complete application is submitted within 18 months following said damage, which permit must be actively pursued to completion.

J. Nonconforming signs. Nonconforming signs shall be subject to the regulations found in Section 13.06.521.N. Signs for nonconforming commercial and/or industrial uses in a residential district shall be limited to the signage which existed at the time it became nonconforming or, in the event the sign is destroyed or removed, it may be replaced by a sign not to exceed 32 square feet. (Ord. 27539 § 18; passed Oct. 31, 2006: Ord. 27431 § 11; passed Nov. 15, 2005: Ord. 27079 § 47; passed Apr. 29, 2003: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.635 Temporary use.

A. Purpose. The purpose of this section is to allow listed temporary uses which:

1. Are not contrary to the various purposes of this chapter;

2. Will not impede the orderly development of the immediate surrounding area, as provided for in the comprehensive plan and the zoning district in which the area is located; and

3. Will not endanger the health, safety, or general welfare of adjacent residences or the general public.

B. Temporary uses.

1. General. A temporary use shall be subject to the standards of development specified in this section.

2. Duration and/or frequency. Where permitted as a temporary use, the following uses may be authorized for the time specified in Table 1, and subject to Section 13.06.635.B.

Table #1: TEMPORARY USES ALLOWED – NUMBER OF DAYS ALLOWED

Temporary Use Type	Days Allowed Per Year
Seasonal sales	45
Carnival	14
Temporary housing	See Section 13.06.635.B.3.a
Temporary office space	See Section 13.06.635.B.3.b

a. The duration of the temporary use shall include the days the use is being set up and established, when the event actually takes place, and when the use is being removed.

b. A parcel may be used for no more than three temporary uses within a calendar year; provided, the time periods specified in Table 1 are not exceeded. Multiple temporary uses may occur on a parcel concurrently; provided, the time periods in Table 1 are not exceeded.

3. Temporary structure standards.

a. Temporary housing.

(1) Such use shall be placed on a lot, tract, or parcel of land upon which a main building is being in fact constructed. The applicant shall have a valid building permit approved by the Buildings and Land Use Services Division;

(2) Such uses are of a temporary nature not involving permanent installations, including structures and utilities;

(3) That such a house trailer or mobile home shall be located at least 25 feet away from any existing residences;

(4) That conformance with all applicable health, sanitary, and fire regulations occasioned by the parking and occupancy of said house trailer or mobile home shall be observed.

(5) The temporary housing shall be removed within 30 days after final inspection of the project, or within one year from the date the unit is first moved to the site, whichever may occur sooner.

b. Temporary office space.

(1) Such use shall be in accordance with the use regulations of the zoning district within which the temporary office is located.

(2) Such use is appropriate due to the construction or reconstruction of a main building or the temporary nature of the use.

(3) Such use is of a temporary nature not involving permanent installations, including structures, utilities, and other improvements, unless such improvements are to be used in conjunction with a permanent structure, plans for which have been approved by the Buildings and Land Use Services Division. This provision shall not be construed to prohibit the installation of utilities necessary to serve the temporary use or the requiring of improvements necessary to eliminate or mitigate nuisances or adverse environmental impacts resulting from the temporary use.

(4) Such a temporary building shall be located at least 25 feet away from any existing structure or structures under construction unless it can be demonstrated that a lesser distance will be adequate to safeguard adjacent properties and provide a safe distance from any construction occurring on the site.

(5) Such temporary building shall not be required to comply with the design standards found in Section 13.06.501.

(6) That conformance with all applicable health, sanitary, and fire regulations occasioned by the parking and occupancy of said temporary building shall be observed.

(7) The temporary office shall be removed within 30 days after final inspection of the project, or within one year from the date the unit is first moved to the site, whichever may occur sooner.

c. Carnival.

(1) Such uses are of a temporary nature not involving permanent installations, including both structures and utility services, except those already existing on the premises.

(2) Proper regard shall be given to the controlling of traffic generated by the use with respect to ingress and egress to the given site and the off-street parking of automobiles attracted by the use.

(3) That any structures, buildings, tents, or incidental equipment shall be located at least 200 feet from existing residences;

(4) That off-street parking for the primary use on the site shall not be reduced below the required parking for that use. (Ord. 27079 § 48; passed Apr. 29, 2003: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.640 Conditional use permit.

A. Purpose. The purpose of this section is to allow certain specified uses, which are deemed necessary to the public convenience but are found to possess characteristics which make impractical such uses being identified exclusively with any particular zone classification as herein defined. The conditional use permit is a mechanism by which the City may require special conditions on development or on the use of land in order to insure that designated uses or activities are compatible with other uses in the same land use district and in the vicinity of the subject property.

B. Conditional uses and height. Since certain conditional uses have intrinsic characteristics related to the function or operation of such uses, which may necessitate buildings or other structures associated with such uses to exceed the height limits of the zoning districts in which the conditional uses may be located, the Land Use Administrator may authorize the height of buildings or other structures associated with the following conditional uses to exceed the height limit set forth in the zoning district in which such uses are located; provided, such height is consistent with the criteria contained in subsection D of this section:

1. Airports and airfields.

2. Religious assembly such as churches, temples, and synagogues.

3. Educational institutions.

4. Governmental buildings.

5. Hospitals.

6. Wireless communication towers or wireless facilities, subject to the requirements set forth in Section 13.06.545, and the time limitations set forth in Chapter 13.05, Table G.

7. Necessary public utilities and public service uses or structures on approved sites.

8. Recreational facilities.

9. Surface Mining, and subject to the requirements of Section 13.06.540.

In order to insure that the location and character of these uses will be compatible with the comprehensive plan, a review and decision by the Land Use Administrator are required prior to the issuance of any conditional use permit.

C. Conditional uses. The Land Use Administrator may permit only the following uses in districts from which they are now prohibited by this chapter, or in certain districts as herein provided:

1. Airports, airfields, and heliports.

2. Religious assembly, such as churches, temples, and synagogues.

3. Educational institutions.

4. Student housing.

5. Governmental buildings.

6. Day care centers or nursery schools.

7. Group housing operated in conjunction with another conditional use.

8. Parks, playgrounds, recreational facilities, or community centers.

9. Wireless communication towers or wireless facilities, subject to the requirements set forth in Section 13.06.545 and the time limitations set forth in Chapter 13.05, Table G. An applicant may, at the applicant's discretion, file a single conditional use permit application, together with a single fee for wireless communication towers or wireless facilities at multiple locations within the City of Tacoma; provided, each facility is part of the network of a carrier. Likewise, at the applicant's discretion, an application for more than one carriers' facilities at a single site may be submitted as a single application for a conditional use permit.

10. Mobile home parks in R-4-L and C-2 Districts.

11. Juvenile community facilities, in accordance with Section 13.06.530, for no more than eight residents in the R-1, R-2, R-2SRD, HMR-SRD, R-3, R-4-L, and C-1 Districts.

12. Juvenile community facilities, in accordance with Section 13.06.530, for greater than eight residents, but no more than 16 residents in the R-4, R-5, and RCX Districts.

13. Work release centers, in accordance with Section 13.06.450, for no more than 15 residents in the UCX District; 25 residents in the CIX District; and 25 residents in the M-1 and M-2 Districts.

14. Necessary public utilities and public service uses or structures on approved sites.

15. Commuter parking areas in residential districts developed in accordance with Section 13.06.510.

16. Cemeteries, extension of existing, in all zoning districts.

17. Detoxification centers.

18. Agricultural uses (except livestock) operated as, or in conjunction with, a commercial operation, including truck gardening and horticultural nurseries. Such uses shall not be located on a parcel of land containing less than 20,000 square feet of area. Buildings shall not be permitted in connection with such use, except greenhouses having total floor area not in excess of 600 square feet.

19. Master plans for any conditional use which encompasses a large site with multiple buildings, a complex program, and a detailed plan developed by the applicant. The purpose of this process is to allow an applicant to seek approval for a development program which would be implemented in phases and which would extend beyond the normal expiration date, to be reviewed after a ten-year period for those portions of the plan which have not been developed.

20. Radio or television stations. Antennas for such facilities are subject to the requirements of Section 13.06.545.

21. Surface Mining, and subject to the requirements of Section 13.06.540.

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 and applicable ordinances of the City of Tacoma.

3. 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, 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.

An application for a conditional use permit shall be processed in accordance with the provisions of Chapter 13.05.

E. Special needs housing. A conditional use permit for a special needs housing facility shall only be approved upon a finding that such facility is consistent with all of the following criteria:

1. There is a demonstrated need for the use due to changing demographics, local demand for services which exceeds existing facility capacity, gaps in the continuum of service, or an increasing generation of need from within the community.

2. The proposed use is consistent with the goals and policies of the City of Tacoma Comprehensive Plan and the City of Tacoma Consolidated Plan for Housing and Community Development.

3. The proposed location is or will be sufficiently served by public services which may be necessary or desirable for the support and operation of the use. These may include, but shall not be limited to, availability of utilities, access, transportation systems, education, police and fire facilities, and social and health services.

4. The use shall be located, planned, and developed such that it is not inconsistent with the health, safety, convenience, or general welfare of persons residing in the facility or residing or working in the surrounding community. The following shall be considered in making a decision:

a. The impact of traffic generated by the proposed use on the surrounding area, pedestrian circulation and public safety and the ability of the proponent to mitigate any potential impacts.

b. The provision of adequate off-street parking, on-site circulation, and site access.

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, to include the following development criteria:

(1) All program activities must take place within the facility or in an appropriately designed private yard space.

(2) Adequate outdoor/recreation space must be provided for resident use.

d. Compatibility of the proposed structure and improvements with surrounding properties, including the size, height, location, setback, and arrangements of all proposed buildings, facilities, and signage, especially as they relate to less intensive, residential land uses.

e. The generation of noise, noxious, or offensive emissions, or other nuisances which may be injurious or to the detriment of a significant portion of the community.

f. Demonstration of the owner's capacity to own, operate, and manage the proposed facility, to include the following:

(1) Provision of an operation plan which will provide for sufficient staffing, training, and program design to meet the program's mission and goals.

(2) Provision of a maintenance plan which will provide for the exterior of the building and site to be maintained at a level that will not detract from the character of the surrounding area, including adequate provision for litter control and solid waste disposal.

(3) Demonstration of knowledge of the City's Public Nuisance Code, TMC 8.30, and plans to educate the facility staff in the provisions of the nuisance code.

(4) Participation in the City's Multi-Family Crime-Free Housing program by both the property owner and by on-site staff.

(5) Provision of a point of contact for the facility to both the Neighborhood Council and the City.

(6) Written procedures for addressing grievances from the neighborhood, City, and facility residents.

An application for a conditional use permit for a special needs housing facility shall be processed in accordance with the provisions of Chapter 13.05 and Section 13.06.535. The Land Use Administrator may, when appropriate, utilize other staff or outside

parties in the review of such applications, such as the City's Human Rights and Human Services Department. (Ord. 27539 § 19; passed Oct. 31, 2006: Ord. 27432 § 17; passed Nov. 15, 2005: Ord. 27296 § 28; passed Nov. 16, 2004: Ord. 27245 § 21; passed Jun. 22, 2004: Ord. 27079 § 49; passed Apr. 29, 2003: Ord. 26966 § 22; passed Jul. 16, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.645 Variances.

A. Administration.

1. All variances shall be processed in accordance with provisions of Chapter 13.05. Certain regulatory relief may be sought consistent with sections below that provide for potential variances in specified development situations.

2. In the exercise of his or her powers to grant variances to, or interpret, the regulations contained in this chapter, the Land Use Administrator may not, by any act or interpretation, change the allowed use of a structure or land, change the boundaries of a zoning district, or change the zoning requirements regulating the use of land.

B. Specified variances.

1. Variance to development regulations (bulk, area).

a. Applicability. These shall include variances to building setbacks, building location, lot coverage, lot area, lot width, and minimum-density requirements. These shall not include variance to sign development standards, to design standards, height, parking lot development standards, or off-street parking quantity standards.

b. Criteria. The Land Use Administrator may, in specific cases, authorize a variance to the development regulations, subject to the criteria set forth below. All of the following facts and circumstances must exist:

(1) The restrictive effect of the specific zoning regulation construed literally as to the specific property is unreasonable due to unique conditions relating to the specific property, such as: parcel size; parcel shape; topography; location; proximity to a critical area; location of an easement; or character of surrounding uses; or that strict application of the regulation would be unreasonable in view of the purpose to be served by the regulation.

(2) The grant of the variance would allow a reasonable use of the property and/or allow a more environmentally sensitive site and structure design to be achieved than would otherwise be permitted by strict application of the regulation, but would not constitute a grant of special privilege not enjoyed by other properties in the area.

(3) The grant of the variance will not be materially detrimental or contrary to the comprehensive plan and will not adversely affect the character of the neighborhood and the rights of neighboring property owners.

(4) The grant of the variance will not cause a substantial detrimental effect to the public interest.

(5) Standardized corporate design and/or increased development costs are not cause for variance.

2. Accessory buildings – height.

a. Applicability. The construction of an accessory building which exceeds the height limit may be authorized upon a lot in the following instances; provided, in no instance shall the height of an accessory building be allowed to exceed 25 feet, as defined in Section 13.06.700.H:

(1) Additional height is necessary to accommodate building door clearance to allow for the storage of a recreational vehicle or trailered boat.

(2) The subject property is affected by steep topography, which precludes development of detached garages for personal vehicles.

(3) The subject property is affected by a hardship situation where the rear yard area of a site abuts an alley and the topography of such area is affected by a slope of such severity as to preclude development under this subsection. In this instance, the height of the structure shall be measured from the grade of the abutting alley right-of-way to the highest point of the roofline.

b. Criteria. The Land Use Administrator may, in specific cases, authorize a variance to the height of accessory buildings, subject to the criteria set forth below. All of the following facts and circumstances must exist:

(1) Additional height shall be the minimum necessary to afford relief.

(2) The variance is in the interest of the general public.

(3) The variance is in the general interest of the particular neighborhood.

(4) For purposes of this variance, the interest of the general public and the general interest of the particular neighborhood are indicated, in part, by the comprehensive plan.

3. View-Sensitive Overlay District – height.

a. Applicability. In the View-Sensitive Overlay District, the construction of a building above the 25-foot height limit will be allowed if approved by the Land Use Administrator; provided, however, the

height of a building cannot exceed the height of the underlying zoning district from existing grade or, when applicable, the grade approved by the Land Use Administrator.

b. It is intended that the Land Use Administrator balance the interests of the applicant who wishes to build or remodel and the interests of the surrounding property owners who wish to preserve their view. There should be an awareness by all parties involved that every property owner does have the right to build on his property and that the proposed construction will have an impact on neighboring parties. Any negative view impact should be minimized.

c. For purposes of this variance, the interest of the general public and the general interest of the particular neighborhood are indicated, in part, by the comprehensive plan.

d. Criteria. In reviewing requests for this variance, the Land Use Administrator shall consider, but shall not be limited to, the following:

(1) the extent of the view;

(2) the impact of the proposed construction on the view from adjacent properties;

(3) the effect of any possible restrictions on the proposed construction, the character of the area;

(4) the topography of the site and surrounding properties;

(5) the variance is in the interest of the general public; and

(6) the variance is in the general interest of the particular neighborhood.

e. Mitigation. The following factors shall be considered as mitigating circumstances which may make approval of this variance more appropriate:

(1) orientation of the ridgeline to minimize view impairment;

(2) style of roof;

(3) increased setback from the street and/or the side lot line; and

(4) the placement of the structure(s) on the site.

4. Design.

a. Applicability. These shall include variances to design standards set forth in Sections 13.06.501, 13.06.502, 13.06.503, 13.06.510.B, and 13.06.512.

b. Criteria. The Land Use Administrator may, in specific cases, authorize variances to design standards upon the finding that the variance request meets one of the criteria listed below. Standardized corporate design and/or increased development costs are not cause for variance. Failure to meet an appropriate test shall result in denial of the variance request. The Land Use Administrator may issue such conditions as necessary to maximize possible compliance with the intent of the regulation from which relief is sought. The applicant carries the burden of proof to demonstrate applicability of the appropriate test(s):

(1) Unusual shape of a parcel established prior to 2002 creates practical difficulties in achieving compliance with the design standard sought to be varied.

(2) Preservation of a critical area, unique natural feature, or historic building and/or feature creates practical difficulties in achieving compliance with the design standard sought to be varied.

(3) Widely varied topography of the building site creates practical difficulties in achieving compliance with the design standard sought to be varied.

(4) Documentation of a pending public action, such as a street widening, creates practical difficulties in achieving compliance with the design standard sought to be varied.

(5) A proposed alternative design that departs from a requirement that can be demonstrated to provide equal or superior results to the requirement from which relief is sought in terms of quantity, quality, location, and function.

5. Variance to sign regulations.

a. Applicability. These variance criteria in subsection b apply to any variance for regulations found in Section 13.06.520, 13.06.521, and 13.06.522, governing signs; except that:

(1) Sign setback. Variance to sign setback shall be subject to the criteria found in Section 13.06.645.B.1.

(2) Sign height. Variances to sign height shall, in no instance, allow the height of a sign to exceed 35 feet or allow the height of a sign on a site with freeway frontage to exceed the height of the building on the same site, whichever is lower. A variance to sign height also requires a finding by the Land Use Administrator that special circumstances exist relating to one or more of the following: property location; topography; parcel shape and size; site distance; or limited view to property and sign in question.

(3) General restriction. The Land Use Administrator may not grant a variance in any instance to allow a sign to exceed an additional 25 percent of the permitted sign size or height. This limitation applies when more restrictive than subsection 5.a.2 above. Standardized corporate design and/or increased development costs are not cause for variance.

b. Criteria. The Land Use Administrator may approve a sign variance for one or more of the following reasons:

(1) The proposed signage indicates an exceptional effort to create visual harmony between the signs, structures, and other features of the property through the use of a consistent design theme, including, but not limited to, size, materials, color, lettering, and location.

(2) The proposed signage will preserve a desirable existing design or siting pattern for signs in an area, including, but not limited to, size, materials, color, lettering, and location.

(3) The proposed signage will minimize view obstruction or preserve views of historically or architecturally significant structures.

(4) In a shopping center or mixed-use center, the proposed sign plan provides an integrated sign program consistent with the overall plan for the center.

(5) In a shopping center or mixed-use center, the variance is warranted because of the physical characteristics of the center, such as size, shape, or topography, or because of the location of signs in existence on the date of passage of this section.

6. Variance to parking lot development standards.

a. Applicability. These shall include variances to the parking lot development standards contained in Sections 13.06.510.B, C, D, and E.

b. Criteria. The Land Use Administrator may authorize a variance for one or more of the following reasons:

(1) Reasonable alternatives are to be provided to said standards which are in the spirit and intent of this chapter; or

(2) Strict enforcement of the standards would cause undue or unnecessary hardship due to the unique character or use of the property.

7. Variance to off-street parking quantity standards.

a. Applicability. These shall include variances to the required off-street parking quantity standards contained in Section 13.06.510.A.1

b. Criteria. The Land Use Administrator may, in specific cases, authorize a variance to the off-street parking quantity standards. Except under extraordinary circumstances, the standard shall not be reduced by more than 50 percent. The Land Use Administrator may issue such conditions as necessary to maximize possible compliance with the intent of the regulations. The applicant carries the burden of proof to demonstrate applicability of the appropriate criteria. The Land Use Administrator may authorize a variance upon finding that the application is consistent with each of criteria 1 through 3 and at least one of criteria 4 through 7.

(1) The grant of the variance would allow a reasonable use of the property;

(2) The grant of the variance will not be materially detrimental or contrary to the comprehensive plan and will not adversely affect the character of the neighborhood and the rights of neighboring property owners; and

(3) The grant of the variance will not cause a substantial detrimental effect to the public interest.

(4) Approval of the variance would not constitute a grant of special privilege not enjoyed by other properties in the vicinity and/or would allow for a more environmentally sensitive site and structure design to be achieved than would otherwise be permitted by strict application of the standard; or

(5) The restrictive effect of the specific zoning regulation as it applies to the specific property is unreasonable due to unique conditions relating to the specific property, such as: parcel size; parcel shape; topography; location; proximity to a critical area; location of an easement; or character of surrounding uses; or

(6) Reasonable alternatives are to be provided to said standards which are in the spirit and intent of this chapter; or

(7) The likelihood of a decreased need for off-street parking for the use at that location due to site-specific circumstances, such as:

(a) A parking study demonstrating that the individual characteristics of the use at that location require less parking than is generally required for a use of this type and intensity;

(b) An approved carpooling/vanpooling or commute trip reduction program consistent with TMC Chapter 13.15;

(c) Availability of private, convenient transportation services to meet the needs of the use;

(d) Accessibility to and frequency of public transportation; or

(e) For residential uses, availability of pedestrian access due to proximity to health and medical facilities, shopping facilities and other services providing for everyday needs and amenities.
(Ord. 27644 Ex. A; passed Sept. 18, 2007: Ord. 27079 § 50; passed Apr. 29, 2003: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.650 Application for rezone of property.

A. Application submittal. Application for rezone of property shall be submitted to the Building and Land Use Services Division. The application shall be

processed in accordance with the provisions of Chapter 13.05. Final action on the application shall take place within 180 days of submission.

B. Criteria for rezone of property. An applicant seeking a change in zoning classification must demonstrate consistency with all of the following criteria:

1. That the change of zoning classification is generally consistent with the applicable land use intensity designation of the property, policies, and other pertinent provisions of the comprehensive plan.

2. That substantial changes in conditions have occurred affecting the use and development of the property that would indicate the requested change of zoning is appropriate. If it is established that a rezone is required to directly implement an express provision or recommendation set forth in the comprehensive plan, it is unnecessary to demonstrate changed conditions supporting the requested rezone.

3. That the change of the zoning classification is consistent with the district establishment statement for the zoning classification being requested, as set forth in this chapter.

4. That the change of the zoning classification will not result in a substantial change to an area-wide rezone action taken by the City Council in the two years preceding the filing of the rezone application. Any application for rezone that was pending, and for which the Hearing Examiner's hearing was held prior to the adoption date of an area-wide rezone, is vested as of the date the application was filed and is exempt from meeting this criteria.

5. That the change of zoning classification bears a substantial relationship to the public health, safety, morals, or general welfare.

C. Amendment of boundaries of districts.

1. Whenever this chapter has been, or is hereafter, amended to include in a different district, property formerly included within classified district boundaries of another district, such property shall be deemed to thereupon be deleted from such former district boundaries.

2. Right-of-way, which has had prior approval for vacation pursuant to Chapter 9.22 or which is hereafter approved for vacation, shall be deemed to be added to the district boundaries of the property which the vacated right-of-way abuts. In instances where a vacated right-of-way is bordered on one side by a district which is different from the district on the other side, the right-of-way shall be deemed to be added apportionately to the respective districts.

D. Limitation on rezones in downtown districts. After the area-wide reclassification establishing the downtown district boundaries has occurred, no property shall be reclassified to a downtown district, except through a subsequent area-wide reclassification. (Ord. 27079 § 51; passed Apr. 29, 2003: Ord. 26947 § 54; passed Apr. 23, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

13.06.655 Amendments to the zoning regulations.

The Planning Commission may, from time to time, recommend to the City Council amendments or supplements to the zoning regulations in order to implement the goals and policies of the comprehensive plan. Procedures for amendments or supplements to the zoning regulations shall be the same as those specified for development regulations in Chapter 13.02, and, more specifically, in Section 13.02.045, for Plan adoption, amendment, and implementation. (Ord. 27079 § 52; passed Apr. 29, 2003: Ord. 26933 § 1; passed Mar. 5, 2002)

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.A

Abandonment of wireless facility. The termination or shutting-off of electrical power to a wireless communication tower and/or associated antenna and equipment facility for a period of one calendar year or more. The records of the City of Tacoma, Department of Public Utilities, shall be utilized to determine the date of power termination.

Accessory antenna device. An antenna including, but not limited to, test, mobile, and global positioning (GPS) antennas which are less than 12 inches in height or width, excluding the support structure.

Accessory building, accessory use, and accessory dwelling unit.

1. Building. An accessory building, structure, or portion thereof which is subordinate to and the use of which is incidental to that of the main building, structure, or use, and which is not considered as a main building or a building used for dwelling purposes. If an accessory building is attached to the main building by a wall or roof or is within six feet of the main building, such accessory building shall be considered as a part of the main building;

2. Use. A use that occupies less than 50 percent of the building or site square footage, is incidental to the main building or principal use, and is located on the same lot as the principal use. In no case shall such accessory use dominate in area, extent, or purpose the principal lawful use or building;

3. Dwelling unit. A second subordinate dwelling unit added to or created within a single-family dwelling (hereinafter referred to as the "main dwelling"), with a provision for independent cooking, living, sanitation, and sleeping.

Alley. A public or private accessway which provides a secondary means of vehicular access to abutting property, unless determined by the Land Use Administrator or Hearing Examiner to be an Officially Approved Accessway as provided under Section 13.04.140.B.

Adult family home. Family abode, licensed by the state of a person or persons who are providing assistance with Activities of Daily Living such as bathing, toileting, dressing, personal hygiene, mobility, transferring, and eating, as well as room and board to more than one but not more than six adults, 18 years or older, with functional disabilities who are not related by blood or marriage to the person or persons providing the service.

Alter. To make any change, addition, or modification in construction or occupancy of a building structure.

Ambulance services. Provision of emergency medical care or transportation, including incidental storage and maintenance of vehicles.

Anchor tenant. Tenant or owner occupying not less than 100,000 square feet of building area.

Animal boarding. Provision of shelter and care for small animals on a commercial basis and large animals on a noncommercial basis. Such boarding shall include daytime and overnight stays. This classification includes activities such as feeding, exercising, grooming, and incidental medical care. This classification includes animal daycare.

Animal clinics. Facilities which provide grooming, training, or other services to animals, including medical and surgical treatment on an outpatient basis.

Animal grooming. Provision of bathing and trimming services for small animals on a commercial basis.

Animal husbandry. A branch of agriculture concerned with the production and care of domestic animals.

Animals, sales and service. Animal care or sales conducted primarily within an enclosed building, including animal clinics, kennels, animal grooming, animal boarding (including daycare), and retail sales. Does not include activities such as animal husbandry or stables.

Antenna. Any system of poles, panels, rods, reflecting discs, or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

1. Directional antenna (also known as "panel" antenna). An antenna which transmits and receives radio frequency signals in a specific directional pattern of less than 360 degrees.

2. Omni-directional antenna (also known as a "whip" antenna). An antenna that transmits and receives radio frequency signals in a 360 degree radial pattern.

3. Parabolic antenna (also known as a dish antenna). An antenna that is a bowl-shaped device for the reception and/or transmission of radio frequency communication signals in a specific directional pattern.

4. Concealed antenna. An antenna and associated equipment enclosure, installed inside a non-antenna structure or camouflaged to appear as a non-antenna structure.

Antenna height. The vertical distance measured from the base of the antenna support structure at a grade to the highest point of the structure, even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances, and shall be measured from the finished grade of the parcel. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

Antenna support structure. Any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving of radio frequency signals.

Arcade. A continuous unoccupied covered area, having direct access from abutting streets or open areas, unobstructed to a height of not less than 12 feet except for supporting beams and columns, and accessible to the general public at all times.

Art/craft production. The production of arts and/or crafts with on-site production/assembly of goods by hand manufacturing involving the use of hand tools and/or small-scale equipment with incidental sales of only those goods produced on-site. This category includes such uses as ceramic art, glass art, candle-making, and custom jewelry manufacture. All activity must be conducted totally within the structure with no outdoor storage or outdoor emissions of odor, smoke, fumes, or sound.

Assembly facilities. Facilities for the principle purpose of public meetings and social gatherings (including incidental recreation), including community halls, union halls, exhibition halls, social clubs, and youth centers. This use shall not include stadiums.

Assisted living facility. See "intermediate care facility."

Automobile house trailers. Any structure used for human habitation constructed on wheels and capable of being moved from place to place, either under its own power or under tow.

13.06.700.B

Banks, savings and loan, financial. Financial institutions that provide retail banking services to individuals and businesses. This classification includes only those institutions engaged in the on-site circulation of money, including businesses offering check-cashing facilities.

Basement. A story partly underground. A basement shall be counted as a story in building height measurement where more than one-half of its height is above the average level of the adjoining ground.

Bicycle parking. Stationary rack that accommodates a lock securing the frame and wheels, or a lockable enclosure with the quantity accommodated determined by manufacturer's specifications.

Brewpub, including beer and wine. An eating and drinking establishment having a microbrewery on the premises which produces beer, ale, or other malt beverage, or wine, and where the majority of the beer/wine produced is consumed on the premises. This classification allows a brewpub to sell beer/wine at retail and/or act as wholesaler for beer of its own production for off-site consumption, with appropriate state licenses.

Building. Any structure having a roof supported by columns or walls for the housing, shelter, or enclosure of persons, animals, or chattels; when separated by dividing walls without openings, each portion of such building so separated shall be deemed a separate building. For the purpose of this section, the term "building" shall not include "vehicle" as hereinafter defined.

Building, height of.

1. The height limit shall be the vertical distance between existing grade and a plane essentially parallel to the existing grade. The corners of such plane shall be located above the base points.

2. The base points shall be located at the four corners of the foundation or, if the foundation of the structure does not form a rectangle, at the four corners of the smallest rectangle which surrounds the foundation.

3. The base points shall be located on existing grade, unless determined otherwise by the Land Use Administrator in accordance with the provisions of Section 13.06.645.B.3.a.

4. Additional height at the rate of one foot for each 6 percent of the slope shall be allowed. This additional height shall not be allowed on the uphill portion of the structure. For the purpose of this provision, the slope shall be the difference between the elevation of the highest base point and the elevation of the lowest base point divided by the distance between those two base points.

5. No portion of a structure, including the highest gable, unless specifically excepted, shall extend above the height limit; provided, however, that a legal structure that existed before June 18, 1989, that was destroyed by fire, natural disaster, explosion, or other calamity or act of God or the public enemy may be rebuilt to its previous height within the building's prior actual dimensions, including, but not limited to, height, roof pitch, depth, and width. Such a structure cannot be enlarged, expanded, or otherwise increased in size without the enlargement or expansion meeting the zoning regulations in effect at the time of the expansion.

The height of a stepped or terraced building is the maximum height of any segment of the building.

Building materials and services: retailing, wholesaling, or rental of building supplies or equipment. This classification includes indoor lumber sales with limited outdoor storage, tool and equipment sales or rental establishments, and building contractors' yards, but excludes lumber yards, establishments devoted exclusively to retail sales of paint and hardware, and activities classified under vehicle rental and sales.

Building orientation. The location or position of a building on a site, particularly the relationship of the principal entry to the adjacent street. A building oriented to the street has an entry facing the street.

Building, temporary. A building without a permanent foundation or footing and without permanent utilities which is removed when the designated time period, activity, or use for which the temporary building was erected, has ceased.

Building, unit group. Two or more buildings of one ownership grouped on a lot, including institutions, hospitals, colleges, and industries.

Business support services. A provision of recurrently needed services of a business nature, including parcel and package delivery services for individual and/or commercial customers; preparation of parcels for delivery, shipping, or mailing; printing; copying; and computer support services.

13.06.700.C

Camouflaged (wireless communication facility). A wireless communication facility that is disguised, hidden, or integrated with an existing structure that is not a monopole or tower, or a wireless communication facility that is placed within an existing or proposed structure, or new structure, tower, or mount within trees so as to be significantly screened from view.

Canopy. An ornamental roof-like structure unenclosed on one or more sides and normally used for pedestrian protection and convenience.

Car washing facility. A building or portion thereof containing facilities for washing automobiles, either manually or using a fully automatic washing process, requiring no personnel for the conduct of the operation except as is necessary for the collection of money and the maintenance of the facility.

Carnival. The temporary establishment of mechanically or electrically operated rides for the purpose of amusement.

Catering services. Preparation and delivery of food and beverages for off-site consumption without provision for on-site pickup or consumption.

Cell site or site. A tract or parcel or land that contains wireless communication facilities including any antenna, support structure, accessory buildings, and parking, and may include other uses associated with and ancillary to wireless communication facilities.

Cellar. A story having more than one-half of its height below the average level of the adjoining ground. A cellar shall not be counted as a story for the purposes of building height measurement.

Cemetery and internment services. Property used for the interring of the dead. This property may include support facilities, such as funeral homes and/or chapels.

Clean construction/demolition/land-clearing (CDL) wastes. CDL wastes are solid wastes produced from construction, remodeling, demolition, or land-clearing operations that have been source separated so that the material is principally composed of asphalt, concrete, brick, or other forms of masonry; non-chemically treated wood (i.e., creosote, paint, preservatives); land-clearing wastes; or other materials approved by the Tacoma-Pierce County Health Department. Yard wastes (i.e., leaves, grass, prunings, and sod), plaster (sheet rock or plasterboard), or any materials other than wood that are likely to produce gases or a leachate during the decomposition process and asbestos wastes are specifically excluded from this definition of clean CDL wastes, unless otherwise approved by the Tacoma-Pierce County Health Department.

Collocation. The use of a wireless communication facility or cell site by more than one wireless communication provider.

Commercial parking facility. Lots offering parking to the public.

Commercial recreation and entertainment. Provision of participant or spectator recreation or entertainment. This classification includes uses such as sports stadiums and arenas, amusement parks, bingo parlors, bowling alleys, billiard parlors, poolrooms, dance halls, ice/roller skating rinks, miniature golf courses, golf driving ranges, archery ranges, scale-model courses, shooting galleries, tennis/racquetball courts, croquet courts, swim clubs, health/fitness clubs, and pinball arcades or electronic gaming centers having more than five coin-operated game machines. This use does not include theaters or golf courses.

Communications facilities. Broadcasting, recording, and other communication services accomplished through electronic or telephonic mechanisms, but excluding major utilities. This classification includes radio, television, or recording studios; telephone switching centers; and telegraph offices. This classification does not include wireless communication facilities.

Commuter parking area. A public parking area designed for drivers to leave their cars and use mass transit facilities and/or carpools.

Comprehensive plan. The official statement of the Tacoma City Council which sets forth its major policies concerning desirable future physical development.

Condominium. A multiple-family dwelling, and its accessory uses and grounds, in which each dwelling unit is individually owned, and all or any part of the dwelling structure, accessory uses, and grounds are owned cooperatively by the owners of said dwelling units, and maintenance functions are performed by required subscriptions from said owners.

Confidential shelter. Shelters for victims of domestic violence, as defined and regulated in RCW 70.123 and WAC 248-554. Such facilities are characterized by a need for confidentiality.

Construction/demolition/land-clearing (CDL) waste recycling. CDL waste recycling is the storage, processing and/or sale of clean CDL wastes to recover usable products or to regenerate the material where the following activities are further defined:

1. Storage includes the holding of CDL wastes prior to processing and stockpiling of the recycled product and by-products.

2. Processing includes the sorting of clean CDL wastes and the mechanical reduction of these materials by means of an initial mechanical processing operation which results in a raw product to be shipped to secondary processors, but does not include composting.

3. Product sales, including retail and wholesale sales of recycled materials.

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. Illustrated as required in certain districts of this chapter:

Correctional facility. A public facility for the incarceration 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.

Court, multiple-family dwelling. An open, unoccupied space other than a yard, on the same lot with a multiple-family building and which is bounded on two or more sides by such building.

Coverage, lot or site. The percentage of a site covered by a roof, soffit, trellis, eave, or overhang extending more than 2.5 feet from a wall, and by a deck more than 30 inches in height.Coverage, lot or site. The percentage of a site covered by a roof, soffit, trellis, eave, or overhang extending more than 2.5 feet from a wall, and by a deck more than 30 inches in height.

COW: acronym for "cell on wheels." A temporary wireless communication facility.

Cultural institutions. Institutions displaying or preserving objects of interest in one or more of the arts or sciences. This classification includes libraries and museums.

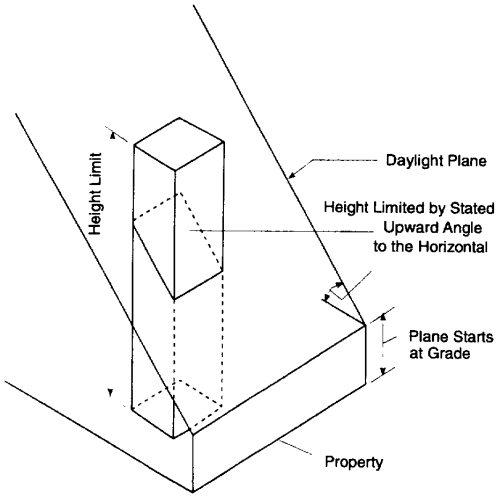
13.06.700.D

Day care center. Any facility which receives 13 or more children or adults for day care.

Day care, family. An occupied dwelling in which a person provides day care for children or adults other than his/her own family and those of close relatives. Such care in a family day care home is limited to 12 or fewer children or adults, including children or adults living in the home and those of close relatives cared for in the home.

Daylight plane. An inclined plane, beginning at a stated height above grade at a side or rear property line, and extending into the site at a stated upward angle to the horizontal, which may limit the height or horizontal extent of structures at any specific point on the site where the daylight plane is more restrictive than the height limit or the minimum yard applicable at such point on the site.

Daylight Plane



Design (wireless communication facility). The appearance of wireless communication facilities, including such features as materials, colors, and shapes.

Detoxification center. A facility providing detoxification and/or treatment for persons suffering from the effects of alcohol or drugs.

Development. All improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage, or activities. Development includes improved, open areas such as plazas and walkways, but does not include natural geologic forms or unimproved land.

Drive-through. A business or a portion of a business where a customer is permitted or encouraged, either by the design of physical facilities or by service and/or packaging procedures, to carry on business in

the off-street parking or paved area accessory to the business, while seated in a motor vehicle.

Dwelling. A building or portion thereof designed and used entirely as the residence of one or more families, except hotels.

Dwelling, group. Two or more dwelling structures located upon a single lot.

Dwelling, multiple-family. A building or portion thereof designed for or used as the residence of four or more families living independently of each other.

Dwelling, one-family. A building designed for or used as the residence of one family.

Dwelling, three-family. A building designed for or used as the residence of three families living independently of each other.

Dwelling, two-family. A building designed for or used as the residence of two families living independently of each other.

Dwelling unit. Two or more rooms and kitchen designed for or used as the living quarters of one family.

13.06.700.E

Eave. That part of a roof which projects over the side wall.

Emergency and transitional housing. Establishments offering daily meal service and housing to persons who are in need of shelter. This classification does not include confidential shelters, , or facilities licensed for residential care by the state of Washington.

Emergency medical care. Facilities providing emergency medical service on a 24-hour basis with no provision for continuing care on an inpatient basis.

Equipment enclosure. A structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning, backup power supplies, and emergency generators.

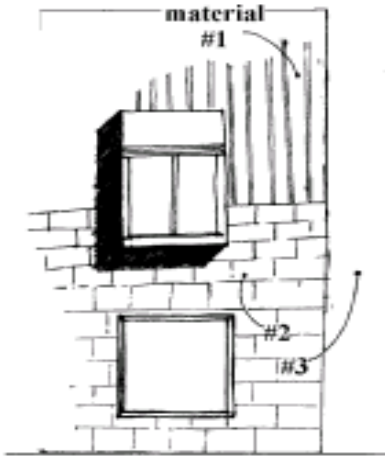
Existing grade. The elevation of the natural ground surface, excluding vegetation, before any site preparation work has been done. Existing grade shall not be artificially increased for building height measurement purposes by placement of fill on the site; provided, however, that existing grade for any lot which is within a development which is required to receive final plat approval shall be the ground surface at the time of final plat approval. If existing grade surrounding the entire foundation is lowered by more than five feet in preparing the site for construction, except excavation for a foundation, a basement, or daylight basement, then the height measurement will be taken from the lowered grade. Soil investigations, elevation markers, grade stakes, or other verification may be required to verify existing grade.

Extended care facility. Establishments providing 24-hour supervised nursing care for persons requiring regular medical attention, but excluding facilities providing surgical or emergency medical services. Such facilities are licensed by the state as nursing homes.

13.06.700.F

FAA. Federal Aviation Administration.

Facade variety. Illustrated as required in certain districts of this chapter:



Facade Variety Example

Facility location (wireless communication facility). Location may include placement of facilities in one or more of the following manners:

1. Attached Facility is a facility that is affixed to an existing structure, such as a building or water tower, and is not considered a component of the attached wireless communication facility.

2. Collocation Facility is a single-support structure, such as a building, monopole, or lattice tower to which more than one wireless communications provider mounts equipment.

3. Free-standing Facility is a facility that includes a separate support structure including, but not limited to, monopoles, lattice towers, wood poles, or guyed towers.

Family. One or more persons related either by blood, marriage, adoption, or guardianship, and including foster children and exchange students, or a group of not more than six unrelated persons, living together

as a single nonprofit housekeeping unit; provided, however, any limitation on the number of residents resulting from this definition shall not be applied if it prohibits the City from making reasonable accommodations to disabled persons in order to afford such persons equal opportunity to use and enjoy a dwelling as required by the Fair Housing Amendments Act of 1988, 42 U.S.C. 3604(f)(3)(b).

FCC. Federal Communications Commission.

Floor area, gross. The number of square feet of total floor area bounded by the exterior faces of building or generally parallel to the front lot line and the corner side line.

Floor area ratio ("FAR"). The amount of floor area within a building as a multiple of the lot area. Right-of-way that has had its air rights vacated shall be considered as lot area for calculating FAR. For the purposes of calculating allowable FAR within the downtown area, floor area shall be measured to the inside face of exterior walls and shall exclude the following areas when calculating the maximum FAR:

1. Spaces below grade.

2. Space devoted to parking.

3. Mechanical spaces.

4. Elevator and stair shafts.

5. Space used for retail uses or restaurants that front the sidewalk.

6. Space devoted to special features.

7. Exterior decks, balconies, and corridors open to the air.

Food and beverage sales. Retail sales of food and beverages for off-site preparation and consumption. Typical uses include supermarkets, groceries, liquor stores, bakeries, and delicatessens.

Food and non-alcoholic beverage production and processing, limited. An establishment engaged in the production, processing, and distribution of food and non-alcoholic beverage products that are compatible with retail sales and service uses, and which, due to the nature and limited scale of the activities, produces minimal off site impacts. Such establishments also include on-site retail sales as an accessory or principal use. This classification allows wholesale and/or off premise sales and includes, but is not limited to, bakeries, confectionaries, and coffee roasting establishments, but excludes microbrewery/winery uses and/or industry, light uses. All production, processing, and distribution activities are to be conducted within an enclosed building.

Foster home. A dwelling that is licensed by the state for foster care, which is used as living quarters for a family that includes one or more children or adults who are placed by a licensed child or adult placement agency and who are not related to the owner or occupant thereof by blood, marriage, or legal adoption, but are under their supervision and care.

Foundation. The supporting part of a wall or structure, usually below ground level and including footings, used as a means of transferring building loads to the soil below. For the purpose of calculating height, the foundation shall only be that portion supporting the walls of the main building.

Frontage. All property fronting on one side of a street and measured along the street line, between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of a dead-end street, or City boundary.

Frontage, building. The frontage of a building is the maximum horizontal dimension of that side of a building abutting on or generally parallel to the front lot line or, in the case of a corner building, the combined maximum horizontal dimensions of the sides of the building abutting or generally parallel to the front lot line and the corner side line.

Frontage road. A roadway contiguous to and generally paralleling a state of Washington limited access highway, so designed as to intercept, collect, and distribute traffic desiring to cross, enter, or leave such facility and to furnish access to abutting property.

Frontage, street. The street frontage is the length of the front lot line, or in the case of a corner lot, the front lot line plus the corner side lot line.

Funeral home. Establishments primarily engaged in the provision of services involving the care, preparation or disposition of human dead, except that crematories are prohibited.

13.06.700.G

Gable. The triangular end of an exterior wall above the eaves.

Garage, private. An accessory building, detached or part of the main building, for the parking or storage of automobiles belonging to the occupants of the premises.

Gas station. Establishments engaged in the retail sale of gas or diesel fuel, lubricants, parts, and accessories. This classification includes incidental maintenance and repair of automobiles when performed in conjunction with the sale of gas or diesel fuel and vehicle washing, but excludes body and fender work or repair of heavy trucks or vehicles.

Glare. Unwanted light that causes eyestrain, discomfort, nuisance, or adversely affects a visual task.

Government offices. Administrative, clerical, or public contact offices of a government agency, including postal facilities, together with incidental storage and maintenance of vehicles.

Grade. The elevation of the ground surface around a building.

Grocery store, full service. A grocery store that sells a broad range of food products that typically include fresh meats, canned and prepared foods, fresh fish, fresh eggs, fresh produce, fresh dairy products, frozen foods, and baked goods.

Group housing. A residential facility designed to serve as the primary residence for individuals, which has shared living quarters without separate bathroom and/or kitchen facilities for each unit. This classification includes uses such as convents and monasteries but does not include uses that are otherwise classified as special needs housing or student housing.

13.06.700.H

Hazardous substance. Any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, which exhibits any of the characteristics or criteria of hazardous waste.

Hazardous waste. All dangerous and extremely hazardous waste as defined in RCW 70.105.010.

Hazardous waste storage. The holding of dangerous waste for a temporary period. Accumulation of dangerous waste by the generator on the site of generation is not storage as long as the generator complies with the applicable requirements of WAC 173-303-200 and 173-303-201.

Hazardous waste treatment. The physical, chemical, and biological processing of dangerous waste to make such waste not dangerous or less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage, or reduced in volume.

Hazardous waste treatment and storage (off-site). Facilities which treat and store hazardous wastes from generators on properties other than those on which the off-site facilities are located.

Hazardous waste treatment and storage (on-site). Facilities which treat and store hazardous wastes generated on the same, geographically contiguous, or bordering property.

Hearing Examiner. The Hearing Examiner as established by Chapter 1.23 of the Tacoma Municipal Code.

Heliport. An area, either at ground level or elevated on a structure, licensed by the federal government or an appropriate state agency and approved for the loading, landing, and takeoff of helicopters, and including auxiliary facilities such as parking, waiting room, fueling, and maintenance equipment.

Home occupation. A business, profession, occupation, or trade conducted for gain or support and located entirely within a residential building or a building accessory thereto, which use is accessory, incidental, and secondary to the use of the building for dwelling purposes and does not change the essential residential character or appearance of such building.

Hospitals. Medical facilities, licensed by the Department of Health Services, the Committee on Accreditation of Rehabilitation Facilities, the Department of Aging, or other similar organizations, for the provision of surgery, rehabilitation and physical care, acute psychiatric care, chemical dependency, and substance abuse on an out-patient basis, including ancillary nursing, training, and administrative facilities.

Hotel or Motel. A building or group of buildings in which lodging or lodging and meals are provided for transient or semi-permanent guests, or both, for compensation, and in which there are ten or more guest rooms.

13.06.700.I

Illumination, direct. Illumination by means of light that travels directly from its source to the viewer's eye.

Illumination, indirect. Illumination by means only of light cast upon an opaque surface from a concealed source.

Industry, light. Manufacturing of finished parts or products, primarily from previously prepared materials; and provision of industrial services, both within an enclosed building. This classification includes commercial bakeries, dry cleaning plants, lumber yards, retail storage, and businesses engaged in processing, fabrication, assembly, treatment, and packaging, but excludes basic industrial processing from raw materials, food processing, vehicle/ equipment services, log yards, bulk storage, and raw materials storage.

Industry, heavy. Manufacturing of any and all parts or products, provision of industrial services, and commercial production and sale of goods and services. This classification includes, but is not

limited to, basic industrial processing from raw materials, food processing, industrial boatyards, port/terminal uses, vehicle/equipment services, and wrecking yards.

Intermediate care facility. A facility that provides, on a regular basis, assistance with one or more Activities of Daily Living ("ADL") such as bathing, toileting, dressing, personal hygiene, mobility, transferring, and eating, including persons with functional disabilities, needing health-related care and services, but who do not require the degree of care and treatment that a hospital or extended care facility provides. Such facility requires a state boarding home license. This use includes assisted living facilities, but does not include adult family homes, staffed residential homes, or residential care facilities for youth.

13.06.700.J

Juvenile community facility. A group care facility for the care of juveniles committed to the physical custody of the Washington State Department of Social and Health Services under the Juvenile Justice Act of 1977. A county detention facility that houses juveniles is not a juvenile community facility. Nothing in this section precludes placement in a juvenile community facility of children who would otherwise be eligible for placement in a community care facility for youth, a residential care facility for youth, or a staffed residential home as defined herein.

13.06.700.K

Kennel. A building, enclosure, or portion of any premises in or at which dogs or cats are kept or maintained by any person other than the owner thereof, as defined in Title 17 of the Tacoma Municipal Code.

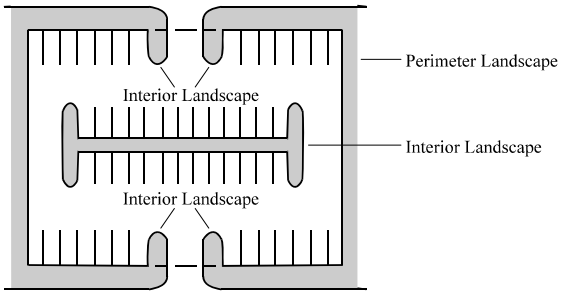
13.06.700.L

Laboratories. Establishments providing medical or dental laboratory services, scientific research, pharmaceutical research laboratories (including limited product testing) or establishments with less than 2,000 square feet providing photographic, analytical, or testing services. This classification excludes manufacturing, except of prototypes. (Other laboratories are classified as limited industry.)

Land Use Administrator (also referred to as Administrator). The Land Use Administrator as established by Chapter 13.05 of this title.

Landscape. To plant and maintain some combination of trees, ground cover, shrubs, vines, flowers, or lawn. Required landscaping may include natural features such as existing or imported rock and structural features including fountains, pools, art work, screens, walls, fences, or benches. A landscaped area may also include a walkway or concrete plaza if it is an integral part of the elements of landscaping described above. Plants on rooftops, porches, or in boxes attached to buildings are not considered landscaping.

Landscaping, interior. A landscaped area or areas within the shortest circumferential line defining the perimeter or exterior boundary of the parking or loading area, or similar paved area, excluding driveways or walkways providing access to the facility (as applied to parking and loading facilities or to similar paved areas).



LANDSCAPING: INTERIOR/EXTERIOR

Landscaping, perimeter. A landscaped area adjoining and outside the shortest circumferential line defining the exterior boundary of a parking or loading area, or similar paved area, excluding driveways or walkways providing access to the facility (as applied to parking and loading facilities or to similar paved areas).

Light rail street. A street either containing public light rail transportation or planned for such transportation as evidenced by a public transportation agency.

Loading space. An off-street space, having a paved surface, within a building or on the same lot with a building, for the temporary parking of a commercial vehicle or truck while loading or unloading merchandise or materials and which has direct access to a street or alley.

Lodging house. A building with not more than nine guest rooms where lodging or lodging and boarding is provided for three or more persons for compensation.

Lot. A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise created by legal action.

Lot, corner. A lot abutting upon two or more streets at their intersection.

Lot coverage. That portion of a lot occupied by a main building or buildings expressed as a percentage

of the total lot area, excluding accessory buildings from the computation.

Lot frontage. That portion of a lot abutting upon a public or private street or way or permanent access easement including an officially approved accessway.

Lot, interior. A lot other than a corner lot.

Lot line. A line of record bounding a lot that divides one lot from another lot or from a public or private street or any other public space.

Lot of record. A single platted lot which is a part of a plat which has been recorded as required by the laws of the state of Washington, in the office of the Pierce County Auditor.

Lot, through. A lot having frontage on two parallel or nearly parallel streets.

13.06.700.M

Main building and principal use.

1. Building. The primary building or other structure on a lot designed or used to accommodate the principal use to which the premises are devoted. Where a principal use involves more than one building or structure designed or used for the principal use, as in the case of group dwellings, each such permitted building or structure on a lot defined by this chapter shall be construed as comprising a main building or structure.

2. Use. The main or primary purpose for which a building, other structure, and/or lot is designed, arranged, or intended, or for which they may be lawfully used, occupied, or maintained under this chapter.

Mansard roof. A roof with two slopes or pitches on each of the four sides, the lower slopes steeper than the upper.

Microbrewery/winery. An establishment primarily engaged in the production and distribution of beer, ale, or other malt beverages, or wine, and which may include accessory uses such as tours of the microbrewery/winery, retail sales, and/or on-site consumption, e.g., "taproom." This classification allows a microbrewery to sell beer/wine at retail and/or act as wholesaler for beer/wine of its own production for off-site consumption with appropriate state licenses.

Mobile home/trailer court. A movable dwelling unit designed for year-round occupancy and including a flush toilet and bath or shower, except that an automobile house trailer located on the same lot with a building providing a private flush toilet and bath or shower shall constitute a mobile home for purposes of this chapter. This shall refer to and include all portable contrivances capable of being moved by their own power, towed, or transported by another vehicle.

Modification (wireless communication facility). The changing of any portion of a wireless communication facility from its description in a previously approved permit. Examples include, but are not limited to, changes in design and the addition of an antenna to the site.

Mount (wireless communication facility). The structure or surface upon which the wireless communication facilities are mounted. There are three types of mounts:

1. Building mounted. A wireless communication facility mount fixed to the roof or side of a building.

2. Ground mounted. A wireless communication facility mount fixed to the ground, such as a tower.

3. Structure mounted. A wireless communication facility fixed to a structure other than a building, such as light standards, utility poles, and bridges.

13.06.700.N

Nonconforming building or structure. A lawfully established building or structure which, on the effective date of this title or the effective date of any amendment to this title, was not in conformance with the height, area, or parking requirements of the zone classification upon which said building or structure is located.

Nonconforming use. A use which lawfully occupied a building or land at the time this chapter became effective and which does not conform with the use regulations of the district in which it is located, as provided by this chapter and any amendment hereto.

Nurseries. Establishments primarily engaged in the retail sale of plants grown elsewhere. Merchandise other than plants is kept within an enclosed building or a fully screened enclosure, and compost, mulch, soil additives, and fertilizer of any type are stored and sold in package form only.

Nursing home. See "extended care facility."

13.06.700.O

Occupancy. Means the purpose for which a building, or part thereof, is used or intended to be used.

Office. Offices of firms or organizations providing medical, professional, executive, management, or administrative services. This classification includes offices for a physician, dentist, or chiropractor; laboratories; emergency medical care; architectural; computer software consulting; data management; engineering; interior design; graphic design; real estate; insurance; investment; banks and savings and loan associations; government offices; and law offices.

Officially approved accessway. A public or private street or way or permanent access easement, which does not conform to the minimum requirements of the Major Street Plan and the specifications of the City of Tacoma, and, which has been officially approved, as identified in Section 13.04.140, by the City as providing a proper and adequate principal access to the property it is intended to serve.

Outdoor storage. Exterior display of materials or storage outside of a building of material not intended for immediate sale or exhibition, including retail storage, log and lumber yards, bulk storage, contractor's equipment yards, raw materials storage, etc.

13.06.700.P

Parapet. A protective railing or low wall along the edge of a roof, balcony or terrace.

Parcel. A single platted or unplatted lot, or contiguous lots, or tract of land having the same Pierce County Assessor's tax identification number. A parcel is usually considered a unit for the purposes of development.

Park and recreation. Metropolitan Park District, City of Tacoma, or other public/quasi-public parks, playgrounds, and open spaces, including recreation facilities and community centers located within such parks, playgrounds, or open space.

Parking aisles. A maneuvering area for ingress and egress to a parking space in a parking area.

Parking area. An open, off-street area used for the parking of five or more motorized vehicles, trailers, or a combination of motorized vehicles and trailers. The term parking lot may be used as well. Differs from vehicle storage in that a majority of vehicles enter and exit daily under unassisted operation of individual drivers not necessarily in the employment of the site or an affiliated operation.

Parking space. An off-street area for the parking or storage of one automobile that is unobstructed and readily accessible to an alley or a street.

Passenger terminal. Public or publicly regulated facility for passenger transportation services and operations. This classification includes railroad passenger terminals, rapid rail or street railway passenger terminals, bus passenger terminals, multi-modal transportation passenger terminals, or any combination of the above. Typical activities include ticketing, waiting, boarding, baggage and parcel handling, transport, and temporary storage of transit vehicles and equipment. Passenger terminals may include park-and-ride facilities, bicycle facilities, and pedestrian linkages at, above, or below grade (including sky-bridges and/or tunnels within City rights-of-way). Accessory uses may include indoor and/or outdoor retail sales, food and drink sales or other service operations within or adjacent to the terminal.

Pawn shops. Establishments engaged in the buying or selling of new or secondhand merchandise and offering loans in exchange for personal property. (See "retail sales.")

Peak. The uppermost point of a gable or the uppermost point of a parapet designed to mimic the shape of a gable.

Person with functional disabilities. A person who, because of recognized chronic physical or mental condition or disease, is functionally disabled to the extent of: (a) needing care, supervision, or monitoring to perform activities of daily living or instrumental activities of daily living; (b) needing supports to ameliorate or compensate for the effects of the functional disability so as to lead as independent a life as possible; (c) having physical or mental impairment which substantially limits one or more of such person's major life activities; or (d) having a record of having such an impairment or being regarded as having such an impairment. Such term does not include persons who claim to be disabled solely on the basis of having been adjudicated a juvenile delinquent, having a criminal record, being a sex offender pursuant to RCW 9A.44.130, being a person currently using illegal drugs, or being a person who has been convicted of the manufacture or sale of illegal drugs.

Personal services. Provision of recurrently needed services of a personal nature. This classification includes services such as barber and beauty shops, massage, tanning, seamstresses, tailors, shoe repair, dry cleaning agencies (excluding plants), photocopying, and self-service laundries; provision of instructional services or facilities such as photography, fine arts, crafts, dance or music studios, driving schools, diet centers, reducing salons, and fitness studios.

Provider (wireless communication facility). Every corporation, company, association, joint stock company, firm, partnership, limited liability company, other entity, and individual that provides wireless communication services over wireless communication facilities.

Public facility site. An existing public or quasi-public site developed with an existing public or quasi-public facility, including, but not limited to, substations, water reservoirs, or standpipes; police or fire stations; sewer or refuse utility facilities; other governmental facilities, parks, or open space areas; hospitals; public or private schools; and churches.

Public safety facilities. Facilities for public safety and emergency services, including facilities that provide police and fire protection and ambulance services.

13.06.700.R

Religious assembly. Facilities for religious worship and incidental religious education, but not including private schools.

Religious facilities. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

Repair services. Establishments providing repair services for personal items and small equipment, such as appliance and office machine repair or building maintenance services. This classification excludes maintenance and repair of vehicles, including lawnmowers (see "vehicle service and repair"). Repair and storage (including display and sales) shall be located entirely within the building.

Research and development industry. Establishments primarily engaged in the research, development, and controlled production of high-technology electronic, industrial, or scientific products or commodities for sale. This classification includes biotechnology firms and manufacturers of nontoxic computer components.

Residential care facility for youth. A facility, licensed by the state, that provides 24-hour care for persons who are 18 years of age or younger, with or without functional disabilities, that has not been licensed by the state as a staffed residential home. Such facilities may, in addition to providing food and shelter, provide some combination of assistance with Activities of Daily Living ("ADL"), such as bathing, toileting, dressing, personal hygiene, mobility, transferring, and eating, and additional services such as social counseling and transportation. New housing solely or partially for juveniles who are committed to the physical custody of the Department of Social and Health Services under the Juvenile Justice Act of 1977 must be sited under Section 13.06.530, Juvenile Community Facilities.

Residential chemical dependency treatment facility. A residential facility, licensed by the state, that provides chemical dependency treatment and includes room and board in a twenty-four-hour-a-day supervised facility.

Retail. Establishments engaged in retail sales of goods, including, but not limited to, the retail sale of merchandise not specifically listed under another use classification. This classification includes, but is not limited to, department stores, clothing stores, furniture stores, pawn shop, pharmacies, and businesses retailing the following goods as examples: toys, hobby materials, food and beverages sales (including catering), hand-crafted items, jewelry, cameras, photographic supplies, electronic equipment, records, sporting goods, kitchen utensils, hardware, appliances, art, antiques, art supplies and services, baseball cards, coins, comics, paint and wallpaper, carpeting and floor covering, medical supplies, office supplies, bicycles, and new automotive parts and accessories (excluding service and installation).

Retirement home. A multiple-family dwelling, a complex of dwellings, an apartment hotel or a complex of apartment hotels and/or boarding houses operated primarily as a residence for retired persons. Depending on the level of care provided, such facilities may or may not require state licensing. Such an establishment may include the following accessory facilities for the exclusive use of its residents and their guests:

1. Food preparation, service, and storage on a group basis;
2. Indoor and outdoor recreation facilities;
3. Religious facilities;
4. Medical and nursing facilities for the care of temporary and permanent illness;
5. Administrative offices and staff quarters;
6. Commissary facilities;
7. Common lobby and lounge areas.

13.06.700.S

Screening. A continuous fence, wall, or evergreen hedge supplemented with landscape planting of grass, shrubs, or evergreen ground cover, or a combination thereof, that effectively screens visually the property which it encloses, and which is at least four feet high and is broken only for accessways.

Seasonal sales. Temporary sales, usually outdoors and independent of another use, of merchandise for the celebration of certain seasons. These include items such as Christmas trees and pumpkins.

Security barrier (wireless communication facility). A wall, fence, or berm that has the purpose of sealing a wireless communication facility from unauthorized entry or trespass.

Self-storage. Any real property designated and used for the purpose of renting or leasing separate storage spaces to individuals or businesses.

Setback line. A line within a lot parallel to a corresponding lot property line, which is the boundary of any specified front, side, corner side, or

rear yard, or a line otherwise established to govern the location of buildings, structures, or uses. Where no minimum front, side, corner side, or rear yards are specified, the setback line shall be coterminous with the corresponding lot line.

Shopping center. A unified group of retail businesses and service uses on a single site with common parking facilities. A shopping center may include pads for future buildings.

Special needs housing. A broad term that includes adult family homes, confidential shelters, emergency and transitional housing, extended care facilities, continuing care retirement communities, intermediate care facilities, residential chemical dependency treatment facilities, residential care facilities for youth, retirement homes, and staff residential homes.

Stable, private. A detached accessory building for the keeping of horses owned by the occupants of the premises and which are not kept for remuneration, hire, or sale.

Stacking lane. A driving lane, associated with a drive-thru, in which cars line up while waiting for service.

Staffed residential home. A home, licensed by the state, providing 24-hour care for six or fewer children or expectant mothers, 17 years or younger, with or without functional disabilities. The home employs staff to care for children and may or may not be a family residence. New housing solely or partially for juveniles who are committed to the physical custody of the Department of Social and Health Services under the Juvenile Justice Act of 1977 must be sited under Section 13.06.530, Juvenile Community Facilities.

Storage, general. Any real property designed and used for the purpose of renting or leasing storage space to individuals or businesses, for the purpose of indoor dead storage of personal items or business inventory and supplies. This may include self-storage or businesses where storage is provided as a service.

Street. A thoroughfare which provides the principal means of access to abutting property.

Story. That portion of a building included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.

Story, half. A story which, by reason of a sloping roof, has not more than one-half of the habitable space of the floor next below it.

Structure. That which is built or constructed and located on the ground.

Structural alterations. Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders.

Student housing. A residential facility occupied by and maintained exclusively for students that is affiliated with a professional college or university, or other recognized academic institution. These facilities are generally owned and operated by the associated institution and located on the institution's campus. This classification includes uses such as dormitories, fraternity houses, and sorority houses.

Super regional mall. Combination of stores in single ownership or under unified control through a reciprocal easement agreement with at least four anchor tenants and a total of not less than 750,000 square feet of leasable building area.

Surface mining. Any premises from which the removal of any rocks, sand, gravel, stone, earth, topsoil, peat, minerals, or other natural resources results in the following:

1. More than three acres of disturbed area;

2. Surface mined slopes greater than 30 feet high and steeper than 1.0 foot horizontal to 1.0 foot vertical; or

3. More than one acre of disturbed area within an eight acre area, when the disturbed area results from mineral prospecting or exploration activities.

Surface mining shall exclude excavations or grading necessary for the construction of a structure for which a building permit has been duly issued.

13.06.700.T

Temporary housing. A structure, usually an automobile house trailer or mobile home, of a temporary nature not involving permanent installations.

Temporary use. A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period. Temporary uses include seasonal sales, temporary office space, carnivals, and temporary housing.

Theater. A building or part of a building devoted primarily to the showing of motion pictures or for dramatic, dance, musical, or other live performances.

Townhouse. A dwelling containing two or more dwelling units which share one or more common walls with other dwelling units, and with each dwelling unit occupying an individually owned parcel of land.

Transit street. A street on which regularly scheduled bus service operates at frequencies of 15 minutes or less during peak travel periods. Transit streets are designated by the Director of Public Works in

consultation with Pierce Transit and include streets designated in Section 11.05.492.

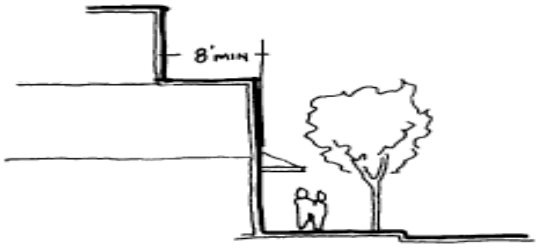
Transportation/freight terminals. A place where transfer of goods and/or people takes place between modes of transportation. This classification includes marine terminals, freight terminals and transfer yards, container marshalling yards, intermodal rail yards, general rail yards, train and bus stations, and ferry terminals.

Travel services. Establishments providing travel information and reservations to individuals and businesses. This classification excludes car rental agencies.

13.06.700.U

Unlicensed wireless services. Commercial mobile services that operate on public frequencies and do not need an FCC license.

Upper story setback. A horizontal setback of an upper level(s) of a building from the lower level(s) of a building on the same elevation. Illustrated as required in certain districts of this chapter:



Use. The purpose land, building, or structure now serves or for which it is occupied, maintained, arranged, designed, or intended.

Utilities. Generating plants, electrical substations with outdoor equipment, refuse collection and transfer stations, processing, recycling or disposal facilities, water reservoirs, flood control or drainage facilities, water or wastewater treatment plants, and similar facilities.

13.06.700.V

Vehicle. The term "vehicle" as used herein means all instrumentalities capable of movement by means of circular wheels, skids, or runners of any kind, specifically including, but not limited to, all forms of automotive vehicles, buses, trucks, cars, and vans; all forms of trailers or mobile homes of any size, whether capable of supplying their own motive power or not, without regard to whether the primary purpose of which instrumentality is or is not the conveyance of persons or objects, and specifically including all such automobiles, buses, trucks, cars, vans, trailers, and mobile homes even though they may be at any time immobilized in any way and for any period of time.

Vehicle rental and sales. Sale or rental of automobiles, motorcycles, trucks, tractors, construction or agricultural equipment, mobile homes, boats, and similar equipment, including storage and incidental maintenance.

Vehicle sales area. An open, off-street area used for the display, sale or rental of new or used automobiles, motorcycles, trucks, tractors, construction or agricultural equipment, mobile homes, boats, and similar equipment, and where no repair work is done.

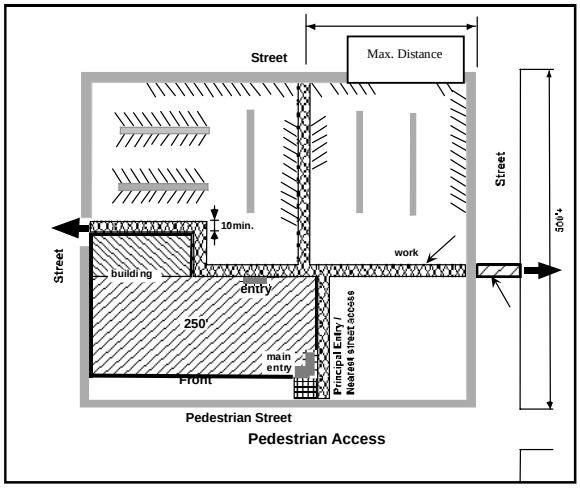
Vehicle service and repair. Repair and/or service of automobiles, trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of related equipment and parts. This classification includes car washing facilities, auto repair shops, body and fender shops, car painting, wheel and brake shops, and tire sales and installation, but excludes vehicle dismantling or salvage and tire retreading or recapping.

Vehicle service and repair, industrial. Facilities, either indoors or outdoors, for the layover, maintenance, and temporary storage of buses, trains, transit, semi trucks, heavy equipment, and associated support vehicles. Equipment, materials, and vehicles used in the maintenance of bus transit facilities are also included.

Vehicle storage. Lots for storage of parking tow-aways, impound yards, and storage lots for automobiles, trucks, buses and recreational vehicles. Not to be construed as a parking lot or area.

13.06.700.W

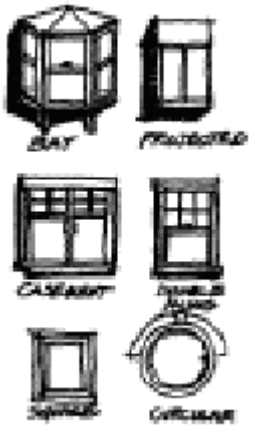
Walkways. Illustrated as required in certain districts of this chapter:

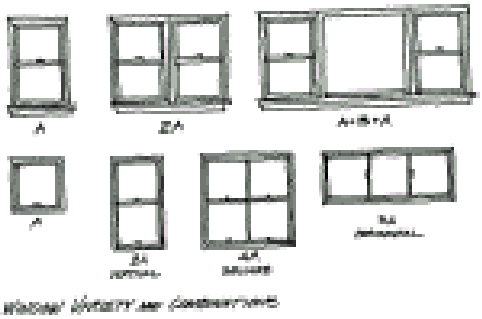


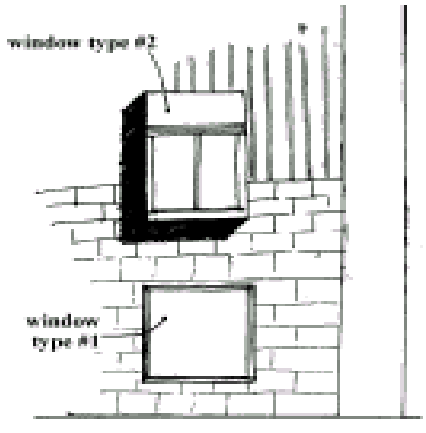
Warehouse, storage. A building or portion of a building, or open storage or outdoor yard area, used for long-term storage of items where incoming and outgoing traffic is intermittent and which requires minimal employee activity.

Wholesale or distribution. A building or portion of a building used for short-term storage in preparation for rerouting or reshipment, or used in connection with an industrial activity where incoming and outgoing shipments are a continuing operation.

Window type. A window type is an individual grouping of windows, a window size, or a window shape. Individual panes within the same frame are not considered a separate type. Illustrated as required in certain districts of this chapter:







Window Upper Story Requirement

Wireless communication and wireless communication facilities. Facilities used in the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means for communication, cellular phone, personal communication services, enhanced specialized mobile radio, and any other services licensed by the FCC and unlicensed wireless services. These types of facilities also include central office switching units, remote

switching units, telecommunications radio relay stations, and ground level equipment structures. This classification does not include communication facilities.

Wireless communication tower. Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers, or monopole towers. The term encompasses wireless communication facilities, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, wireless communication towers, and alternative tower structures, and the like.

Work release center. An alternative to imprisonment, including work and/or training release programs which are under the supervision of a court or a federal, state, or local agency. This definition excludes at-home electronic surveillance.

13.06.700.X

(For future use if needed.)

13.06.700.Y

Yard. An open space other than a court, on the same lot with a building unoccupied or unobstructed from the ground upward, except as otherwise provided in this chapter.

Yard, front. A yard extending the full width of the lot, the depth of which is the minimum distance from the front lot line to the building.

Yard, rear. A yard extending the full width of the lot, the depth of which is the minimum distance from the rear lot line to the main building.

Yard, side. A yard extending from the front yard to the rear yard along the side of the main building, the width of which yard is the minimum distance from the side lot line to the main building.

13.06.700.Z

(For future use if needed.)

(Ord. 27644 Ex. A; passed Sept. 18, 2007: Ord. 27563 Ex. A; passed Dec. 12, 2006: Ord. 27539 § 20; passed Oct. 31, 2006: Ord. 27296 § 29; passed Nov. 16, 2004: Ord. 27278 § 3; passed Oct. 26, 2004: Ord. 27245 § 22; passed Jun. 22, 2004: Ord. 27079 § 53; passed Apr. 29, 2003: Ord. 27054 § 1, 2, 3, 4; passed Mar. 18, 2003: Ord. 26966 § 23; passed Jul. 16, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

Chapter 13.06A

DOWNTOWN TACOMA

Sections:

13.06A.010 Purpose.
13.06A.020 Applicability.
13.06A.030 Definitions.
13.06A.040 Downtown Districts and uses.
13.06A.050 Additional use regulations.
13.06A.055 Nonconforming Development.
13.06A.060 Development standards.
13.06A.070 Basic design standards.
13.06A.080 Design standards for increasing allowable FAR.
13.06A.090 Special features required for achieving maximum Floor Area Ratio.
13.06A.100 Downtown Master Planned Development (DMPD).
13.06A.110 Variances.
13.06A.120 Enforcement.
13.06A.130 Severability.

13.06A.010 Purpose.

This section sets forth districts for Downtown Tacoma, along with allowable and prohibited uses, development standards, design standards, an optional design review process, and guidelines addressing public amenities. It also allows a Master Planned Development in order to offer flexibility in height limits.

These regulations are intended to:

1. Implement goals and policies of the City's comprehensive plan addressing downtown.

2. Implement the goals of the Growth Management Act and carry out county-wide and multicounty planning policies.

3. Create a downtown setting that is mixed-use and is pedestrian and transit oriented.

4. Guide the location and intensity of development.

5. Attract private investment in commercial and residential development.

6. Provide for predictability in the expectations for development projects.

7. Allow for creative designs in new and renovated buildings. (Ord. 26556 § 28; passed Dec. 14, 1999)

13.06A.020 Applicability.

The provisions of this chapter shall apply to all uses and development in those areas in Downtown Tacoma classified in the districts described in Section 13.06A.040 and shall modify the regulations

and other provisions of Chapter 13.06 of the Tacoma Municipal Code ("TMC"); provided, that the regulations and provisions of Chapter 13.06 shall apply when not specifically covered by this chapter; and, further, provided that where Chapter 13.06 and this chapter are found to be in conflict, the provisions of this chapter shall apply. (Ord. 26889 § 6; passed Dec. 11, 2001: Ord. 26556 § 28; passed Dec. 14, 1999)

13.06A.030 Definitions.

As used in this chapter, unless context dictates otherwise, the following definitions shall apply:

1. "Alteration" means a physical change to a structure or a site. Alteration does not include normal maintenance and repair or total demolition. Alteration does include any of the following:

a. Changes to the facade of a building;

b. Changes to the interior of a building;

c. Increase or decrease to floor area of a building;

d. Changes to other structures, including parking garages, on the site or the development of new structures; and/or

e. Changes to landscaping, off-street parking spaces, and other improvements on a site.

2. "Alteration, substantial" means alterations within a two-year period:

a. The total cost of which, excluding purchase costs of the property and/or building, exceeds 50 percent of the replacement value of a building or structure;

b. The total cost of which, excluding purchase costs of the property, exceeds 50 percent of the replacement value of site improvements;

c. Which increase the gross square footage by more than 50 percent of buildings and structures; or

d. Which increase the gross square footage by more than 50 percent of a surface parking lot.

3. "Art Gallery" means a space with public access from the sidewalk into the space and which is located within a building for the interior exhibition or display of artworks which may or may not be offered for sale to the public.

4. "Decorative grille" means an open framework of metal, wood, or other material arranged in a pattern that effectively obscures the views of parked cars located in an off-street parking structure from the public right-of-way.

5. "Development" means all improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage, or activities. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or unimproved land.

6. "Drive-through within a building" means a retail or service use with a window offering goods and services to people in vehicles in which the window and all driving and stacking lanes are contained within a building.

7. "Floor Area" is the sum of the gross horizontal area of all floors of a building or portion thereof, measured to the inside face of exterior walls and excluding the area used for parking, mechanical equipment, elevators, stair shafts, exterior decks, balconies, and corridors open to the air.

8. "Floor Area Ratio (FAR)" is the amount of floor area within a building as a multiple of the lot area. Right-of-way that has had its air rights vacated shall be considered as lot area for calculating FAR. For the purposes of calculating allowable FAR within the downtown area, floor area shall exclude the following areas when calculating the maximum FAR:

a. Spaces below grade.

b. Space used for retail uses or restaurants that front the sidewalk.

c. Space devoted to special features.

9. "Mixed rate housing" shall include both affordable and market rate housing units in the same housing or mixed-use development.

10. "Nonconforming development" means development or an element of development that lawfully existed on January 10, 2000, the date this chapter became effective, and which does not conform to the development standards and basic design standards of the district in which it is located.

11. "Normal maintenance" means physical changes which keep a building, structure, or site, or a portion thereof, in a sound condition and operation.

12. "Parcel and mail services" means a use which provides for the preparation of parcels and packages for shipping, delivery, and mailing for walk-in clientele.

13. "Primary pedestrian street" means a street that is intended to support pedestrian activity throughout the day. Primary pedestrian streets are:

a. Pacific Avenue between S. 7th and S. 25th Streets.

b. Broadway between S. 7th and S. 15th Streets.

c. Commerce Street between S. 7th and S. 15th Streets.

d. "A" Street between S. 7th and S. 12th Streets.

e. Tacoma Avenue between S. 7th and S. 15th Streets.

14. "Public benefit use" means any of the following uses shall qualify:

a. Day Care, available to the general public.

b. Human Services, such as employment counseling and walk-in clinics.

c. Recreation, such as health clubs.

d. Community Meeting Room.

e. Art Gallery or Museum.

f. Drop-in centers for youth and seniors.

15. "Repair" means physical changes to a building, structure, or site, or a portion thereof, to fix or restore to sound condition after damage or deterioration.

16. "Replacement value" means the value of a building as calculated using the latest "Evaluation Table" printed in the *Building Standards* magazine, published by the International Conference of Building Officials, based on the existing occupancy and the most closely appropriate type of construction.

17. "Telecommunications exchange facility" means a structure where the majority of its floor area is used for equipment for the purposes of automatically receiving, decoding, routing, recoding, and sending of voice and data communications.

18. "Total cost" means all costs associated with an alteration incurred from project initiation to project completion excluding the purchase costs for the building and site.

19. "Transparency" means glazing through which it is possible to see clearly the internal activity of the building or into a window display.

20. "Works of art" means all forms of original, artist-produced creations of visual art, including, but not limited to, sculptures, murals, paintings, inlays, earthworks, mosaics, etc. Works of art can be both self-standing and/or integrated into the structure or its grounds. Not included in this definition is the reproduction of original works of art, mass-produced artworks, or architect-designed elements. Also not included are directional signage or super graphics, maps, etc., except where an artist is employed. (Ord. 27278 § 4; passed Oct. 26, 2004: Ord. 26889 § 7; passed Dec. 11, 2001: Ord. 26605 § 3; passed Mar. 28, 2000: Ord. 26556 § 28; passed Dec. 14, 1999)

13.06A.040 Downtown Districts and uses.

A. After the area-wide reclassification establishing the following Downtown Districts, no property within the Downtown Districts shall be reclassified except through a subsequent area-wide reclassification as provided for in TMC 13.02.045.

B. No property shall be reclassified to a Downtown District except through an area–wide reclassification as provided for in TMC 13.02.045.

C. Downtown Commercial Core District (DCC).

This district is intended to focus high rise office buildings and hotels, street level shops, theaters, and various public services into a compact, walkable area, with a high level of transit service.

1. Preferred—retail, office, hotel, cultural, governmental.

2. Allowable—residential, industrial located entirely within a building.

3. Prohibited—industrial, drive-through uses not located within a building, and automobile service stations/gasoline dispensing facilities in addition to those noted in TMC 13.06A.050.

D. Downtown Mixed-Use District (DMU).

This district is intended to contain a high concentration of educational, cultural, and governmental services, together with commercial services and uses.

1. Preferred—governmental, educational, office, cultural.

2. Allowable—retail, residential, industrial located entirely within a building.

3. Prohibited—industrial, movie theaters greater than six screens, automobile service stations/gasoline dispensing facilities, and drive through uses that are not located within a building but are located within 100 feet of a light rail street, in addition to those noted in TMC 13.06A.050.

E. Downtown Residential District (DR).

This district contains a predominance of mid-rise, higher density, urban residential development, together with places of employment and retail services.

1. Preferred—residential.

2. Allowable—retail, office, educational.

3. Prohibited—industrial, movie theaters greater than six screens in addition to those noted in TMC 13.06A.050.

F. Warehouse/Residental District (WR).

This district is intended to consist principally of a mixture of industrial activities and residential buildings in which occupants maintain a business involving industrial activities.

1. Preferred—industrial located entirely in a building, residential.

2. Allowable—retail, office, governmental.

3. Prohibited:

a. Movie theaters greater than six screens, in addition to those noted in TMC 13.06A.050.

b. Drive through uses that are not located within a building but are located within 100 feet of a light rail street. (Ord. 26947 § 55; passed Apr. 23, 2002: :Ord. 26733 § 5; passed Nov. 14, 2000: Ord. 26605 § 4; passed Mar. 28, 2000: Ord. 26556 § 5; passed Dec. 14, 1999)

13.06A.050 Additional use regulations.

A. Use Categories.

1. Preferred. Preferred uses are expected to be the predominant use in each district.

2. Allowable. Named uses and any other uses, except those expressly prohibited, are allowed.

3. Prohibited. Prohibited uses are disallowed uses (no administrative variances).

B. The following uses are prohibited in all of the above districts, unless otherwise specifically allowed:

1. Adult retail and entertainment.

2. Heliports.

3. Work release facilities.

4. Jails and correctional facilities.

5. Billboards.

C. Special needs housing shall be allowed in all downtown districts in accordance with the provisions of Section 13.06.535. (Ord. 27539 § 21; passed Oct. 31, 2006: Ord. 27245 § 23; passed Jun. 22, 2004: Ord. 26556 § 28; passed Dec. 14, 1999)

13.06A.055 Nonconforming Development.

A. It is intended that nonconforming development or elements of nonconforming development that affect appearance, function, and design quality be brought into conformance with the development and basic design standards of this chapter. It is not intended to bring nonconforming development into compliance immediately, but to have future development comply with the purpose and intent of this code and eventually be brought into conformance with its standards. It is not intended to require extensive changes that are impractical, such as moving or lowering buildings.

B. Nonconforming development may continue as set forth in Section 13.06.630, unless specifically limited by other regulations of this chapter.

C. Additions to buildings nonconforming to the development standards or basic design standards must comply with these standards, unless otherwise exempted. No addition can increase the nonconformity to the development or basic design standards or create new nonconformity with these standards. (Ord. 26934 § 10; passed Mar. 5, 2002: Ord. 26899 § 8; passed Dec. 11, 2001)

13.06A.060 Development standards.

Development Standards Table.

Districts	Maximum Allowable Floor Area Ratio (FAR)[1]						Height Limits	Non-Res Parking[2, 3, 4]	
	"As of Right"		With Design Standards		With Special Features			Min	Max
	Non-Res	Res	Non-Res	Res	Non-Res	Res		(stalls/floor area sf)[5]	
DCC	3	3	6	6	12	12	400’	2.4/1000	3.6/1000
DMU	2	3	4	5	6	7	100’	2.4/1000	3.6/1000
DR	1	2	2	4	4	6	90’	1.2/1000	3.6/1000
WR	3	4	4	5	6	7	100’	1.2/1000	3.6/1000

Notes:

1. The FAR for non-residential and residential uses within a given development are individually calculated and may be added together for a cumulative total, provided that the respective maximum FAR for each use is not exceeded. For example, in the DCC, an "as-of-right" development may have a total FAR of 6, with a FAR of 3 in non-residential use and a FAR of 3 in residential use in a single development.
2. For the purposes of calculating maximum allowable FAR, hotels shall be considered a residential use.
3. A minimum FAR of 1 shall be achieved for structures within the Downtown Commercial Core district. The gross floor area shall be used to calculate the minimum FAR.
4. Building Height will be measured consistent with the applicable Building Code, Height of Building and excludes parapets, mechanical penthouses, elevator overruns and machine rooms, and decorative architectural features (e.g., spires, towers, pergolas, pyramids, pitched roofs) not intended for residential, office or retail space.
5. Maximum Building Height within 150' east of the centerline of the right-of-way of Yakima Avenue shall be 60 feet, in order to create a transition to lower-rise residential development to the west.
6. Minimum parking ratios for non-residential development located east of Market Street, or located east of Jefferson Avenue from South 21st to South 28th streets shall be reduced by 50 percent in recognition of the availability of transit.
7. The first 3,000 square feet of each street level establishment is exempt from parking requirements.
8. Maximum parking ratios may be exceeded for providing parking available to the public and which is not dedicated to individual owners, tenants and lessees of the building.
9. Tandem parking is permitted only for residential development subject to approval of the Traffic Engineer.
10. Development shall also comply with the requirements of 13.06.510(C) Loading Spaces.
11. No variances shall be granted to these development standards unless otherwise indicated.
12. Buildings lawfully in existence on January 10, 2000, the time of reclassification to the above districts do not need to conform to these standards; however, additions will need to conform. No addition can increase nonconformity to these standards or create new nonconformity.

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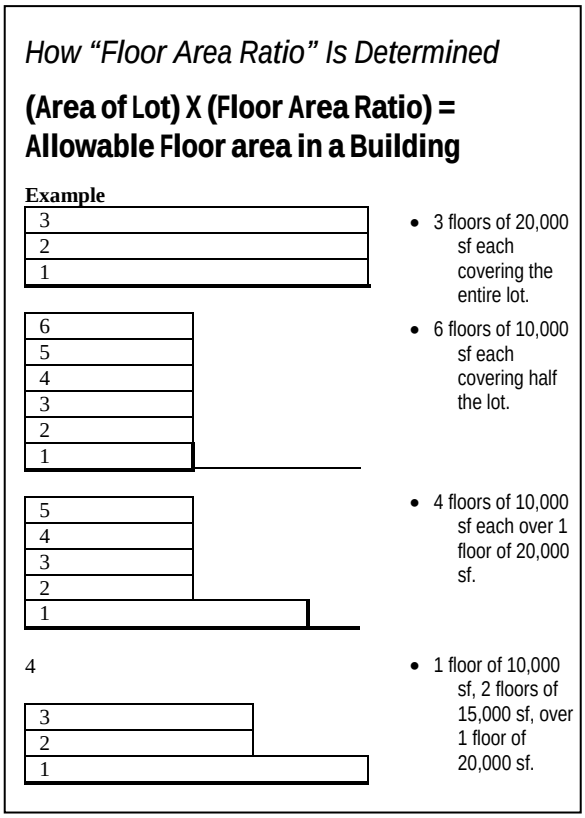
[1] The maximum allowable Floor Area Ratio may be exceeded as provided for in Section 13.06A.080.

[2] Residential developments shall be required to provide one stall per residential unit. Special needs housing, including, but not limited to, seniors, assisted living, congregate care, licensed care, or group care homes may provide less than one stall per residence upon a showing that a lesser parking requirement will reasonably provide adequate parking for residents, staff, and visitors, subject to the approval of the Traffic Engineer.

[3] Required parking for hotels shall be .5 stalls per room inclusive of all accessory uses.

[4] Telecommunications exchange facilities may provide less than the required parking stalls upon a showing that a lesser parking requirement will reasonably provide adequate parking for operational, vendor, and transient service staff, subject to approval of the Traffic Engineer.

[5] Floor area is determined pursuant to the definition provided in Section 13.06A.030(7).



(Ord. 27278 § 4; passed Oct. 26, 2004: Ord. 27245 § 24; passed Jun. 22, 2004: Ord. 27079 § 54; passed Apr. 29, 2003: Ord. 26899 § 9; passed Dec. 11, 2001: Ord. 26733 § 8; passed Nov. 14, 2000: Ord. 26605 § 5; passed Mar. 28, 2000: Ord. 26556 § 28; passed Dec. 14, 1999)

13.06A.070 Basic design standards.

A. No variances shall be granted to the following basic design standards and the additional standards applicable to the DCC and DR districts. A variance to the required standards may be authorized, pursuant to Section 13.06A.110, unless otherwise prohibited.

B. If a building is being renovated in accordance with the Secretary of Interior's Standards for Treatment of Historic Properties, and a conflict between the basic design standards or additional standards and the Secretary's Standards occurs, then the Historic Preservation Criteria and Findings made by the Tacoma Landmarks Preservation Commission shall prevail.

C. Standards Applicable to Development in All Districts.

1. The basic design standards and additional standards applicable to the DCC and DR districts, except as otherwise noted, shall apply to all new construction, additions, and substantial alterations.

2. All rooftop mechanical for new construction shall be screened with an architectural element such as a high parapet, a stepped or sloped roof form, or equivalent architectural feature that is at least as high as the equipment being screened. Fencing is not acceptable. The intent of the screening is to make the rooftop equipment minimally visible from public rights-of-way within 125 feet of the building, provided said rights-of-way are below the roof level of the building. In those instances where the rights-of-way within 125 feet of the building are above the roof level of the building, the mechanical equipment should be the same color as the roof to make the equipment less visible. If the project proponent demonstrates that the function and integrity of the HVAC equipment would be compromised by the screening requirement, it shall not apply. This standard shall not apply to existing buildings undergoing substantial alteration.

3. One street tree shall be provided per each 25 linear feet of frontage, with tree grates covering the pits, in conformance with City requirements. This standard, in its entirety, shall apply to all new construction, additions, substantial alterations, and when 50 percent or more of the existing sidewalk is replaced. One street tree shall be provided, consistent with the requirements of this standard, for each 25 linear feet of existing sidewalk that is replaced. Existing street trees shall be counted toward meeting this standard. Trees and grates should conform to the *Tacoma Downtown Streetscape Study and Design Concepts*.

a. The required street trees should generally be evenly spaced to create or maintain a rhythm pattern, but can be provided with variations in spacing and/or grouped to accommodate driveways, building entrances, etc. To achieve consistency with the existing pattern of tree spacing, the quantity of required street trees may be modified.

b. The use of tree grates will be determined by the presence of existing grates in the district, and the width and function of the sidewalk.

c. Residential development may substitute plantings for grates.

d. Where existing areaways, vaults or insufficient sidewalk widths prevent this form of planting, trees may be planted in planters that are generally in conformance with the *Tacoma Downtown Streetscape Study and Design Concepts*.

e. All trees shall have a minimum caliper of 2 1/2-inch at the time of planting.

f. This standard is not applicable in the WR district.

4. All new surface parking lots , additions to parking lots, parking lots associated with buildings undergoing substantial alteration, parking lots increased in size by 50 percent, and parking lots altered on 50 percent of its surface shall provide a perimeter landscaping strip abutting adjacent sidewalks containing a combination of trees and shrubs.

a. In no case shall fewer than three trees per 100 linear feet of frontage be provided.

b. Masonry walls no lower than 15" and no higher than 30" may be substituted for shrubs.

c. For lots greater than 20 stalls, at least 15 percent of the interior area shall be planted with trees and shrubs.

d. All trees shall have a minimum caliper of 2 1/2-inch at the time of planting.

e. Pedestrian walkways from adjacent sidewalks shall be provided except where topographic constraints make this requirement infeasible.

5. The sidewalk level facades of new or substantially altered parking garages and additions shall be designed to obscure the view of parked cars. Where commercial or residential space is not provided to accomplish this, features such as planters, decorative grilles, or works of art shall be used. This standard also shall apply when 50 percent or more of the sidewalk level facade is altered.

6. Any new building, the addition to any building, or any substantially altered building fronting on a Primary Pedestrian Street shall comply with either subparagraphs a. or b. below:

a. At least 25 percent of the linear sidewalk level frontage shall consist of any of the following uses: retail; restaurants; cultural or entertainment uses, hotel lobbies; travel agencies; personal service uses; parcel and mail services; copy centers; check-cashing facilities; the customer service portion of banks, credit unions, and savings and loan associations; or Public Benefit Uses. Uses at the sidewalk level frontage lawfully in existence on January 10, 2000, the time of reclassification to the above districts, shall be considered legal nonconforming uses and may continue, although such uses do not conform to this standard.

b. The floor area abutting at least 25 percent of the linear sidewalk level frontage shall be designed and constructed to accommodate future conversion to the uses listed in subparagraph a. above, and may be occupied by any use allowed in the zoning district. The area designed and constructed to accommodate future conversion shall meet the following standards, in addition to any other required basic or additional design standards.

(1) The distance from the finished floor to the finished ceiling above shall be at least 12 feet.

(2) The area must have a minimum average depth of 25 feet measured from the sidewalk level façade.

(3) The sidewalk level façade must include a pedestrian entrance or entrances to accommodate a single or multiple tenants or be structurally designed so entrances can be added when converted to the building uses listed in subparagraph a. above.

(4) At least 25 percent of the sidewalk level facade of the portion of the building designed and constructed to accommodate future conversion to listed uses shall provide transparency through the use of windows and doors for the area located between 2 feet above grade and 12 feet above grade.

A parking structure lawfully in existence on January 10, 2000, the time of reclassification to the above districts, and which is substantially altered, may provide pedestrian amenities or enhancements along the sidewalk level frontage equal to 1 percent of the total project cost in lieu of meeting this standard. Such amenities or enhancements will be in addition to those otherwise required and may include works of art, landscaping, exterior public spaces, pedestrian safety improvements, weather protection, pedestrian scale lighting, seating or sitting walls, planters, unit paving in the sidewalk, street furniture, architectural features, refined surface materials, decorative lighting, or other amenities.

7. Any sidewalk level facade of a new building, an addition to a building, or a substantially altered building that faces a street shall have at least 20 percent of the area located between 2 feet above grade and 12 feet above grade in transparency through the use of windows, doors, or window displays. Window displays must be at least 12 inches in depth and recessed into the building. Display cases attached to the exterior wall do not qualify. The transparency standard shall apply to the portion of the sidewalk level façade of a parking structure that includes retail, service, residential, or commercial uses at the sidewalk level. A decorative grille, work of art, or a similar treatment may be used to meet this standard on those portions of the sidewalk level façade where it can be demonstrated that the intrusion of natural light is detrimental to the sidewalk level use. Examples of such uses include, but are not limited to, movie theaters, museums, laboratories, and classrooms. In no instances shall the amount of transparency present in existing

buildings be decreased below this standard. This standard shall also apply when 50 percent or more of the sidewalk level facade is altered.

A parking structure lawfully in existence on January 10, 2000, the time of reclassification to the above districts, and which is substantially altered, may provide pedestrian amenities or enhancements along the sidewalk level frontage equal to 1 percent of the total project cost in lieu of meeting this standard. Such amenities or enhancements will be in addition to those otherwise required and may include works of art, landscaping, exterior public spaces, pedestrian safety improvements, weather protection, pedestrian scale lighting, seating or sitting walls, planters, unit paving in the sidewalk, street furniture, architectural features, refined surface materials, decorative lighting, or other amenities.

8. Development shall also comply with the requirements as established in Section 13.06.511, Transit Support Facilities.

9. New driveways shall be located from an alley, court, or street which does not have light rail or is not designated as a Primary Pedestrian Street. Existing driveways may remain and be maintained. Abandoned driveways shall be removed when required by the Traffic Engineer.

a. If a driveway is not feasible from a non-designated alley, court, or street, a driveway may be located from a street having light rail or a designation of Primary Pedestrian Street.

b. Maximum driveway width on a street having light rail or on a defined Primary Pedestrian Street is 25 feet.

c. All driveways on a street having light rail or on a defined Primary Pedestrian Street shall be no closer than 150 feet as measured to their respective centerlines, provided that there will be allowed one driveway from each street to each development.

d. All driveways on a street having light rail shall be equipped with a sign to warn exiting vehicles about approaching trains.

e. All driveways located on a Primary Pedestrian Street shall be equipped with audible warning signals to announce exiting vehicles.

f. No variances shall be granted to this driveway standard.

D. Additional Standards Applicable to Development Within the Downtown Commercial Core.

1. The maximum square feet of setback area for new and substantially altered structures and additions fronting on a Primary Pedestrian Street shall be determined by multiplying 75 percent of the linear sidewalk level frontage by a factor of 10. The setback area or areas can only be used for entrance areas and space devoted to exterior public spaces, pedestrian amenities, landscaping, or works of art. Parking is prohibited in the setback areas.

2. Any new building, or any substantially altered structure located along those portions of Pacific Avenue, Broadway, and Commerce Street defined as a Primary Pedestrian Street shall comply with either subparagraphs a. or b. below.

a. At least 50 percent of the linear sidewalk level façade shall be occupied by any of the following uses: retail; restaurants; cultural or entertainment uses; hotel lobbies; travel agencies; personal service uses; parcel and mail services; copy centers; check-cashing facilities; the customer service portion of banks, credit unions, and savings and loan associations, or Public Benefit Uses. Uses at the sidewalk level frontage lawfully in existence on January 10, 2000, the time of reclassification to the above districts, shall be considered legal nonconforming uses and may continue, although such uses do not conform to this standard.

b. The floor area abutting at least 50 percent of the linear sidewalk level frontage shall be designed and constructed to accommodate future conversion to the uses listed in subparagraph a. above and may be occupied by any use allowed in the zoning district. The areas designed and constructed to accommodate future conversion shall meet the following standards, in addition to any other required basic or additional design standards.

(1) The distance from the finished floor to the finished ceiling above shall be at least 12 feet.

(2) The area must have a minimum average depth of 25 feet measured from the sidewalk level facade.

(3) The sidewalk level façade must include an entrance or entrances to accommodate a single or multiple tenants or be structurally designed so entrances can be added when converted to the building uses listed in subparagraph a. above.

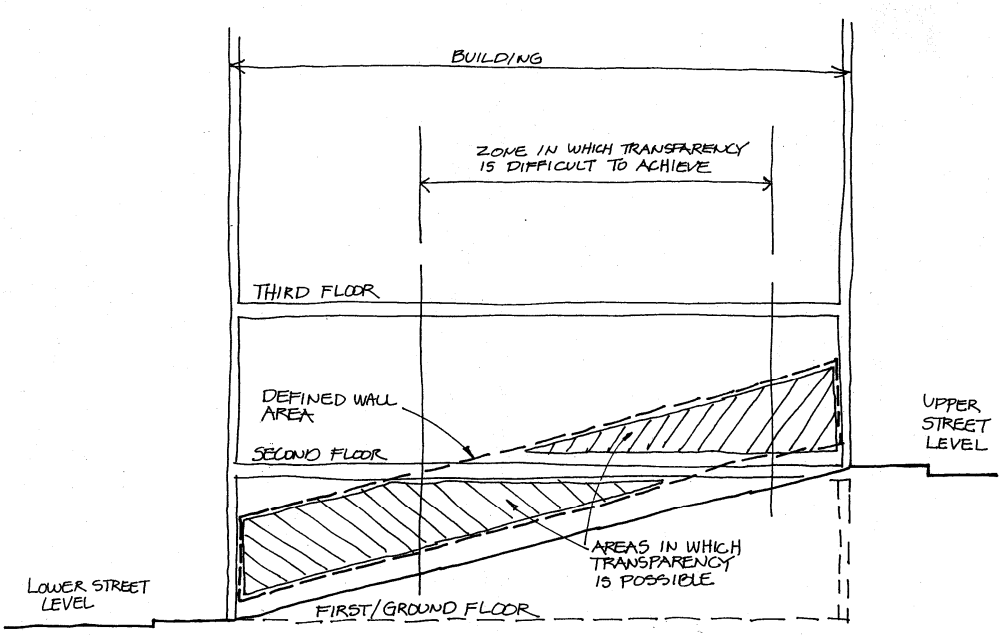
(4) At least 25 percent of the sidewalk level facade of the portion of the building designed and constructed to accommodate future conversion to listed uses shall provide transparency through the use of windows and doors for the area located between 2 feet above grade and 12 feet above grade.

A parking structure lawfully in existence on January 10, 2000, the time of reclassification to the above districts, and which is substantially altered,

may provide pedestrian amenities or enhancements along the sidewalk level frontage equal to 1 percent of the total project cost in lieu of meeting this standard. Such amenities or enhancements will be in addition to those otherwise required and may include works of art, landscaping, exterior public spaces, pedestrian safety improvements, weather protection, pedestrian scale lighting, seating or sitting walls, planters, unit paving in the sidewalk, street furniture, architectural features, refined surface materials, decorative lighting, or other amenities.

3. The sidewalk level facade of any new or substantially altered structure and/or of an addition along those portions of Pacific Avenue, Broadway, and Commerce Street defined as a Primary Pedestrian Street shall include the following. This standard shall also apply when 50 percent of the sidewalk level facade is altered.

a. At least 60 percent of the facade area between 2 feet above grade and 12 feet above grade shall consist of transparency through the use of windows, doors, or window displays except that the transparency standard shall be reduced to 50 percent if at least 50 percent of the sidewalk level façade is occupied with uses listed in subparagraph 2 a. above. Window displays must be at least 12 inches in depth and recessed into the building. Display cases attached to the exterior wall do not qualify. The transparency standard may be reduced for buildings located on a sloping site by eliminating application of this standard to that portion of the building façade where the slope makes application of the requirement impracticable as shown in the illustration below. The transparency standard shall apply to the portion of the sidewalk level façade of a parking structure that includes retail, service, or commercial uses at the sidewalk level. A decorative grille, work of art, or similar treatment may be used to meet this standard on those portions of the façade where it can be demonstrated that the intrusion of natural light is detrimental to the sidewalk level use. Examples of such uses include, but are not limited to, movie theaters, museums, laboratories and classrooms. In no instance shall the amount of transparency present in existing buildings be decreased below this standard.



A parking structure lawfully in existence on January 10, 2000, the time of reclassification to the above districts, and which is substantially altered, may provide pedestrian amenities or enhancements along the sidewalk level frontage equal to 1 percent of the total project cost in lieu of meeting this standard. Such amenities or enhancements will be in addition to those otherwise required and may include works of art, landscaping, exterior public spaces, pedestrian safety improvements, weather protection, pedestrian scale lighting, seating or sitting walls, planters, unit paving in the sidewalk, street furniture, architectural features, refined surface materials, decorative lighting, or other amenities.

b.Weather protection over the public or private pedestrian walkway in the form of a flat or sloped canopy or marquee along at least 75 percent of the building frontage. Weather protection must project a minimum of 3 feet. Marquees must meet the requirements specified in the applicable Building Code used by the City. Canopies shall also conform to TMC 13.06.521.J.

E. Additional Standards Applicable to Development Within the Downtown Residential (DR) District.

1. Roofs of all new or substantially altered buildings shall incorporate one or more of the following features:

a. Pitched roof form(s) with a minimum slope of 3:12.

b. Terraced roof forms that step back at the uppermost floors.

c. Exaggerated parapets, with overhanging cornices.

2. Where new or substantially altered development is adjacent to structures or districts that are designated historic, the design shall make use of similar attributes such as massing, roofline, setbacks from the property lines, window types, and materials to ensure visual continuity between the older and the newer development and be subject to the approval of the Historic Preservation Officer. (Ord. 27278 § 4; passed Oct. 26, 2004: Ord. 27245 § 25; passed Jun. 22, 2004: Ord. 26934 § 11; passed Mar. 5, 2002: Ord. 26899 § 10; passed Dec. 11, 2001: Ord. 26733 § 9; passed Nov. 14, 2000: Ord. 26605 § 6; passed Mar. 28, 2000: Ord. 26556 § 28; passed Dec. 14, 1999)

13.06A.080 Design Standards for Increasing Allowable FAR.

At least four of the following standards shall be incorporated into each development to increase allowable FAR as shown in the Development Standards Table. For each standard that is additionally met, the maximum allowable FAR indicated in the Development Standards Table may be increased by .5.

These standards suggest the result to be achieved. It is expected that the review process would allow for flexibility and creativity in meeting the intent. Meeting these standards shall be in addition to meeting the basic design standards and, if applicable, the additional standards specified for the DCC and DR districts.

No variances shall be granted to the following:

1. Architectural expression of the base of buildings through more refined materials such as stone or brick, and details such as cornice lines and belt courses. The base of the building is the first full floor above grade.

2. Architectural delineation of the tops of buildings through devices such as pyramids, domes, spires, projecting cornices, and other similar, visually distinctive roof forms.

3. Enhanced pedestrian elements at the sidewalk level including decorative lighting (free-standing or building-mounted), seating or low sitting walls, planters, or unit paving in sidewalks.

4. Exterior public space equivalent to at least 5 percent of the site area and including the following attributes:

a. Seating in the amount of one sitting space for each 100 sf of area.

b. Trees and other plantings.

c. Solar exposure during the summer.

d. Visibility from the nearest sidewalk.

e. Within 3’ of the level of the nearest sidewalk.

5. Incorporation of works of art into the public spaces, exterior facade, or entrance lobby.

6. Landscaping covering at least 15 percent of the surface of the roof and/or the use of “green roofs” which reduce storm water runoff. Access by building occupants is encouraged.

7. Including a Public Benefit Use within the development.

8. Within the Downtown Commercial Core, at least 60 percent of the linear frontage along those portions of Pacific Avenue, Broadway, and Commerce Street defined as a Primary Pedestrian Street shall be occupied by retail, restaurants, cultural or entertainment uses, hotel lobbies, or Public Benefit Uses.

9. Retention and renovation of any designated or listed historic structure(s) located on the site.

10. Parking contained entirely within structures or structures on the site.

11. Include mixed-rate housing in a housing or mixed-use project. (Ord. 27278 § 4; passed Oct. 26, 2004: Ord. 27245 § 26; passed Jun. 22, 2004: Ord. 26556 § 28; passed Dec. 14, 1999)

13.06A.090 Special features required for achieving maximum Floor Area Ratio.

In order to attain the maximum allowable Floor Area Ratio, special features shall be included with a development. Each special feature provides an additional FAR of 2 towards achieving the maximum allowable FAR as indicated in the Development Standards Table.

Using FAR credits for a special feature shall be permitted only after a development has met the Basic Design Standards, Additional Standards as required, and at least four of the Design Standards for Increasing Allowable FAR.

No variances shall be granted to the following:

1. Provide a "hill climb assist" in the form either of a landscaped public plaza or an interior public lobby with an escalator or elevator. Such space shall be open to the public at least 16 hours per day.

2. Provide works of art or water features equivalent in value to at least 1 percent of construction costs within publicly accessible spaces on site or off site within the downtown zoning district where the development is located.

3. Build an off-site park, open space, or community gardens with a value equivalent to at least 1 percent of construction costs within the downtown zoning district where the development is located. Alternatively, a payment may be paid to the City in lieu of actual park development. Payments shall be used by the City for developing and improving park space within the same downtown zoning district.

4. Provision of public rest rooms, open to the public at least 12 hours each weekday.

5. Contribution to a cultural, arts organization or to the Municipal Art Fund for a specific development or renovation project located downtown, in an amount equal to at least 1 percent of the construction cost of the development.

6. Provide public parking, in addition to that required by this code, at a ratio of at least 0.25 stalls per 1000 gsf.

7. Include residential use with non-residential uses in the same development, with the residential use in an amount that is at least 20 percent of the total floor area of the development. (The increase in FAR applies to the non-residential portion; the residential portion is governed by the maximum allowable residential FAR as indicated in the Development Standards Table.) (Ord. 27278 § 4; passed Oct. 26, 2004: Ord. 27245 § 27; passed Jun. 22, 2004: Ord. 26556 § 28; passed Dec. 14, 1999)

13.06A.100 Downtown Master Planned Development (DMPD).

Any development meeting the following criteria may qualify as a Downtown Master Planned Development. No variances shall be granted to the following criteria:

A. The development site is at least 50,000 square feet. Development sites that have lot area located on both sides of a street are considered contiguous for the purposes of calculating site size; however, right-of-way may not be included in the calculation unless its air rights are vacated.

B. The development meets the Basic Design Standards and Additional Standards as required.

C. The development complies with at least four of the Design Standards for Increasing Allowable FAR.

D. The development provides one Special Feature.

E. The development is governed by a master plan that describes, in detail, building footprints, massing, heights, public spaces and pedestrian connections, and architectural characteristics.

F. The development includes particular buildings or portions of buildings exceeding the maximum height limits specified in Section 13.06A.060, provided that other buildings or portions of buildings on the site are built at least 25 percent below the allowable maximum height limit of the zoning district.

G. In no case can the maximum allowable FAR for the zoning district be exceeded except as otherwise provided. (Ord. 27278 § 4; passed Oct. 26, 2004: Ord. 27245 § 28; passed Jun. 22, 2004: Ord. 26556 § 28; passed Dec. 14, 1999)

13.06A.110 Variances.

The Land Use Administrator shall not grant a variance by act or interpretation of the regulations contained in Sections 13.06A.060, 13.06A.080, 13.06A.090, and 13.06A.100, as specified herein, or to change the use of a structure or land.

The Land Use Administrator may grant a variance only for the basic design standards, TMC 13.06A.070, upon the finding that the variance meets one of the tests below. Standardized corporate design and/or increased development costs are not cause for a variance. Failure to meet an appropriate test shall result in denial of the variance request. The Land Use Administrator may issue such conditions as necessary to maximize possible compliance with the intent of the regulation from which relief is sought.

The applicant carries the burden of proof to demonstrate applicability of the appropriate test.

1. Unusual shape of a parcel established prior to the reclassification of property to the downtown districts.

2. Preservation of a critical area, unique natural feature, or historic building/feature restricts possible compliance.

3. Widely varied topography of the building site restricts possible compliance.

4. Documentation of a pending public action such as street widening restricts possible compliance. (Ord. 26556 § 28; passed Dec. 14, 1999)

13.06A.120 Enforcement.

It shall be the duty of the Director of Public Works, or designee, of the City of Tacoma to enforce this chapter. (Ord. 26556 § 28; passed Dec. 14, 1999)

13.06A.130 Severability.

Should any section, clause, or provision of this chapter be declared by the court to be invalid, the same shall not affect the validity of the chapter ,as a whole or any part thereof, other than the part so declared to be invalid. (Ord. 26556 § 28; passed Dec. 14, 1999)

Chapter 13.07

LANDMARKS AND HISTORIC SPECIAL REVIEW DISTRICTS[1]

Sections:

13.07.010 Short title.
13.07.020 Landmarks and Historic Districts — Declaration of purpose and declaration of policy.
13.07.030 Definitions.
13.07.040 Tacoma Register of Historic Places — Establishment and criteria.
13.07.050 Tacoma Register of Historic Places — Nomination and designation process for individual properties.
13.07.060 Tacoma Register of Historic Places — Nomination and designation process for Historic Special Review and Conservation Districts.
13.07.070 District and landmarks regulation.
13.07.080 Special tax valuation — Local Review Board.
13.07.085 Property eligible for special tax valuation.
13.07.090 Certificates of approval.
13.07.095 Certificates of approval — Process and standards for review.
13.07.100 Demolition of City landmarks — Declaration of purpose.
13.07.110 Demolition of City landmarks — Application process.
13.07.120 Demolition of City landmarks — Application requirements.
13.07.130 Demolition of City landmarks — Automatic conditions.
13.07.140 Demolition of City landmarks — Standards and criteria for review.
13.07.150 Demolition of City landmarks — Specific exemptions.
13.07.160 Appeals to the Hearing Examiner.
13.07.165 Appeals to the Hearing Examiner – Factors to be considered.
13.07.170 Ordinary maintenance or repairs.
13.07.180 Minimum buildings standards.
13.07.190 Designation of Old City Hall Historic Special Review District – Declaration of purpose.

[1] Prior legislation: Ord. 26611, passed Apr. 4, 2000; Ord. 26556, passed Dec. 14, 1999; Ord. 26386, passed Mar. 23, 1999; Ord. 26144, passed Oct. 28, 1997; Ord. 25747, passed Aug. 5, 1995; Ord. 24877, passed Apr. 2, 1991; Ord. 24505, passed Dec. 12, 1989; Ord. 23694, passed Sept. 9, 1986; Ord. 23005, passed Sept. 6, 1983; Ord. 22303, passed Feb. 3, 1981; Ord. 21283, passed Mar. 7, 1978; Ord. 20806, passed Jul. 13, 1976.

13.07.200 Designation of Old City Hall Historic Special Review District — Findings.
13.07.210 Old City Hall Historic Special Review District — Boundary description.
13.07.220 Old City Hall Special Review District – Specific Exemptions.
13.07.230 Designation of Union Depot/Warehouse Historic Special Review District – Declaration of purpose.
13.07.240 Designation of the Union Depot/Warehouse Historic Special Review District — Findings.
13.07.250 Union Depot/Warehouse Historic Special Review District — Boundary description.
13.07.260 Designation of Union Station Conservation District.
13.07.270 Guidelines for building design and streetscape improvement review.
13.07.280 Union Depot/Warehouse Historic Special Review and Union Station Conservation Districts – Specific exemptions.
13.07.290 Designation of North Slope Historic Special Review District – Purpose.
13.07.300 Designation of North Slope Historic Special Review District – Findings.
13.07.310 North Slope Historic Special Review District – Boundary description.
13.07.320 Guidelines for building design and streetscape improvement review of the North Slope Historic Special Review District.
13.07.330 North Slope Historic Special Review District – Specific exemptions.
13.07.340 Severability.

13.07.010 Short title.

This chapter may be cited as the "Tacoma Landmarks and Historic Special Review Districts Code." (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.020 Landmarks and Historic Districts — Declaration of purpose and declaration of policy.

The City finds that the protection, enhancement, perpetuation, and continued use of landmarks, districts, and elements of historic, cultural, architectural, archeological, engineering, or geographic significance located within the City are required in the interests of the prosperity, civic pride, ecological, and general welfare of its citizens. The City further finds that the economic, cultural, and aesthetic standing of the City cannot be maintained or enhanced by disregarding the heritage of the City or by allowing the destruction or defacement of historic and cultural assets.

The purpose of this chapter is to:

A. Preserve and protect historic resources, including both designated City landmarks and historic resources which are eligible for state, local, or national listing;

B. Establish and maintain an open and public process for the designation and maintenance of City landmarks and other historic resources which represent the history of architecture and culture of the City and the nation, and to apply historic preservation standards and guidelines to individual projects fairly and equitably;

C. Promote economic development in the City through the adaptive reuse of historic buildings, structures, and districts;

D. Conserve and enhance the physical and natural beauty of Tacoma through the development of policies that protect historically compatible settings for such buildings, places, and districts;

E. Comply with the state Environmental Protection Act by preserving important historic, cultural, and natural aspects of our national heritage; and

F. Integrate the historic preservation goals of the state Growth Management Act and the goals and objectives set forth in the City's Culture and History Element of its Comprehensive Plan. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.030 Definitions.

For purposes of this chapter, certain terms and words are hereby defined as follows:

"Accessory structure" means any structure which is incidental or subordinate to the main building(s) and is located on the same property as the main building.

"Administrative Approval" means an approval that may be granted by the City Historic Preservation Officer for an alteration to a City landmark, without Landmarks Preservation Commission (also referred to herein as "Commission") review, based on authority that may be granted by the Commission pursuant to Chapter 1.42 of the Tacoma Municipal Code ("TMC").

"Alteration" means any act or process which changes materially, visually, or physically one or more of the exterior architectural features or significant interior features of a property, including, but not limited to, the construction, reconstruction, or removal of any structure.

"Building" means any structure that is used or intended for supporting or sheltering any use or occupancy. For the purposes of this chapter, the term "building" includes accessory structures.

"Certificate of Approval" means the written record of formal action by the Commission indicating its approval of plans for alteration of a City landmark.

"City landmark" means a property that has been individually listed on the Tacoma Register of Historic Places, or is that is a contributing property within a Historic Special Review District or Conservation District as defined by this chapter.

"Conservation District" means an area warranting the preservation and protection of historic character and properties contained therein, without meeting the same higher standard for designation as a Historic Special Review District. Conservation Districts are normally established surrounding or adjacent to an established or proposed historic district or place.

"Construction" means the act of adding to an existing structure or erecting a new principal or accessory structure on a property.

"Contributing property" means any property within a Historic Special Review District which is documented in the district's nomination to the Tacoma Register of Historic Places to contribute architecturally, historically, and/or culturally to the historic character of the district, and properties that date from the historic period of significance for the Historic Special Review District and retain integrity of materials, place, or setting which have not previously been identified during architectural surveys.

"Demolition" means any act or process which destroys, in part or in whole, a City landmark, including deliberate neglect or lack of maintenance intended to destroy a property within a short period of time.

"Design guideline" means a standard of appropriate activity which will preserve or enhance the historic and architectural character of a structure or area, and which is used by the Commission and the City Historic Preservation Officer to determine the appropriateness of proposals involving property within Historic Special Review and Conservation Districts.

"Exterior architectural appearance" means the architectural character and general composition of the exterior of a property including, but not limited to, the type, color, and texture of a building material and the type, design, and character of all windows, doors, light fixtures, signs, and appurtenant elements.

"Historic resource" means any property that has been determined to be eligible by the City Historic Preservation Officer or Washington State Department of Archaeology and Historic Preservation staff for listing in the Tacoma Register of Historic Places, the Washington State Heritage Register, or the National Register of Historic Places, or any property that appears to be eligible for such listing by virtue of its age, exterior condition, or known historical associations.

"Historic Special Review District" means an area with a concentration of historic resources that has been found to meet the criteria for designation as a Historic Special Review District under the provisions of this chapter, and has been so designated by City Council.

"Interested party of record" means any individual, corporation, partnership, or association which notifies the Commission, in writing, of its interest in a matter before the Commission prior to Commission action on the matter.

"Noncontributing property" means a property within a Historic Special Review District which is documented in the district's nomination to the Tacoma Register of Historic Places as not contributing architecturally, historically, and/or culturally to the historic character of the district; or which has been so designated in a Historic Special Review District Inventory drafted and adopted by the Commission.

"Property" means any building, object, site, structure, improvement, public amenity, space, streetscapes and rights-of-way (excepting road surfaces from curb face to curb face), or area.

"Reconstruction" means the act of structurally rebuilding a historic resource wherein the visible architectural elements are replaced in kind with materials and finishes that match the original elements.

"Removal" means any relocation of a structure on its site or to another site.

"Repair" means any change that is not construction, removal, or alteration.

"Rehabilitation" means the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient, contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

"Significant interior features" means architectural features, spaces, and ornamentations which are

specifically identified in the landmark nomination and which are located in public areas of buildings such as lobbies, corridors, or other assembly spaces.

"Streetscape" means the total visual environment of a street as determined by various elements including, but not limited to, street furniture, landscaping, lighting, paving, buildings, activities, traffic, open space, and view.

"Structure" means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.040 Tacoma Register of Historic Places — Establishment and criteria.

A. Tacoma Register of Historic Places is Established. In order to meet the purposes of this chapter and Chapter 1.42 of the TMC, there is hereby established the Tacoma Register of Historic Places. Historic resources and districts designated to this Register pursuant to the procedures and criteria listed in this chapter are subject to the controls and protections of the Landmarks Preservation Commission established by TMC 1.42 and pursuant to the design review provisions of this chapter.

B. Criteria for the Designation to the Tacoma Register of Historic Places.

1. Threshold Criteria: A property may be included in the Tacoma Register of Historic Places if it:

a. Is at least 50 years old at the time of nomination; and

b. Retains integrity of location, design, setting, materials, workmanship, feeling, and association such that it is able to convey its historical, cultural, or architectural significance; and

c. Meets one or more of the designation criteria listed in the section below.

2. In addition to the above, a property may be designated to the Tacoma Register of Historic Places if it:

a. Has significant character, interest, or value as part of the development, heritage, or cultural characteristics of the City, state, or nation, or is associated with the life of a person significant in the past; or

b. Contains the site or sites of a historic event with a significant lasting effect upon society; or

c. Exemplifies the cultural, political, economic, social, or historic heritage of the community; or

d. Portrays the environment in an era of history characterized by a distinctive architectural style; or

e. Embodies those distinguishing characteristics of an architectural type or engineering specimen; or

f. Is part of, adjacent to, or related to an existing or proposed historic district, square, park, or other distinctive area which should be redeveloped or preserved according to a plan based on the historic, cultural, or architectural motif; or

g. Owing to its unique location or singular physical characteristics, represents an established and familiar visual feature of the neighborhood or City; or

h. Has yielded, or may be likely to yield, information important in prehistory or history.

C. Special Criteria for the Designation of Historic Special Review Districts. When determining the appropriateness of the designation of a Historic Special Review District, in addition to the criteria above, the Landmarks Preservation Commission shall consider the following:

1. The area shall contain a concentration of structures having a special character or special historic, cultural, architectural, engineering, or geographic interest or value as defined by the eight criteria above; and

2. The area shall constitute a distinct section of the City.

D. Special Criteria for the Designation of Conservation Districts. In conjunction with or independent of the establishment of a historic district as set forth in Section 13.07.040, it may be warranted, from time to time, to consider the establishment of a Conservation District. When considering the appropriateness of a Conservation District, the Landmarks Preservation Commission shall consider:

1. A potential Conservation District should normally be established surrounding an established or proposed historic district and shall possess special historic, architectural, or cultural significance that is a part of the heritage of the City.

2. Although it shall possess historic character which shares or is sympathetic to the development patterns and period of significance of the adjacent historic district, a Conservation District is not required to meet the criteria for landmark designation as outlined above. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.050 Tacoma Register of Historic Places — Nomination and designation process for individual properties.

A. Process for the nomination of individual properties, generally:

1. Any resident of Tacoma or City official, including members of the City Council, City staff, or members of the Planning Commission, may request consideration by the Landmarks Preservation Commission of any particular property for placement on the Tacoma Register of Historical Places.

2. A written request, which shall be in the form of a completed nomination to the Tacoma Register of Historic Places, shall be made to the Historic Preservation Officer. At a minimum, the nomination form shall contain the following:

a. A narrative statement which addresses the historical or cultural significance of the property, in terms of the Designation Criteria listed in this chapter; and

b. A narrative statement which addresses the physical condition assessment and architectural description; and

c. Specific language indicating which improvements on the site are included in the nomination; and

d. A complete legal description; and

e. A description of the character-defining features and architectural elements that are worthy of preservation.

3. The Historic Preservation Officer or staff may amend, edit, or complete a nomination form submitted to the City for the purposes of clarity, but may not expand the boundaries of the legal description in the nomination.

B. Landmarks Preservation Commission Preliminary Meeting on Nomination.

1. When a nomination form is found by the Historic Preservation Officer to contain sufficient information as indicated in this section, the Historic Preservation Officer shall schedule the nomination for preliminary consideration at a regularly scheduled meeting of the Landmarks Preservation Commission and shall serve the taxpayer(s) of record written notice 14 days in advance of the time and place of the meeting.

2. At this meeting, the Landmarks Preservation Commission shall, by quorum vote, find that the application meets the threshold criteria for designation contained in this chapter, that it does not meet the threshold criteria, or the Commission may defer the decision if additional information is required.

3. If the Landmarks Preservation Commission finds that the nomination appears to meet the threshold criteria, the Commission shall:

a. Schedule the nomination for consideration and public comment at a subsequent public meeting at a specified time, date, and place not more than 60 days from the date of the preliminary meeting.

b. Give written notice, by first-class mail, of the time, date, place, and subject of the Commission's meeting to consider designation of the property as a City landmark.

c. This notice shall be given not less than 14 days prior to the meeting to all taxpayers of record of the subject property, as indicated by the records of the Pierce County Assessor, and taxpayers of record of properties within 400 feet of the subject property.

4. If the Commission finds that the property does not meet the threshold criteria, the application is rejected and the Commission may not consider the property for designation for a period of one calendar year. Once a calendar year passes, the process may be restarted.

5. If the Commission, following the preliminary meeting, fails to act on the nomination or schedule it for further consideration within 45 days or by its next meeting, whichever is longer, the application is rejected as above.

C. Landmarks Preservation Commission Meeting on Nomination.

1. At the meeting to consider approval of a nomination to the Register of Historic Places, the Commission shall receive information and hear public comments on whether the property meets the criteria for designation.

2. The Commission may, by a vote of a majority of the quorum, find that the property meets one or more of the criteria for designation and recommend the property for designation as a City landmark, find that the property does not meet any of the criteria and reject the nomination, or it may defer the decision if additional information is required. The Commission shall set forth findings of fact for its decision.

3. If the Commission finds that the property appears to meet the criteria for designation and recommends the property for designation as a City landmark, the Historic Preservation Officer shall transmit the Commission's recommendation to the City Council for its consideration within 30 days of the decision.

4. No proposed nomination may be extended beyond the boundaries of the land described in the original proposal unless the procedures set forth above are repeated for the enlarged boundaries.

5. If the Commission fails to act within a 45-day period or by its next meeting, whichever is longer, the designation shall be deemed to have been rejected and the designation procedure terminated.

6. If a nomination is rejected, the subject property shall not be considered again for historic designation for a period of at least one calendar year from the date of rejection. Once a calendar year passes, the process may be restarted.

D. City Council Review of Designation.

1. Upon receipt of a recommendation from the Commission, the City Council may approve the same by adoption of a resolution designating the structure as a historic landmark or building, may reject the same, or may refer it back to the Commission for further consideration, as the Council may deem appropriate.

2. If the City Council approves the designation, the designating resolution shall contain the following:

a. Location description, including legal description, parcel number, and street address of the City landmark;

b. Criteria under which the property is considered historic and therefore designated as a landmark;

c. Elements of the property that shall be subject to Landmarks Preservation Commission regulation.

3. Upon adoption of a resolution approving the designation of a historic building as a City landmark, the City Clerk shall transmit a copy of said resolution to the Buildings and Land Use Services Division, which shall place the City landmark designation on the subject property's records under his or her jurisdiction. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.060 Tacoma Register of Historic Places — Nomination and designation process for Historic Special Review and Conservation Districts.

A. Members of the City Council or Landmarks Preservation Commission may propose consideration of a Historic Special Review or Conservation District.

B. District Designation—Landmarks Preservation Commission.

1. Public Hearing. Following a request by the City Council or by a quorum vote of the members of the Landmarks Preservation Commission regarding such a request, Community and Economic Development Department staff shall:

a. Notify the Buildings and Land Use Services Division of the proposed designation.

b. Schedule a public hearing.

c. Give written notice, by first-class mail, of the time, date, place, and subject of the Commission's meeting to consider designation of the district as a Historic Special Review District.

d. This notice shall be given not less than 14 days prior to the meeting to all taxpayers of record of the subject property, as indicated by the records of the Pierce County Assessor, taxpayers of record of properties within 400 feet of the subject property, and to the Neighborhood Council of the affected area. Notice shall also be submitted for publication to the newspaper of record.

e. Conduct the public hearing in accordance with the notice given, at which the owner or owners of the property involved, the owners of all abutting property, and other interested citizens or public officials shall be entitled to be heard.

2. The Landmarks Preservation Commission shall, by a majority vote of quorum, recommend to the Planning Commission approval, disapproval, or approval with modification of a proposed Historic Special Review or Conservation District based upon the criteria for designation listed in this chapter and the goals and purposes of this chapter.

C. District Designation — Planning Commission.

1. Each proposal for a new Historic Special Review District or Conservation District and the respective Landmarks Preservation Commission recommendation shall then be considered by the Planning Commission of the City pursuant to the procedures for area-wide zoning in TMC 13.02.053.

2. Notice of the time, place, and purpose of such hearing shall be given by the Community and Economic Development Department as provided in the aforementioned section. In addition, each taxpayer of record in a proposed Historic Special Review or Conservation District and within 400 feet of the proposed district shall be notified by mail.

3. In making a recommendation to the City Council, the Planning Commission shall consider the conformance or lack of conformance of the proposed designation with the Comprehensive Plan of the City. The Planning Commission may recommend approval

of, or approval of with modifications, or deny outright the proposal, and shall promptly notify the Landmarks Preservation Commission of the action taken.

4. If the Planning Commission recommends approval or approval with modifications of the proposed designation, in whole or in part, it shall transmit the proposal, together with a copy of its recommendation, to the City Council.

5. If the Planning Commission denies the proposed designation, such action shall be final; provided, that the owners or authorized agents of at least 80 percent of the property proposed to be designated, measured by assessed valuation of said property, may appeal such disapproval to the City Council within 14 days.

6. If the proposal is initiated by the City Council, the matter shall be transmitted to the City Council for final determination regardless of the recommendation of the Planning Commission.

D. District Designation — City Council.

1. The City Council shall have final authority concerning the creation of Historic Special Review or Conservation Districts in the same manner as provided by the City Council in TMC 13.02.053.

2. Pursuant to the aforementioned procedures, the Council may, by ordinance, designate a certain area as a Historic Special Review District and/or Conservation District. Each such designating ordinance shall include a description of the characteristics of the Historic Special Review or Conservation District which justifies its designation, and shall include the legal description of the Historic Special Review District.

3. Within ten days of the effective date of an ordinance designating an area as a Historic Special Review or Conservation District, the Historic Preservation Officer shall send to the owner of record of each property within said district, and to the Buildings and Land Use Services Division, a copy of the ordinance and a letter outlining the basis for such designation, and the obligations and restrictions which result from such designation, in addition to the requirements of the building and zoning codes to which the property is otherwise subject.

E. The City Council may, by ordinance, amend or rescind the designation of a Historic Special Review District at any time pursuant to the same procedure as set forth in this chapter for original designation. (Ord. 27466 § 36; passed Jan. 17, 2006: Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.070 District and landmarks regulation.

A. All property designated as a City landmark or that is located within a Historic Special Review District or Conservation District, according to the procedures set forth in this chapter, shall be subject to the controls, standards, and procedures set forth herein, as well as the bulk, use, setback, zoning, and other controls of the area in which it is presently located, and the owners of the property shall comply with the mandates of this chapter in addition to the land use and zoning requirements of the area in which such property is presently or may later be located. In the event of a conflict between the application of this chapter and other codes and ordinances of the City, the more restrictive shall govern.

B. Compatibility with downtown design standards. In certain cases, the application of design standards in downtown zones may conflict with historic preservation standards or criteria and result in adverse effects to historic properties. For the purposes of TMC 13.06A.070B, properties subject to design review and approval by the Landmarks Preservation Commission shall be exempted from the basic design standards that conflict with the Landmarks Commission's application of historic preservation standards adopted pursuant to this chapter, including the Secretary of the Interior's Standards for the Rehabilitation and Guidelines for Rehabilitation of Historic Buildings and applicable Historic Special Review District Design Guidelines. The issuance of a Certificate of Approval for final design by the Landmarks Preservation Commission shall serve as the Commission's findings as required in TMC 13.06A.070B.

C. Upon adoption of this ordinance, and for successive Historic and Conservation District designations, the Landmarks Preservation Commission shall adopt an official inventory of the historic properties that are within and found to contribute to the historic and architectural character of the respective district, as defined by the criteria and purposes contained within this chapter.

D. Architectural integrity, as it relates to materials, space, and composition in various periods of architecture, shall be respected and, to the extent possible, maintained in contributing properties. Historic District property inventories shall be maintained and reviewed annually by the Commission and shall be kept on file and available to the public at the Historic Preservation Office.

The absence of a property on a historic inventory shall not preclude the Landmarks Preservation Commission's authority to review changes to such a

property. If a property is not listed on the historic inventory for the district, the property shall be assumed to be contributing. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.080 Special tax valuation — Local Review Board.

Pursuant to TMC 1.42 and authorized pursuant to WAC 254-20 (hereinafter referred to as the "State Act"), the Landmarks Preservation Commission is hereby designated as the Local Review Board to exercise the functions and duties of a local review board as defined and until such time as the City Council may either amend or repeal this provision or designate some other local body or committee as the Local Review Board to carry out such functions and duties. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.085 Property eligible for special tax valuation.

The class of historic property which shall be eligible for special valuation in accordance with the State Act shall be property which is a historic property meeting the criteria or requirements as set forth and defined in the State Act, and which is designated as a City landmark by resolution of the City Council in accordance with the provisions of this chapter. The covenants or agreements referred to in Section 3(2) of the State Act and amendments thereto shall be subject to approval by resolution of the City Council and may be executed on behalf of the City and the Local Review Board by the appropriate officers of the City and the Local Review Board, as designated by the resolution approving such covenants or agreements. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.090 Certificates of approval.

A. Certificate of Approval Required. Except where specifically exempted by this chapter, no person shall carry out or cause to be carried out any alteration of any existing City landmark or any structures, buildings, existing public rights-of-way (excepting road surfaces from curb face to curb face), or other public spaces in any Historic Special Review or Conservation District, and no one shall remove or alter any sign or erect or place any new sign, and no permit for such activity shall be issued unless a Certificate of Approval has been issued by the Landmarks Preservation Commission or, subject to the limitations imposed by the Landmarks Preservation Commission pursuant to TMC 1.42, administrative approval has been granted by the Historic Preservation Officer.

B. When a permit application is filed with the Buildings and Land Use Services Division of the Public Works Department that requires a Certificate of Approval, the applicant shall be referred to the Historic Preservation Officer.

C. Application Requirements.

1. Applications for a Certificate of Approval shall be filed with the Historic Preservation Officer.

2. The following information must be provided in order for the application to be complete, unless the Historic Preservation Officer indicates in writing that specific information is not necessary for a particular application:

a. Property name and building address;

b. Applicant's name and address;

c. Property owner's name and address;

d. Applicant's telephone and e-mail address, if available;

e. The building owner's signature on the application or, if the applicant is not the owner, a signed letter from the owners designating the applicant as the owner's representative;

f. Confirmation that the fee required by the City of Tacoma Fee Schedule has been paid;

g. Written confirmation that the proposed work has been reviewed by the Buildings and Land Use Services Division, appears to meet applicable codes and regulations, and will not require a variance;

h. A detailed description of the proposed work, including:

(1) Any changes that will be made to the building or the site;

(2) Any effect that the work would have on the public right-of-way or public spaces;

(3) Any new construction;

i. Twenty sets of scale plans, with all dimensions shown, of:

(1) A site plan of all existing conditions, showing adjacent streets and buildings, and, if the project includes any work in the public right-of-way, the existing street uses, such as street trees and sidewalk displays, and another site plan showing proposed changes to the existing conditions;

(2) A floor plan showing the existing features and a floor plan showing proposed new features;

(3) Elevations and sections of both the proposed new features and the existing features;

(4) Construction details, where appropriate;

(5) A landscape plan showing existing features and plantings and a landscape plan showing proposed site features and plantings;

j. Photographs of any existing features that would be altered and photographs showing the context of those features, such as the building facade where they are located;

k. If the proposal includes new finishes or paint, one sample of proposed colors and an elevation drawing or photograph showing the proposed location of proposed new finishes or paint;

l. If the proposal includes new signs, canopies, awnings, or exterior lighting:

(1) Twenty sets of scale drawings of the proposed signs, awnings, canopies, or lighting showing the overall dimensions, materials, design graphics, typeface, letter size, and colors;

(2) Twenty copies of details showing the proposed methods of attachment for the new signs, canopies, awnings, or exterior lighting;

(3) For lighting, detail of the fixture(s) with specifications, including wattage and illumination color(s);

(4) One sample of the proposed colors and materials;

m. If the proposal includes the removal or replacement of existing architectural elements, a survey of the existing conditions of the features that would be removed or replaced.

D. Applications for Preliminary Approval.

1. An applicant may make a written request to submit an application for a Certificate of Approval for a preliminary design of a project if the applicant waives, in writing, the deadline for a Commission decision on the subsequent design phase or phases of the project and agrees, in writing, that the decision of the Commission is immediately appealable by the applicant or any interested person(s).

2. The Historic Preservation Officer may reject the request if it appears that the review of a preliminary design would not be an efficient use of staff or Commission time and resources, or would not further the goals and objectives of this chapter.

3. To be complete, an application for a Certificate of Approval for a preliminary design must include the following:

a. Building name and building address;

b. Applicant's name and address;

c. Building owner's name and address;

d. Applicant's telephone and e-mail address;

e. The building owner's signature on the application or a signed letter from the owners designating the applicant as the owner's representative, if the applicant is not the owner;

f. Confirmation that the fee required by the City of Tacoma Fee Schedule has been paid;

g. Written confirmation that the proposed work has been reviewed by the Buildings and Land Use Services Division, appears to meet applicable codes and regulations, and will not require a Land Use variance;

h. A description of the proposed work, including:

(1) General overview of any changes that will be made to the building or the site;

(2) General effects that the work would have on the public right-of-way or public spaces;

i. Twenty sets of scale plans, as applicable, with all dimensions shown of:

(1) A conceptual site plan of all existing conditions showing adjacent streets and buildings and, if the project includes any work in the public right-of-way, the existing street uses, such as street trees and sidewalk displays, and another site plan showing proposed changes to the existing conditions;

(2) Elevations of both the proposed new features and the existing features;

j. Photographs of any existing features that would be altered and photographs showing the context of those features, such as the building facade where they are located;

k. If the proposal includes the removal or replacement of existing architectural elements, a survey of the existing conditions of the features that would be removed or replaced.

4. A Certificate of Approval of a preliminary design shall be conditioned automatically upon the subsequent submittal of the final design and all of the information listed in Subsection C.2. above, and upon Commission approval prior to the issuance of any permits for work affecting the property. (Ord. 27466 § 37; passed Jan. 17, 2006: Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.095 Certificates of Approval — Process and standards for review.

A. The Landmarks Preservation Commission is the designated body that reviews and approves or denies applications for Certificates of Approval.

B. Review Process.

1. When an application for Certificate of Approval is received, the Historic Preservation Officer shall review the application and shall notify the applicant in writing within 28 days whether the application is complete or that the application is incomplete and what additional information is required before the application will be complete.

2. Within 14 days of receiving the additional information, the Historic Preservation Officer shall notify the applicant in writing whether the application is now complete or what additional information is necessary.

3. An application shall be deemed to be complete if the Historic Preservation Officer does not notify the applicant in writing, by the deadlines provided in this section, that the application is incomplete. A determination that the application is complete is not a determination that an application is vested.

4. The determination that an application is complete does not preclude the Historic Preservation Officer or the Landmarks Preservation Commission from requiring additional information during the review process if more information is needed to evaluate the application according to the criteria in this chapter and any rules adopted by the Commission.

5. Within 30 days after an application for a Certificate of Approval has been determined complete or at its next regularly scheduled meeting, whichever is longer, the Commission shall review the application to consider the application and to receive comments.

6. Notice of the Commission's meeting shall be served to the applicant and distributed to an established mailing list no less that three days prior to the time of the meeting.

7. The absence of the owner or applicant shall not impair the Commission's authority to make a decision regarding the application.

8. Within 45 days after the application for a Certificate of Approval has been determined complete, the Landmarks Preservation Commission shall issue a written decision granting, or granting with conditions, or denying a Certificate of Approval, or if the Commission elects to defer its decision, a written description of any additional information the Commission will need to arrive at a decision, and shall provide a copy of its decision to the applicant and the Buildings and Land Use Services Division.

9. A Certificate of Approval shall be valid for 18 months from the date of issuance of the Commission's decision granting it unless the Commission grants an extension; provided, however, that a Certificate of Approval for actions subject to a permit issued by the Buildings and Land Use Services Division shall be valid for the life of the permit, including any extensions granted in writing by the Buildings and Land Use Services Division.

C. Standards for Review.

1. In addition to any district rules, policies, or design guidelines for Historic Districts described elsewhere in this chapter, the Landmarks Preservation Commission shall use the following as guidelines when evaluating the appropriateness of alterations to a City landmark, excepting applications for demolition:

a. The most current version of the Secretary of the Interior's Guidelines for the Treatment of Historic Properties published and maintained by the United States National Park Service, including, but not limited to, Standards for Rehabilitation, Restoration, Preservation, and Reconstruction, as appropriate to the proposed project.

b. Preservation briefs, and professional technical reports published by the National Park Service on various conservation and preservation practices.

2. These standards shall be filed and made available to any property owner and the public at the Historic Preservation Office of the City. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.100 Demolition of City landmarks — Declaration of purpose.

A. Historic resources in the City contribute to the general public welfare by fostering civic identity and pride, promoting a sense of local history and place, by encouraging public and private capital investment in underutilized buildings and infrastructure, and by educating the public about past ways of life, individuals, events, and architectural styles.

B. Properties that are placed on the Tacoma Register of Historic Places, either as individual properties or as part of districts, have been determined, through a public process, to represent exceptional examples of a type of architecture, design, engineering, as exceptional examples of the environment at a particular point in history, as representative of

historical patterns or events, or because of their exceptional educational or scholarly importance.

C. It is the policy of the City to prevent unnecessary demolition of its City landmarks and to encourage investment in and adaptive reuse of underutilized historic resources. Approval of demolitions of City landmarks shall be granted only in special circumstances where it has been determined by the Landmarks Preservation Commission that the property owner has satisfactorily met the conditions and criteria imposed by this section. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.110 Demolition of City landmarks — Application process.

A. Permitting Timelines. Any City landmark for which a demolition permit application has been received is excluded from City permit timelines imposed by TMC 13.05.010.J.

B. Certificate of Approval for Demolition of City Landmark Required. No person shall carry out or cause to be carried out demolition of a City landmark, and no demolition permit shall be issued for the same unless a Certificate of Approval for Demolition of a City Landmark has been issued by the Landmarks Preservation Commission, and all special and automatic conditions imposed on such approval have been determined satisfied by the Historic Preservation Officer.

1. An application for a Certificate of Approval for Demolition of a City Landmark shall be filed with the Historic Preservation Officer. When a demolition permit application is filed with the Buildings and Land Use Services Division of Public Works, the applicant shall be referred to the Historic Preservation Officer.

2. Determination of Complete Application.

a. The Historic Preservation Officer shall determine whether an application for historic building demolition is complete and shall notify the applicant in writing within 30 days of the application being filed, whether the application is complete or that the application is incomplete and what additional information is required before the application will be complete.

b. Within 14 days of receiving the additional information, the Historic Preservation Officer shall notify the applicant in writing, whether the application is now complete or what additional information is necessary.

c. An application shall be deemed to be complete if the Historic Preservation Officer does not notify the applicant in writing, by the deadlines in this section, that the application is incomplete. A determination that the application is complete is not a determination that an application is vested.

d. The determination that an application is complete does not preclude the Historic Preservation Officer or the Landmarks Preservation Commission from requiring additional information during the review process if more information is needed to evaluate the application according to the criteria in this chapter and in any rules adopted by the Commission.

3. Application Review.

a. Preliminary Meeting.

(1) Once the application for historic building demolition has been determined to be complete, excepting the demolition fee, the Historic Preservation Officer shall schedule a preliminary briefing at the next available regularly scheduled meeting of the Landmark Preservation Commission.

(2) The purpose of this meeting is for the applicant and the Commission to discuss the project background and possible alternative outcomes, and to schedule a hearing date.

(3) To proceed with the application, the applicant shall request a public hearing, in writing, to consider the demolition application at the preliminary meeting.

(4) At this meeting, the Landmarks Preservation Commission may grant the request for public hearing, or may request an additional 30 days from this meeting to distribute the application for peer review, especially as the material pertains to the rationale contained in the application that involves professional expertise in, but not limited to, engineering, finance, architecture or architectural history, and law, or, finding that the property in question is not contributing to the Historic District, may conditionally waive the procedural requirements of this section, provided that subparagraphs A, B, and D of Section 13.07.130, "Demolition of City Landmarks – Automatic conditions," are met.

(5) If a 30-day peer review is requested, the request for public hearing shall again be considered at the next regular meeting following the conclusion of the peer review period.

b. Public Hearing.

(1) Upon receiving such direction from the Landmarks Preservation Commission, and once the application fee has been paid by the applicant, the Historic Preservation Officer shall schedule the application for a public hearing within 90 days.(2) The Historic Preservation Officer shall give written

notice, by first-class mail, of the time, date, place, and subject of the meeting to consider the application for historic building demolition not less than 30 days prior to the meeting to all owners of record of the subject property, as indicated by the records of the Pierce County Assessor, and taxpayers of record of properties within 400 feet of the subject property.

(3) The Commission shall consider the merits of the application, comments received during peer review, and any public comment received in writing or during public testimony.

(4) Following the public hearing, there shall be an automatic 60-day comment period during which the Commission may request additional information from the applicant in response to any commentary received.

(5) At its next meeting following the public comment period, the Landmarks Preservation Commission shall make Findings of Fact regarding the application based on the criteria for consideration contained in this subsection. The Landmarks Preservation Commission may approve, subject to automatic conditions imposed by this subsection, the application or may deny the application based upon its findings of fact. This decision will instruct the Historic Preservation Officer whether or not he or she may issue written approval for a historic building demolition. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.120 Demolition of City landmarks — Application requirements.

A. The following information must be provided in order for the application to be complete, unless the Historic Preservation Officer indicates in writing that specific information is not necessary for a particular application:

1. Building name and building address;

2. Applicant's name and address;

3. Building owner's name and address;

4. Applicant's telephone and e-mail address, if available;

5. The building owner's signature on the application, or a signed letter from the owners designating the applicant as the owner's representative if the applicant is not the owner;

6. Confirmation that the fee required by the City of Tacoma Fee Schedule has been paid;

7. Written confirmation that the demolition has been reviewed by the Buildings and Land Use Services Division, appears to meet applicable codes and regulations, and will not require a land use variance or code waiver;

8. A detailed, professional architectural and physical description of the property in the form of a narrative report, to cover the following:

a. Physical description of all significant architectural elements of the building;

b. A historical overview;

c. Elevation drawings of all sides;

d. Site plan of all existing conditions showing adjacent streets and buildings and, if the project includes any work in the public right-of-way, the existing street uses, such as street trees and sidewalk displays;

e. Photographs of all significant architectural elements of the building; and

f. Context photographs, including surrounding streetscape and major sightlines.

9. A narrative statement addressing the criteria in this subsection for Applications for Historic Building Demolitions, to include the following areas, as applicable:

a. Architectural/historical/cultural significance of the building;

b. Physical condition of the building;

c. Future development plans for the site, including conceptual drawings, sketches, renderings, and plans.

10. Written proof, acceptable to the Landmarks Preservation Commission, of valid and binding financial commitments for the replacement structure is required before the permit can be issued, and should be submitted with the demolition request. This may include project budgets, funding sources, and written letters of credit.

11. A complete construction timeline for the replacement structure to be completed within two years, or a written explanation of why this is not possible.

12. Reports by professionally qualified experts in the fields of engineering, architecture, and architectural history or real estate finance, as applicable, addressing the arguments made by the applicant. (Ord. 27466 § 38; passed Jan. 17, 2006: Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.130 Demolition of City landmarks — Automatic conditions.

Following a demolition approval pursuant to this section, the following conditions are automatically imposed and must be satisfied before the Historic Preservation Officer shall issue a written decision:

A. For properties within a Historic Special Review or Conservation District, the design for a replacement structure is presented to and approved by the Landmarks Preservation Commission pursuant to the regular design review process as defined in this chapter;

B. Acceptable proof of financing commitments and construction timeline is submitted to the Historic Preservation Officer;

C. Documentation of the building proposed for demolition that meets Historic American Building Survey ("HABS") standards or mitigation requirements of the Washington State Department of Archaeology and Historic Preservation ("DAHP"), as appropriate, is submitted to the Historic Preservation Office and the Northwest Room of the Tacoma Public Library;

D. Building and Land Use Services Division permits for the replacement are ready for issue by the Building and Land Use Services Division, and there are no variance or conditional use permit applications outstanding;

E. Any mitigation agreement proposed by the applicant is signed and binding by City representatives and the applicant, and approved, if necessary, by the City Council; and

F. Any conditions imposed on the demolition have been accepted in writing (such as salvage requirements or archaeological requirements). (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.140 Demolition of City landmarks — Standards and criteria for review.

In addition to the stated purposes and findings located in this chapter, the Landmarks Preservation Commission shall address the following issues when considering an application for historic building demolition:

A. The reasonableness of any alternatives to demolition that have been considered and rejected, that may meet the stated objectives of the applicant;

B. The physical, architectural, or historic integrity of the structure in terms of its ability to convey its significance, but not including any damage or loss of integrity that may be attributable to willful neglect;

C. The importance of the building to the character and integrity of the surrounding district; and

D. Any public or expert commentary received during the course of the public comment and peer review periods. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.150 Demolition of City Landmarks— Specific exemptions.

The following are excluded from the requirements imposed by this chapter but are still subject to Landmarks Preservation Commission approval for exterior changes as outlined elsewhere in this chapter.

A. Demolition of accessory structures, including garages and other outbuildings, where the primary structure will not be affected materially or physically by the demolition and where the accessory is not specifically designated as a historic structure of its own merit;

B. Demolition work on the interior of a City landmark or object, site, or improvement within a Historic Special Review or Conservation District, where the proposed demolition will not affect the exterior of the building and where no character-defining architectural elements specifically defined by the nomination will be removed or altered; and

C. Objects, sites, and improvements that have been identified by the Landmarks Preservation Commission specifically as noncontributing within their respective Historic Special Review or Conservation District buildings inventory at the preliminary meeting, provided that a timeline, financing, and design for a suitable replacement structure have been approved by the Landmarks Preservation Commission pursuant to Section 13.07.095 of this chapter. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.160 Appeals to the Hearing Examiner.

A. Referral to the Hearing Examiner. The Landmarks Preservation Commission shall refer to the Hearing Examiner for public hearing all final decisions regarding applications for certificates of approval where the property owners, any interested parties of record, or applicants file with the Landmarks Preservation Commission, within 10 days, written notice of appeal of the decision or attached conditions.

B. Form of Appeal. An appeal of the Landmarks Preservation Commission shall take the form of a written statement of the alleged reason(s) the decision

was in error, or specifying the grounds for appeal. The following information shall be submitted:

1. An indication of facts that establish the appellant's standing;

2. An identification of explicit exceptions and objections to the decision being appealed, or an identification of specific errors in fact or conclusion;

3. The requested relief from the decision being appealed;

4. Any other information reasonably necessary to make a decision on appeal.

Failure to set forth specific errors or grounds for appeal shall result in a summary dismissal of the appeal.

C. The Hearing Examiner shall conduct a hearing in the same manner and subject to the same rules as set forth in TMC 1.23.

D. The Hearing Examiner's decision shall be final. Any petition for judicial review must be commenced within 21 days of issuance of the Hearing Examiner's Decision, as provided for by TMC 1.23.060 and RCW 36.70C.040. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.165 Appeals to the Hearing Examiner – Factors to be considered.

A. The Hearing Examiner, in considering the appropriateness of any exterior alteration of any City landmark, shall give weight to the determination and testimony of the consensus of the Landmarks Preservation Commission and shall consider:

1. The purposes, guidelines, and standards for the treatment of historic properties contained in this chapter, and the goals and policies contained in the Culture and History Element of the Comprehensive Plan;

2. The purpose of the ordinance under which each Historic Special Review or Conservation District is created;

3. For individual City landmarks, the extent to which the proposal contained in the application for Certificate of Approval would adversely affect the specific features or characteristics specified in the nomination to the Tacoma Register of Historic Places;

4. The reasonableness, or lack thereof, of the proposal contained in the application in light of other alternatives available to achieve the objectives of the owner and the applicant; and

5. The extent to which the proposal contained in the application may be necessary to meet the requirements of any other law, statute, regulation, code, or ordinance.

B. When considering appeals of applications for demolition decisions, in addition to the above, the Hearing Examiner shall refer to the Findings of Fact made by the Landmarks Preservation Commission in addition to the demolition criteria for review and other pertinent statements of purpose and findings in this chapter.

C. The Examiner may attach any reasonable conditions necessary to make the application compatible and consistent with the purposes and standards contained in this chapter. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.170 Ordinary maintenance or repairs.

Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of any City landmark, which maintenance or repair does not involve a change in design, material, or the outward appearance thereof. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.180 Minimum buildings standards.

A. Prevention of Demolition by Neglect. The Landmarks Preservation Commission shall make a reasonable effort to notify the Building Official of historic properties that appear to meet the criteria for substandard buildings or property under TMC 2.01.060.

B. For buildings listed on the Tacoma Register of Historic Places which are found to be Substandard, Derelict, or Dangerous according to the Building Official, under the Minimum Building provisions of TMC 2.01, the following shall apply:

1. Because City landmarks are culturally, architecturally, and historically significant to the City and community, the historic status of a Substandard, Derelict, or Dangerous Building may constitute a "sufficient reason" for acceptance of alternate timelines and extensions upon agreed timelines; and,

2. Any timelines and plans for the remediation of a dangerous City landmark, including for repair or demolition, shall not be accepted by the Building Official until the applicable procedures as set forth in this chapter for review of design or demolition by the Landmarks Preservation Commission have been satisfied, pursuant to TMC 2.01.040.F.

3. The Building Official may consider the Landmarks Preservation Commission to be an

interested party as defined in TMC 2.01, and shall make a reasonable effort to keep the Commission notified of enforcement complaints and proceedings involving City Landmarks.

C. Nothing in this chapter shall be construed to prevent the alteration of any feature which the Building Official shall certify represents an immediate and urgent threat to life safety. The Building Official shall make a reasonable effort to keep the Historic Preservation Officer informed of alterations required to remove an unsafe condition involving a City Landmark. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.190 Designation of Old City Hall Historic Special Review District – Declaration of purpose.

A. In order that the Old City Hall area and buildings within the area may not be injuriously affected; to promote the public welfare; and to provide for the enhancement of this area and its structures, thereby contributing to the social, cultural, and economic welfare of the citizens of Tacoma by developing an awareness of its historic heritage, returning unproductive structures to useful purposes, and attracting visitors to the City; and in order that a reasonable degree of control may be exercised over the site, development, and architecture of the private and public buildings erected therein, there is hereby created the Old City Hall Historic Special Review District, the boundaries of which are more particularly described in Section 13.07.120 hereof.

B. Said district and the buildings and structures therein possess significant aspects of early Tacoma history, architecture, and culture. Historic, cultural, and architectural significance is reflected in the architectural cohesiveness of the area. For the foregoing reasons, many of the features contained in the buildings and structures in said district should be maintained and preserved. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.200 Designation of Old City Hall Historic Special Review District — Findings.

A. The area encompassed by the Old City Hall Historic Special Review District has played a significant role in the development of the City of Tacoma, the Puget Sound region, and the state of Washington. The district was the location of the early governmental and commercial center of the City. The focus of commerce and transportation was located in this district.

B. The Old City Hall Historic Special Review District is associated with the lives of many Tacoma pioneers through property, business, and commercial activities which were concentrated in the area.

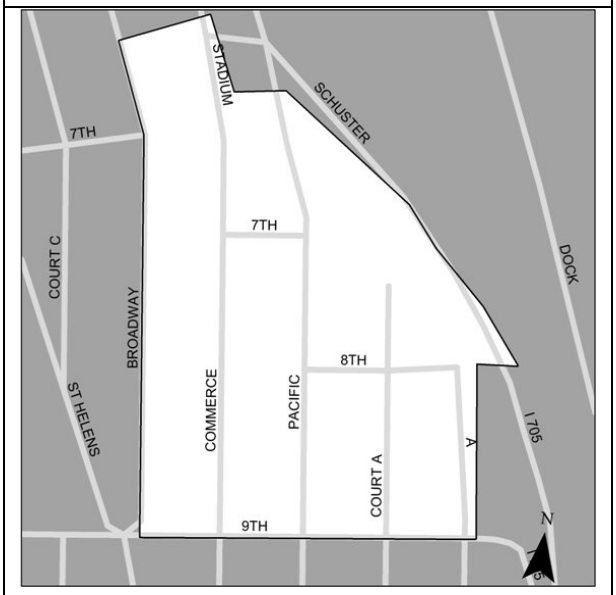
C. Many buildings within the Old City Hall Historic Special Review District embody distinctive characteristics of late 19th Century Eclectic architecture, which reflects Greco-Roman and Renaissance architectural influences. For these and other reasons, the buildings and structures combine to create an outstanding example of an area of Tacoma which is significant and distinguishable in style, form, character, and construction representative of its era.

D. The restoration and preservation of objects, sites, buildings, and structures within the Old City Hall Historic Special Review District will yield information of educational significance regarding the way of life and the architecture of the late 19th century, as well as add interest and color to the City. Restoration of the Old City Hall Historic Special Review District will preserve the environment which was characteristic of an important era of Tacoma's history, and will be considerably more meaningful and significant educationally than if done on the basis of individual isolated buildings and structures. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.210 Old City Hall Historic Special Review District — Boundary description.

The legal description for the Old City Hall Historic Special Review District is described in Ordinance No. 24877, and shall be kept on file in the City Clerk's Office. The approximate boundaries are described in Map A below.

Map A: Approximate Boundaries of the Old City Hall Historic Special Review District



(Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.220 Old City Hall Special Review District – Specific Exemptions.

The following actions are exempt from the requirements imposed pursuant to this chapter:

A. Any alterations to non-contributing properties as defined by the District Inventory adopted by the Commission and kept on file at the Historic Preservation Office; provided, that the demolition of such structures is not exempt from the provisions of this chapter; and

B. Interior alterations to existing properties, unless those modifications affect the exterior appearance of the property. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.230 Designation of Union Depot/Warehouse Historic Special Review District – Declaration of purpose.

In order that the area and buildings within the area may not be injuriously affected, to promote the public welfare, and to provide for the enhancement of the area and its structures, thereby contributing to the social, cultural, and economic welfare of the citizens of Tacoma by developing an awareness of its historic and architectural heritage, returning unproductive structures to useful purposes, and attracting visitors to the City, and in order that a reasonable degree of control may be exercised over the site, development, and architecture of the private and public buildings erected therein, including certain infrastructure, there is hereby created the Union Depot/Warehouse Historic Special Review District. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.240 Designation of the Union Depot/Warehouse Historic Special Review District — Findings.

A. The area encompassed by the Union Depot/Warehouse Historic Special Review District has played a significant role in the development of the City of Tacoma, the Puget Sound region, and the state of Washington. The district was the location of the early railroad, industrial, and commercial center of the City. The focus of early manufacture and commerce was identified with this district.

B. The Union Depot/Warehouse Historic Special Review District is associated with the lives of many Tacoma pioneers through property, railroad, and commercial activities which were concentrated in the area. Many of the buildings within the Union Depot/Warehouse Historic Special Review District embody the distinctive characteristics of the late 19th and early 20th century Eclectic architecture, which reflects Greco-Roman, Renaissance, and Baroque architectural influences. For these and other reasons, the buildings and structures combine to create an outstanding example of a historic district in Tacoma dating from circa 1887–1930, which is significant and distinguishable in style, form, character, and construction representative of its era.

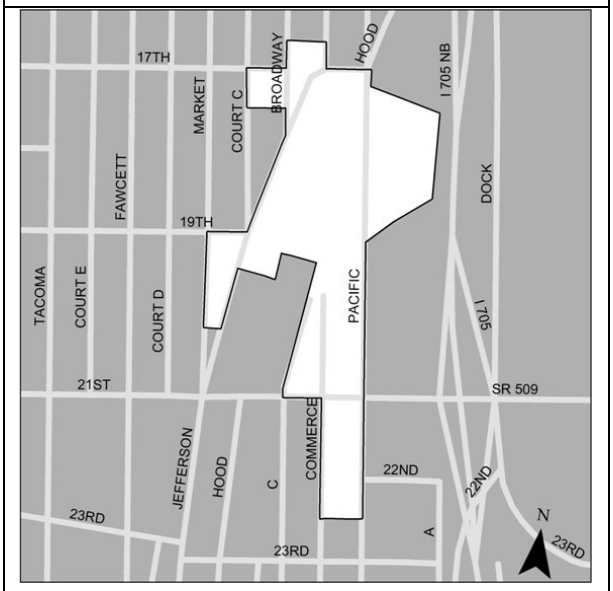
C. Restoration and preservation of objects, sites, buildings, and structures within the Union Depot/Warehouse Historic Special Review District will yield information of educational significance regarding the way of life and the architecture of the late 19th and early 20th centuries, as well as add interest and color to the City. Restoration of the Union Depot/Warehouse Historic Special Review District will preserve the sense of place and time and the environment which was characteristic of an important era of Tacoma's history, and such district planning will be considerably more meaningful and significant educationally than if done on the basis of individual isolated buildings and structures. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.250 Union Depot/Warehouse Historic Special Review District — Boundary description.

The legal description for the Union Depot/Warehouse Historic Special Review District is described in Ordinance No. 24505, and shall be kept on file in the

City Clerk's Office. The approximate boundaries are described in Map B below.

Map B: Approximate Boundaries of the Union Depot/Warehouse Historic Special Review District

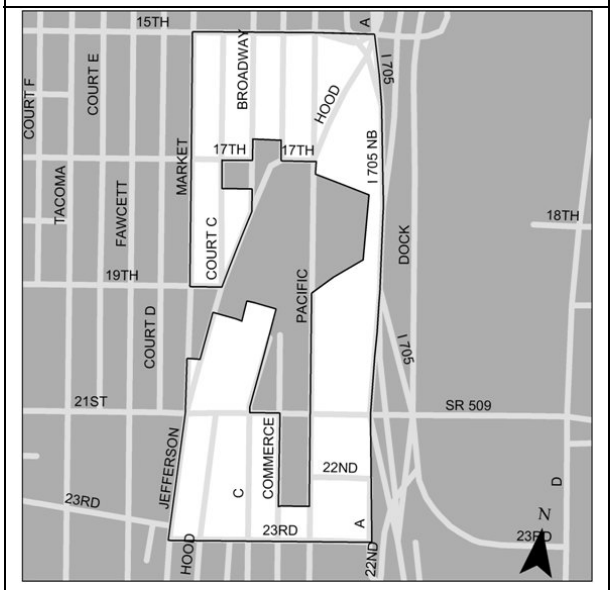


(Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.260 Designation of Union Station Conservation District.

There is hereby created the Union Station Conservation District, the physical boundaries of which are described in Ordinance No. 24877, and kept on file in the City Clerk's Office. The approximate boundaries are described in Map C below.

Map C: Approximate Boundaries of the Union Station Conservation District



(Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.270 Guidelines for building design and streetscape improvement review.

A. Intent. The following are hereby established as the design review guidelines for rehabilitation, new construction, and public amenities. These guidelines are intended to ensure a certainty of design quality within the Historic Special Review District and Union Station Conservation District, protect the historic fabric of the districts, enhance the economic viability of the districts through the promotion of their architectural character, and provide a clear set of physical design parameters for property owners, developers, designers, and public agencies.

B. The following guidelines are intended to provide a set of basic standards for architectural and physical design within the Union Station districts. The guidelines will be used by the Landmarks Preservation Commission as a baseline for the design review process, but will not supersede the authority of the Commission to exercise its judgment and discretion on a case-by-case basis. The guidelines

are also set forth to provide assistance to owners, developers, and designers involved in project planning by providing general design and technical recommendations.

C. From time to time, the Landmarks Preservation Commission may adopt policies and administrative rules for the purpose of clarifying and assisting property owners in interpreting these guidelines. Any such rules or policies shall be adopted by quorum vote and, once adopted, shall be made available to the public in electronic and printed formats.

D. Design Guidelines. The following predominant historic building elements shall be recognized as essential to the districts' historic image and used as the basis for design review of proposals for rehabilitation of existing buildings and review of new construction within the districts:

1. Height. The centerpiece and height benchmark for the districts is the Union Station, with its dome cap height of approximately 96 feet above Pacific Avenue. Wing parapet walls are 30 feet in height above Pacific Avenue. No new buildings constructed in the districts shall exceed 85 feet in height.

In the rehabilitation of existing buildings, their existing height should be maintained and the parapets and cornices should be kept intact. Any rooftop additions, penthouses, building systems equipment, or roof-mounted structures should be set back from existing parapet walls sufficiently to conceal them from view from street level.

2. Scale. Scale refers to a building's comparative relationship to neighboring buildings and its fit within the districts. The typical four-story building in the districts is 50 feet wide and 100 feet deep. Two such "basic blocks" side by side are proportionally similar to the main section of Union Station and illustrate the scale and size of structural components in the districts.

Scale is also determined by the proportions of the architectural elements within the composition of the individual building facades. Exterior building facades shall be of a scale compatible with surrounding buildings and shall maintain a zero setback from the sidewalk. Window and door proportions, including the size and design of the wood sash and frame floor height, floor shapes, street elevations, and other elements of the building facades, shall relate to the scale of the surrounding buildings.

3. Materials. The predominant building material within the districts is masonry, including brick, granite, and terra cotta. Rehabilitation of existing buildings and construction of infill buildings shall utilize masonry as the predominant building material.

4. Minimum Maintenance. All contributing historic buildings in the districts shall be maintained against decay and deterioration caused by neglect or defective or inadequate weather protection.

5. Storefront Design. A major character-defining feature of the buildings within the districts is the storefront. The composition of the storefronts is consistent from one building to the next, and serves as a unifying feature of the districts by forming a continuity along the street. Preservation of the storefront is essential to the maintenance of the districts' image and character. Rehabilitation of an existing building shall include preservation of the existing storefront or reconstruction of a new storefront which is compatible with the original in scale, size, and material. New construction shall also include storefronts. Street level retail sales and service uses, as described and defined in TMC 13.06, should be strongly considered for ground floor use along Pacific Avenue in order to more effectively implement storefront design.

6. Awnings. Awnings have been a traditional addition to the facades of buildings within the districts and shall be encouraged within the districts as a functional exterior feature. All awnings shall be compatible with the historic character of the buildings and shall be based in design upon historic counterparts. They shall also:

a. Reflect the shape and character of the window openings;

b. Be, or appear to be, retractable in the form of historic awnings;

c. Constructed with canvas-like fabric rather than high gloss in texture;

d. Not be back-lit or translucent;

e. Be in colors and/or patterns which complement the building and have basis in the historic record;

f. Be attached to the buildings in a manner which does not permanently damage the structure or obscure significant architectural features.

7. Signs.

a. General.

(1) All new signs and all changes in the appearance of existing signs displayed so as to be visible from streets, sidewalks, or alleys require Landmarks Preservation Commission approval. This includes changes in message or colors on pre-existing signs.

(2) If there is a conflict between these standards and the requirements in the City's Sign Code, the more strict requirement shall apply.

b. Location and Size of Signs.

(1) Signs shall not dominate the building facades or obscure their architectural features (arches, transom panels, sills, moldings, cornices, windows, etc.).

(2) The size of signs and individual letters shall be of appropriate scale for pedestrians and slow-moving traffic. Projecting signs shall generally not exceed nine square feet on first floor level.

(3) Signs on adjacent storefronts shall be coordinated in height and proportion. Use of a continuous sign band extending over adjacent shops within the same building is encouraged as a unifying element.

(4) Portable reader board signs located on sidewalks, driveways, or in parking lots are prohibited.

(5) Existing historic wall signs should be restored or preserved in place. New wall signs shall generally be discouraged.

(6) Signs displayed during business hours only (such as sandwich- and A-board signs) constitute an ongoing advertising format and shall be construed as being permanent, rather than temporary, signs if such display continues for more than 30 calendar days.

(7) New billboards and rooftop signs shall be prohibited.

c. Messages and Lettering Signs.

(1) Messages shall be simple and brief. The use of pictorial symbols or logos is encouraged.

(2) Lettering should be of a traditional block or curvilinear style which is easy to read and compatible with the style of the building. No more than two different styles should be used on the same sign.

(3) Letters shall be carefully formed and properly spaced so as to be neat and uncluttered. Generally, no more than 60 percent of the total sign area shall be occupied by lettering.

(4) Lettering shall be generally flat or raised.

d. Color.

(1) Light-colored letters on a dark-colored background are generally required as being more traditional and visually less intrusive in the context of the Union Station District's predominantly red-brick streetscapes.

(2) Colors shall be chosen to complement, not clash with, the facade color of the building. Signs should normally contain not more than three different colors.

e. Materials and Illumination

(1) Use of durable and traditional materials (metal and wood) is strongly encouraged. All new signs shall be prepared in a professional manner. Paper signs for advertising or identification purposes shall be allowed for not more than 30 days (as temporary signs), and shall not be attached directly to the glass. The date on which a paper sign is first displayed shall be written on the sign, so as to be readily seen.

(2) In general, illumination shall be external, non-flashing, and non-glare.

(3) Internal illumination is generally discouraged, but may be appropriate in certain circumstances, such as:

(i) Individual back-lit letters silhouetted against a softly illuminated wall.

(ii) Individual letters with translucent faces, containing soft lighting elements inside each letter.

(iii) Metal-faced box signs with cut-out letters and soft-glow fluorescent tubes.

However, such signs are generally suitable only on contemporary buildings.

(4) Neon signs may be permitted in exceptional cases where they are custom-designed to be compatible with the building's historic and architectural character.

f. Other Stylistic Points

(1) The shape of a projecting sign shall be compatible with the period of the building to which it is affixed, and shall harmonize with the lettering and symbols chosen for it.

(2) Supporting brackets for projecting signs should complement the sign design, and not overwhelm or clash with it. They must be adequately engineered to support the intended load, and generally should conform to a 2:3 vertical-horizontal proportion. Screw holes must be drilled at points where the fasteners will enter masonry joints to avoid damaging bricks, etc.

8. Color. Building colors should contribute to the distinct character of the historic building. Original building colors should be researched and considered in any new color scheme. Whether contrasting or complementary, the colors should reflect the design of the building. Building colors should utilize a limited palette. Colors should be selected to emphasize building form and highlight major features of the building. Color schemes using several colors should be avoided and surfaces which are not historically painted should not be painted.

9. Views. All new construction in the Union Station District should be designed to preserve existing views and vistas. Of particular importance are views of Commencement Bay, Mount Rainier, and Union Station.

E. Streetscape Guidelines. Streetscaping is essential in the development of the districts in order to create value and enhance private development efforts. Proper design of streetscapes and public open spaces provides a unifying theme and unique identity for the districts, complements and extends the presence of Union Station, encourages pedestrian circulation, and creates a gateway to downtown and the waterway. The pattern of traffic routes and open space is based upon the historic function of the district and has a direct relation to such physical features as views from the upper floors of the building, sunlight, facade visibility, and streetscape appearance. Any significant loss or reconfiguration of existing open space and street corridors is discouraged.

The following improvements are to be encouraged:

1. Sidewalk paving. Paving should be of brick or brick and brushed concrete. Existing granite curbs should be maintained or reconstructed, where possible.

2. Street paving. Where feasible, historic street paving and gutters, either brick or cobblestone, should be preserved and restored.

Where feasible, existing railroad or streetcar rails should be preserved in place.

3. Streetlights. Historic streetlights should be used throughout the district as unifying elements.

G. The Landmarks Preservation Commission may, at its discretion, waive mandatory requirements imposed by Section 13.07.290 of this chapter. In determining whether a waiver is appropriate, the Landmarks Preservation Commission shall require an applicant to demonstrate by clear and convincing evidence that, because of special circumstances not generally applicable to other property or facilities, including size, shape, design, topography, location, or surroundings, the strict application of those mandatory requirements of Section 13.07.290 would be unnecessary to further the purposes of this chapter. Such waiver shall not exceed the requirements set forth in the underlying zoning district. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.280 Union Depot/Warehouse Historic Special Review and Union Station Conservation Districts – Specific exemptions.

The following actions are exempt from the requirements imposed pursuant to this chapter:

A. Any alterations to non-contributing properties, as defined by the District Inventory adopted by the Commission and kept on file at the Historic Preservation Office; provided, that the demolition of such structures is not exempt from the provisions of this chapter; and

B. Interior alterations to existing properties, unless those modifications affect the exterior appearance of the structure. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.290 Designation of the North Slope Historic Special Review District – Purpose.

A. In order that the North Slope Neighborhood and buildings within the Neighborhood may not be injuriously affected; to promote the public welfare; to provide for the enhancement of the North Slope Neighborhood and its structures, thereby contributing to the social, cultural, and economic welfare of the citizens of Tacoma by developing an awareness of Tacoma's historic heritage, maintaining productive and useful structures, and attracting visitors to the City; and in order that a reasonable degree of control may be exercised over the siting, development and architecture of public and private buildings erected in the North Slope Neighborhood so that the goals set forth in this section and in this chapter may be realized, there is hereby created the North Slope Historic Special Review District, the boundaries of which are more particularly described in Section 13.07.340 hereof.

B. The North Slope Neighborhood and the buildings therein reflect significant aspects of Tacoma's early history, architecture, and culture. Such historic, architectural, and cultural significance is also reflected in the architectural cohesiveness of the neighborhood. For the foregoing reasons, many of the features contained in the buildings and structures in the Neighborhood should be maintained and preserved. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.300 Designation of the North Slope Historic Special Review District – Findings.

The architectural, cultural, historical, and educational value of the North Slope Neighborhood is such that the protection and enhancement of its built environment and streetscape is important to the public welfare. In particular, the District is important for its association with the follow themes:

A. Role in the Development of Tacoma. The area north of Division Avenue from the bluff to Sprague Street was one of several residential neighborhoods that developed after Tacoma was selected to be the terminus of the Northern Pacific Railroad. New Tacoma and the North End were considered to be a desirable place to live, near downtown Tacoma. The community was settled irregularly over its history in a fairly dense residential pattern, and it is common to find structures from the late 1800s next to houses built in the 1930s.

B. Association with Tacoma Pioneers, Property, Business and Commercial Activities. The New Tacoma and North End community is predominantly residential, although there are scattered pockets of small commercial buildings that served the community. These commercial buildings are concentrated mostly along Division Avenue and K Street. The residents of the community represented a complete cross-section of different classes and occupations, from a United States ambassador to France to a Slovakian boat builder.

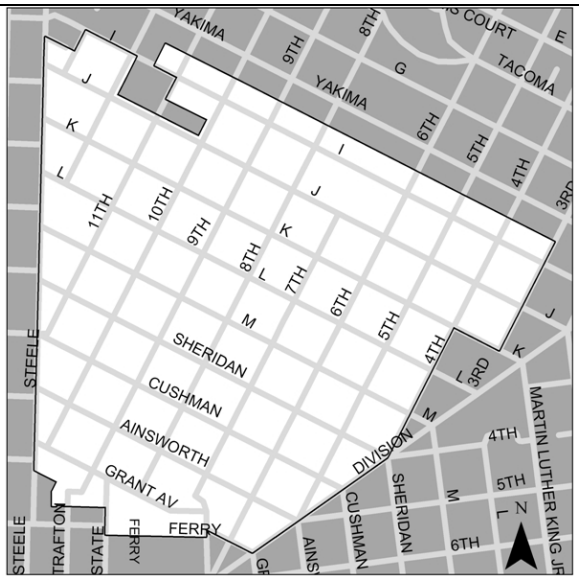
C. Architectural Characteristics. The architectural characteristics of the New Tacoma and North End community are variable, although there is a remarkable number of architect-designed houses in the neighborhood. Most homes built in the earliest period of growth from 1880 to the crash in 1893 were Queen Anne and Stick style houses, of both modest and grand proportions. After the turn of the century, more Craftsman and bungalow-style houses were built, as well as a few Colonial Revival structures. Those homes built after the turn of the century tended to be larger and more impressive, until the late 1920s when many one-story bungalows were built. After the Great Depression, another building boom took place in the neighborhood, with considerably smaller single-family brick residences constructed in simple forms, and two- or three-story multi-family apartment complexes.

D. Educational Uses and Preservation of the Area's Heritage. Restoration and preservation of objects, sites, buildings, and structures within the North Slope Neighborhood will yield information of educational significance about the way of life of Tacoma's citizens, and the architecture of the late 19th and early 20th centuries, and will add interest and color to the City. Maintaining this neighborhood as a whole will preserve the sense of time, place, and the environment which formed an important characteristic of Tacoma's history. District-wide planning will be considerably more meaningful and educationally significant than if done on the basis of individual, isolated buildings. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.310 North Slope Historic Special Review District – Boundary description.

The legal description for the North Slope Historic Special Review District is described in Ordinance No. 26611, and shall be kept on file in the City Clerk's Office. The approximate boundaries are described in Map D below.

Map D: Approximate Boundaries of the North Slope Historic Special Review District



(Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.320 Guidelines for building design and streetscape improvement review of the North Slope Historic Special Review District.

A. Intent. These guidelines are intended to ensure a certainty of design quality within the North Slope Historic Special Review District, protect the historic fabric of the district, enhance the economic vitality of the district through promotion of its architectural

character, and provide a clear set of physical design parameters for property owners, developers, designers, and public agencies. These guidelines are hereby established as the design review guidelines for rehabilitation, new construction, and public amenities.

B. Architectural integrity, as it relates to scale, proportion, texture, color, compatible materials, space, and composition in various periods of architecture, should be respected and, to the extent possible, maintained in contributing properties.

C. The following guidelines are also intended to provide a basic set of standards for architectural and physical design within the North Slope Historic Special Review District. These guidelines will be used by the Tacoma Landmarks Preservation Commission as a base-line for the design review process. These guidelines will also assist owners, developers, and designers involved in project planning by providing general design and technical recommendations. When applying the guidelines, the Commission will be considerate of clearly documented cases of economic hardship or deprivation of the owner's reasonable use of the property.

D. From time to time, the Landmarks Preservation Commission may adopt policies and administrative rules for the purpose of clarifying and assisting property owners in interpreting these guidelines. Any such rules or policies shall be adopted by quorum vote and, once adopted, shall be made available to the public in electronic and printed formats.

E. Design Guidelines. The following predominant building elements in the district shall be recognized as essential to the historic image of the neighborhood, and shall, along with the Secretary of the Interior's Standards for the Rehabilitation of Historic Buildings, be utilized as the basis for design review of proposals for rehabilitation and new construction within the district.

1. Height. Goal: Balance the overall height of new construction with that of nearby structures. In the rehabilitation of existing buildings, the present height of the structure should remain intact. New buildings should step down to be comparable in height to adjacent structures.

2. Scale. Goal: Relate the size and proportion of new buildings to those of the neighborhood. Scale refers to a building's comparative relationship to neighboring structures, and its fit within the district. Building facades should be of a scale compatible with surrounding buildings, and maintain a comparable setback from the property line to adjacent buildings as permitted by applicable zoning regulations.

Scale is also determined by the proportions of the architectural elements within the composition of the individual building facades. Window and door proportions (including the design of sash and frames), floor heights, floor shapes, roof shapes and pitches, and other elements of the building exterior should relate to the scale of the neighborhood.

3. Massing. Goal: Break up the facades of buildings into smaller varied masses, comparable to those contributing buildings in the neighborhood. Variety of forms is a distinguishing characteristic of the North Slope residential community. Smaller massing – the arrangement of facade details, such as projections and recesses – and porches all help to articulate the exterior of the structure and help the structure fit into the neighborhood.

4. Sense of Entry. Goal: Emphasize entrances to structures. Entrances should be located on the front facade of the building and highlighted with architectural details such as raised platforms, porches, or porticos to draw attention to the entry. Entrances not located on the front facade should be easily recognizable from the street.

5. Roof Shapes and Materials. Goal: Utilize traditional roof shapes, pitches, and compatible finish materials on all new structures, porches, additions, and detached outbuildings wherever such elements are visible from the street. Maintain the present roof pitches of existing pivotal, primary, and secondary buildings where such elements are visible from the street.

Typically, the existing historic buildings in the neighborhood either have gable roofs with the slopes of the roofs between 5:12 to 12:12 or more, and with the pitch oriented either parallel to or perpendicular to the public right-of-way, or have hipped roofs with roof slopes somewhat lower. Most roofs also have architectural details such as cross gables, dormers, and/or widow's walks to break up the large sloped planes of the roof. Wide roof overhangs, decorative eaves or brackets, and cornices can be creatively used to enhance the appearance of the roof.

6. Exterior Materials. Goals: Use compatible materials that respect the visual appearance of the surrounding buildings. Buildings in the North Slope Neighborhood were sided with shingles or with lapped, horizontal wood siding of various widths. Subsequently, a few compatible brick or stucco-covered structures were constructed, although many later uses of these two materials do not fit the

character of the neighborhood. Additions to existing buildings should be sided with a material to match, or be compatible with, the original or existing materials. New structures should utilize exterior materials similar to those typically found in the neighborhood.

7. Rhythm of Openings. Goals: Respect the patterns and orientations of door and window openings as represented in the neighboring buildings. Typically, older buildings have doors and transoms that matched the head height of the adjacent windows. Doors also tend to be paneled or contain glazed openings. Windows are vertically oriented. Large horizontal expanses of glass are created by ganging two or more windows into a series. Most windows are either single or double hung, with a few casement windows being incorporated into the designs. Many of the buildings had the upper sash articulated into smaller panels, either with muntin bars, leaded glazing, or arches. Most older windows were also surrounded with substantial trim pieces or window head trim.

8. Additional Construction. Goal: Sensitively locate additions, penthouses, buildings systems equipment, or roof-mounted structures to allow the architectural and historical qualities of the contributing building to be dominant. While additions to contributing buildings in historic districts are not discouraged, they should be located to conceal them from view from the public right-of-way. Some new additions, such as the reconstruction of missing porches or the addition of dormers in the roof, may need to be located on the front facade of the building. When an addition is proposed for the front of the building, appropriate and sensitive designs for such modifications should follow the guidelines for scale, massing, rhythm, and materials.

9. Parking. Goal: Minimize views of parking and garages from the public right-of-way. Most early houses provided space for storing various means of transportation, from horses and carriages to automobiles; however, these structures were nearly always entered from the alley rather than from the street. Parking lots and banks of garage doors along the front facade of a building do not conform to the character of the neighborhood. Off-street parking lots have no historic precedent in this neighborhood, and should be located behind the building and away from the street. Access may be allowed from the street if access from the alley is not possible. Setting garages and carport structures back from the front of the building reduces their visual importance.

10. Signage. Goal: New signs for existing and new buildings shall complement the architecture and style of the residential neighborhood. Signs should not dominate the building facades or obscure the structure's architectural features. Colors, materials, and lettering should be appropriate to the character of the surroundings and be compatible with the building's period and style. Care should be taken not to damage historic building materials in the installation process.

F. Street Improvements. The architectural character of the district is significantly enhanced by the complementary residential nature of existing street amenities, including brick and cobblestone street paving, historic streetlights, planting strips, sidewalks, historic scoring patterns in walks and driveways, healthy trees, and a restrained use of signage. These elements should be retained or enhanced. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.330 North Slope Historic Special Review District – Specific Exemptions.

The following actions are exempt from the requirements imposed pursuant to this chapter:

A. Any alterations to non-contributing properties as defined by the District Inventory adopted by the Commission and kept on file at the Historic Preservation Office; provided, that modifications to accessory structures and the demolition of noncontributing or accessory structures are not exempt from the provisions of this chapter;

B. Interior modifications to existing structures, unless those modifications affect the exterior appearance of the structure;

C. Any work that does not require a building permit (including painting and minor repairs such as caulking or weather-stripping);

D. The installation, alteration, or repair of public and private plumbing, sewer, water, and gas piping systems;

E. The installation, alteration, or repair of electrical, telephone, and cable television wiring systems;

F. The landscaping of private residences;

G. The maintenance of existing parking conditions and configurations, including curb cuts, driveways, alleys, and parking lots;

H. Signs not exceeding the limitations for a home occupation permit and those installed by the City for directional and locational purposes. (Ord. 27429 § 3; passed Nov. 15, 2005)

13.07.340 Severability.

In the event that any section, paragraph, or part of this chapter is for any reason declared invalid or held unconstitutional by any court of last resort, every other section, paragraph, or part shall continue in full force and effect. (Ord. 27429 § 3; passed Nov. 15, 2005)

Chapter 13.08

OPEN SPACE CURRENT USE ASSESSMENT[2]

Sections:

13.08.010 Intent.
13.08.020 Application fee.
13.08.030 Processing of application.
13.08.040 Approval factors.
13.08.050 Approval – Agreement.
13.08.060 Notice of approval.

13.08.010 Intent.

The City Council hereby declares that it is in the best interest of the City of Tacoma to maintain, preserve, conserve and otherwise continue in existence adequate open space lands and to assure the use and enjoyment of natural resources and scenic beauty for the economic, environmental and social well-being of the City and its citizens. (Ord. 20048 § 2; passed Feb. 5, 1974)

13.08.020 Application and fee.

Applications for open space current use classification shall be submitted to the offices of the Pierce County Assessor-Treasurer and the City of Tacoma Public Works Department, Building and Land Use Services Division, on application form as specified by the Washington State Department of Revenue and supplied by the Pierce County Assessor-Treasurer's office. A complete application to the City of Tacoma shall include the following:

A. Completed application form as specified by the Washington State Department of Revenue and supplied by the Pierce County Assessor-Treasurer's office.

B. A site plan, plot plan, or other diagram drawn to scale which accurately shows the property for which the open space current use classification is being requested. Such plan must show natural features pertinent to the request including, but not limited to, steep slopes, gullies, ravines, streams, wetlands, and other water features.

C. A written and/or graphic demonstration of the consistency of the application with the factors set forth in Section 13.08.040 below.

D. Required fee as set forth in TMC 2.09.500. The applicant bears the responsibility for assuring the application is properly submitted to the offices of the Pierce County Assessor-Treasurer and the City of

[2] Prior legislation: Ord. 19348, passed May 4, 1971.

Tacoma Public Works Department, Building and Land Use Services Division. (Ord. 26247 § 2; passed Jun. 2, 1998: Ord. 24827 § 8; passed Jan. 29, 1991: Ord. 20284 § 14; passed Jan. 14, 1975: Ord. 20048 § 2; passed Feb. 5, 1974)

13.08.030 Processing of application.

An application made under RCW 84.34 shall be acted upon and processed in the same manner as an amendment to the comprehensive plan as set forth in Chapter 13.02 of the Tacoma Municipal Code; provided, however, that the application shall be acted upon by a granting authority composed of three members of the Pierce County Council and three members of the City Council, who shall be designated by the Mayor with the approval of the majority of the City Council, and approval of such application shall be by resolution of the granting authority. (Ord. 27079 § 57; passed Apr. 29, 2003: Ord. 26247 § 3; passed Jun. 2, 1998: Ord. 21363 § 3; passed May 23, 1978: Ord. 20048 § 2; passed Feb. 5, 1974)

13.08.040 Approval factors.

In determining whether an application made for classification under Chapter 84.34 RCW should be approved or disapproved, cognizance may be taken of the benefits to the general welfare of preserving the current use which is the subject of application, and consideration may be given as to whether or not preservation of current use of the land will (a) conserve or enhance natural or scenic resources; (b) protect streams or water supplies; (c) promote conservation of soils, wetlands, beaches or tidal marshes; (d) enhance the value of abutting or neighboring parks, forests, wildlife preserves, nature reservations, sanctuaries, or other open spaces; (e) enhance recreation opportunities; (f) preserve historic sites; or (g) affect any other factor relevant in weighing benefits to the general welfare of preserving the current use of the property against the potential loss in revenue which may result from granting the application.

The granting authority, in approving in part or whole an application for land classified pursuant to Chapter 84.34 RCW may also require that certain conditions be met, including but not limited to the granting of easements. (Ord. 20048 § 2; passed Feb. 5, 1974)

13.08.050 Approval – Agreement.

The signed Open Space Taxation Agreement, prescribed by the State Department of Revenue and containing conditions and requirements of open space and timberland as defined in Chapter 84.34 RCW and as determined by the granting authority, shall be sent by the City Clerk as to the applicant for his signature within five days of the approval date.

All parties having a fee interest in the land, or all vendees in a real estate contract shall sign the Open Space Taxation Agreement. In the event the interests are community property, the agreement shall be signed by both husband and wife.

If the agreement is not signed and returned to the City Clerk within 25 days after the mailing of the agreement by the City Clerk, the granting authority shall assume the agreement has been rejected by the applicant and any approval shall be considered null and void. The agreement shall be effective commencing upon the date the City Clerk receives the properly signed agreement from the applicant. (Ord. 20048 § 2; passed Feb. 5, 1974)

13.08.060 Notice of approval.

The City Clerk shall immediately notify the Pierce County Assessor-Treasurer and the applicant of the City's approval or disapproval, which shall in no event be more than six months from the receipt of said application. When the granting authority adopts a resolution to the effect that it finds the land qualified for current use classification and receives the properly signed Open Space Taxation Agreement, the City Clerk shall file notice of the same with the Pierce County Assessor-Treasurer within ten days. (Ord. 26247 § 4; passed Jun. 2, 1998: Ord. 20048 § 2; passed Feb. 5, 1974)

Chapter 13.09

SOUTH TACOMA GROUNDWATER PROTECTION DISTRICT

Sections:

13.09.010 Background, purpose, and intent.
13.09.020 Declaration of policy.
13.09.030 Scope and applicability.
13.09.040 Definitions.
13.09.050 General provisions.
13.09.060 Prohibited uses.
13.09.070 Stormwater Infiltration.
13.09.080 Permits – Construction, modification, operation, change in use.
13.09.090 Exemptions.
13.09.100 Hazardous substance storage and management.
13.09.110 Underground storage tanks.
13.09.120 Aboveground storage tanks.
13.09.130 Inspections and testing.
13.09.140 Spill prevention and management.
13.09.150 Release reporting, investigation, corrective action.
13.09.160 Recordkeeping.
13.09.170 Waivers.
13.09.180 Deferral.
13.09.190 Enforcement Responsibility.
13.09.200 Enforcement Process.
13.09.210 Administrative Review.
13.09.220 Appeals.
13.09.230 Penalties.
13.09.240 Civil Penalty.
13.09.250 Criminal Penalty--Misdemeanor.
13.09.260 Other Remedies.
13.09.270 Severability.

13.09.010 Background, purpose, and intent.

The South Tacoma groundwater aquifer system serves as a significant source of drinking water for the City of Tacoma. It may supply as much as 40 percent of the City's total water demand during periods of peak summer usage. For future growth, supplemental supply, and emergency response, this resource will continue to be extremely important to the City of Tacoma.

It has been found and determined that a major cause of historical groundwater contamination in the South Tacoma aquifer system is from accidental or improper release of hazardous substances from spillage, leaks, or discharges from local industry. Due to the large number of potential sources of toxic and hazardous substances within the area which recharges the aquifer system and the possibility of further contamination, the City of Tacoma found that it was necessary and in the public interest to establish the South Tacoma Groundwater Protection District in 1988.

The South Tacoma Groundwater Protection District is an overlay zoning and land use control district specifically designed to prevent the degradation of groundwater in the South Tacoma aquifer system by controlling the handling, storage and disposal of hazardous substances by businesses. The overlay zoning district imposes additional restrictions on high impact land use development in order to protect public health and safety by preserving and maintaining the existing groundwater supply for current and potential users and to protect the City of Tacoma from costs which might be incurred if unsuitable high impact land uses were to reduce either the quality or quantity of this important public water supply source.

It is the intent of this chapter to establish orderly procedures that reduce the risks to public health and safety and to the existing groundwater supply. These procedures shall ensure that within the South Tacoma Groundwater Protection District, facilities with on-site stormwater infiltration units and facilities with hazardous substances meet appropriate performance standards, and that existing storage facilities are properly maintained, inspected, and tested when necessary. (Ord. 27568 Exhibit A; passed Dec. 19, 2006: Ord. 24083 § 1; passed May 10, 1988)

13.09.020 Declaration of policy.

In order that the City of Tacoma maintain its groundwater resources within the South Tacoma Groundwater Protection District as near as reasonably possible to their natural condition of purity, it is the policy of the City of Tacoma to establish strict performance standards which will reduce or eliminate threats to this resource from improper handling, storage, and disposal of hazardous substances by businesses. The City of Tacoma shall require use of all practical methods and procedures for protecting groundwater, while encouraging appropriate commercial and industrial uses to locate and conduct business within the South Tacoma Groundwater Protection District. The Tacoma-Pierce County Health Department ("Department") will be responsible for implementing the South Tacoma Groundwater Protection District Ch. 13.09. The Tacoma-Pierce County Board of Health may adopt regulations consistent with this section. It is recommended that the Department work cooperatively through education with owners and

operators of regulated facilities to voluntarily reach compliance before initiating penalties or other enforcement action. (Ord. 27568 Exhibit A; passed Dec. 19, 2006: Ord. 24083 § 1; passed May 10, 1988)

13.09.030 Scope and applicability.

A. The mandates of this chapter shall apply to new and existing developments and facilities as defined herein.

B. All property within the South Tacoma Groundwater Protection District, as defined in Section 13.09.050, shall comply with the requirements of this chapter in addition to the zoning requirements of the South Tacoma Groundwater Protection District in addition to the zoning requirements of the district in which such property is presently or may later be located. In the event of conflict with the regulations of the underlying zoning requirements and the mandates of this chapter, the provisions of this chapter shall control.
(Ord. 27568 Exhibit A; passed Dec. 19, 2006: Ord. 24083 § 1; passed May 10, 1988)

13.09.040 Definitions.

For the purpose of this chapter, certain words and terms are defined as follows:

A. “Abandon” means an aboveground storage tank, underground storage tank, or other container used for storage of hazardous substances left unused for more than one year, without being substantially emptied or permanently altered structurally to prevent reuse.

B. “Aboveground storage tank” means a device meeting the definition of “tank” in this section and that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

C. “Act” means doing or performing something.

D. “Aquifer” means a geological formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs.

E. “Container” means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

F. “Contamination” means the degradation of any component of the environment by a release of hazardous substance in sufficient quantity to impair its usefulness as a resource.

G. “Closure” means to cease a facility’s operations related to hazardous substances by complying with the closure requirements in this Chapter and the General Guidance and Performance Standards or to take an underground storage tank out of operation permanently, in accordance with Department of Ecology’s 173-360-385 Washington Administrative Code (WAC) as may be amended from time to time and the Department’s Underground Storage Tank regulation Board of Health (BOH) Resolution 88-1056 as may be amended from time to time.

H. “Department” means the Tacoma-Pierce County Health Department.

I. “Development” means the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or structure; any use or change in use of any building or land; any extension of any use of land, or any clearing, grading, or other movement of land for which permission may be required pursuant to this chapter.

J. “Director” means the Director of Health of the Tacoma-Pierce County Health Department or his or her designee(s).

K. “Disposal” means the discharging, discarding, or abandoning of hazardous wastes or the treatment, decontamination, or recycling of such wastes once they have been discarded or abandoned. This includes the discharge of any hazardous wastes into or on any land, air, or water.

L. “Ecology” means the Washington State Department of Ecology.

M. “Environment” means any air, land, water, or groundwater.

N. “Facility” means all structures, contiguous land, appurtenances, and other improvements on or under the land within the South Tacoma Groundwater Protection District used as a stormwater infiltration unit, or for recycling, reusing, reclaiming, transferring, storing, treating, disposing, or otherwise handling a hazardous substance which is not specifically excluded by the exemptions contained in Section 13.09.090.

O. “Final Closure” means the proper permanent removal of an underground storage tank that is no longer in service.

P. “General Guidance and Performance Standards” means the Department’s most recent publication of the technical standards document “General Guidance and Performance Standards for the South Tacoma Groundwater Protection District.”

Q. "Groundwater" means water in a saturated zone or stratum beneath the surface of land or below a surface water body.

R. "Hazardous substance(s)" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity which may pose a present or potential hazard to human health or to the quality of the drinking water supply in the South Tacoma aquifer system when improperly used, stored, transported, or disposed of or otherwise mismanaged, including without exception:

1. Those materials that exhibit any of the physical, chemical or biological properties described in Department of Ecology's 173-303-082 WAC, 173-303-090 WAC, or 173-303-100 WAC as may be amended from time to time; and

2. Those materials set forth in the General Guidance and Performance Standards hereinafter referred to;

3. Petroleum products and by-products, including crude oil or any faction thereof such as gasoline, diesel, and waste oil which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute); and

4. Any substance or category of substances meeting the definition of a hazardous substance under Chapter 173-340 WAC as may be amended from time to time.

S. "High-impact use" means a business establishment that is considered to be hazardous and/or noxious due to the probability and/or magnitude of its effects on the environment. For purposes of this chapter, these uses or establishments possess certain characteristics, which pose a substantial or potential threat or risk to the quality of the ground and surface waters within the South Tacoma Groundwater Protection District.

T. "Impervious surface" means natural or man-made material on the ground that does not allow surface water or contaminants to penetrate into the soil. Impervious surfaces may consist of buildings, parking areas, driveways, roads, sidewalks, and any other areas of concrete, asphalt, plastic, etc.

U. "Manifest" means the shipping document, prepared in accordance with the requirements of Department of Ecology's 173-303-180 WAC as may be amended from time to time, which is used to identify the quantity, composition, origin, routing, and destination of a hazardous waste while it is being transported to a point of transfer, disposal, treatment, or storage.

V. "Misdemeanor" means any crime punishable by a fine not exceeding $1,000, or imprisonment not exceeding 90 days, or both, unless otherwise specifically defined.

W. "Omission" means a failure to act.

X. "On-site" means the same or geographically contiguous property which may be divided by public or private right of way, provided that the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along the right of way. Noncontiguous properties owned by the same person but connected by a right of way, which they control and to which the public does not have access, are also considered on-site property.

Y. "Operator" means the person responsible for the overall operation of a facility.

Z. "Permeable surfaces" means sand, gravel, and other penetrable deposits or materials on the ground which permit movement of materials, such as groundwater or contaminants, through the pore spaces, or active or abandoned wells which permit the movement of fluid to the groundwater.

AA. "Person" means any individual, trust, joint stock company, corporation (including government corporation), partnership, association, consortium, joint venture, commercial entity, state, municipality, commission, political subdivision of a state, interstate body, the federal government, or any department or agency of the federal government.

BB. "Person responsible for the violation" means any person that commits any act or omission which is a violation or causes or permits a violation to occur or remain on the property or regulated facility, and includes but is not limited to owners(s), lessor(s), tenant(s), or other person(s) entitled to control, use, and/or occupy property or the regulated facility where a violation occurs, and any person who aids and abets in a violation.

CC. "Pollution-generating impervious surface (PGIS)" means those impervious surfaces considered to be a significant source of pollutants in stormwater runoff. Such surfaces include those that are subject to: regular vehicular use; industrial activities (involving material handling, transportation, storage, manufacturing, maintenance, treatment or disposal); or storage of erodible or leachable materials, waste or chemicals, and which receive direct rainfall or the run-on or blow-in of rainfall. Metal roofs are also considered to be PGIS unless they are coated with an inert, non-leachable material.

DD. "Recharge areas" means areas of permeable deposits exposed at the surface which transmit precipitation and surface water to the aquifer.

EE. "Regulated facility" means any facility with one or more of the following: underground storage tank(s), aboveground storage tank(s), hazardous substances at regulated quantities, or stormwater infiltration unit(s) subject to regulation under section 13.09.080 of this chapter.

FF. "Release" means intentional or unintentional entry, spilling, leaking, pouring, emitting, emptying, discharging, injecting, pumping, escaping, leaching, dumping, or disposing of a hazardous substance, as defined in this section, into the environment and includes the abandonment or discarding of barrels, containers, and other receptacles containing hazardous substances. Should the definition of "release" in RCW 70.105D.020(20) be amended from time to time, then such amendment is incorporated herein by reference as if set forth at length.

GG. "Release detection" means a method or methods of determining whether a release or discharge of a hazardous substance has occurred from a regulated facility into the environment.

HH. "Retail business use" means a use in which individually packaged products or quantities of hazardous substances are rented or sold at retail to the general public and are intended for personal or household use.

II. "Solid waste" means all putrescible and non-putrescible solid and semi-solid waste, including, but not limited to, garbage, rubbish, ashes, industrial waste, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, contaminated soils and contaminated dredged material, and recyclable materials.

JJ. "Stormwater" means water derived from a storm event or conveyed through a storm system.

KK. "Stormwater infiltration unit" means an impoundment, typically a pond, trench, or bio-infiltration swale which collects stormwater and allows it to percolate into surrounding soil.

LL. "Substantial modifications" means the construction of any additions to an existing facility, or restoration, refurbishment, or renovation which:

1. Increases or decreases the in-place storage capacity of the facility;

2. Alters the physical configuration;

3. Impairs or affects the physical integrity of the facility or its monitoring systems; or

4. Alters or changes the designated use of the facility.

MM. "Surface water" means water that flows across the land surface, in natural channels not considered a stormwater conveyance system, or is contained in depressions in the land surface, including but not limited to wetlands, ponds, lakes, rivers, and streams.

NN. "Tank" means a stationary device designed to contain an accumulation of hazardous substances, and which is constructed primarily of non-earthen materials to provide structural support.

OO. "Temporary closure" means to take a tank out of service for more than one month and less than one year.

PP. "TMC" means the Tacoma Municipal Code.

QQ. "Underground storage tank" means any one or a combination of tanks (including underground pipes connected thereto) which are used to contain or dispense an accumulation of hazardous substances, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground. Specific exemptions to this definition are contained in Section 13.09.090 TMC.

RR. "Violation" means an act or omission contrary to the requirement of the chapter, and includes conditions resulting from such an act or omission. (Ord. 27568 Exhibit A; passed Dec. 19, 2006: Ord. 24083 § 1; passed May 10, 1988)

13.09.050 General provisions.

A. District Designated (Location). For the purposes of this chapter and to carry out these regulations, the boundaries of the South Tacoma Groundwater Protection District are delineated on a map, and accompanying legal description as now or hereafter updated and supplemented, which are made part hereof by this reference. The Planning Division of the Community and Economic Development Department ("CEDD") or its successor department shall maintain this map. Note: Copies of the map are available from CEDD or the Department. The boundaries of the South Tacoma Groundwater Protection District will be reviewed by the Department and the City of Tacoma not less frequently than every ten years to account for best available science, development, and zoning changes. The physical boundaries of the South Tacoma Groundwater Protection District are more particularly described in the General Guidance and Performance Standards.

B. District Designated (Environmentally Sensitive Area). Pursuant to Ecology's Chapter 197-11-908 WAC and TMC Section 13.12.908 of this title as may be amended from time to time, the area described above is hereby designated as an environmentally (geohydrologically) sensitive area.

C. Development and Adoption of Technical Standards. The Department shall hereafter maintain a document entitled "General Guidance and Performance Standards for the South Tacoma Groundwater Protection District" (hereinafter referred to as the "General Guidance and Performance Standards"). These standards shall prescribe the minimum acceptable best management practices and design solutions which are consistent with the requirements of this chapter. This document, to the extent that it assists in meeting the purposes and intent of this chapter and the Critical Areas Preservation Ordinance, is incorporated herein as though fully set forth. This document is available from the Department. Periodically, the Department shall review these standards to assure that improvements in technology are considered and that the standards are consistent with this chapter.

D. Permits. Applications for permits as required in Section 13.09.080 shall be filed with the Health Department. Application forms shall contain information prescribed by the Department.

E. Fees. At the time of filing such application, the applicant shall pay a fee in an amount sufficient to pay the costs of issuing the permits and conducting an initial and one follow-up inspection under this chapter. Fees for permits, permit renewals, and other services rendered under this program shall be included in the Department's fee schedule, as approved annually by the Tacoma-Pierce County Board of Health. The approved fee schedule is available from the Department.

F. Cost Recovery. In the event that violations of this chapter require the Director to spend more time (Including but not limited to repeat inspections, spill response, remedial action plan review, or other enforcement actions) at a regulated facility than anticipated in the permit fee, permit renewal fee, or other properly established fee, the Department may bill such additional time to the regulated facility at an hourly rate approved annually by the Tacoma-Pierce County Board of Health. Such a bill shall be accompanied by a detailed description of the time and activities for which the regulated facility is being billed. Failure to pay cost-recovery bills shall be considered a violation of this chapter. (Ord. 27568 § 2 and Exhibit A; passed Dec. 19, 2006: Ord. 25473 § 1; passed Apr. 12, 1994: Ord. 25425 § 4; passed Jan. 11, 1994: Ord. 25298; passed May 4, 1993: Ord. 25225 § 4; passed Dec. 15, 1992: Ord. 25024 § 4; passed Dec. 10, 1991: Ord. 24807 § 4; passed Dec. 18, 1990: Ord. 24083 § 1; passed May 10, 1988)

13.09.060 Prohibited uses.

A. The following "high-impact" uses of land shall hereafter be prohibited from locating within the boundaries of the South Tacoma Groundwater Protection District. Exceptions will be considered by the City's Building and Land Use Services Division of the Public Works Department, in consultation with the Department, only upon conclusive demonstration that the application of new or improved technology will result in no greater threat to the groundwater resource than that posed by a compliant nonprohibited use.

1. Chemical manufacture and reprocessing.

2. Creosote/asphalt manufacture or treatment.

3. Electroplating activities.

4. Manufacture of Class 1A or 1B flammable liquids as defined in the Fire Code.

5. Petroleum and petroleum products refinery, including reprocessing.

6. Wood products preserving.

7. Hazardous waste treatment, storage, or disposal facilities. ("Designated Facility" per Ecology's Chapter 173-303 WAC et seq.).

The Director of the Public Works Department or his or her designee shall consult the North American Industry Classification System ("NAICS") Manual for assistance in reviewing and making use interpretations pursuant to this subsection.

The above high impact uses should be periodically revised, updated, and amended, as appropriate, by the Planning Division of the Community and Economic Development Department or its successor agency in consultation with the Department in order to take into account other potential high impact uses or improvements in technology, pollution control, and management.

B. Permanent or temporary storage of hazardous substances on sites with permeable surfaces, the disposal of hazardous substances, and the disposal of solid waste is prohibited, unless such discharge or disposal is specifically in accordance with a valid discharge permit, is approved for discharge into the City's municipal wastewater system pursuant to Chapter 12.08 of the Tacoma Municipal Code as may be amended from time to time or is conducted in

compliance with the requirements of a solid waste handling permit issued by the Department. (Ord. 27568 Exhibit A; passed Dec 19, 2006: Ord. 26934 § 17; passed Mar 5, 2002: Ord. 24083 § 1; passed May 10, 1988)

13.09.070 Stormwater infiltration.

A. Stormwater infiltration units used to receive storm water from any street, paved parking area or other pollution-generating impervious surface are prohibited; however, if a business requests to infiltrate under the Exceptions Process outlined in the City of Tacoma Surface Water Management Manual Volume I, Chapter 3.1 as may be amended from time to time and in the opinion of the City of Tacoma Public Works Department, or its successor agency, no other reasonable alternative exists to manage stormwater runoff from the site, then the Public Works Department, with concurrence of the Department, may approve such private stormwater management system subject to building permit review and approval of a design by a licensed professional engineer.

B. If approved, stormwater infiltration unit design standards shall include sampling ports and assurance that the regulated facility shall allow periodic sampling by the Public Works Department and/or Tacoma Public Utilities or their successor agencies.

C. Facilities with stormwater infiltration units on-site will be regulated facilities within the South Tacoma Groundwater Protection District. Such regulated facilities will be permitted and receive biennial inspections by the Department to verify maintenance of the unit, business practices, and other requirements outlined in the General Guidance and Performance Standards.

D. Existing stormwater infiltration units installed before December 31, 2006, shall be exempt from the requirements of this section, except that a change of use or change of ownership shall trigger review pursuant to TMC 13.09.070(F).

E. Facilities with stormwater infiltration units shall have formal notification on their business license of the on-site stormwater infiltration unit.

F. If ownership or site operations change at a facility with a stormwater infiltration unit, the new operations shall be reviewed by the Public Works Department and the Department or their successor agencies to ensure continued use of the stormwater infiltration unit does not present a risk to groundwater quality prior to the Tax & License Division of the Finance Department issuing a new business license. If continued use of the stormwater infiltration unit is not acceptable under the new operations, a new private stormwater management system and/or public storm system extension and connection may be required to be designed and constructed per city development standards to permit new operations. (Ord. 27568 Exhibit A; passed Dec 19, 2006: Ord. 24083 § 1; passed May 10, 1988)

13.09.080 Permits – Construction, modification, operation, change in use

A. It is a violation of this chapter for any person to construct, install, substantially modify, or change the use of a facility or regulated facility as defined herein, or part thereof, without a valid permit or authorization issued by or acceptable to the Department. A permit issued for a facility will include appropriate conditions and limitations as may be deemed necessary to implement the requirements of this chapter.

B. It is a violation of this chapter for any person to use, cause to be used, maintain, fill, or cause to be filled any facility with a hazardous substance without having registered the facility on forms provided by the Department and without having obtained or maintaining a valid permit issued by the Department to operate such facility or part thereof.

C. No permit or authorization to operate a regulated facility as required herein shall be issued by the Department or shall be satisfactory to the Department unless and until the prospective permittee, at a minimum:

1. Provides a listing to the Department of all of the hazardous substances and amounts to be stored, used, or handled at the facility; and

2. Demonstrates that the facility complies with all the provisions of this chapter and the standards set forth in the General Guidance and Performance Standards.

D. It is a violation of this chapter for any person in possession of or acting pursuant to a permit or authorization issued to allow or cause another person to act, in any matter contrary to any provision of said permit or authorization. (Ord. 27568 Exhibit A; passed Dec 19, 2006: Ord. 24083 § 1; passed May 10, 1988)

13.09.090 Exemptions.

The following facilities shall be exempt from all provisions of this chapter:

A. Any handling, storing, disposing, or generating of 220 pounds (100 kilograms) or less of a hazardous substance per month or batch, unless specifically

ruled otherwise by the Department on a case-by-case basis. Note: (Refer to 13.09.040.R for definition of hazardous substances.)

B. Farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for non-commercial purposes.

C. Existing on-site tanks of 1,100 gallons or less capacity which store heating oil, motor diesel, or new (non-waste) lubricating oils, subject to documentation that the tank meets the integrity standards contained in the General Guidance and Performance Standards or established by Underwriters Laboratories or another nationally-recognized independent testing organization.

D. Gasoline or diesel tanks attached to private or commercial motor vehicles and used directly in the propulsion of that vehicle, including tank trucks in transit.

E. All petroleum underground or aboveground storage tanks and/or other containers of 660 gallons or less capacity per tank, or 1,100 gallons total, which are privately stored and intended for personal use.

F. A pipeline facility (including gathering lines) regulated under: (1) the Natural Gas Pipeline Safety Act of 1968 reauthorized in 1996 as the Accountable Pipeline Safety and Partnership Act as may be amended from time to time, or (2) the Hazardous Liquid Pipeline Safety Act of 1979 as may be amended from time to time; or which is an interstate pipeline facility regulated under State laws comparable to the provisions of law referred to in (1) and (2) above.

G. The City's municipal sewer system, in accordance with Chapter 12.08 of Tacoma Municipal Code as may be amended from time to time.

H. Any municipal solid waste landfill or other regulated solid waste handling activities, when permitted and operated in compliance with Chapter 173- 351 WAC et seq. or 173-350 WAC et seq. as adopted locally by the Tacoma-Pierce County Health Department Board of Health, and as may be amended from time to time.

I. The application of fertilizer, plant growth retardants and pesticides in accordance with label directions and requirements of the Washington State Department of Agriculture.

J. A retail business use, as defined in Section 13.09.040.HH, unless otherwise included as a regulated facility.

K. Any small quantity of hazardous substance intended solely for personal use, unless specifically ruled otherwise by the Department on a case-by-case basis, in accordance with the General Guidance and Performance Standards. (Ord. 27568 Exhibit A; passed Dec 19, 2006: Ord. 24083 § 1; passed May 10, 1988)

13.09.100 Hazardous substance storage and management.

Owners and operators of regulated facilities shall as applicable:

A. Store hazardous substances in a container that is in good condition.

B. Label containers in a manner that adequately identifies the major risk(s) associated with the contents of the containers. Labels shall not be obscured, removed, or otherwise unreadable.

C. Remove or destroy labels from empty containers that will no longer be used for hazardous substance storage and label containers as "Empty" or otherwise provide clear indication acceptable to the Department that the containers are not useable.

D. Use a container made of, or lined with, materials that will not react with, and are otherwise compatible with, the hazardous substance being stored.

E. Always have containers closed except when it is necessary to add or remove hazardous substances.

F. Maintain a minimum 30-inch separation between rows of containers holding hazardous substances and ensure that a row of drums is no more than two drums deep.

G. Provide and maintain containment systems for container storage areas that are capable of collecting and holding spills and leaks with sufficient capacity to contain 10 percent of the volume of all containers, or 100 percent of the volume of the largest container, whichever is greater.

H. Store all hazardous substance containers in a covered area where they will not be degraded by the weather or exposed to stormwater.

I. At closure of the facility, all hazardous substances and residues must be removed from the containment system. Remaining containers, liners, bases, and soil containing or contaminated with hazardous substances or residues must be decontaminated or removed to the satisfaction of the Department.

J. Ensure that business practices and stormwater infiltration unit maintenance minimizes potential releases of hazardous substances to the environment.

The Department may require additional storage and management requirements on a case-by-case basis as deemed necessary to reduce risks to public health and safety and to the existing groundwater supply.
(Ord. 27568 Exhibit A; passed Dec 19, 2006: Ord. 24083 § 1; passed May 10, 1988)

13.09.110 Underground storage tanks.

A. New Underground Storage Tanks.

1. All new underground storage tanks used, or to be used, for the underground storage of hazardous substances shall be designed and constructed so as to:

a. Prevent releases due to corrosion or structural failure for the operational life of the tank;

b. Be cathodically protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed in a manner to prevent the release, or threatened release, of any stored substance; and

c. Use material in the construction or lining of the tank which is compatible with the substance to be stored.

2. Design, construction, installation, repair, monitoring, release detection, corrosion, and compatibility standards for new underground storage tanks, including piping, shall be in accordance with the requirements and standards set forth in the General Guidance and Performance Standards and the rules of the Department of Ecology's 173-360 WAC as may be amended from time to time, whichever is more stringent; and shall further comply with all applicable permit requirements of the Tacoma Fire Department.

3. All new underground storage tanks must use release detection method(s) specified in the General Guidance and Performance Standards.

B. Existing Underground Storage Tanks.

All existing underground storage tanks must comply with the release detection requirements, including the compliance schedule, in the General Guidance and Performance Standards.

C. Underground Storage Tank Closures.

1. No person shall abandon or close an underground storage tank, temporarily or otherwise, except as provided in this subsection and in compliance with the General Guidance and Performance Standards and the Department's UST regulation (BOH Resolution 88-1056, as may be amended from time to time).

2. An underground storage tank that is temporarily closed, but that the operator intends to return to use within one year, shall continue to be subject to all the permit, corrosion protection, and release detection requirements of this chapter and those established pursuant to the General Guidance and Performance Standards. If the underground storage tank is out of service for more than one year the Department, in consultation with the regulated facility owner or operator, will determine whether to implement final closure of the tank or grant an additional one-year period of temporary closure. The Department will not allow an underground storage tank at a regulated facility to exist in a temporary closure state for a period greater than two years.

3. No person shall close an underground storage tank unless the person undertakes all of the following actions:

a. Notifies the Department and other appropriate agencies at least 60 days in advance of any closing and obtains the proper authorization or permit according to the Board of Health Resolution 88-1056, as may be amended from time to time.

b. Demonstrates to the Department that all residual amounts of the hazardous substance which were stored in the tank prior to its closure have been removed and properly disposed.

c. Permanently removes the tank unless the tank is located under a permanent building and cannot be removed without removing the building.
(Ord. 27568 Exhibit A; passed Dec 19, 2006: Ord. 24083 § 1; passed May 10, 1988)

13.09.120 Aboveground storage tanks.

A. New Aboveground Storage Tanks.

1. All new aboveground storage tanks shall be fabricated, constructed, installed, used, and maintained to prevent the release of a hazardous substance to the ground, groundwaters, and surface waters of the South Tacoma Groundwater Protection District.

2. All new aboveground storage tanks shall be installed, used, and maintained with an impervious containment area enclosing or underlying the tank or part thereof, conforming to the requirements set forth in the General Guidance and Performance Standards.

B. Existing Aboveground Storage Tanks.

1. It shall be a violation of this chapter to substantially modify or cause the substantial modification of any existing aboveground storage facility or part thereof without obtaining a permit or

authorization from the Department and the Fire Department and without complying with the provisions of this section and the General Guidance and Performance Standards.

2. Inspections, release detection, and corrective action requirements for aboveground storage tanks shall be followed as set forth in this chapter and the General Guidance and Performance Standards.

C. Aboveground Storage Tank Closures.

1. No person shall abandon or close an aboveground storage tank, temporarily or otherwise, except as provided in this section and in compliance with the General Guidance and Performance Standards.

2. No person shall close an aboveground storage tank unless the person demonstrates to the Department that all residual amounts of the hazardous substance that were stored in the tank prior to its closure have been removed and properly disposed.
(Ord. 27568 Exhibit A; passed Dec 19, 2006: Ord. 24083 § 1; passed May 10, 1988)

13.09.130 Inspections and testing.

A. Any owner or operator of a regulated facility shall, upon request of any representative of the Department, the Public Works Department, or the Tax and License Division of the Finance Department, or their successor agencies whose duties entail enforcing the provisions of this chapter, furnish information relating to the regulated facility, conduct monitoring or testing, and permit such representative to have access to and to copy all records relating to the hazardous substances or stormwater infiltration unit at all reasonable times. For the purpose of implementing this chapter including determining whether a facility is a regulated facility, representatives of the above-referenced departments are hereby authorized to:

1. Enter at reasonable times any facility, regulated facility, establishment or other place where tank(s) or hazardous substances in regulated quantities, or stormwater infiltration units are located;

2. Inspect and obtain samples of any known or suspected hazardous substances at the facility; and

3. Conduct monitoring or testing of the tanks and/or hazardous substances containers, associated equipment, contents, or surrounding soils, air, surface water, stormwater or groundwater.

B. During inspections the Department will, to the degree practical, provide education and technical assistance and work cooperatively to help the regulated facility's owner or operator achieve voluntary compliance before initiating enforcement action, imposing penalties, or seeking other remedies.

C. Each inspection shall be commenced and completed with reasonable promptness. If the above-referenced department representative obtains any samples prior to leaving the premises, he or she shall give to the owner or operator a receipt describing the sample(s) obtained and, if requested, a portion of each sample equal in volume or weight to the portion retained. If any analysis is made of the sample(s), a copy of the results of the analysis shall be furnished promptly to the owner or operator. Copies of Department inspection forms and reports will be provided to the regulated facility owner or operator upon request.

D. In addition to, or instead of, the inspections specified in subsection A above, the Department may require the owner or operator of an underground storage tank or aboveground storage tank to employ, periodically, a service provider certified by the International Code Council to conduct an audit or assessment of the tank(s) to determine whether the facility complies with the design and construction standards of subsection 13.09.110 (Underground Storage Tanks) and 13.09.120 (Aboveground Storage Tanks), whether the owner or operator has monitored and tested the tank required by his permit, and whether the tank is in a safe operating condition. The inspector shall prepare an inspection report with recommendations concerning the safe storage of hazardous substances at the regulated facility. The report shall contain recommendations consistent with the provisions of this chapter where appropriate. A copy of the report shall be filed with the Department at the same time the inspector submits the report to the owner or operator of the regulated facility. The owner or operator shall file with the Department a plan to implement all recommendations contained in the report, along with any additional requirements imposed by the Department within 30 days after receiving the report or within 30 days of receiving additional requirements imposed by the Department, whichever is later. Alternatively, the owner or operator may demonstrate within the same period, to the satisfaction of the Department, why one or more of these recommendations should not be implemented. (Ord. 27568 Exhibit A; passed Dec 19, 2006: Ord. 24083 § 1; passed May 10, 1988)

13.09.140 Spill prevention and management.

A. Owners and operators of regulated facilities including businesses, wholesale distributors, processors, and manufacturers must adopt and comply with appropriate spill or leak prevention and

management practices in accordance with the General Guidance and Performance Standards. Regulated facilities will be evaluated by the Department during initial and subsequent inspections (not less frequently than biennially) in response to spills or releases to the environment, or as a result of substantial modification or changes in operation to determine if additional requirements are necessary to comply with appropriate spill prevention and management standards.

B. Spill Prevention Requirements. Owners and operators of regulated facilities must prepare and follow a schedule for the following activities as set forth in the General Guidance and Performance Standards:

1. Facility Inspection

a. Loading, unloading, and transfer areas

b. Container storage, handling, and integrity

c. Container labeling

d. Secondary containment

e. Bulk storage

2. Employee training

3. Recordkeeping and hazardous substances inventory

C. Spill Management Requirements. Before obtaining a South Tacoma Groundwater Protection District permit, owners and operators of regulated facilities must prepare and submit a written spill management plan, which explains the procedures that will be followed in response to an unexpected release of hazardous substances. The spill management plan must contain facility and site specific information, an inventory or description of spill response equipment, and response procedures, all in accordance with the General Guidance and Performance Standards. (Ord. 27568 Exhibit A; passed Dec 19, 2006: Ord. 24083 § 1; passed May 10, 1988)

13.09.150 Release reporting, investigation, corrective actions.

A. Release Reporting. The owners and operators of a regulated facility shall report within 24 hours, unless otherwise indicated:

1. All belowground releases of a hazardous substance in any quantity, including:

a. Testing, sampling, or monitoring results from a release detection method that indicates a release may have occurred.

b. Unusual operating conditions, such as the erratic behavior of product-dispensing equipment, the sudden loss of product from the underground storage tank, an unexplained presence of water in the tank, or the physical presence of the hazardous substance or an unusual level of vapors on the site that are of unknown origin.

c. Impacts in the surrounding area, such as evidence of hazardous substances or resulting vapors in soils, basements, sewer and utility lines, and nearby surface water.

d. Other conditions as may be established by the Department and incorporated into the General Guidance and Performance Standards.

The Department, in administering and enforcing this section, may, if appropriate, take into account types, classes, and ages of underground storage tank(s). In making such distinctions, the Department may take into consideration factors including, but not limited to: location of the tank(s), soil conditions, use of the tank(s), history of maintenance, age of the tank(s), current industry-recommended practices, hydrogeology, water table, size of the tank(s), quantity of hazardous substance periodically deposited in or dispensed from the regulated facility, the technical capability of the owners and operators, the compatibility of the hazardous substance, and the materials of which the tank(s) is fabricated.

2. All above-ground releases of petroleum to land in excess of 25 gallons, or less than 25 gallons if the release reaches a pervious surface or drain or the owners and operators are unable to contain or clean up the release within 24 hours.

3. All above-ground releases which result in a sheen on the surface water or stormwater.

4. All above-ground releases to land or surface waters of hazardous substances other than petroleum in excess of the reportable quantity established under 40 CFR 302 as may be amended from time to time for the released substance shall be reported immediately.

5. Any known or suspected discharge of hazardous substance to a stormwater infiltration unit.

6 The owners or operators shall provide, within 30 days, any additional information on corrective action as may be required by the Department and referenced in the General Guidance and Performance Standards.

B. Investigation and Confirmation.

Unless corrective action is initiated by the owner or operator or is otherwise directed by the Department, all suspected releases requiring reporting, as set forth above, must be immediately investigated by the

owner or operator using an appropriate procedure as set forth by the Department in accordance with the General Guidance and Performance Standards. Such procedures may include, but shall not be limited to, the following:

1. A site-specific investigation of surrounding soils, groundwater, wastewater, sewer and other utility lines and structures, and nearby surface water.

2. An investigation of the secondary containment area, if applicable.

3. Testing of the tank(s) and piping for tightness or structural soundness.

Confirmation of a release by one of these methods will require the owner and operator to comply with the requirements for corrective action as set forth below.

C. Corrective Action.

All owners or operators of a regulated facility shall, in response to a suspected or confirmed release, comply with the directives and requirements of the Department in accordance with the General Guidance and Performance Standards.

D. A report to the Department shall not be deemed compliance with any reporting requirements of any federal or state law. (Ord. 27568 Exhibit A; passed Dec 19, 2006: Ord. 24083 § 1; passed May 10, 1988)

13.09.160 Recordkeeping.

A. A regulated facility must maintain written records of the following:

1. Hazardous Waste Disposal Records. Hazardous waste disposal records documenting proper disposal must be retained for at least five years from the date the waste was accepted by the transporter. Records may include but are not limited to manifests, bills of ladings, and receipts. (Note: The Department encourages businesses to retain hazardous waste disposal or recycling records indefinitely.)

2. Release Detection Method Records. Records documenting the equipment manufacturer or installer's leak detection devices performance must be retained for a period of no less than five years. All monitoring or sampling results must be maintained for at least one year. Tank tightness test results must be kept until the tank is tested again.

3. Corrosion Protection System Records. Reporting periods for corrosion protection systems must be retained for a minimum of one year or as proposed by the Environmental Protection Agency pursuant to 40 CFR 280 as may be amended from time to time.

4. Tank Repair Records. Records demonstrating that the tank was properly repaired and passed ultrasonic and vacuum tests must be retained until closure.

5. Facility and Underground Storage Tank Closure Records. Records showing samples collected during the closure process must be kept for one year in the case of a temporary closure and three years in the case of a permanent closure.

6. Stormwater Infiltration Unit(s) Records. Operation and maintenance inspections by owner or stormwater management professionals.

B. Any other recordkeeping requirement that may be required by a permit issued pursuant to this chapter or as established in the General Guidance and Performance Standards.

1. All records required by this subsection must be maintained:

a. On-site and be immediately available for inspection; or

b. At a readily available alternative site and be provided for inspection by the Department within 24 hours; and

c. Retained for no less than five years, unless otherwise specified.

C. All records and information are subject to public disclosure unless protected from disclosure by RCW 42.17.310 as may be amended from time to time, RCW 19.108 et seq., or other state or federal law.

Excavation operations within the boundaries of this district shall be subject to the permit requirements and standards contained in Section 3.06.040 or 2.02.480 of the City Code as considered appropriate. (Ord. 27568 Exhibit A; passed Dec 19, 2006: Ord. 24083 § 1; passed May 10, 1988)

13.09.170 Waivers.

Any person may apply to the Department for a waiver of any requirement imposed by this chapter or any regulation, standard, or ruling generated hereunder; provided, that the waiver request does not conflict with any other local, State, or Federal requirement. In determining whether a waiver is appropriate, the Department shall require an applicant to demonstrate by clear and convincing evidence that, because of special circumstances, not generally applicable to other property or facilities, including size, shape, design, topography, location, or surroundings, the application of the standards of this chapter would be unnecessary to adequately protect the soil and groundwaters of the South Tacoma Groundwater Protection District from an

unauthorized release, or that strict application would create practical difficulties not generally applicable to other facilities or properties, and that the proposed alternative method or process will still adequately protect the soil and groundwaters of the South Tacoma Groundwater Protection District. (Ord. 27568 Exhibit A; passed Dec 19, 2006: Ord. 24083 § 1; passed May 10, 1988)

13.09.180 Deferral.

The Department may, at its discretion, elect to defer enforcement of specific South Tacoma Groundwater Protection District requirements if other state, local, or federal regulations or permits provide an equivalent or superior level of environmental protection. Such deferrals shall be subject to periodic review by the Department and may be revoked or modified upon a finding that an equivalent or superior level of environmental protection is no longer provided. (Ord. 27568 Exhibit A; passed Dec 19, 2006: Ord. 24083 § 1; passed May 10, 1988)

13.09.190 Enforcement Responsibility.

It shall be the duty of the Director to enforce and administer the provisions of this chapter, except that:

a. It shall be the duty of the Director of the Public Works Department or his/her designee to enforce the specific provisions of Section 13.09.060 of this chapter.

b. It shall be the duty of the Tax and License Division of the Finance Department of the City or any successor department to suspend or revoke a business license when deemed necessary by the Department and the Tax and License Division pursuant to Section 13.09.260(b) of this chapter.

c. It shall be the duty of the Legal Department of the City or any successor department to enforce the criminal penalties as set forth in section 13.09.250 of this chapter. (Ord. 27568 Exhibit A; passed Dec 19, 2006: Ord. 24083 § 1; passed May 10, 1988)

13.09.200 Enforcement Process.

A. Each violation requires a review of all relevant facts in order to determine the appropriate enforcement response. When enforcing the provisions of this Chapter the Director shall, as practical, seek to resolve violations without resorting to formal enforcement measures. When formal enforcement measures are necessary, the Director shall seek to resolve violations administratively prior to imposing civil penalties or seeking other remedies. The Director shall generally seek to gain compliance via civil penalties prior to pursuing criminal penalties. The Director will consider a variety of factors when determining the appropriate enforcement response, including but not limited to:

1. severity, duration, and impact of the violation(s);

2. compliance history, including any similar violations at the same facility or caused by the same operator;

3. economic benefit gained by the violation(s);

4. intent or negligence demonstrated by the person(s) responsible for the violation(s);

5. responsiveness in correcting the violation(s); and,

6. other circumstances, including any mitigating factors.

B. Voluntary Compliance. The Director may pursue a reasonable attempt to secure voluntary compliance by contacting the owner or other person responsible for the violation, explaining the violation and requesting compliance. This contact may be in person or in writing or both.

C. Notice of Violation. When the Director determines that a violation has occurred or is occurring the Director may issue a Notice of Violation to the person(s) responsible for the violation. A Notice of Violation may be issued without having attempted to secure Voluntary Compliance based upon an assessment of the factors listed in section 13.09.200(A) above.

1. Documentation of Violations.

A Notice of Violation shall: include a description of the regulated facility; document the nature of the violation(s); cite the particular section(s) or provision(s) of this Chapter or of the General Guidance and Performance Standards which has been violated; describe the required corrective action(s); specify a date or time by which the violation(s) must be corrected; describe penalties and other remedies available pursuant to this chapter; and, describe applicable administrative review or appeal processes.

2. Service of Notice of Violation.

a. Whenever service is required or permitted to be made upon a person responsible for the violation represented by an attorney, the service shall be made upon the attorney unless otherwise ordered by the court. Service upon the attorney or upon a person responsible for the violation shall be made by delivering a copy to him or by mailing it to him at his last known address or, if no address is known, filing with the clerk of the court an affidavit of attempt to serve. Delivery of a copy within this Chapter means: handing it to the attorney or to the person responsible

for the violation; or leaving it at his office with his clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein.

b. If service is made by mail, the papers shall be deposited in the post office addressed to the person on whom they are being served, with the postage prepaid. The service shall be deemed complete upon the third day following the day upon which they are placed in the mail, unless the third day falls upon a Saturday, Sunday, or legal holiday, in which event service shall be deemed complete on the first day other than a Saturday, Sunday or legal holiday, following the third day.

c. Proof of service of all papers permitted to be mailed may be by written acknowledgement of service, by affidavit of the person who mailed the papers, or by certificate of an attorney. If by personal service or by posting, proof of service may be by written declaration, under penalty of perjury, executed by the person affecting the service, declaring the time and date of service and the manner in which the service was made. If by posting the written declaration shall include the facts showing that due diligence was used in attempting to serve the person(s) responsible for the violation personally or by mail. (Ord. 27568 Exhibit A; passed Dec 19, 2006: Ord. 24083 § 1; passed May 10, 1988)

13.09.210 Administrative Review.

A. Any person to whom a Notice of Violation or civil penalty has been issued may request an administrative review of the Notice of Violation or civil penalty.

B. A request for an Administrative Review shall be filed with the Department no later than 14 days following the date of the Notice of Violation or the first assessed civil penalty. The request shall be in writing and shall state the reasons the Director should review the Notice of Violation or issuance of the civil penalty. Failure to state a basis for the review shall be cause for dismissal of the review.

C. Following review of the information provided the Director shall determine whether a violation occurred. The Director may affirm, vacate, suspend, or modify the Notice of Violation or the amount of any monetary penalty assessed. The Director's written decision shall be delivered to the appellant by first-class mail and by certified mail, return-receipt requested. (Ord. 27568 Exhibit A; passed Dec 19, 2006)

13.09.220 Appeals.

A. Procedures for appeals to the Tacoma-Pierce County Board of Health's Hearing Examiner from any ruling or decision of the Department pursuant to this Chapter shall be taken in accordance with Tacoma-Pierce County Board of Health Resolution No. 2002-3411 as may be amended from time to time.

B. Procedures for appeals to the City of Tacoma Hearing Examiner from any ruling or decision by the Land Use Administrator or the Tax and License Division shall be taken in accordance with Chapter 1.23 TMC as may be amended from time to time.

C. Criminal appeals may be taken in accordance with the law. (Ord. 27568 Exhibit A; passed Dec 19, 2006)

13.09.230 Penalties.

Any person responsible for a violation shall be subject to civil and/or criminal (misdemeanor) penalties or additional enforcement procedures on each offense. Each day that a violation continues, or that a person responsible for a violation fails to comply with any of the provisions of this Chapter or refuses or neglects to obey any of the orders, rules or regulations issued by the Department or the Tacoma-Pierce County Health Department Board of Health may be considered a separate violation. Imposition of penalties or other enforcement action under this Chapter does not preclude other violations or penalties of law that may be available pursuant to various Federal and State statutes or other laws. (Ord. 27568 Exhibit A; passed Dec 19, 2006)

13.09.240 Civil Penalty.

A. Any person responsible for a violation may be assessed one or more civil penalties.

B. Determination of civil penalty. The person(s) responsible for a violation shall incur a monetary penalty for each violation as follows:

1. First day of each violation: $250.00

2. Second day of each violation: $500.00

3. Each additional day of each violation beyond two days: $500 per day

C. Collection of monetary penalties

1. The monetary penalty constitutes a personal obligation of the person to whom a Notice of Violation is directed. Any monetary penalty assessed must be paid within 10 calendar days from the date of notice from the Department that penalties are due.

2. The Director or his/her designee is authorized to take appropriate action to collect the monetary penalty.

D. Continued Duty to Correct. Payment of a monetary penalty pursuant to this Chapter does not relieve the person(s) responsible for the violation of the duty to correct the violation(s).
(Ord. 27568 Exhibit A; passed Dec 19, 2006)

13.09.250 Criminal Penalty--Misdemeanor.

In addition to or as an alternative to the civil penalty provided herein or by law any person responsible for a violation may be guilty of a misdemeanor. Each violation may be prosecuted by the authorities of the city in the name of the people of the state of Washington or the city of Tacoma. The maximum misdemeanor penalty, upon conviction thereof, shall be punished by a fine in any sum not exceeding $1,000.00, or by imprisonment in the Pierce County Jail for a term not exceeding 90 days, or by both such fine and imprisonment. (Ord. 27568 Exhibit A; passed Dec 19, 2006)

13.09.260 Other Remedies.

The Department reserves the right to pursue other remedies in order to reduce or eliminate threats to the groundwater resource from improper handling, storage, and disposal of hazardous substances by regulated businesses. Pursuit of other remedies shall generally be reserved for instances in which civil penalties have not been or are deemed unlikely to be effective. Other remedies include, but are not limited to:

A. Utility Holds. Pursuant to Chapter 12.10 TMC, the Director may request that water service to a regulated facility be discontinued.

B. Revocation or suspension of City-issued licenses. The Director may request suspension or revocation of City-issued licenses, including but not limited to the Business License issued by the Tax and License Division of the Finance Department or its successor department.

C. Petition for revocation of permits or licenses issued by state or federal agencies. The Director may petition state or federal permitting agencies to suspend or revoke permits or licenses held by persons responsible for violations or issued to regulated facilities. (Ord. 27568 Exhibit A; passed Dec 19, 2006)

13.09.270 Severability.

In the event that any one or more sections, subsections, paragraphs, or parts of this Chapter are for any reason declared invalid or held unconstitutional by any court of last resort, every other section, subsection, paragraph, or part shall continue in full force and effect. (Ord. 27568 Exhibit A; passed Dec 19, 2006)

Chapter 13.10

SHORELINE MANAGEMENT[3]

Sections:

13.10.005 Adoption of Shoreline Management procedures.
13.10.010 Purpose.
13.10.020 Applicability.
13.10.030 Definitions.
13.10.040 S-1 Shoreline District – Western Slope South.
13.10.050 S-2 Shoreline District – Western Slope Central.
13.10.060 S-3 Shoreline District – Western Slope North.
13.10.070 S-4 Shoreline District – Point Defiance – Natural.
13.10.080 S-5 Shoreline District – Point Defiance – Conservation.
13.10.090 S-6 Shoreline District – Ruston Way.
13.10.100 S-7 Shoreline District – Schuster Parkway.
13.10.110 S-8 Shoreline District – Thea Foss Waterway.
13.10.120 S-9 Shoreline District – Puyallup River.
13.10.130 S-10 Shoreline District – Port Industrial.
13.10.140 S-11 Shoreline District – Marine View Drive South.
13.10.150 S-12 Shoreline District – Marine View Drive North.
13.10.160 S-13 Shoreline District – Commencement Bay and Tacoma Narrows.
13.10.170 S-14 Shoreline District – Wapato Lake.
13.10.175 Regulations.
13.10.180 *Repealed.*
13.10.190 Pre-existing uses.
13.10.200 *Repealed.*
13.10.320 *Repealed.*
13.10.330 Rescission of permits.
13.10.340 Enforcement.
13.10.350 *Repealed.*
13.10.360 Severability.

13.10.005 Adoption of Shoreline Management procedures.

The City of Tacoma hereby adopts by reference the following sections or subsections of Chapter 173-27 of the Washington Administrative Code ("WAC") (Shoreline Management Permit and Enforcement Procedures):

WAC

173-27-020 Purpose.

173-27-030 Definitions.

173-27-040 Developments exempt from substantial development permit requirement.

173-27-050 Letter of exemption.

173-27-060 Applicability of Chapter 90.58 RCW to Federal lands and agencies.

173-27-070 Application of the permit system to substantial development undertaken prior to the effective date of the Act.

173-27-090 Time requirements of permit.

173-27-100 Revisions to permits.

173-27-120 Special procedure for limited utility extensions and bulkheads.

173-27-130 Filing with department.

173-27-140 Review criteria for all development.

173-27-150 Review criteria for substantial development permits.

173-27-160 Review criteria for conditional use permits.

173-27-170 Review criteria for variance permits.

173-27-190 Permits for substantial development, conditional use, or variance.

173-27-240 Purpose.

173-27-250 Definitions.

173-27-260 Policy.

173-27-270 Order to cease and desist.

173-27-280 Civil penalty.

173-27-290 Appeal of civil penalty.

173-27-300 Criminal penalty.

173-27-310 Oil or natural gas exploration – Penalty.

(Ord. 26175 § 1; passed Dec. 16, 1997)

13.10.010 Purpose.

Pursuant to the authority conferred by Article XI, Section 11 of the Constitution of the State of Washington and Chapter 90.58 RCW, the Shoreline Management Act of 1971, this chapter hereby

[3] Prior legislation: Ords. 21821, 22228, 22246, 22400, 22496, 22562, 22599, 22884, 23027, 23106, 23262, 23310, 23583, 23834, 23909, 25062, 25128, 25141, and 25212.

establishes Shoreline District designations, shoreline use regulations, and permit procedures for shoreline management in the City of Tacoma. (Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.020 Applicability.

The provisions of this chapter shall apply to those shorelines of the City of Tacoma which are governed by the Shoreline Management Act and shall apply to such other shorelines or shoreline areas as may be designated by the City of Tacoma, and said provisions shall modify the regulations and other provisions of Chapter 13.06 for shorelines, as well as shoreline areas described in Sections 13.10.040 through 13.10.170 of this chapter; provided, that the specific provisions of Chapter 13.06 shall apply when not specifically covered by this chapter; and further provided, that where Chapter 13.06 and this chapter may be in conflict, the provisions of this chapter shall apply.

The requirements of Tacoma Municipal Code Chapter 13.11, Critical Areas Preservation, apply within areas landward of the ordinary high water mark and within the shoreline districts, where critical areas are present. When applying the requirements of Chapter 13.11 to critical areas within the shoreline districts, the term "wetlands" refers to its usage and definition in Chapter 13.10. If there are any conflicts between the master program and Chapter 13.11, the most restrictive requirements apply. (Ord. 25854 § 2; passed Feb. 27, 1996: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.030 Definitions.

As used in this chapter, unless the context otherwise requires, the following definitions and concepts apply:

1. "Aquaculture" means the culture or farming of food fish, shellfish, or other aquatic plants and animals.

2. "Artisan/craftsperson" means commercial activities that may have industrial characteristics such as noise, vibrations, odors, use of mechanical equipment or material storage, but provide public involvement or public access to unique artistic, crafts, or heritage skills. Examples include glass blowing, wooden boat building or restoration, pottery, and artist studios and schools.

3. "Beds of navigable waters" or "bedlands" means those submerged lands, including tidelands where appropriate, underlying navigable waters.

4. "Boat house" means covered moorage which includes walls and a roof to protect the vessel.

5. "Bulkhead line" means the line that establishes the channelward limit to which landfills or bulkheading may extend as designated by the Federal government.

6. "City" means City of Tacoma.

7. "Department of Ecology" means the Washington State Department of Ecology.

8. "Director" means the Director of the Department of Ecology.

9. "Dredging" means excavation or removal of the bottom or shoreline of a water body. Dredging can be accomplished with mechanical or hydraulic machines.

10. "Environmental remediation" consists of those actions taken to identify, eliminate, or minimize any threat posed by hazardous substances to human health or the environment. Such actions include any investigative, site remediation, and monitoring activities undertaken with respect to any release or threatened release of a hazardous substance.

11. "Extreme low tide" means the lowest line on the land reached by a receding tide.

12. "Floating home" means a structure designed and operated substantially as a permanently based structure and not as a vessel; typically characterized by permanent utilities and a semi-permanent anchorage/moorage design, and by the lack of adequate self propulsion to operate as a vessel.

13. "Floodway" means those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal conditions, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition. The floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the Federal government, the State or a political subdivision of the State.

14. "Footprint – building" means that area defined by the exterior walls of a structure.

15. "Footprint – overwater deck" means that area defined by the perimeter of an overwater pier or deck structure.

16. "Grey water" means wastewater generated by water-using fixtures and appliances such as sinks, showers, and dishwaters, but excluding the toilet.

17. "Habitat improvement" means any actions taken to intentionally improve the overall processes, functions, and values of critical habitats, including wetland, stream, and aquatic habitats. Such actions may or may not be in conjunction with a specific development proposal, and include, but are not limited to, restoration, creation, enhancement, preservation, acquisition, maintenance, and monitoring.

18. "Harbor area" means the area of navigable tidal waters between the inner and outer harbor lines where established in front of and within one mile of the corporate limits of an incorporated city or town by the Board of Natural Resources acting as the State Harbor Lines Commission as established by Section 1 of Article XV of the Washington State Constitution. This area may be leased but never sold by the State, and must be reserved for the purpose of navigation and commerce.

19. "Hazardous substances" means those wastes designated by WAC 173-340-200, and regulated as hazardous substances by the Department of Ecology.

20. "Hearings Board" means the Shorelines Hearings Board established by the Act.

21. "Houseboat" means a vessel used for living quarters but licensed and designed substantially as a mobile structure by means of detachable utilities for facilities, anchoring, and the presence of adequate self-propulsion to operate as a vessel.

22. "Inner harbor line" means the line established by the State in navigable tidal waters between the line of ordinary high tide and the outer harbor line and constituting the inner boundary of the harbor area. This line determines the seaward extent of private ownership in tidal or shoreland areas (often corresponds to the "bulkhead line.")

23. "Landfill" means placing soil, sand, rock, dredge material, gravel, or other material (excluding solid waste) to provide new land, tideland, or bottom land area along the shoreline below the ordinary high water mark, or on upland areas in order to raise the elevation. Disposal of hazardous substances and other materials in conjunction with an environmental cleanup in accordance with State and Federal regulations is considered environmental remediation.

24. "Live-aboard vessel" means a vessel used primarily as a residence, and if used as a means of transportation or recreation, said transportation or recreation is a secondary or subsidiary use. Any vessel used for overnight accommodation for more than 15 nights in a one-month period shall be considered a residence.

25. "Lot frontage" means that portion of a lot abutting upon the lot line running parallel to and farthest landward of the ordinary high water mark.

26. "Maintenance dredging" means dredging for the purpose of maintaining a prescribed minimum depth of any specific waterway project.

27. "Marine Sanitation Device Type I" means a Coast Guard-approved marine toilet which breaks up and disinfects sewage with chemicals.

28. "Marine Sanitation Device Type II" means a Coast Guard-approved marine toilet which treats sewage through maceration and biological decomposition.

29. "Marine Sanitation Device Type III" means a Coast Guard-approved holding tank in which raw, untreated sewage is stored until it can be properly disposed of at a pump-out station.

30. "Master Program" means the Master Program for shoreline development for Tacoma, which includes such shoreline management goals, policies, maps, diagrams, charts, inventory, or other descriptive material and text as may be adopted by resolution, together with such Shoreline District designations, use regulations, and permit procedures as may be adopted by ordinance to implement said goals, policies, etc., said Master Program developed in accordance with the provisions of the Shoreline Management Act, Chapter 90.58 RCW.

31. "Mineral extraction" means the removal of naturally occurring materials (including sand and gravel) from the earth, by commercial mining operations/operators, but excludes dredging as defined herein.

32. "Mitigation" means a negotiated action involving the avoidance, minimization, or compensation for possible adverse impacts.

33. "Mixed-use projects" means developments which include a combination of components, such as residential uses, hotels, marinas, habitat improvement actions, public access provisions, and other uses.

34. "Navigable waters" means waters which are, in fact and without substantial alteration, capable of being used practically for the carriage of commerce. Navigable waters include waters meandered by government surveyors as navigable unless otherwise declared by a court. Navigable waters do not include waters inside an inner harbor line.

35. "Normal maintenance" means those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. See "Normal repair."

36. "Normal protective bulkhead" means a bulkhead constructed at or near the ordinary high water mark, the sole purpose of which is to protect land from erosion, not to create new land.

37. "Normal repair" means to restore a development to a state comparable to its original condition, including, but not limited to, its size, shape, configuration, location, and external appearance, within a reasonable period of decay or partial destruction, except where repair involves total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment. See "Normal maintenance."

38. "On-site containment facility" means a facility for which the sole purpose is a permanent disposal site for hazardous substances and allows no other use of the site. This would not preclude the disposal of hazardous substances in accordance with State and Federal regulations which allows a reasonable use of the site. This would also not preclude the natural recovery of a contaminated sediment site in accordance with State and Federal regulations. The proposed plan for disposal at the ASARCO site, which includes containment of materials, does not constitute an on-site containment facility under these regulations.

39. "Ordinary high water mark" ("OHWM") on all lakes, streams, and tidal water is that mark which will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, as that condition existed on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the City or the Department of Ecology; provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide, and the ordinary high water mark adjoining fresh water shall be the line of mean high water.

40. Outdoor Advertising. See "Sign, advertising."

41. "Outer harbor line" means the line located and established by the State in navigable waters beyond which the State shall never sell or lease any rights whatever. This line determines the extent of water area which may be leased to private interests (often corresponds to the "pierhead line").

42. "Person" means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the State or local government unit however designated.

43. "Pierhead line" means the channelward limit to which open pile work may be constructed as designated by the Federal government.

44. "Pre-existing use/development" means a shoreline use or structure which was lawfully constructed or established prior to the effective date of the applicable Act or Master Program provision, and which no longer conforms to the applicable shoreline provisions.

45. "Public access area" means an area, pathway, road, or structure open to use by the general public and affording contact with or views of public waters.

46. "Public use/public access" means the protection of the public's right to use navigable waters, and the provision of both physical and view access to and along the public waters.

47. "Recreation" means the refreshment of body and mind through forms of play, sports, relaxation, or contemplation. Water-oriented recreation includes activities such as boating, fishing, swimming, skin-diving, scuba diving, and enjoying the natural beauty of the shoreline or its wildlife through nature walks, photography, wildlife observation, and hiking.

48. "Residential uses" means one-family dwellings, apartments, and condominiums. Hotels, motels, and boatels are considered to be commercial, not residential, uses.

49. "Salmon Beach development site" means all sites developed in the "S-3" Western Slope (North) Shoreline District with existing dwellings possessing legal, pre-existing use rights on January 15, 1974, the date of adoption of the draft Tacoma Shoreline Master Program by the Tacoma City Council per the requirements of the State Shoreline Management Act (Chapter 90.58 RCW).

50. "Setback" means the minimum distance from the lot line to the main building.

51. "Sewage" means wastewater associated with human habitation, including that portion of the wastewater from toilets or any other receptacles containing human or animal excreta and urine, commonly known as "black water."

52. "Shoreland" or "shoreland areas" means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark of Puget Sound, Commencement Bay, Thea Foss Waterway, Middle

Waterway, St. Paul Waterway, Puyallup Waterway and the Puyallup River (including Clear Creek), Milwaukee Waterway, Sitcum Waterway, Blair Waterway (including Wapato Creek), Hylebos Waterway (including Hylebos Creek), Wapato Lake, Titlow Lagoon, floodways and contiguous floodplain areas landward 200 feet from such floodways, and all wetlands and river deltas associated with the streams, lakes and tidal waters which are subject to the provisions of the Act. Wetlands landward of the OHWM are also regulated as described in Section 13.10.020 of this chapter.

53. Shoreline Environmental Designation. There are three shoreline environments defined and designated to exist on the shorelines of the City of Tacoma. These shoreline environmental designations are summarily defined as follows, and are defined in greater detail within those elements of the Shoreline Master Program which are adopted by resolution:

a. Natural Environment. The natural environment designation is designed to preserve and restore those shoreline areas existing relatively free of human influence.

b. Conservancy Environment. The conservancy environment designation is designed to protect, conserve, and manage existing shoreline, natural resources, and valuable historic and cultural shoreline areas.

c. Urban Environment. The urban environment designation is designed to ensure optimum utilization of shorelines within urbanized shoreline areas.

54. “Shorelines” means all of the water areas of the City, including reservoirs, and their associated shorelands, together with the lands underlying them, except: (a) shorelines of statewide significance; (b) shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per second or less, and the wetlands associated with such upstream segments; and (c) shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes. Within the City of Tacoma, “shorelines” include: (1) Wapato Lake, (2) Titlow Lagoon, and (3) those areas of Puget Sound and those areas within the manmade waterways of Commencement Bay lying landward from the line of extreme low tide.

55. “Shorelines of statewide significance” means the following shorelines of the State:

a. The area between the ordinary high water mark and the western boundary of the State from Cape Disappointment on the south to Cape Flattery on the north, including harbors, bays, estuaries, and inlets;

b. Those areas of Puget Sound and adjacent salt waters and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide as follows:

(1) Nisqually Delta – from DeWolf Bight to Tatsolo Point,

(2) Birch Bay – from Point Whitehorn to Birch Point,

(3) Hood Canal – from Tala Point to Foulweather Bluff,

(4) Skagit Bay and adjacent area – from Brown Point to Yokeko Point, and

(5) Padilla Bay – from March Point to William Point;

c. Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent saltwaters north to the Canadian line and lying seaward from the line of extreme low tide;

d. Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of 1,000 acres or more, measured at the ordinary high water mark;

e. Those natural rivers or segments thereof, as follows:

(1) Any west of the crest of the Cascade range downstream of a point where the mean annual flow is measured at 1,000 cubic feet per second, or more, and

(2) Any east of the crest of the Cascade range downstream of a point where the annual flow is measured at 200 cubic feet per second, or more, or those portions of rivers east of the crest of the Cascade range downstream from the first 300 square miles of drainage area, whichever is longer;

f. Those shorelands associated with paragraphs a, b, d, and e above.

Within the City of Tacoma, the Puyallup River is the only river which has been designated as having shorelines of statewide significance. Because the Puyallup River within the City has been diked, the shorelines of statewide significance include the shoreline area on both sides of the river landward 200 feet from the ordinary high water mark.

When dikes are located beyond 200 feet of the ordinary high water mark, the wetlands will be that area lying between the dike and the ordinary high water mark.

Other shorelines of statewide significance within the City of Tacoma are those areas of Puget Sound lying seaward from the line of extreme low tide. Within manmade waterways in Commencement Bay,

shorelines of statewide significance include the area lying seaward from the line of extreme low tide. In some waterways, where extensive bulkheading has taken place, the line of extreme low tide may only mean a difference in water depth within the channel. In those situations, the shoreline of statewide significance is taken from the water line at extreme low tide seaward.

56. "Shorelines of the City" means the total of all "shorelines" and "shorelines of statewide significance" within the City.

57. "Shorelines of the State" means the total of all "shorelines" and "shorelines of statewide significance" within the City.

58. "Sign, advertising" means all publicly displayed attached or freestanding signs whose purpose is to provide commercial identification of goods and services available on a site and advertising other than the name, occupation, and/or nature of the enterprise conducted on the premises. "Sign, advertising" shall not include merchandise and pictures or models of products or services incorporated in a window display or works of art which in no way identify a product, subject, however, to the illumination restrictions contained in Section 13.10.175.

59. "Sign, directional" means attached or freestanding railroad, highway, road, or traffic signs or signals erected, constructed, or maintained for the purpose of providing safety and directional information within public and private properties or rights-of-way for the movement of pedestrian and vehicular traffic.

60. "Sign, freestanding" means a self-supporting sign placed off and away from the building or use to which it is related. Freestanding signs may be single-faced or consist of two parallel and fully connected faces. The square footage of such signs shall be determined by the dimensions of the frame or edges of the sign, regardless of whether it is one- or two-faced.

61. "Sign, identification" means any attached or freestanding sign identifying the name, occupant, development, business, location, and/or nature of the enterprise conducted on the premises.

62. "Sign, informational" means a sign designed to impart educational, instructive, or historic information, or to identify parks or other public recreational facilities.

63. "Sign, public park activity" means any attached or freestanding sign comprised of a series of one-foot-by-one-foot sign placards which may be two-faced, bearing Federal recreation symbols, and an area identification placard (i.e., Ruston Way Logo) for the purpose of providing information as to the activities available at a public park facility. Such signs are excluded from regulation by this chapter.

64. "Solid waste" means all putrescible and nonputrescible solid and semisolid wastes, including garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles and parts thereof, discarded commodities, and any other discarded materials which may be deemed to be worthless for any use or purpose. Solid waste does not include hazardous substances or other materials generated, treated, or disposed of in conjunction with an environmental cleanup in accordance with State and Federal regulations.

65. "State Master Program" means the cumulative total of all local master programs approved or adopted by the Department of Ecology.

66. "Stockpiling of materials" means the accumulation and storage of raw materials, equipment, apparatus and/or supplies by an individual, business, or organization. Stockpiling of materials as a primary use activity is subject to all applicable shoreline permits. Stockpiling of materials as a secondary use activity pursuant to a valid shoreline permit is considered a permitted use activity.

67. "Stream" means a naturally occurring body of periodic or continuously flowing water where the water is contained within a channel.

68. "Streamway" means the bed and banks of a stream.

69. "Substantial development undertaken on the shorelines of the State prior to the effective date of the Act" means actual construction begun upon the shoreline as opposed to preliminary engineering or planning.

70. "Underground utilities" means services which produce and carry electric power, gas, sewage, communications, oil, water, and storm drains below the surface of the ground.

71. "Upland" means landward of the ordinary high water mark.

72. "Uses and development activities" for the purposes of this chapter means the following uses and development activities as defined in the Final Guidelines of the Department of Ecology (WAC 173-16-060), RCW 90.58.030, and the adopted Master Program for the City of Tacoma:

Agricultural and forest management use activities
Aquaculture
Breakwaters
Bulkheads
Commercial
Dredging
Educational, historical, cultural, and archaeological areas
Environmental remediation
Habitat improvement
Jetties and groins
Landfill
Log storage and rafting
Marinas and boat launch facilities
Mineral extraction (excluding dredging)
Piers, wharves, docks, and floats
Port, terminal, and industrial
Recreation, water-oriented
Residential
Road and railroad construction and location
Shoreline protection (streams)
Solid waste disposal
Utilities

73. "Water-dependent" means a use or a portion of a use which requires direct contact with the water and cannot exist at a non-water location due to the intrinsic nature of its operation. Some examples of water-dependent uses include: swimming beaches, fishing piers, ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, reserves which allow biological systems to continue in a natural undisturbed manner, environmental remediation, and habitat improvement projects.

74. "Water enjoyment" means a use which provides for recreation involving the water or facilitates public access to the shoreline as a primary characteristic of the use, or a use which provides for aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and, through location, design, and operation assures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. To qualify as water enjoyment, a use must be open to the general public and the waterward side of the project must be devoted to provisions that accommodate public enjoyment, and the project must meet the Shoreline Master Program public access requirements. Some examples of water enjoyment uses include: viewing towers, parks, cultural facilities, artisan/craftsperson uses, restaurants, educational/scientific reserves, and mixed-use projects.

75. "Water-oriented" is a term used to describe any water-dependent, water-related, or water enjoyment use.

76. "Water-related" means a use or a portion of use which is not intrinsically dependent on a waterfront location, but whose operation cannot occur economically without a waterfront location. Examples of water-related uses may include: warehousing, storage, or processing, where the goods are delivered to or shipped from the site by water.

77. "Wetlands" means areas that are inundated or saturated by surface water or groundwater at the frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

78. "Yard, front" means a yard extending the full width of the lot, the depth of which is the minimum distance from the front lot line to the main building.

79. "Yard, rear" means a yard extending the full width of the lot, the depth of which is the minimum distance from the rear lot line to the main building.

80. "Yard, side/view corridor" means a yard extending from the front yard to the rear yard along the side of the main building, the width of which yard is the minimum distance from the side lot line to the main building. (Ord. 27158 § 2; passed Nov. 4, 2003: Ord. 26410 § 1; passed Apr. 27, 1999: Ord. 26175 § 2; passed Dec. 16, 1997: Ord. 25904 § 1; passed May 28, 1996: Ord. 25854 § 3; passed Feb. 27, 1996: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25718 § 1; passed Jun. 20, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.040 S-1 Shoreline District – Western Slope South.

A. Intent. The intent of the "S-1" Shoreline District is to retain the existing character of the area and prohibit development of uses which will have significant adverse impact on existing housing.

B. Description. The "S-1" Shoreline District is hereby described as an area bounded by: a line lying 200 feet landward and generally parallel to the ordinary high water mark of the Tacoma Narrows; a line lying generally perpendicular to the shoreline and extending seaward from the center line of Sixth Avenue, at Walters Road, as measured along the centerline of the Burlington Northern Railway right-of-way; the Outer Harbor Line of the Tacoma Narrows; the seaward line of jurisdiction common to the City of Tacoma and Pierce County, said line being the center line of Day Island Waterway; and the Tacoma City Limit (South 19th Street), extended.

C. Environmental Designation. The "S-1" Shoreline District is hereby designated as an "urban" environment, as summarily defined in Section 13.10.030 of this chapter, and as further defined within those elements of the Shoreline Master Program which are adopted by resolution.

D. Substantial Development/Permitted Uses and Development Activities. The following uses and development activities shall be permitted subject to the issuance of a Substantial Development Permit, if required:

1. Aquaculture.

2. Bulkheads.

3. Dredging, maintenance, and for environmental remediation and habitat improvement projects.

4. Educational, historical, cultural, and archaeological areas.

5. Environmental remediation.

6. Habitat improvement.

7. Landfill above the OHWM in conjunction with a specific use or landfill below the OHWM for environmental remediation or habitat improvement.

8. Marinas and boat launch facilities.

9. Piers, wharves, docks, and floats.

10. Recreation, water-oriented.

11. Residential, upland location only.

12. Road and railroad construction.

13. Utilities, underground.

14. Normal maintenance and repair of existing structures or developments, including damage by accident, fire, or elements.

E. Substantial Development/Conditional Uses and Development Activities. The following uses and development activities shall be permitted subject to the issuance of a Substantial Development/ Conditional Use Permit, if required; provided, that the applicant can demonstrate that any such use activity conforms with the criteria set forth in Section 13.10.180 of this chapter, and subject to approval of the Department of Ecology as set forth in Section 13.10.180 of this chapter:

1. Breakwaters.

2. Commercial, upland location only.

3. Dredging, non-maintenance.

4. Jetties and groins.

5. Landfill below the OHWM in conjunction with a specific use other than environmental remediation or habitat improvement.

F. Height Limit for Structural Improvements. Any building, structure, or portion thereof hereafter erected shall not exceed a height of 35 feet.

G. Area Regulations. A building or structure hereafter built, enlarged, or moved shall provide the following setbacks:

1. Side Yard/View Corridor. A minimum side yard/view corridor of 30 percent of the shoreline frontage of the site shall be provided, except as set forth below. Further, a building or structure shall not be permitted closer than five feet to any side lot line, except as provided below.

Under the following circumstances, elimination of or a lesser side yard/view corridor setback than set forth above may be authorized:

a. The adjacent land use is of such a character as to render a side yard/view corridor unreasonable or unnecessary (e.g., public open space, beach, or park).

b. The lesser setback will allow greater protection of or lessen impact upon the unique natural characteristics of the site.

c. Increased physical or visual access by the public to the shorelines and adjacent waters will be provided.

d. A reduced setback will minimize overwater construction.

e. Two or more contiguous properties are being developed under an overall development plan where view corridors will be provided which meet the intent and purposes of this section, the Tacoma Shoreline Master Program, and the Shoreline Management Act of 1971.

f. Better and/or more environmentally sensitive site and structure design can be achieved with a lesser setback.

g. A significant portion of the site, greater than that required, is being set aside for public access, public open space, or public access elements.

h. Excessive removal of vegetation would be necessary to meet the required setback.

In authorizing a lesser setback on one or more sides, the following circumstances shall be found to apply:

i. That one or more of the circumstances set forth in paragraphs a through h above are present or will occur.

j. That the reduction or elimination of the setback will not adversely affect the intended character of the shoreline district and the rights of neighboring property owners and will secure for neighboring properties substantially the same protection that the regulation, if enforced literally, would have provided.

k. The reduction or elimination of the setback will not be contrary to or adversely affect the intent and purposes of the Shoreline Master Program and the Shoreline Management Act.

l. Vehicular sight distance and pedestrian safety will not be adversely affected.

m. Undue view blockage or impairment of existing or proposed pedestrian access to the shorelines and adjacent waters will not result.

In authorizing elimination or reduction of a setback, conditions may be imposed on the permit as are necessary to ensure compliance with the circumstances and findings required above.

2. Front Yard. A minimum front yard having a depth of 20 feet shall be provided, except as set forth below.

Under the following circumstances, in conjunction with the issuance of a Shoreline Substantial Development Permit, elimination of or a lesser front yard setback than set forth above may be authorized, except for residential development, which shall meet the setbacks as stated.

a. The adjacent land use is of such a character as to render a front yard unreasonable or unnecessary (e.g., industrial development).

b. Where a previously established setback line can be ascertained on adjacent properties, structures may be allowed to the same line.

c. The lesser setback will allow greater protection of or lessen impacts upon the unique natural characteristics of the site.

d. A reduced setback will minimize overwater construction.

e. Better and/or more environmentally sensitive site and structure design can be achieved with a lesser setback.

In authorizing a lesser front yard setback, the following circumstances shall be found to apply:

f. That one or more of the circumstances set forth in paragraphs a through e above are present or will occur.

g. That the reduction or elimination of the setback will not adversely affect the intended character of the shoreline district and the rights of neighboring property owners and will secure for neighboring properties substantially the same protection that the regulation, if enforced literally, would have provided.

h. The reduction or elimination of the setback will not be contrary to or adversely affect the intent and purposes of the Shoreline Management Act.

i. Vehicular sight distance and pedestrian safety will not be adversely affected.

j. Undue view blockage or impairment of existing or proposed pedestrian access to the shorelines and adjacent waters will not result.

In authorizing elimination of a setback, conditions may be imposed on the permit as are necessary to ensure compliance with the circumstances and findings required above.

3. Rear Yard. A 20-foot minimum rear yard setback shall be provided, except as set forth below. For the purpose of this chapter, when a lot is partially under water, the setback shall be measured from the ordinary high water mark.

Under the following circumstances, in conjunction with issuance of a Shoreline Substantial Development Permit, elimination of or a lesser rear yard setback than set forth above may be authorized.

a. The adjacent land use is of such a character as to render a rear yard unreasonable or unnecessary (e.g., industrial development).

b. The lesser setback will allow greater protection of or lessen impacts upon the unique natural characteristics of the site.

c. Increased physical or visual access by the public to the shorelines and adjacent waters will be provided.

d. Better and/or more environmentally sensitive site and structure design can be achieved with a lesser setback.

e. Where a previously established setback line can be ascertained on adjacent properties, structures may be allowed to the same line.

In authorizing a lesser rear yard setback, the following circumstances shall be found to apply:

f. That one or more of the circumstances set forth in paragraphs a through e above are present or will occur.

g. That the reduction or elimination of the setback will not adversely affect the intended character of the shoreline district and the rights of neighboring property owners and will secure for neighboring properties substantially the same protection that the regulation, if enforced literally, would have provided.

h. The reduction or elimination of the setback will not be contrary to or adversely affect the intent and purposes of the Shoreline Management Act.

i. Vehicular sight distance and pedestrian safety will not be adversely affected.

j. Undue view blockage or impairment of existing or proposed pedestrian access to the shorelines and adjacent waters will not result.

In authorizing elimination or reduction of a setback, conditions may be imposed on the permit as are necessary to ensure compliance with the circumstances and findings required above.

For overwater construction, the above rear yard setbacks shall not apply. In conjunction with issuance of a Shoreline Substantial Development Permit, overwater construction may be authorized based on the following findings:

a. That the development will not adversely affect the intended character of the shoreline district and the rights of neighboring property owners and will secure for neighboring properties substantially the same protection that the regulation, if enforced literally, would have provided.

b. The development will not be contrary to or adversely affect the intent and purposes of the Shoreline Master Program and the Shoreline Management Act.

c. Undue view blockage will not result.

d. The development will be located to minimize interference with normal public use of navigable waters.

In authorizing overwater construction, conditions may be imposed on the permit as are necessary to ensure compliance with the findings above.

4. Lot Area. Every lot shall have a minimum average width of 50 feet, a minimum lot frontage of 25 feet, and an area of not less than 5,000 square feet. The lot area for a one-family dwelling shall not be less than 5,000 square feet, and for a two-family dwelling or a multiple-family dwelling, the lot area shall not be less than 6,000 square feet. A lot which was a single unified parcel of land as indicated by the record of the Pierce County Auditor as of May 18, 1953, having an average width of less than 50 feet, a frontage of not less than 25 feet, or an area of less than 5,000 square feet of record at the time of the passage of this chapter may be occupied by a one-family dwelling provided all yard requirements are complied with.

H. Parking and Loading Regulations. In addition to the parking and loading regulations set forth in Section 13.10.175 of this chapter, the following parking setback regulations shall apply within the "S-1" Western Slope South Shoreline District:

1. Parking for commercial development, marinas, and boat launch facilities shall not be allowed within 50 feet of the ordinary high water mark or within 200 feet of any recreational beach.

2. Parking for recreational development shall not be allowed within 50 feet of ordinary high water.

3. Parking areas shall be connected to the water by access paths.

I. Use and Development and Sign Regulations. Use and development and sign regulations are set forth in Section 13.10.175 of this chapter entitled "Regulations". (Ord. 27158 § 3; passed Nov. 4, 2003: Ord. 25854 § 4; passed Feb. 27, 1996: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25718 § 2; passed Jun. 20, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.050 S-2 Shoreline District – Western Slope Central.

A. Intent. The intent of the "S-2" Shoreline District is to encourage recreational development within the area; retain the natural beach areas for their educational, scientific and scenic value; and retain the natural steep slopes as a buffer between the railroad and residential areas.

B. Description. The "S-2" Shoreline District is hereby described as an area bounded by: a line lying 200 feet landward and generally parallel to the ordinary high water mark of the Tacoma Narrows; the centerline of the Tacoma Narrows Bridge; the Outer Harbor Line of the Tacoma Narrows; and a line lying generally perpendicular to the shoreline and extending seaward from the centerline of Sixth Avenue, at Walters Road, as measured along the centerline of the Burlington Northern Railway right-of-way.

C. Environmental Designation. The "S-2" Shoreline District is hereby designated as a "conservancy" environment, as summarily defined in Section 13.10.030 of this chapter, and as further defined within those elements of the Shoreline Master Program which are adopted by resolution.

D. Substantial Development/Permitted Uses and Development Activities. The following uses and development activities shall be permitted, subject to the issuance of a Substantial Development Permit, if required:

1. Aquaculture.

2. Educational, historical, cultural, and archaeological areas.

3. Dredging, maintenance, and for environmental remediation and habitat improvement projects.

4. Environmental remediation.

5. Habitat improvement.

6. Landfill above the OHWM in conjunction with a specific use or landfill below the OHWM for environmental remediation or habitat improvement.

7. Recreation, water-oriented, subject further to restrictions set forth in Section 13.10.175.B.16.

8. Road and bridge construction, except that new road construction shall be prohibited.

9. Utilities, underground.

10. Normal maintenance and repair of existing structures or developments, including damage by accident, fire, or elements.

E. Substantial Development/Conditional Uses and Development Activities. The following uses and development activities shall be permitted subject to the issuance of a Substantial Development/ Conditional Use Permit, if required; provided, that the applicant can demonstrate that any such use activity conforms with the criteria set forth in Section 13.10.180 of this chapter, and subject to approval of the Department of Ecology as set forth in Section 13.10.180 of this chapter:

1. Breakwaters.

2. Bulkheads.

3. Dredging, nonmaintenance.

4. Jetties and groins.

5. Landfill below the OHWM in conjunction with a specific use other than environmental remediation or habitat improvement.

6. Marinas and boat launch facilities. Marinas and boat launch facilities shall be prohibited seaward of mean higher high water and landward 50 feet from mean higher high water on a horizontal plane between the pond conduit and the bulkhead which existed at Hidden Beach Rocky Point on December 14, 1976.

7. Piers, wharves, docks, and floats.

F. Height Limit for Structural Improvement. Same as required in the "S-1" Western Slope South Shoreline District for all permitted uses.

G. Area Regulations. A building or structure hereafter built, enlarged, or moved shall provide the following setbacks:

1. Side Yard/View Corridor: Same as required in the "S-1" Western Slope South Shoreline District.

2. Front Yard Setback (street or road): Same as required in the "S-1" Western Slope South Shoreline District.

3. Rear Yard: Same as required in the "S-1" Western Slope South Shoreline District.

H. Parking and Loading Regulations. In addition to the parking and loading regulations set forth in Section 13.10.175 of this chapter, the following regulations shall apply to the "S-2" Western Slope Central Shoreline District: Additional parking for recreational uses shall be prohibited.

I. Use and Development and Sign Regulations. Use and development and sign regulations are set forth in Section 13.10.175 of this chapter entitled "Regulations". (Ord. 27158 § 4; passed Nov. 4, 2003: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25718 § 3; passed Jun. 20, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.060 S-3 Shoreline District – Western Slope North.

A. Intent. The intent of the "S-3" Shoreline District is to generally conserve the entire area in its natural state, which will allow the continuation of the residential community of Salmon Beach as a historic area of the City. The area of steep slope above the railroad shall be retained in vegetative cover to reduce siltation of the beach areas and to serve as a noise reducer between the railroad and housing areas.

B. Description. The "S-3" Shoreline District is hereby described as an area bounded by: a line lying 200 feet landward and generally parallel to the ordinary high water mark of the Tacoma Narrows; the south line of Point Defiance Park (north line of North Park Avenue extended); the Outer Harbor Line

of the Tacoma Narrows; and the centerline of the Tacoma Narrows bridge.

C. Environmental Designation. The "S-3" Shoreline District is hereby designated as a "conservancy" environment, as summarily defined in Section 13.10.030 of this chapter, and as further defined within those elements of the Shoreline Master Program which are adopted by resolution.

D. Substantial Development/Permitted Uses and Development Activities. The following uses and development activities shall be permitted, subject to the issuance of a Substantial Development Permit, if required:

1. Aquaculture.

2. Dredging for environmental remediation and habitat improvement projects.

3. Educational, historical, cultural, and archaeological areas.

4. Environmental remediation.

5. Habitat improvement.

6. Landfill above the OHWM in conjunction with a specific use or landfill below the OHWM for environmental remediation or habitat improvement.

7. Recreation, water-oriented.

8. Residential: Remodel and expansion of existing overwater single-family dwellings (including tear-down and reconstruction of dwellings consistent with the pre-existing use regulations set forth in Section 13.10.190) within the existing buildings' "footprint" on approved Salmon Beach development sites.

9. Road and bridge construction.

10. Utilities, underground.

11. Normal maintenance and repair of existing structures or developments, including damage by accident, fire, or elements.

E. Substantial Development/Conditional Uses and Development Activities. The following uses and development activities shall be permitted subject to the issuance of a Substantial Development/ Conditional Use Permit, if required; provided, that the applicant can demonstrate that any such use activity conforms with the criteria set forth in Section 13.10.180 of this chapter, and subject to approval of the Department of Ecology as set forth in Section 13.10.180 of this chapter.

1. Bulkheads.

2. Landfill below the OHWM in conjunction with a specific use other than environmental remediation or habitat improvement.

3. Piers, wharves, docks, and floats.

4. Residential: Expansion of existing overwater single-family dwellings beyond the existing building or overwater deck footprint and the relocation of existing dwellings waterward of their original location on approved Salmon Beach development sites.

F. Height Limit for Structural Improvements. Same as required in the "S-1" Western Slope South Shoreline District.

G. Area Regulations. A building or structure hereafter built, enlarged or moved shall provide the following setbacks:

1. Side Yard/View Corridor: Same as required in the "S-1" Western Slope South Shoreline District.

2. Front Yard Setback (street or road): Same as required in the "S-1" Western Slope South Shoreline District.

3. Rear Yard Setback: Same as required in the "S-1" Western Slope South Shoreline District.

H. Use and Development, Parking and Loading, and Sign Regulations. Use and development, parking and loading, and sign regulations are set forth in Section 13.10.175 of this chapter, entitled "Regulations." (Ord. 27158 § 5; passed Nov. 4, 2003: Ord. 26410 § 2; passed Apr. 27, 1999: Ord. 26175 § 3; passed Dec. 16, 1997: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.070 S-4 Shoreline District – Point Defiance – Natural.

A. Intent. The intent of the "S-4" Shoreline District is to protect the existing natural environment of the area, provide for perpetual utilization for park purposes, and permit the creation and improvement of view areas and trail systems.

B. Description. The "S-4" Shoreline District is hereby described as an area bounded by: a line lying 200 feet landward and generally parallel to the ordinary high water mark of the Tacoma Narrows and Commencement Bay; a line extending parallel to and 4,000 feet more or less west of the centerline of North Pearl Street, extended; the Outer Harbor Line of the Tacoma Narrows and Commencement Bay; and the south line of Point Defiance Park (north line of North Park Avenue, extended).

C. Environmental Designation. The "S-4" Shoreline District is hereby designated as a "natural" environment, as summarily defined in Section 13.10.030 of this chapter, and as further defined within those elements of the Shoreline Master Program which are adopted by resolution.

D. Substantial Development/Permitted Uses and Development Activities. The following uses and development activities shall be permitted, subject to the issuance of a Substantial Development Permit, if required:

1. Educational, historical, cultural, and archaeological areas.

2. Navigational aids (regulations, if any, shall be a condition of a Shoreline Management Substantial Development Permit).

3. Recreation which does not require structural modification of the shoreline other than unpaved trails and adjacent seating.

4. Underground water lines, upland forest zone only.

5. Viewing platforms and benches, upland location only.

6. Normal maintenance and repair of existing structures or developments, including damage by accident, fire, or elements.

E. Use and Development, Parking and Loading, and Sign Regulations. Use and development, parking and loading, and sign regulations are set forth in Section 13.10.175 of this chapter, entitled "Regulations".

F. Landscaping Regulations. Where landscape planting is required in the "S-4" Shoreline District, plant materials used shall be species native to the Point Defiance Natural environment. (Ord. 27158 § 6; passed Nov. 4, 2003: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.080 S-5 Shoreline District – Point Defiance – Conservation.

A. Intent. The intent of the "S-5" Shoreline District is to provide for perpetual utilization for park and recreational uses and permit the creation and enhancement of view areas and trail systems and allow development of marinas, boat launch facilities, and other water-oriented commercial uses.

B. Description. The "S-5" Shoreline District is hereby described as an area bounded by: a line lying 200 feet landward and generally parallel to the ordinary high water mark of Commencement Bay; the City Limit line common to the City of Tacoma and the Town of Ruston, said line being the westerly limit of the Town of Ruston; the Outer Harbor Line of Commencement Bay; and a line extending parallel to and 4,000 feet more or less west of the centerline of North Pearl Street, extended.

C. Environmental Designation. The "S-5" Shoreline District is hereby designated as a "conservancy" environment, as summarily defined in Section 13.10.030 of this chapter and as further defined within those elements of the Shoreline Master Program which are adopted by resolution.

D. Substantial Development/Permitted Uses and Development Activities. The following uses and development activities shall be permitted subject to the issuance of a Substantial Development Permit, if required:

1. Aquaculture.

2. Bulkheads.

3. Commercial, water-oriented.

4. Dredging, maintenance, and for environmental remediation and habitat improvement projects.

5. Educational, historical, cultural, and archaeological areas.

6. Environmental remediation.

7. Habitat improvement.

8. Landfill above the OHWM in conjunction with a specific use or landfill below the OHWM for environmental remediation or habitat improvement.

9. Marinas and boat launch facilities.

10. Piers, wharves, docks, and floats.

11. Recreation, water-oriented.

12. Road construction.

13. Utilities, underground.

14. Normal maintenance and repair of existing structures or developments, including damage by accident, fire, or elements.

E. Substantial Development/Conditional Uses and Development Activities. The following uses and development activities shall be permitted subject to the issuance of a Substantial Development/ Conditional Use Permit, if required; provided, that the applicant can demonstrate that any such use activity conforms with the criteria set forth in Section 13.10.180 of this chapter, and subject to approval of the Department of Ecology as set forth in Section 13.10.180 of this chapter:

1. Breakwaters.

2. Dredging, nonmaintenance.

3. Landfill below the OHWM in conjunction with a specific use other than environmental remediation or habitat improvement.

F. Height Limit for Structural Improvements. Same as required in the "S-1" Western Slope South Shoreline District.

G. Area Regulations. A building or structure hereafter built, enlarged or moved shall provide the following setbacks:

1. Side Yard/View Corridor: Same as required in the "S-1" Western Slope South Shoreline District.

2. Front Yard Setback (street or road): Same as required in the "S-1" Western Slope South Shoreline District.

3. Rear Yard Setback: Same as required in the "S-1" Western Slope South Shoreline District.

H. Use and Development, Parking and Loading, and Sign Regulations. Use and development, parking and loading, and sign regulations are set forth in Section 13.10.175 of this chapter entitled "Regulations." (Ord. 27158 § 7; passed Nov. 4, 2003: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.090 S-6 Shoreline District – Ruston Way.

A. Intent. The intent of the "S-6" Shoreline District is to encourage development of a coordinated plan of mixed public and private water-oriented use activities, including commercial, recreational, and open space development, which will prohibit development of new industrial use activities.

B. Description. The "S-6" Shoreline District is hereby described as an area bounded by: a line lying approximately 800 feet landward and generally parallel to the ordinary high water mark of Commencement Bay, within the northwesterly 2,155 feet of the "S-6" Shoreline District; and 200 feet landward and generally parallel to the ordinary high water mark of Commencement Bay, south of the northwesterly 2,155 feet of the "S-6" Shoreline District; the east line of Block 64 of Tacoma Tidelands; the Outer Harbor Line of Commencement Bay; and the City Limit line common to the City of Tacoma and the Town of Ruston, said line being the easterly limit of the Town of Ruston.

C. Environmental Designation. The "S-6" Shoreline District is hereby designated as an "urban environment", as summarily defined in Section 13.10.030 of this chapter, and as further defined within those elements of the Shoreline Master Program which are adopted by resolution.

D. Substantial Development/Permitted Uses and Development Activities. The following uses and development activities shall be permitted, subject to the issuance of a Substantial Development Permit, if required:

1. Aquaculture.

2. Bulkheads.

3. Commercial, non-water-oriented, landward beyond a line located 150 feet from the OHWM – northwesterly 2,155 feet only.

4. Commercial, water-related and water enjoyment, upland location only.

5. Commercial, water-dependent.

6. Dredging, maintenance, and for environmental remediation and habitat improvement projects.

7. Educational, historical, cultural, and archaeological areas.

8. Environmental remediation.

9. Habitat improvement.

10. Landfill above the OHWM in conjunction with a specific use or landfill below the OHWM for environmental remediation or habitat improvement.

11. Marinas and boat launch facilities.

12. Piers, wharves, docks, and floats.

13. Railroad (extension of spurs only).

14. Recreation, water-oriented.

15. Residential, landward beyond a line located 150 feet from the OHWM – northwesterly 2,155 feet only.

16. Road construction.

17. Utilities, underground.

18. Normal maintenance and repair of existing structures or developments, including damage by accident, fire, or elements.

E. Substantial Development/Conditional Uses and Development Activities. The following uses and development activities shall be permitted subject to the issuance of a Substantial Development/ Conditional Use Permit, if required; provided, that

the applicant can demonstrate that any such use activity conforms with the criteria set forth in Section 13.10.180 of this chapter, and subject to approval of the Department of Ecology as set forth in Section 13.10.180 of this chapter:

1. Breakwaters.

2. Commercial, water-related, on piers.

3. Commercial, non-water-oriented, upland location only (except as provided in Section 13.10.090.D.3 above).

4. Dredging for a purpose other than maintenance or environmental remediation and habitat improvement projects.

5. Jetties and groins.

6. Landfill below the OHWM in conjunction with a specific use other than environmental remediation or habitat improvement.

7. Railroad construction, new.

F. Prohibited Use Activities. Hotel/Motel/Boatel development shall be prohibited except landward beyond a line located 150 feet from the OHWM, northwesterly 2,155 feet only.

G. Height Limit for Structural Improvements.

1. Within the northwesterly 2,155 feet of the "S-6" Ruston Way Shoreline District, any building, structure, or portion thereof hereafter erected shall not exceed a height of 35 feet within 100 feet of the OHWM, 50 feet between 100 and 200 feet of the OHWM, and 80 feet beyond 200 feet of the OHWM.

2. South of the northwesterly 2,155 feet of the "S-6" Ruston Way Shoreline District, any building, structure, or portion thereof hereafter erected shall not exceed a height of 35 feet except for public uses where overriding public interest can be demonstrated, and except that the height of structures over water shall not exceed 43 feet above the ordinary high water mark; however, no structure shall exceed 35 feet above the top of the pier level.

H. Area Regulations.

1. Side Yard/View Corridor – same as required in the "S-1" Western Slope South Shoreline District.

2. Front Yard Setback (street or road) – same as required in the "S-1" Western Slope South Shoreline District.

3. Rear Yard Setback – same as required in the "S-1" Western Slope South Shoreline District.

4. Lot Area – same as required in the "S-1" Western Slope South Shoreline District.

I. Use and Development, Parking and Loading, and Sign Regulations. Use and development, parking and loading, and sign regulations are set forth in Section 13.10.175 of this chapter entitled "Regulations." Developments within the "S-6" Ruston Way Shoreline District shall also comply with the goals and intent of the Ruston Way Plan, and shall incorporate unifying design elements as specified in the Ruston Way Design Booklet. (Ord. 27158 § 8; passed Nov. 4, 2003: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.100 S-7 Shoreline District – Schuster Parkway.

A. Intent. The intent of the "S-7" Shoreline District is to allow development of deep water terminal and light industrial facilities, but to preserve the character and quality of life in adjoining residential areas, school and park properties.

B. Description. The "S-7" Shoreline District is hereby described as an area bounded by: a line lying 200 feet landward and generally parallel to the ordinary high water mark of Commencement Bay; the centerline (extended) of the 4th Street bridge; the Outer Harbor Line of Commencement Bay; the east line of Block 74 of Tacoma Tidelands.

C. Environmental Designation. The "S-7" Shoreline District is hereby designated as an "urban" environment, as summarily defined in Section 13.10.030 of this chapter, and as further defined within those elements of the Shoreline Master Program which are adopted by resolution.

D. Substantial Development/Permitted Uses and Development Activities. The following uses and development activities shall be permitted, subject to the issuance of a Substantial Development Permit, if required.

1. Aquaculture.

2. Breakwaters.

3. Bulkheads.

4. Commercial, water-oriented.

5. Dredging, maintenance, and for environmental remediation and habitat improvement projects.

6. Educational, historical, cultural, and archaeological areas.

7. Environmental remediation.

8. Habitat improvement.

9. Landfill above the OHWM in conjunction with a specific use or landfill below the OHWM for environmental remediation or habitat improvement.

10. Piers, wharves, docks, and floats.

11. Port, terminal, and industrial; water-related or water-dependent.

12. Road and railroad construction.

13. Utilities, underground.

14. Normal maintenance and repair of existing structures or developments, including damage by accident, fire, or elements.

E. Substantial Development/Conditional Uses and Development Activities. The following uses and development activities shall be permitted subject to the issuance of a Substantial Development/ Conditional Use Permit, if required; provided, that the applicant can demonstrate that any such use activity conforms with the criteria set forth in Section 13.10.180 of this chapter, and subject to approval of the Department of Ecology as set forth in Section 13.10.180 of this chapter.

1. Commercial, non-water-oriented.

2. Dredging, nonmaintenance.

3. Jetties and groins.

4. Landfill below the OHWM in conjunction with a specific use other than environmental remediation or habitat improvement.

5. Marinas and boat launch facilities.

6. Port, terminal, and industrial, non-water-dependent or non-water-related.

F. Height Limit for Structural Improvements. Any building, structure, or portion thereof hereafter erected (excluding equipment for the movement of waterborne cargo between storage and vessel, vessel and storage) shall not exceed a height of 100 feet, unless such building or structure is set back on all sides one foot for each four feet such building or structure exceeds 100 feet in height.

G. Area Regulations. A building or structure hereafter built, enlarged, or moved shall provide the following setbacks:

1. Side Yard/View Corridor – same as required in the "S-1" Western Slope South Shoreline District.

2. Front Yard Setback (street or road) – same as required in the "S-1" Western Slope South Shoreline District.

3. Rear Yard Setback – same as required in the "S-1" Western Slope South Shoreline District.

H. Use and Development, Parking and Loading, and Sign Regulations. Use and development, parking and loading, and sign regulations are set forth in Section 13.10.175 of this chapter entitled "Regulations." (Ord. 27158 § 9; passed Nov. 4, 2003: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25718 § 4; passed Jun. 20, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.110 S-8 Shoreline District – Thea Foss Waterway.

A. Intent. The intent of the "S-8" Shoreline District is to improve the environmental quality of Thea Foss Waterway; provide continuous public access to the Waterway; encourage the reuse and redevelopment of the area for mixed-use pedestrian-oriented development, cultural facilities, marinas and related facilities, water-oriented commercial uses, maritime activities, water-oriented public parks and public facilities, residential development, and waterborne transportation; and to encourage existing industrial and terminal uses to continue their current operations and leases to industrial tenants.

B. Description. The "S-8" Shoreline District is hereby described as an area, including all of Thea Foss Waterway, and Wheeler Osgood Waterway between the west line of Dock Street, and the east line of "D" Street, and 200 feet landward of the ordinary high water mark of said Waterways. For the purposes of this section, the west side of the waterway begins at the northwestern corner of the waterway and extends to the southerly end adjacent to the "twin 96-inch" storm drains.

C. Environmental Designation. The "S-8" Shoreline District is hereby designated as an "urban" environment, as summarily defined in Section 13.10.030 of this chapter, and as further defined within those elements of the Shoreline Master Program which are adopted by resolution.

D. Substantial Development/Permitted Uses and Development Activities. The following uses and development activities shall be permitted, subject to the issuance of a Substantial Development Permit, if required:

1. Bulkheads.

2. Commercial, non-water-oriented, over water, only within structures which existed on January 1, 1996.

3. Commercial, water-oriented, upland, or over water.

4. Dredging, maintenance, and for environmental remediation and habitat improvement projects.

5. Educational, historical, cultural, and archaeological areas.

6. Environmental remediation.

7. Habitat improvement.

8. Hotels/motels on the west side and on the east side only, south of the East 11th Street right-of-way.

9. Industrial uses which existed on January 1, 1996, on the east side of the Waterway. (Said industrial uses may continue current operations, and owners of property and structures currently let for industrial purposes may replace existing industrial tenants. Such uses may be expanded, adapted, repaired, replaced or otherwise modified, including changes necessitated by technological advancements; provided, however, that the uses may not be expanded beyond property boundaries owned, leased, or operated by the industrial user on January 1, 1996.)

10. New industrial uses, water-dependent or water related, in the area on the east side of the waterway, and north of the centerline of East 15th Street, in conformance with the regulations set forth in Section 13.10.175.B.15 of this chapter.

11. Landfill above the OHWM in conjunction with a specific use or landfill below the OHWM for environmental remediation or habitat improvement.

12. Marinas and boat launch facilities, except as set forth in "F" below.

13. Piers, wharves, docks, and floats.

14. Recreation, water-oriented.

15. Residential; upland location only or within over water structures which existed on January 1, 1996, on the west side of the waterway and on the east side only, south of the East 11th Street right-of-way.

16. Roads, railroad and bridge construction.

17. Utilities, underground.

18. Normal maintenance and repair of existing structures or developments, including damage by accident, fire, or elements.

E. Substantial Development/Conditional Uses and Development Activities. The following uses and development activities shall be permitted subject to the issuance of a Substantial Development/Conditional Use Permit, if required; provided, that the applicant can demonstrate that any such use activity conforms with the criteria set forth in Section 13.10.180 of this chapter, and subject to approval of the Department of Ecology as set forth in Section 13.10.180 of this chapter:

1. Breakwaters.

2. Commercial, non-water-oriented, upland location only.

3. Dredging, non-maintenance.

4. New industrial uses, non-water-dependent or non-water related, in the area on the easterly side of the Waterway and north of the centerline of East 15th Street in conformance with the regulations set forth in Section 13.10.175.B.15.

5. Landfill below the OHWM in conjunction with a specific use other than environmental remediation or habitat improvement.

F. Prohibited Use Activities. Boat launch facilities, which are not part of a marina facility, shall be prohibited within Thea Foss Waterway. Car-top facilities are permitted.

G. Height Limit for Structural Improvements. The following regulations apply to the west side of the Waterway. Any new building, structure or portion thereof erected on the west side shall be subject to the following height restrictions, which establish minimum and maximum height limits. All new buildings must meet the minimum height limit for 50 percent of the structure footprint. This requirement does not apply to buildings which existed as of January 1, 1996, structures in parks, in the view/access corridors, esplanade, or boardwalk, temporary uses or maintenance structures.

Due to the significant public ownership on the west side of the Waterway, the areas bounded by Dock Street, designated view/access corridors between Dock Street and the Waterway, and shoreline edge areas designated for public use and access, are termed "development sites." Twelve specific development sites are established per the Thea Foss Waterway Design and Development Plan. The Foss Waterway Public Development Authority shall administer development of publicly owned properties.

On these development sites, potential building location is established by height restrictions and modulation requirements. Actual modulation of a building may occur at the floor elevation closest to78 the regulatory height identified. Required building modulation at 25 feet in height adjacent to esplanade is not required if actual building height at this location is less than 40 feet.

	North end of Waterway to 11th Street Bridge	11th Street Bridge to Center of 15th Street, extended	Center of 15th Street to Center of 18th Street, extended	Center of 18th Street to South end of Waterway
Minimum Height	50	50	40	40
Maximum Height	100	130	100	65
Modulation from edge of view/ access corridors	8 feet in at a height of 50 feet and between 50-100 feet	8 feet in at two locations between a height of 25 feet and 50 feet and between 50-75 feet	8 feet in at two locations between a height of 25 feet and 50 feet and between 50-75 feet	8 feet in at two locations between a height of 25 feet and 50 feet
115 Modulation from edge of esplanade	8 feet in at two locations between a height of 25 feet and 50 feet and between 50-75 feet	8 feet in at two locations between a height of 25 feet and 50 feet and between 50-75 feet	8 feet in at two locations between a height of 25 feet and 50 feet and between 50-75 feet	8 feet in at two locations between a height of 25 feet and 50 feet

Development site building requirements:

Further, site coverage restrictions are imposed as buildings increase in height to reduce building profile and bulk with increased height, as follows:

1. From grade to 50 feet in height: 100 percent coverage of development site coverage allowed (subsurface parking may extend under adjacent view/access corridors if conforming to Section 13.10.110.I.4.g and/or beyond development sites north of 11th Street where the esplanade is several feet higher in elevation than Dock Street.)

2. From 50 feet to 100 feet: 70 percent coverage of the at-grade area is available for development, inclusive of required modulations.

3. Above 100 feet: 50 percent coverage of the at-grade area is available for development, inclusive of required modulations.

Reduction of the required modulations and/or increased height limits on the western side of Thea Foss Waterway to accommodate structural elements may be authorized in conjunction with the issuance of a Shoreline Substantial Development Permit, or Shoreline Conditional Use Permit when all of the following are satisfied:

a. That portion of the structure exceeding the underlying height limit or contained within the required modulation:

(1) Is designed primarily as an architectural or artistic feature and does not include signage or exterior mechanical equipment;

(2) Does not provide habitable floor space;

(3) Does not exceed the underlying height limit by more than 25 feet;

(4) Has a cumulative width of 15 percent or less of the development site's Dock Street frontage;

(5) Does not extend waterward of ordinary high water; and

(6) Is designed to minimize view impacts from neighboring properties through the use of location, materials, and orientation.

b. The reduction of the required modulations and/or the increased height will not adversely affect the intended character of the shoreline district and will secure for neighboring properties substantially the same protection that a literal application of the regulation would have provided.

c. The reduction of the required modulations and/or the increased height will not be contrary to the intent of the Shoreline Management Act and will be consistent with the policies of the Thea Foss Waterway Design and Development Plan.

4. Any new building must extend to the site edge for a minimum of 60 percent of the site perimeter.

5. Any new building adjacent to Dock Street, view/access corridors, or the esplanade must provide pedestrian-oriented uses and activities which are directly accessible from adjacent public spaces. These pedestrian-oriented uses or activities include retail sales, eating and drinking establishments, or interior public art displays that can be viewed from the public space. A minimum of 50 percent of the pedestrian level building frontage along the esplanade shall contain this type of use. A minimum of 20 percent of the building frontage along the view/access corridors and Dock Street shall contain this type of use. These uses shall be located at or near the corners where possible. The Municipal Dock and the Puget Sound Freight Buildings are exempt from the application of this requirement if these buildings are renovated.

a. Pedestrian access to ground-level uses shall be provided directly from adjacent walkways. Pedestrian entrances shall be located no more than three feet above or below adjacent sidewalk grade.

b. Blank walls (walls that do not contain doors, windows, or ventilation structures) between two feet and eight feet above the adjacent sidewalk shall be no longer than 20 feet in length.

6. The following structures are allowed above the height limit: chimneys, tanks, towers, steeples, flagpoles, elevators, ventilators, fire or parapet walls, tanks, and necessary building appurtenances,

provided they meet structural requirements of the City of Tacoma and provide no usable floor space above the height limitations.

The following regulations apply to the east side of the Waterway. Any building, structure, or portion thereof hereafter erected shall not exceed a height of 100 feet on the east side of the Waterway, except for the area north of East 15th Street, where an additional four feet of additional height is allowed for every one foot a structure is set back on all sides.

H. Area Regulations.

1. The following regulations apply to the west side of the Waterway. Fourteen view/access corridors are located adjacent to the development sites and are defined below. By specifically designating these areas for public use and access, setbacks are not required on the front (Dock Street) side yards and rear yards (except as noted below); provided, that the following area-wide design features are provided:

a. Fourteen 80-foot wide view/access corridors between Dock Street and the inner harbor line generally aligned with the extension of the urban street grid, are hereby established. View/access corridors shall be developed concurrent with improvements on adjacent development sites. These corridors shall be designed and constructed in coordination with the Foss Waterway Development Authority. All developments abutting a view/access corridor(s) shall be required to develop one-half of all view/access corridors abutting their development site(s). Buildings are not allowed in any designated waterfront esplanade, boardwalk, or view/access corridor, except that weather protection features, public art, or areas provided primarily for public access such as viewing towers and pedestrian bridges may be located in or over these areas, consistent with the Thea Foss Waterway Design and Development Plan. Pedestrian bridges over secondary view/access corridors between development sites are allowed, provided they are a maximum of 10 feet in width and 12 feet in height, and set at a minimum height of 25 feet to the underside of the structure.

Three primary view/access corridors are established at the alignment with South 13th, 15th, and 17th Streets. Primary corridors may not be reduced in width and are fixed in location, but may be moved 25 feet in either direction to accommodate site development.

Eleven secondary view/access corridors are established immediately south of the "Dock" Building, north and south of the Puget Sound Freight Building, north of the Municipal Dock Building, and at the alignment of South 9th, 11th, 12th, 14th, 16th, 18th, and 20th Streets. Secondary view/access corridors may be moved to accommodate site development, although the total corridor width must not be reduced.

b. To move view/access corridors, the applicant must demonstrate the following:

(1) The movement is necessary to facilitate site design and would not compromise future development on remaining development sites.

(2) The new view/access corridors created provide the same or greater public use value.

(3) Building design reflects the original view/access corridor by reducing building height in this area or by providing additional public access and viewing opportunities.

c. If the distance between any two view/access corridors is greater than 500 lineal feet, an additional public access between Dock Street and the esplanade must be provided. This public access must be a minimum of 20 feet in width, signed for public access, open to the public, and may be either outdoors or within a structure.

d. Development over view/access corridors established at the alignment of South 16th and 18th Streets may occur; provided, the structure meets the following conditions:

(1) The height to the underside of the structure is a minimum of 25 feet.

(2) The height does not exceed 50 feet.

(3) The structure is set back a minimum of 20 feet from the Dock Street facade of adjacent development sites.

(4) The total depth does not exceed 80 feet.

2. The following regulations apply to the east side of the Waterway:

a. Side Yard/View Corridor – same as required in the "S-1" Western Slope South Shoreline District Area Regulations, Section 13.10.040.H.1, except for industrial uses which existed on January 1, 1996. Such side yard/view corridor shall include the pedestrian circulation link required by Section 13.10.175.A of this chapter.

b. Front Yard Setback (street or road) – same as required in the "S-1" Western Slope South Shoreline District Area Regulations, Section 13.10.040.H.1, except for industrial uses which existed on January 1, 1996.

c. Rear Yard Setback – same as required in the "S-1" Western Slope South Shoreline District Area

Regulations, Section 13.10.040.H.1, except for industrial uses which existed on January 1, 1996.

d. Lot Area – same as required in the "S-1" Western Slope South Shoreline District.

I. Parking and Loading Regulations. The following parking and loading regulations shall apply to the "S-8" Thea Foss Waterway Shoreline District:

1. Parking is not required for any use located in the "S-8" Thea Foss Waterway Shoreline District.

2. Parking which is developed shall conform to the parking and loading regulations set forth in Section 13.10.175 of this chapter. All parking provided on the east side of the Waterway shall not exceed the amount which would have been required by Section 13.10.175 of this chapter.

3. Angled street parking, where it conflicts with public transportation use, shall be prohibited.

4. The following standards shall additionally apply to all parking provided on the west side of the Waterway:

a. All new parking provided within the "S-8" Shoreline District must be located within a structure, except as provided for in subsection (c) below and except for parking for sites developed as public parks (excluding view/access corridors), any parking necessary to meet the requirements of the Americans with Disabilities Act, loading and unloading areas and within the Dock Street right-of-way. Structured parking facilities may accommodate parking for surrounding uses; provided, that the principal use of a structure may not be a parking facility. For-pay parking is allowed. Twenty percent of stalls in all new parking areas shall be set aside for public use; provided, that one parking space per new residential unit is exempt from this requirement.

b. Legally permitted surface parking areas as of January 1, 1996, may continue to serve existing uses.

c. New surface parking may be provided as an interim principal use for a length of time not to exceed 15 years, and requiring shoreline permit review every five years. Such surface parking may be allowed following demonstration that the parking is landscaped and screened in accordance with the Thea Foss Design and Development Plan and the requirements of Section 13.10.175, including the requirements for public access.

d. Landscaping and/or building surface treatment consistent with the Thea Foss Design and Development Plan shall be provided on the sides oriented toward Dock Street and designated view/access corridors. The waterward side of any building may not be developed with above-grade structured parking.

e. Access to structured parking may be provided in designated view/access corridors; provided, that the applicant can demonstrate that access across the development site is not reasonably available, that public access along Dock Street and through the view/access corridor is unimpeded, and that the minimum area necessary to provide said access is used.

f. Above-grade structured parking shall not be allowed as a visible use on the waterward side of any building, and landscaping and/or building surface treatment consistent with the Thea Foss Design and Development Plan shall be provided on the sides oriented toward Dock Street and designated view/access corridors. Parking uses visible from the building exterior shall be screened or shall incorporate design measures to provide an appearance comparable to the rest of the building not used for parking, utilizing landscaping and building surface treatment.

g. Structured parking shall be designed to a minimum allowable height.

h. Subsurface parking is allowed under view/access corridors, provided the structure is designed to a minimum allowable height to optimize public access and views to the esplanade from Dock Street. Public access over subsurface parking structures shall be designed to minimize grade discontinuation and meet the requirements for ADA accessibility.

J. Use and Development and Sign Regulations. Use and development and sign regulations are set forth in Section 13.10.175 of this chapter entitled "Regulations". Developments within the "S-8" Thea Foss Waterway Shoreline District shall also comply with the goals and intent of the Thea Foss Waterway Design and Development Plan and shall incorporate unifying design elements as specified in said Plan. (Ord. 27432 § 18; passed Nov. 15, 2005: Ord. 27158 § 10; passed Nov. 4, 2003: Ord. 26622 § 1; passed May 9, 2000: Ord. 26329 § 4; passed Dec. 1, 1998: Ord. 26174 § 14; passed Dec. 16, 1997: Ord. 25904 § 2; passed May 28, 1996: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25718 § 5; passed Jun. 20, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.120 S-9 Shoreline District – Puyallup River.

A. Intent. The intent of the "S-9" Shoreline District is to permit recreational development of the riverfront while allowing industrial development of adjacent upland areas, and to encourage continued

preservation of Clear Creek, its associated wetlands, and related ecosystems.

The Puyallup River is a shoreline of statewide significance. Primary consideration shall be given to the effects of proposed development on the statutory preferred uses of such shorelines.

B. Description. The "S-9" Shoreline District is hereby described as an area bounded by: lines lying 200 feet landward and generally parallel to the levee of the east and west banks of the Puyallup River, including the Gog-le-hi-te Wetland; the center line of East 11th Street; and the Tacoma City limits as they cross the Puyallup River, and the area within 200 feet of the portions of Clear Creek which experience tidal influence and any wetlands associated with the Creek.

C. Environmental Designation. The "S-9" Shoreline District is hereby designated as an "urban" environment, as summarily defined in Section 13.10.030 of this chapter, and as further defined within those elements of the Shoreline Master Program which are adopted by resolution.

D. Substantial Development/Permitted Uses and Development Activities. The following uses and development activities shall be permitted, subject to the issuance of a Substantial Development Permit, if required:

1. Aquaculture.

2. Commercial, water-oriented, except in Clear Creek.

3. Dredging for environmental remediation and habitat improvement projects.

4. Educational historical, cultural, and archaeological areas.

5. Environmental remediation.

6. Habitat improvement.

7. Landfill in conjunction with a specific use and landward of the Puyallup River dike, or waterward of the dike for environmental remediation or habitat improvement.

8. Port, terminal, and industrial, except in Clear Creek.

9. Recreation, water-oriented.

10. Road, railroad and bridge construction.

11. Shoreline protection (streams).

12. Utilities, underground.

13. Normal maintenance and repair of existing structures or developments, including damage by accident, fire, or elements.

E. Substantial Development/Conditional Uses and Development Activities. The following uses and development activities shall be permitted subject to the issuance of a Substantial Development/ Conditional Use Permit, if required; provided, that the applicant can demonstrate that any such use activity conforms with the criteria set forth in Section 13.10.180 of this chapter, and subject to approval of the Department of Ecology as set forth in Section 13.10.180 of this chapter:

1. Bulkheads, except in Clear Creek.

2. Commercial and industrial uses, non-water-oriented, upland location only, except in Clear Creek.

3. Dredging for a purpose other than environmental remediation or habitat improvement projects.

4. Jetties and groins, except in Clear Creek.

5. Marinas and boat launch facilities, except in Clear Creek.

6. Piers, wharves, docks, and floats.

F. Height Limit for Structural Improvement. Same as required in the "S-1" Western Slope South Shoreline District.

G. Area Regulations.

1. Side Yard/View Corridor – same as required in the "S-1" Western Slope South Shoreline District.

2. Front Yard Setback (street or road) – same as required in the "S-1" Western Slope South Shoreline District.

3. Rear Yard Setback – structures shall be set back a minimum of 50 feet from the centerline of the Puyallup River dike, and the area between the setback and the dike shall be landscaped or screened.

4. Lot Area – same as required in the "S-1" Western Slope South Shoreline District.

H. Use and Development, Parking and Loading, and Sign Regulations. Use and development, parking and loading, and sign regulations are set forth in Section 13.10.175 of this chapter entitled "Regulations." (Ord. 27158 § 11; passed Nov. 4, 2003: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25718 § 6; passed Jun. 20, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.130 S-10 Shoreline District – Port Industrial.

A. Intent. The intent of the "S-10" Shoreline District is to allow the continued development of the Port Industrial Area, with an increase in the intensity of development and a greater emphasis on terminal facilities within the City.

The Puyallup River is a shoreline of statewide significance. Primary consideration shall be given to the effects of proposed development on the statutory preferred uses of such shorelines.

B. Description. The "S-10" Shoreline District is hereby described as an area bounded by: the Outer Harbor Line of Commencement Bay, extending from the northeast line of Thea Foss Waterway northeasterly to the east line of Hylebos Waterway; and a line lying 200 feet landward and generally parallel to the ordinary high water mark of Commencement Bay, Middle Waterway, St. Paul Waterway, Puyallup Waterway, Milwaukee Waterway, Sitcum Waterway, Blair Waterway, Wapato Creek inside the City limits, Hylebos Creek inside the City limits, and Hylebos Waterway; and except that portion of the Puyallup River lying southeast of the centerline of East 11th Street; and except that portion of the Hylebos Waterway lying north of the center line of East 11th Street and east of the centerline of said Waterway.

C. Environmental Designation. The "S-10" Shoreline District is hereby designated as an "urban" environment, as summarily defined in Section 13.10.030 of this chapter, and as further defined within those elements of the Shoreline Master Program which are adopted by resolution.

D. Substantial Development/Permitted Uses and Development Activities. The following uses and development activities shall be permitted, subject to the issuance of a Substantial Development Permit, if required:

1. Aquaculture.

2. Breakwaters.

3. Bulkheads.

4. Commercial, water-oriented.

5. Dredging; except in the Puyallup River, where dredging shall be allowed for environmental remediation and habitat improvement projects.

6. Educational, historical, cultural, and archaeological areas.

7. Environmental remediation.

8. Habitat improvement.

9. Jetties and groins; except in the Puyallup River.

10. Landfill in conjunction with a specific use; except in the Puyallup River, where landfill shall be allowed for environmental remediation and habitat improvement projects.

11. Log rafting for cargo handling purposes.

12. Marinas and boat launch facilities.

13. Piers, wharves, docks, and floats.

14. Port, terminal, and industrial; water-dependent or water-related.

15. Recreation, water-oriented.

16. Residential. (Residential uses, upland location only, shall be permitted uses only on the western side of Hylebos Creek on the portion of property annexed to the City by Ordinance No. 24993 passed October 8, 1991, subject to the development criteria for height and area regulations required for the "S-1" Western Slope South Shoreline District.)

17. Road, railroad and bridge construction.

18. Shoreline protection (streams).

19. Utilities.

20. Normal maintenance and repair of existing structures or developments, including damage by accident, fire, or elements.

E. Substantial Development/Conditional Uses and Development Activities. The following uses and development activities shall be permitted subject to the issuance of a Substantial Development/ Conditional Use Permit, if required; provided, that the applicant can demonstrate that any such use activity conforms with the criteria set forth in Section 13.10.180 of this chapter, and subject to approval of the Department of Ecology as set forth in Section 13.10.180 of this chapter:

1. Commercial, non-water-oriented.

2. Dredging within the Puyallup River.

3. Environmental remediation which includes on-site containment facilities.

4. Jetties and groins within the Puyallup River.

5. Port, terminal, and industrial, non-water-dependent or non-water-related.

F. Height Limit for Structural Improvements. Any building, structure, or portion thereof hereafter erected (excluding equipment for the movement of waterborne cargo between storage and vessel, vessel

and storage) shall not exceed a height of 100 feet, unless such building or structure is set back on all sides one foot for each four feet such building or structure exceeds 100 feet in height).

G. Area Regulations.

1. Side Yard/View Corridor. A side yard/ view corridor shall not be required except as indicated in Section 13.10.130.F.

2. Front Yard. A front yard shall not be required except as indicated in Section 13.10.130.F.

3. Rear Yard. A rear yard shall not be required except as indicated in Section 13.10.130.F. Overwater construction shall be regulated in accordance with Section 13.10.040.G.3.

H. Use and Development, Parking and Loading, and Sign Regulations. Use and development, parking and loading, and sign regulations are set forth in Section 13.10.175 of this chapter entitled "Regulations." (Ord. 27158 § 12; passed Nov. 4, 2003: Ord. 26175 § 4; passed Dec. 16, 1997: Ord. 25904 § 3; passed May 28, 1996: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25718 § 7; passed Jun. 20, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.140 S-11 Shoreline District – Marine View Drive South.

A. Intent. The intent of the "S-11" Shoreline District is to permit the development of water-related parks, open space, and recreation facilities, and to allow development of marinas and related facilities, water-oriented commercial uses, and residential uses.

B. Description. The "S-11" Shoreline District is hereby described as an area bounded by: a line lying 200 feet landward and generally parallel to the ordinary high water mark of the northeasterly side of Hylebos Waterway; the centerline of East 11th Street; the centerline of Hylebos Waterway; and a line lying parallel to and 3,900 feet northwesterly of the monument line of East 11th Street as measured along a line lying perpendicular to the monument line of East 11th Street.

C. Environmental Designation. The "S-11" Shoreline District is hereby designated as an "urban" environment, as summarily defined in Section 13.10.030 of this chapter, and as further defined within those elements of the Shoreline Master Program which are adopted by resolution.

D. Substantial Development/Permitted Uses and Development Activities. The following uses and development activities shall be permitted, subject to the issuance of a Substantial Development Permit, if required:

1. Aquaculture.

2. Bulkheads.

3. Commercial, water-oriented.

4. Dredging, maintenance, and for environmental remediation and habitat improvement projects.

5. Educational, historical, cultural, and archaeological areas.

6. Environmental remediation.

7. Habitat improvement.

8. Landfill above the OHWM in conjunction with a specific use or landfill below the OHWM for environmental remediation or habitat improvement.

9. Log rafting for cargo handling purposes.

10. Marinas and boat launch facilities.

11. Piers, wharves, docks, and floats.

12. Recreation, water-oriented.

13. Residential, upland location only.

14. Road and railroad construction.

15. Utilities, underground.

16. Normal maintenance and repair of existing structures or developments, including damage by accident, fire, or elements.

E. Substantial Development/Conditional Uses and Development Activities. The following uses and development activities shall be permitted subject to the issuance of a Substantial Development/ Conditional Use Permit, if required; provided, that the applicant can demonstrate that any such use activity conforms with the criteria set forth in Section 13.10.180 of this chapter, and subject to approval of the Department of Ecology as set forth in Section 13.10.180 of this chapter:

1. Breakwaters.

2. Commercial, non-water-oriented, upland locations only.

3. Dredging, nonmaintenance.

4. Jetties and groins.

5. Landfill below the OHWM in conjunction with a specific use other than environmental remediation or habitat improvement.

F. Height Limit for Structural Improvements. Any building, structure, or portion thereof hereafter

erected (excluding equipment for the movement of waterborne cargo between storage and vessel, vessel and storage) shall not exceed a height of 100 feet, unless such building or structure is set back on all sides one foot for each four feet such building or structure exceeds 100 feet in height.

G. Area Regulations.

1. Side Yard/View Corridor – same as required in the "S-1" Western Slope South Shoreline District.

2. Front Yard Setback (street or road) – same as required in the "S-1" Western Slope South Shoreline District.

3. Rear Yard Setback – same as required in the "S-1" Western Slope South Shoreline District.

4. Lot Area – same as required in the "S-1" Western Slope South Shoreline District.

5. Setback from Ordinary High Water. Residential development, including garages and accessory buildings, shall be set back a minimum of 25 feet from the OHWM or lawfully established bulkheads.

H. Use and Development, Parking and Loading, and Sign Regulations. Use and development, parking and loading, and sign regulations are set forth in Section 13.10.175 of this chapter entitled "Regulations." (Ord. 27158 § 13; passed Nov. 4, 2003: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.150 S-12 Shoreline District – Marine View Drive North.

A. Intent. The intent of the "S-12" Shoreline District is to permit the development of water-related parks, open space, and recreation facilities, and allow development of marinas and related facilities, water-oriented commercial uses, and residential uses.

Any applicant for hillside development or site grading shall include slope stability analyses to prove the feasibility of such project.

B. Description. The "S-12" Shoreline District is hereby described as an area bounded by: a line lying 200 feet landward and generally parallel to the ordinary high water mark of Commencement Bay; a line lying parallel to and 3,900 feet northwesterly of the monument line of East 11th Street as measured along a line lying perpendicular to the monument line of East 11th Street; the centerline of Hylebos Waterway; the Federal Pierhead Line of Commencement Bay or the Outer Harbor Line as it may be established; and the line of the Tacoma City Limits adjoining Browns Point, as amended by annexation in Ordinance No. 22163 of the City of Tacoma adopted August 19, 1980.

C. Environmental Designation. The "S-12" Shoreline District is hereby designated as an "urban" environment, as summarily defined in Section 13.10.030 of this chapter, and as further defined within those elements of the Shoreline Master Program which are adopted by resolution.

D. Substantial Development/Permitted Uses and Development Activities. The following uses and development activities shall be permitted, subject to the issuance of a Substantial Development Permit, if required:

1. Aquaculture.

2. Bulkheads.

3. Commercial, water-oriented.

4. Dredging, maintenance, and for environmental remediation and habitat improvement projects.

5. Educational, historical, cultural, and archaeological areas.

6. Environmental remediation.

7. Habitat improvement.

8. Landfill above the OHWM in conjunction with a specific use or landfill below the OHWM for environmental remediation or habitat improvement.

9. Log rafting for cargo-handling purposes.

10. Marinas and boat launch facilities.

11. Piers, wharves, docks, and floats.

12. Recreation, water-oriented.

13. Residential; upland location only.

14. Road construction.

15. Utilities, underground.

16. Normal maintenance and repair of existing structures or developments, including damage by accident, fire, or elements.

E. Substantial Development/Conditional Uses and Development Activities. The following uses and development activities shall be permitted subject to the issuance of a Substantial Development/ Conditional Use Permit, if required; provided, that the applicant can demonstrate that any such use activity conforms with the criteria set forth in Section 13.10.180 of this chapter, and subject to approval of the Department of Ecology as set forth in Section 13.10.180 of this chapter:

1. Breakwaters.

2. Commercial uses, non-water-oriented, upland locations only.

3. Dredging, nonmaintenance.

4. Jetties and groins.

5. Landfill below the OHWM in conjunction with a specific use other than environmental remediation or habitat improvement.

F. Height Limit for Structural Improvements. Any building, structure, or portion thereof hereafter erected shall not exceed a height of 35 feet; provided, that when public interest necessitates a height in excess of 35 feet, this may be taken into consideration when permitting a shoreline development.

G. Area Regulations.

1. Side Yard/View Corridor – same as required in the "S-1" Western Slope South Shoreline District.

2. Front Yard Setback (street or road) – same as required in the "S-1" Western Slope South Shoreline District.

3. Rear Yard Setback – same as required in the "S-1" Western Slope South Shoreline District.

4. Lot Area – same as required in the "S-1" Western Slope South Shoreline District.

5. Setback from Ordinary High Water. Residential development, including garages and accessory buildings, shall be set back a minimum of 25 feet from the ordinary high water mark or lawfully established bulkheads.

H. Use and Development, Parking and Loading, and Sign Regulations. Use and development, parking and loading, and sign regulations are set forth in Section 13.10.175 of this chapter entitled "Regulations." (Ord. 27158 § 14; passed Nov. 4, 2003: Ord. 25854 § 5; passed Feb. 27, 1996: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.160 S-13 Shoreline District – Commencement Bay and Tacoma Narrows.

A. Intent. The intent of the "S-13" Shoreline District is to maintain these bodies in substantially their natural state for use by the public for navigation, commerce, and recreation purposes.

Those areas of Puget Sound and the Tacoma Narrows lying seaward from the line of extreme low tide are shorelines of statewide significance. Primary consideration shall be given to the effects of proposed development on the statutory preferred uses of such shorelines.

B. Description. The "S-13" Shoreline District is hereby described as an area bounded by: the Outer Harbor Line of Commencement Bay and the Tacoma Narrows, or the Federal Pierhead Line in areas where the Outer Harbor Line is nonexistent; and the seaward City limit common to the City of Tacoma and Pierce County; except that area lying within the Town limits of the Town of Ruston.

C. Environmental Designation. The "S-13" Shoreline District is hereby designated as a "conservancy" environment as summarily defined in Section 13.10.030 of this chapter, and as further defined within those elements of the Shoreline Master Program which are adopted by resolution.

D. Substantial Development/Permitted Uses and Development Activities. The following uses and development activities shall be permitted, subject to the issuance of a Substantial Development Permit, if required:

1. Road and bridge construction.

2. Normal maintenance and repair of existing structures or developments, including damage by accident, fire, or elements.

E. Substantial Development/Conditional Uses and Development Activities. The following uses and development activities shall be permitted subject to the issuance of a Substantial Development/Conditional Use Permit, if required; provided, that the applicant can demonstrate that any such use activity conforms with the criteria set forth in Section 13.10.180 of this chapter:

1. Aquaculture.

2. Breakwaters.

3. Environmental remediation.

4. Habitat improvement.

5. Jetties and groins.

6. Log rafting for cargo-handling purposes.

7. Utilities.

F. Height and Area Regulations. Height and area may be considered as conditions of a permit. (Ord. 27158 § 15; passed Nov. 4, 2003: Ord. 25854 § 6; passed Feb. 27, 1996: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25718 § 8; passed Jun. 20, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.170 S-14 Shoreline District – Wapato Lake.

A. Intent. The intent of the "S-14" Shoreline District is to encourage continued preservation of the lake, marsh, wetlands, and related ecosystems and to provide for perpetual utilization for park, recreational, and open space uses. No activity shall be permitted which will reduce, destroy, or in any way adversely affect the public shoreline and the Wapato marsh.

B. Description. The "S-14" Shoreline District is hereby described as the area including all of Wapato Lake and extending 200 feet landward of the ordinary high water mark of the lake.

C. Environmental Designation. The "S-14" Shoreline District is hereby designated as a "conservancy" environment as summarily defined in Section 13.10.030 of this chapter, and as further defined within those elements of the Shoreline Master Program which are adopted by resolution.

D. Substantial Development/Permitted Uses and Development Activities. The following uses and development activities shall be permitted, subject to the issuance of a Substantial Development Permit, if required:

1. Educational, historical, cultural, and archaeological areas.

2. Piers, wharves, docks, and floats.

3. Recreation, water-oriented.

4. Residential, upland location only.

5. Road construction.

6. Utilities, underground.

7. Normal maintenance and repair of existing structures or developments, including damage by accident, fire, or elements.

E. Substantial Development/Conditional Uses and Development Activities. The following uses and development activities shall be permitted subject to the issuance of a Substantial Development/ Conditional Use Permit, if required; provided, that the applicant can demonstrate that any such use activity conforms with the criteria set forth in Section 13.10.180 of this chapter, and subject to approval of the Department of Ecology as set forth in Section 13.10.180 of this chapter:

1. Bulkheads.

2. Dredging, maintenance.

3. Landfill above the OHWM in conjunction with a specific use.

F. Prohibited Use Activities. The following uses and development activities are hereby prohibited:

1. Dredging, nonmaintenance.

2. Storm drains, new.

3. Landfill below the OHWM.

G. Height Limitation for Structural Improvements. No building, structure, or portion thereof hereafter erected shall exceed a height of 35 feet.

H. Area Regulations. A building or structure hereafter built, enlarged, or moved shall provide the following setbacks:

1. Side Yard/View Corridor – same as required in the "S-1" Western Slope South Shoreline District.

2. Front Yard Setback (street or road) – same as required in the "S-1" Western Slope South Shoreline District.

3. Rear Yard Setback – same as required in the "S-1" Western Slope South Shoreline District.

4. Lot Area – Same as required in the "S-1" Western Slope South Shoreline District.

I. Parking and Loading Regulations. In addition to regulations set forth in Section 13.10.175 of this chapter, the following shall also apply: Public parking areas shall not be permitted within 200 feet of ordinary high water.

J. Use and Development and Sign Regulations. Use and development and sign regulations are set forth in Section 13.10.175 of this chapter entitled "Regulations." (Ord. 27158 § 16; passed Nov. 4, 2003: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.175 Regulations.

A. General Regulations. The following are the regulations which apply to all proposed developments on the shoreline and associated wetlands or wetland areas of the City:

1. Public Access Criteria.

a. All proposed developments shall be designed to maximize the public view and public access to and along the shoreline where appropriate. Public access shall be required for all shoreline development and uses, except for single-family residences or residential projects containing fewer than four dwelling units. A shoreline development or use that does not provide public access may be authorized;

provided, that it is demonstrated by the applicant and determined that one or more of the following circumstances apply:

(1) Unavoidable health or safety hazards to the public exist, which cannot be prevented by any practical means;

(2) Inherent security requirements of the use cannot be satisfied through the application of alternative design features;

(3) Unacceptable environmental harm will result from the public access which cannot be mitigated; or

(4) Significant undue and unavoidable conflict between the proposed access and adjacent uses would occur and cannot be mitigated; and provided, further, that the applicant has first demonstrated and it has been determined that all reasonable alternatives have been exhausted, including but not limited to:

(a) Regulating access by such means as limiting hours of use to daylight hours.

(b) Designing separation of uses and activities; i.e., fences, terracing, hedges, landscaping, etc.

(c) Providing access at a site physically separated from the proposal, such as a nearby street end, an off-site view point, or a trail system.

b. Except as indicated in Subparagraph a, above, and except for existing industrial developments, all proposed developments within the "S-6," "S-7," and "S-8" Shoreline Districts shall incorporate public access to and along the water's edge as follows. For the purposes of determining whether these requirements apply, "existing industrial development" shall include any expansion, adaptation, repair, replacement, or other modification, including changes necessitated by technological advances, of any industrial uses which existed on January 1, 1996, on the east side of the Waterway. The requirements of Section 13.10.110 for the "S-8" Shoreline District provide more detailed public access requirements on the western side of Thea Foss Waterway, and shall be the controlling requirements for that area:

(1) A continuous, unobstructed, publicly accessible esplanade or boardwalk fronting directly on the shoreline edge. The esplanade or boardwalk will be a minimum of 15 feet wide, except on the western side of the Thea Foss Waterway, where the minimum improved surface shall be 20 feet wide. Site amenities, such as benches, lights, and landscaping, will be included as part of the esplanade or boardwalk construction.

(2) A pedestrian circulation link from the street right-of-way to the public esplanade or boardwalk shall be provided for each development, and shall be a minimum of 10 feet wide and ADA accessible. The required pedestrian circulation link shall be located within the required side yard/view corridor and be counted toward said side yard/view corridor requirement. Provision shall be made to provide access from the parking lot to the main building entrance. On the western side of Thea Foss Waterway, the requirements of Section 13.10.110 specify that connections between Dock Street and the shoreline are provided through designated 80-foot wide view/access corridors, and possibly additional public access corridors. These corridors must be developed consistently with the design requirements of the Thea Foss Design and Development Plan.

(3) Development projects over one acre in land area or with over 500 linear feet of shoreline frontage shall include additional public open spaces or plazas equal to at least 5 percent of total property area. Such public spaces shall include landscaping and site amenities such as benches and lighting. On the western side of the Thea Foss Waterway, this additional public space shall be provided adjacent to and consistent with required view/access corridors.

(4) On the western side of the "S-8" District, new permanent buildings are not allowed in any designated waterfront esplanade, boardwalk, or view/access corridor unless otherwise specified in Section 13.10.110, except that pedestrian bridges connecting development site buildings, weather protection features, public art or structures provided primarily as public access or a public amenity such as viewing towers, decks, and public restrooms may be located in or over these areas, provided they are consistent with the Thea Foss Waterway Design and Development Plan and subsection 13.10.110.H.

c. Developments, uses, and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public's visual or physical access to the water and shorelines where appropriate.

d. Public access sites shall be connected directly to the nearest public street.

e. Public access sites shall include barrier-free elements.

f. Public access sites shall be fully developed and available for public use at the time of occupancy or use of the development or activity.

g. Public access easements and permit conditions shall be recorded on the deed where applicable or on

the face of a plat or short plat as a condition running with the land for the life of the project. Said recording with the County Auditor's office shall occur at the time of permit approval.

h. The standard state-approved logo and other approved signs that indicate the public's right of access and hours of access shall be constructed, installed, and maintained by the applicant in approved locations at public access sites. In accordance with Section 13.10.175.A.1.a.4(a), (b), and (c), signs may control or restrict public access as a condition of permit approval.

i. Future actions by the applicant or other parties shall not diminish the usefulness or value of the public access site.

j. Public access shall be consistent with the design standards for the Shoreline District in which the development occurs. (In the "S-6" Ruston Way Shoreline District, refer to the Ruston Way Design Plan and Booklet, and in the "S-8" Thea Foss Waterway Shoreline District, refer to the Thea Foss Waterway Design and Development Plan.)

k. Public access elements may include, but shall not be limited to the following:

(1) Exercise and play structures.

(2) Shoreline parks or plazas.

(3) Beach areas.

(4) Piers, docks, wharves, floats, and other water-access facilities.

(5) Transient moorage.

(6) Trails, promenades, other pedestrian ways, or bicycle paths along or adjacent to the shoreline edge.

(7) Picnic areas.

(8) Viewpoints and viewing towers.

(9) Interpretive displays.

l. View opportunities. View opportunities do not of themselves satisfy the need for substantial increased opportunity for public use, access, and enjoyment of the City's shorelines; however, view opportunity elements shall be included where possible in those developments which meet the Master Program criteria for a shoreline location, except as indicated in subparagraph a, above. View opportunity elements may include, but shall not be limited to, the following:

(1) Structure orientation and location which provide for large open spaces between structures which allow viewing of the shorelines and waters of the City.

(2) Building design which provides for significant viewing opportunities from within buildings and which may include viewing areas specifically designed and designated for the general public.

(3) Decks and rooftop structures which provide viewing by the public of the shorelines and waters of the City.

m. Street ends shall be retained and developed for public access where feasible.

n. Where street ends have been leased to private developers, lease renewal shall include provisions for public access, except as hereinabove provided.

o. Where developments have unlawfully encroached upon public street ends, removal of the encroachment shall be required.

2. Environmental Protection Measures.

a. All proposed developments shall include measures to minimize erosion during and after project construction and for the replanting of the site after construction.

b. All proposed developments shall include measures to minimize contamination of surface waters, depletion and contamination of ground water supplies, and the generation of increased surface runoff.

c. All proposed developments shall provide for the disposal of any increased surface runoff without damage to streams or other wetlands.

d. All proposed developments shall provide storm drainage facilities which are separate from sewage disposal systems and which are constructed and maintained to meet all applicable standards of water quality, including the Tacoma Stormwater Management Manual, Chapter 12.08 of the Tacoma Municipal Code, Health Department Regulations, and other applicable Federal, State, and local regulations.

e. All proposed developments shall provide facilities or appurtenances for disposal of sanitary waste and shall monitor the use of chemicals, fertilizers and other pollutants in such a manner so as to not degrade existing levels of water quality.

3. Parking and Loading Standards. The following are regulations concerning off-street parking and loading areas which apply to all proposed developments on the shoreline and associated wetlands or wetland areas of the City:

a. Parking, loading, and service area space requirements and standards shall be subject to the applicable Zoning Code requirements for each specific use in accordance with Section 13.06.510.

Requirements shall be a condition of a Shoreline Management Substantial Development Permit when not specifically spelled out in Section 13.06.510.

b. Parking areas shall provide for the disposal of any increased surface runoff without damage to surrounding waters, wetlands, or waterfront areas.

c. Parking, loading, and service areas for a permitted use activity shall be located on the street/landward side of the structure unless the same are incorporated within a permitted structure; however, where there is no available land area on the street/landward side of the structure, parking shall extend no closer to the shoreline than a permitted structure. If parking cannot be located on the street/landward side of the building, or within a structure, a minimum landscaped buffer of eight to 10 feet adjacent to the shoreline shall be provided and maintained. Such buffer area shall contain landscaping, including medium growing trees and site amenities, and shall count toward the parking lot landscaping requirement. The requirements of Section 13.10.110 for the "S-8" Shoreline District specify parking requirements for the western side of the Waterway, and, where differing from these requirements, shall be the controlling requirements for that area.

d. Reserved.

e. Only parking necessary for a permitted or conditional use activity shall be allowed – parking as a primary use is prohibited, except as specified in Section 13.10.110.I for the western side of Thea Foss Waterway.

f. For developments which include public access features, one parking space for each 20 parking spaces, and one for each 50 thereafter, shall be set aside and appropriately marked for public access only, except as specified in Section 13.10.110.I for the western side of Thea Foss Waterway. Said parking spaces may be counted toward parking requirements.

g. Open parking shall conform to all standards contained in Section 13.06.510, and in addition, shall:

(1) Be separated from any roadway or property line by a landscaped area at least six feet wide, excluding walks and paths, except that such landscaped areas shall not be required along a property line wherever parking areas divided by said property line shall allow access to the roadway. Such landscaped area shall be counted toward the requirements listed in subsections (3) and (4) below.

(2) Be landscaped with canopy-type trees and predominantly evergreen shrubs and groundcover plants. Plant materials at maturity shall not obscure views from public roadways.

(3) Contain a minimum of 15 percent landscaping of the parking area (including the interior) if the lot area is less than 20,000 square feet.

(4) Contain a minimum of 20 percent landscaping of the parking area (including the interior) if the lot area is 20,000 square feet or more.

(5) Contain one medium-growing tree for every 1,500 square feet of parking area, which shall be counted toward the requirements listed in subsections (3) and (4) above.

(6) Contain interior planting beds a minimum of eight feet wide. Perimeter planting beds adjacent to parking spaces shall be a minimum of six feet wide.

(7) Contain pedestrian connections to public esplanades or boardwalks, building entrances, and public circulation links. Pedestrian connections shall either be a raised sidewalk, or, minimally, composed of a different material from the parking lot. Pedestrian connections must be at least five feet wide, excluding vehicular overhang.

(8) Contain lighting not exceeding 20 feet in height, except in the "S-7" Schuster Parkway, "S-9" Puyallup River, and "S-10" Port Industrial Shoreline Districts.

h. A landscaping plan for the parking area shall be submitted for review and approval by the Land Use Administrator prior to issuance of a building permit.

i. Further, open parking on piers shall conform to the following requirements:

(1) Parking areas on piers shall be a conditional use.

(2) Parking areas on piers shall be located on the landward side of the structure.

(3) The following regulations apply to the "S-1" Western Slope South, the "S-4" Point Defiance Natural, and the "S-14" Wapato Lake Shoreline Districts: Parking areas on piers shall be prohibited.

4. Sign Standards.

a. The following are regulations concerning signs which apply to all existing and proposed developments on the shoreline and associated wetlands or wetland areas of the City:

(1) Signs shall be for the purpose of identifying a development or business, advertising services and goods available, providing direction (e.g., highway signs), or providing information (e.g., historic or educational information or public park facilities and activities).

(2) On-premises signs may be either freestanding or constructed against, painted on, or attached to buildings as permitted in subsection 4.b of this section. Signs shall not be permitted on trees, rocks, or other natural features that are part of the existing environment. Outdoor advertising signs, billboards, and portable signs shall not be permitted.

(3) Signs on buildings shall not extend above or beyond the edge of any wall or other surface to which they are attached, nor shall they extend more than 12 inches beyond the surface to which they are attached.

(4) A freestanding sign may be placed anywhere on a site where it shall not significantly degrade a vista, viewpoint, or view shed presently available to the public, or impair the visual access to the water from such view areas, and shall be located within a landscaped area unless otherwise permitted.

(5) Signs for industrial and commercial development having both land and water access may have one sign facing landward and one facing seaward.

(6) Freestanding signs may be located within public street rights-of-way, subject to approval; provided, that a street occupancy permit has been obtained by the owner to allow such placement.

(7) Temporary signs shall be allowed only for sale, lease, or rental of property, political advertising, signs denoting the architect, engineer, or contractor when placed upon work under construction or signs promoting special public events such as festivals, exhibitions, and performance events.

(8) Signs required for safety and security, customarily incidental to the use of the property (e.g., marina dock rules and regulation signs and bulletin boards) shall be allowed.

(9) Indirect illumination and floodlighting shall be the only allowable means of illumination of signs. All external lighting shall be directed away from the water and adjacent properties to minimize the effects of light and glare upon adjacent uses. No external bare bulb illumination of signs shall be allowed, except that neon signs shall be allowed in the "S-8" Shoreline District. No flashing, revolving, fluttering, undulating, animated, or otherwise moving signs shall be allowed.

(10) All signs shall be of permanent materials (no cardboard, cloth, paper, etc.). No flags, banners, or other devices shall be displayed for the purpose of attracting attention to a development or site. The proper display of governmental or official notices, flags, emblems, or insignia shall not be restricted, but shall be reviewed and approved prior to installation.

(11) Graphics or super-graphics utilized for advertising or identification purposes shall meet the size limitations specified for building face signs in subsection 4.b of this section. Graphics or super-graphics utilized for aesthetic enhancement or decoration shall not be restricted by the provisions hereof, but shall be reviewed and approved prior to installation.

(12) Plans for signs shall be submitted for review and approval at the time of Shoreline Permit Approval. Signs proposed to be added to developments subsequent to permit approval, or to a preexisting use, shall be reviewed and approved by the Land Use Administrator to ensure conformance with sub-section 4.b of this section. Appeal of any ruling by the Land Use Administrator on a sign shall be carried out under the procedures specified in Chapter 13.05 of this title.

b. The following are regulations concerning the size limitations of signs which apply to all proposed and existing developments on the shoreline and associated wetlands or wetland areas of the City (see Table 1):

(1) Multiple-Family Residential: One freestanding sign not exceeding 15 square feet in area per face and not greater than six feet in height, or one building face sign 20 square feet in area, shall be allowed for each development site.

(2) Commercial:

(a) One freestanding sign not exceeding 45 square feet in area per face and not greater than 15 feet in height, or one building face sign 60 square feet in area, shall be allowed for each development site except as specified in subsection 13.10.175.A.4.a.5 and except for the "S-8" Shoreline District Regulations which are indicated in (2.1) below. In addition, where a development site contains one or more tenants, each tenant may have a single building face sign which shall be limited to a maximum total area of six square feet. Coordination of tenant building face signs in appearance and design shall be required. The allowable freestanding sign may also be utilized as a joint directory sign.

(b) The following regulations additionally apply to the specific Shoreline District indicated: "S-1" Shoreline District – Western Slope South; "S-5" Shoreline District – Point Defiance; "S-6" Shoreline District – Ruston Way; "S-11" Shoreline District – Marine View Drive South; "S-12" Shoreline District – Marine View Drive North: Commercial development shall be limited to one freestanding sign not to exceed 30 square feet in area per face, and not

greater than eight feet in height, or one building face sign 60 square feet in area, for each development site.

(2.1) In the "S-8" Thea Foss Waterway Shoreline District:

(a) Buildings containing one business are allowed the following sign area: .75 square-foot of sign area per lineal foot of building frontage (Note: frontage is the longest building side with a public entrance). The maximum area for any sign is 75 square feet. A total of two signs, on separate building faces, is allowed. One of these signs may be a freestanding sign, limited to 20 feet in height, and oriented landward, which may be utilized as a joint directory sign.

(b) Buildings containing multiple businesses may provide one additional non-freestanding sign (for a total of three). In addition, each tenant may have a single building face sign which shall be limited to a maximum total area of 10 square feet. This sign area is not included in the total sign area. Coordination of tenant building face signs in appearance and design shall be required.

(c) Building clusters may calculate their sign area based on .75 square feet of sign area per lineal street frontage.

(d) One non-illuminated A-board sign limited to a maximum total area of 10 square feet for each use is allowed; provided, that the sign area provided is included in the total allowable sign area and does not obstruct designated public or vehicular access routes.

(3) Industrial:

(a) One freestanding sign not exceeding 75 square feet in area per face, and not greater than 20 feet in height, or one building face sign 100 square feet in area, shall be allowed for each development site. In addition, where a development site contains one or more tenants, each tenant may have a single building face sign which shall be limited to a maximum total area of 12 square feet. Coordination of tenant building face signs in appearance and design shall be required. The allowable freestanding sign may also be utilized as a joint directory sign.

(b) The following regulations additionally apply to the specific Shoreline District indicated:

(i) "S-8" Shoreline District – Thea Foss Waterway. Signs in the "S-8" Thea Foss Waterway Shoreline District shall additionally conform to the unifying design recommendations in the Thea Foss Waterway Design and Development Plan.

(ii) "S-6" Shoreline District – Ruston Way: Industrial development shall be limited to one freestanding sign not exceeding 30 square feet in area per face and not greater than eight feet in height, or one building face sign 60 square feet in area, for each development site. Signs in the "S-6" Ruston Way Shoreline District shall additionally conform to the unifying design recommendations set forth in the Ruston Way Plan and Ruston Way Design Booklet.

(4) Park/Recreational: One freestanding sign not exceeding 30 square feet in area per face and not greater than eight feet in height shall be allowed for each development site.

c. A waiver of the regulations set forth above shall be authorized only under the circumstances which follow. A request for waiver shall be processed in accordance with the provisions of Chapter 13.05.

(1) The adjacent land use is of such a character as to render the above regulations unreasonable or unnecessary (e.g., industrial development).

(2) The waiver will not constitute a grant of special privilege not enjoyed by other properties in the area.

(3) A waiver of the above regulations will not adversely affect the intended character of the Shoreline District and the rights of neighboring property owners and will secure for neighboring properties substantially the same protection which the regulation, if enforced literally, would have provided.

(4) Vehicular sight distance and pedestrian safety will not be adversely affected.

(5) Undue view blockage or impairment of existing or proposed pedestrian access to the shorelines and adjacent waters will not result.

(6) In authorizing a waiver, all of the circumstances set forth in subparagraphs (1) through (5) above shall be found present or will occur. In addition, such design and aesthetic conditions may be imposed on the permit as are necessary to insure compliance with the circumstances and findings required above.

TABLE 1
SIGNS: SIZE REQUIREMENTS

		Type of Sign		
Land Use	**Shoreline District**	**Building Facade**	**Freestanding (Area in sq. ft.)**	**Height**
Multi-Family Residential	"S-8", "S-11", "S-12"	20	15	6 ft.
Commercial	"S-7", "S-8", "S-10"	60	45	15 ft.
	"S-1", "S-5", "S-6", "S-11", "S-12"	60	30	8 ft.
	"S-8"	See Section 13.10.175.A.4.b(2.1)		
Industrial	"S-10", "S-11"	100	75	20 ft.
	"S-7", "S-8"	60	45	15 ft.
Park/Recreation	"S-1" to "S-14"	None	30	8 ft.

B. Development Regulations.

1. Aquaculture. The following regulations apply to all Shoreline Districts within which Aquaculture is allowed:

a. Only aquacultural enterprises for personal consumption, educational projects, or improvement of habitat shall be permitted. Over-water commercial facilities shall be prohibited.

b. Hatcheries, including commercial enterprises, shall be permitted at upland locations only, with net pens allowed as an accessory use on a seasonal basis as set forth in Section 13.10.175.B.1.g of this chapter.

c. Aquacultural enterprises shall be located in areas of high water quality where the navigational access of upland owners and commercial traffic is not restricted, and where the water body is capable of absorbing the wastes generated by the proposed aquaculture activities.

d. Aquacultural development shall have no significant adverse impact on the visual access of upland owners or on water quality, and the general aesthetic quality of the shoreline area shall be protected.

e. Aquaculture shall not eliminate or destroy naturally occurring areas of great biological productivity or modify existing or natural beaches or natural environments.

f. Aquaculture shall use only those species indigenous to the area.

g. Where net pens are used, they shall be temporary, seasonal structures.

h. The goals and intent of the 1988 Agreement between the Puyallup Tribe of Indians and various governmental agencies shall be considered when evaluating aquacultural enterprises.

2. Breakwaters. The following regulations governing breakwaters apply to all Shoreline Districts within which breakwaters are allowed:

a. The construction of breakwaters shall be permitted only in special cases where overall public benefit can be demonstrated.

b. Floating breakwaters shall be used in place of fixed types where they can withstand extensive wave action, in order to maintain sediment movement, fish habitat, and water circulation. Fixed breakwaters shall be allowed where design can maintain desired movement of sediment and circulation of water.

c. Breakwaters shall be permitted only for navigational purposes and marinas in "S-1" Shoreline District – Western Slope South and "S-5" Shoreline District – Point Defiance Conservation.

d. Breakwaters shall incorporate public access where appropriate.

3. Bulkheads.

a. The following regulations governing bulkheads apply to all Shoreline Districts within which bulkheads are allowed:

(1) The construction of bulkheads shall be permitted only when they provide protection to upland areas or facilities or for protection of approved landfills. Bulkheads shall not be permitted for the indirect purpose of creating land by filling behind the bulkhead.

(2) Bulkheads shall be constructed of concrete, wood, rock, riprap, or other suitable materials. The design and construction of such bulkheads shall, to the maximum extent feasible, preserve the natural characteristics of the shoreline, including beaches, and shall take into account habitat protection and aesthetics, including consideration of Washington Department of Fish and Wildlife criteria.

(3) Bulkheads shall be replaced not more than three feet seaward of the existing bulkhead.

(4) When a bulkhead is constructed or replaced on public lands and where a beach is present, physical access to the beach shall be provided.

(5) Bulkheads shall be constructed to minimize damage to fish and shellfish habitat, and shall conform to the requirements of the Washington Department of Fish and Wildlife Hydraulics Code.

(6) Repair and maintenance of bulkheads shall maintain the aesthetic integrity of the existing structure.

(7) In permitting bulkheads on public lands, factors to be considered shall include: possible damage to marine life, reduction of beach surface area, reduction in hours of beach accessibility on tidal waters, reduction of navigable water surface, and limitation of points of access to the beach.

b. The following regulations additionally apply to the specific Shoreline District indicated:

(1) "S-5" Shoreline District – Point Defiance Conservation: The construction of bulkheads shall be limited to repair or replacement of existing bulkheads, except that the existing rubble fill (as of January 15, 1974) at the northwesterly extent of the conservancy environment, may be bulkheaded.

(2) "S-6" Shoreline District – Ruston Way: Bulkheads shall additionally conform to the standards set forth in the Ruston Way Plan and Ruston Way Design Booklet.

(3) "S-8" Shoreline District – Thea Foss Waterway: Bulkheads shall additionally conform to the standards set forth in the Thea Foss Waterway Design and Development Plan.

4. Commercial.

a. The following regulations apply to all Shoreline Districts within which commercial uses are allowed:

(1) In construction of commercial uses, it is the intent of the City to require that such uses, either through the nature of their use and/or through provisions for public access, substantially increase the opportunity for public use, access, and enjoyment of the City's shoreline. An applicant for a commercial use shall demonstrate the following:

(a) That the proposed development will be designed and oriented to take advantage of the waterfront siting and the water view.

(b) That the proposed development will be designed to maximize public view and public access to and along the shoreline as provided in Section 13.10.175 of this chapter.

(c) That the proposed development will be designed to be compatible with existing and/or proposed uses and plans for adjacent properties.

(d) That landscaping for proposed developments will receive special consideration to screen unsightly aspects of their operation from the public view but to minimize blockage of the existing scenic view.

(e) That the proposed development will be designed to be compatible with the character of the Shoreline District in which it is located.

(f) That the proposed development will be designed to have a minimum adverse impact on the natural environment of the site.

(2) In order to determine the appropriateness of a proposal to locate a commercial use on the shorelines of the City and to evaluate its consistency with the Shoreline Management Act of 1971 (Chapter 90.58 RCW) and the Tacoma Master Program for Shoreline Development, the following shall be considered:

(a) The general accessibility and availability of the facility to the public.

(b) The extent to which the operation of the facility attracts people to the shorelines and provides access to the shorelines. For example, uses such as restaurants, boutiques, and shops, especially those intended and designed to cater to tourist trade, tend to attract the public to the shorelines.

(c) The degree of orientation of the use to the shorelines and waters of the City. For example, marine supply stores, small boat sales, and other retail uses serving the boating public may be facilitated by their location and orientation to the shorelines and the water.

(d) The extent to which public access is provided to the shorelines as set forth in Section 13.10.175 of this chapter. Since the Tacoma Master Program for Shoreline Development only permits commercial uses which will provide for substantial numbers of people to enjoy the shorelines of the State, significant public access elements must be incorporated into a proposal for such use.

(3) In issuing a Substantial Development Permit or Substantial Development/Conditional Use Permit for a commercial use, provisions for substantial public access to the shoreline shall be required as an element of the project and/or as a condition to the permit. Such access shall be in accordance with the public access criteria set forth in Section 13.10.175.A of this chapter.

b. The following regulations additionally apply to the specific Shoreline District indicated:

(1) "S-5" Shoreline District – Point Defiance Conservation:

(a) Commercial development shall be limited to upland locations only, except at the present Pavilion Boathouse complex, where water-oriented commercial development is permitted over water.

(b) Commercial development shall be limited to businesses providing recreational equipment or services or food services.

(2) "S-6" Shoreline District – Ruston Way: Hotel/motel/boatel development shall be prohibited except landward beyond a line located 150 feet from the OHWM northwesterly 2,155 feet only.

(3) "S-8" Shoreline District – Thea Foss Waterway:

(a) Artisan/craftsperson uses must demonstrate that adequate site design, operating methods, and construction techniques have been used to ensure that the use is compatible with surrounding uses and protection of public safety. Further, the site must be consistent with public access components as specified for water-enjoyment uses. Uses may be permitted to occur outdoors; provided, that shoreline permits involving outdoor activities may be reviewed on a five-year basis for ongoing compatibility.

(b) Mixed-use developments shall demonstrate that the ground level development of buildings located adjacent to the esplanade or view/access corridors is primarily developed with water-oriented uses or activities.

(4) "S-9" Shoreline District – Puyallup River: Riverfront vehicular access shall be permitted for emergency and/or maintenance vehicles only.

5. Dredging. The following regulations apply to all Shoreline Districts in which dredging is permitted:

a. Deposit of dredge materials shall only be permitted in an approved disposal site, for habitat improvement, to correct material distribution problems which are adversely affecting fish and shellfish resources, where land deposition would be more detrimental to shoreline resources than water deposition, as a cap for contaminated sediments, or a fill used in conjunction with an environmental remediation project.

b. Dredging of bottom materials for the primary purpose of obtaining fill materials shall not be permitted.

c. Returned water from any dredge material disposed of on land shall meet all applicable water quality standards in accordance with applicable water quality regulations.

d. Sides of dredged channels for port and industrial use shall be designed and constructed to prevent erosion and permit drainage.

6. Educational, Historical, Cultural, and Archaeological Areas. The following regulations apply to all Shoreline Districts:

a. In areas known to contain archaeological, cultural, and historic materials, special conditions shall be attached to all shoreline permits, ensuring that the developer provide for a site inspection and evaluation by a qualified archaeologist, architect, or preservation planner to ensure that possible data are properly identified and maintained.

b. Developers shall be required to protect and preserve any archaeological, cultural, or historic materials, including those uncovered during excavation, and to immediately notify the City. Once such a site is found, all regulations for cultural, historical, and archaeological areas shall apply. Failure to do this may result in the revocation of the developer's shoreline permit.

c. In the event that unforeseen factors, constituting an emergency as defined in RCW 90.58.030, necessitate rapid action to retrieve or preserve artifacts or data identified above, the project may be exempted from the permit requirement of these regulations. The City shall notify the State Department of Ecology and the State Attorney General's office in a timely manner of such an exemption.

d. Significant archaeological, cultural, and historical sites of community or regional interest shall be preserved for scientific study, education, and public observation. When the City determines scientific, cultural, or historic value, a substantial development permit will not be issued which would pose a threat to the site. The City may require that development be postponed in such areas to allow investigation of public acquisition potential and/or the retrieval and preservation of significant artifacts, and/or require modifications to the project which eliminate the threat to such sites or artifacts.

7. Environmental Remediation. The following regulations apply to all Shoreline Districts within which environmental remediation activities are permitted:

a. Environmental remediation activities shall utilize cleanup options which will not pose a threat to human health or the environment. Said cleanup options shall be compatible with adjacent and existing land uses.

b. On-site containment facilities shall only be permitted in the "S-10" Port Industrial Shoreline District, where such on-site containment facilities shall be conditional uses.

8. Habitat Improvement. The following regulations apply to all Shoreline Districts within which habitat improvement activities are permitted:

a. Where possible, habitat improvement projects shall be protected in perpetuity. If future development proposes to impact existing habitat improvement sites, it must be demonstrated that there are no practicable alternatives to avoid adverse impacts, and further, that adequate mitigation is provided to address unavoidable losses.

b. Habitat improvements shall be approached on a watershed basis, and shall seek to promote an ecosystem or landscape approach, including integrating projects into their surrounding environments and promoting greenbelts for movement and use by species.

9. Jetties and Groins. The following regulations apply to all Shoreline Districts in which jetties and groins are permitted:

a. The construction of jetties and groins shall be permitted only in special cases where overall public benefit can be demonstrated.

b. Construction of jetties and groins shall not create significant interference with the public use of the water surface.

c. The effect on sediment movement shall be a primary consideration in the evaluation of proposed jetties or groins. Provision shall be made to minimize potential adverse effects on natural systems caused by jetties or groins, and costs of mitigating damages which do occur shall be borne by the person who develops the jetty or groin.

d. Consideration shall be given to the effect which jetties and groins will have on wildlife propagation and movement, particularly with reference to the out migration of juvenile salmonidae from the Puyallup and Hylebos River systems, and to a design of these structures which will not detract from the aesthetic quality of the shoreline.

e. Public access for sightseeing and public fishing shall be considered in jetty and groin design wherever such access would not interfere with the public safety.

10. Landfill.

a. The following regulations apply to all Shoreline Districts within which landfill is permitted:

(1) Landfills below the OHWM shall be permitted for water-dependent uses (including habitat improvement and environmental remediation) only.

(2) Landfills shall be considered only where such construction can be integrated with the existing shoreline.

(3) Landfills shall not be authorized unless a specific use for the site has been evaluated and permitted; speculative landfills shall be prohibited in all Shoreline Districts.

(4) Applications for landfills shall address methods which will be used to minimize damage of the following types:

(a) Biota:

(i) Reduction of habitat.

(ii) Reduction of feeding areas for shellfish, fishlife, and wildlife.

(iii) Reduction of shellfish, fishlife, and wildlife reproduction areas.

(iv) Reduction of fish migration areas.

(b) Physical:

(i) Alteration of local current.

(ii) Wave damage.

(iii) Total water surface reduction.

(iv) Navigation restriction.

(v) Impediment to water flow and circulation.

(vi) Reduction of water quality.

(vii) Loss of public access.

(viii) Elimination of accretional beaches.

(ix) Erosion.

(x) Aesthetics.

(5) All perimeters of fills shall use vegetation, retaining walls, or other means for erosion control.

(6) Shoreline areas shall not be used for any form of sanitary landfill or for any disposal of solid waste; however, this would not preclude the disposal of hazardous substances or other materials generated, treated, or disposed of in conjunction with an environmental cleanup in accordance with State and Federal regulations.

(7) Only material which will not cause violation of State Water Quality Standards may be used in permitted landfill projects.

(8) Dust control measures, including plants and vegetation where feasible, shall be taken in all landfill projects.

(9) Beach materials shall not be used for fill behind bulkheads, other than clean dredge materials from a

permitted dredge and fill operation and materials excavated during construction of the bulkheads.

b. The following regulations additionally apply to the specific Shoreline District indicated:

(1) "S-9" Shoreline District – Puyallup River: Landfill shall only be permitted landward of the Puyallup River dike, except for environmental remediation and habitat improvement projects.

(2) "S-10" Shoreline District – Port Industrial: Landfill is prohibited within the Puyallup River, except for environmental remediation and habitat improvement projects.

11. Log Storage and Rafting.

a. The following regulations apply to Shoreline Districts in which log rafting is permitted:

(1) Water storage of logs shall be limited to locations and periods of time required for cargo handling purposes.

(2) Restrictions shall be considered in public waters where log storage and handling are a hindrance to other beneficial water uses.

(3) Easy let-down devices shall be used for placing unpeeled logs into the water, and the free-fall, dumping of logs into water shall be prohibited.

(4) Provision shall be made to securely retain all logs, chunks, end-trimmings and other wood or bark particles of significant size within log dumps, rafting areas, and hillside handling zones.

(5) Log dumps shall not be located in rapidly flowing waters or other water zones where positive bark and debris controls cannot be made effective.

(6) Accumulations of bark and wood debris on the land and docks around dump sites and upland storage sites shall be kept out of the water. After cleanup, disposal shall be at an upland site where leachate will not enter surface or ground waters.

(7) Log storage areas shall be located in areas with sufficient water depth to prevent the grounding of logs during low tidal periods. Logs shall not be dumped, stored, or rafted where grounding will occur.

(8) Positive bark and wood debris controls, collection, and disposal methods shall be employed at log dumps, raft building areas, and mill-side handling zones.

b. The following regulations apply to the specific Shoreline District indicated:

(1) "S-10" Shoreline District – Port Industrial:

(a) Log dumps shall not be located within the Puyallup River.

(b) Where dry land storage of logs occurs, dikes, drains, vegetative buffer strips or other means shall be used to ensure that surface runoff is collected and discharged into a drainage system approved by the Director of Public Works.

(2) "S-11" Shoreline District – Marine View Drive South and "S-12" Shoreline District – Marine View Drive North: Dry land storage of logs shall not be permitted.

12. Marinas and Boat Launch Facilities.

a. The following regulations apply to all Shoreline Districts within which marinas and boat launch facilities are permitted:

(1) In construction of marinas and boat launch facilities, the developer shall show the following:

(a) That the proposed site has the flushing capacity required to maintain water quality.

(b) That adequate facilities for the prevention and control of fuel spillage are incorporated into the marina proposal.

(c) That the proposed design will minimize impediments to fish migration.

(d) That the proposed facility will not be located on a site important for natural stocks of shellfish or finfish, including spawning, feeding and rearing areas.

(e) That the proposed design will maximize public access and view corridors as set forth in Section 13.10.175 of this chapter.

(f) That the proposed development is consistent with and complements surrounding upland areas.

(2) Boat launch facilities shall not be permitted within 200 feet of any swimming beach. Swimming shall be prohibited within marina facilities unless the swimming area is adequately separated, protected, and posted.

(3) Garbage or litter receptacles shall be provided and maintained by the marina operator at several locations convenient to users. Garbage and litter receptacles are also regulated under RCW 70.93.095 and United States Code, Title 33, Chapter 33. In addition, recycling facilities are required under Chapter 70.93 RCW.

(4) Marina operators shall post the following signs where they are readily visible to all marina users:

(a) Regulations pertaining to handling and disposal of waste, sewage, and toxic materials;

(b) Operational procedures for fuel handling and storage;

(c) Procedures for reporting spilled petroleum, sewage, and toxic products.

(5) All marinas shall provide adequate restrooms for boaters' use. The restrooms shall be kept clean and be located within the marina facility. Signs shall be posted so the restrooms are easily identifiable to the boating public.

(6) All marinas containing 50 or more slips shall include portable, floating, or stationary facilities or appurtenances for disposal of sanitary waste by boats and pleasure craft. These facilities shall be low-cost or free, visible, and readily accessible by marina patrons. The responsibility for providing adequate facilities for the collection of vessel sewage and solid waste is that of the marina operator. Marinas shall have until October 30, 1997, to comply with said regulation, and shoreline permit fees shall be waived to facilitate compliance.

(7) All boaters shall be made aware of rules and best management practices for boat maintenance and on-site repairs.

(8) Minor boat repair and maintenance shall be allowed in conjunction with a marina operation; provided the operator can demonstrate such accessory use is clearly incidental and subordinate to the marina development, and that best management practices for small boat yards are employed.

(9) Marinas with live-aboard vessels shall only be permitted where compatible with the surrounding area and where adequate sanitary sewer facilities exist (as listed in subparagraphs b.1.a, b and c below) within the marina and on the live-aboard vessel.

(10) No vessel berthed in a marina shall be used as a place of residence except as authorized by the marina operator in conjunction with a marina permit from the City.

(11) Also refer to the regulations pertaining to solid waste disposal.

b. The following regulations additionally apply to marinas where live-aboard vessels are permitted:

(1) As part of a marina shoreline permit, live-aboard vessels shall be permitted. No more than 20 percent of a marina's slips shall be assigned to live-aboard vessels unless a substantial development permit/variance is granted in accordance with Section 13.10.180.C contained herein. All marinas with live-aboard vessels shall require:

(a) Each live-aboard vessel to be connected to utilities that provide sewage conveyance to an approved disposal facility; or

(b) Marina operators or live-aboards to contract with a private pump-out service company to adequately dispose of live-aboard vessel sewage; or

(c) A portable pump-out facility to be readily available to live-aboard vessel owners.

(NOTE: These requirements are in addition to the requirement that all marinas provide portable, floating, or stationary facilities for the disposal of sanitary waste as stated in subparagraph a.6 above.)

(2) Each live-aboard vessel shall have access to utilities that provide potable water.

(3) Live-aboard vessels must be of the cruising type, and must be kept in good repair and seaworthy condition in order to leave the marina in the event of an emergency.

(4) Marinas with live-aboard vessels shall have until October 30, 1997, to comply with the above regulations in Section 13.10.175.B.12.b, and shoreline permit fees shall be waived to facilitate compliance.

c. The following regulations additionally apply to the specific Shoreline District indicated:

(1) "S-2" Shoreline District – Western Slope Central: Marinas and boat launching facilities shall be prohibited seaward of mean higher high water and landward 50 feet from mean higher high water on a horizontal plane between the pond conduit and the bulkhead which existed at Tacoma Outboard Association (Hidden Beach Rocky Point) on December 14, 1976.

(2) "S-5" Shoreline District – Point Defiance Conservation: Boat launch facilities shall not be permitted between the northwest boundary of the existing boathouse/pavilion and the northwest boundary of the conservancy environment.

(3) "S-2" Shoreline District – Western Slope Central, "S-6" Shoreline District – Ruston Way, "S-7" Shoreline District – Schuster Parkway, and "S-8" Shoreline District: Covered moorages and boat houses shall not be permitted.

(4) "S-1" Shoreline District – Western Slope South, and "S-12" Shoreline District – Marine View Drive North: Covered moorages are permitted; provided they are of uniform design and limited only to construction of a permanent roof. Walls and fences shall be prohibited above deck or float level; however, handrails which are open in nature and not higher than 42 inches above the deck or float may be permitted. Boat houses shall not be permitted.

(5) "S-5" Shoreline District – Point Defiance Conservation (except as limited in Subsection (2) above), "S-10" Shoreline District – Port Industrial,

and "S-11" Shoreline District – Marine View Drive South: Covered moorages, including boat houses, are permitted; provided they are of uniform design and are consistent with the overall design of the marina facility.

(6) "S-8" Shoreline District – Thea Foss Waterway. Boat launch facilities, which are not part of a marina facility, shall be prohibited within Thea Foss Waterway. Car-top facilities are permitted. New marina development and marina reconfiguration on the west side of Thea Foss Waterway shall comply with the following requirements:

(a) New marina development may only occur in conjunction with an adjacent upland, non-marina use.

(b) For purposes of marina location, the designated primary or secondary view/access corridors specified in Section 13.10.110.H are extended into the Waterway on the west side, and are fixed in location. Marinas may not be located in or within 20 feet of these view/access corridors. Further, marinas are prohibited south of the extension of South 18th Street to the south end of the Waterway. Visitor moorage is allowed, and required public access features for marinas such as viewing platforms and piers may be located in the view/access corridors.

d. Public access to, and where possible, over, the water shall be provided at all marinas.

(1) "S 8" Shoreline District – Thea Foss Waterway. Marinas over 25 slips in size must provide a waterfront public viewing site a minimum of 200 square feet in size and consistent with the public access requirements of Section 13.10.175.A.1. An additional public access feature or equivalent increase in size of an existing feature shall be provided with each additional 75 slips.

13. Mineral Extraction. The following regulations apply to all Shoreline Districts:

a. Mineral extraction, including sand, gravel, and other rock or granular materials, shall be prohibited.

b. Oil extraction, including exploratory drilling from shorelines and related wetlands of the City of Tacoma, shall be prohibited.

14. Piers, Wharves, Docks, and Floats.

a. The following regulations apply to all Shoreline Districts within which piers, wharves, docks, and floats are permitted:

(1) Pier, wharf, dock, and float facilities shall be equipped with adequate lifesaving equipment such as life rings, hooks, and ropes.

(2) Piers, wharves, docks, or floats determined to be unsightly, unsafe, or both, by the Buildings Inspector of the City of Tacoma shall be repaired or disposed of in a manner satisfactory to the City.

(3) When plastics or other non-degradable materials are used in the construction of piers, wharves, docks, and floats, the materials shall be safely contained.

(4) Piers, wharves, docks, and floats shall be constructed so as to avoid or minimize impairment of views from existing uses or structures on neighboring properties.

(5) Piers, wharves, docks, and floats shall be constructed so as not to interfere with or impair the navigational use of surface water.

(6) When piers, wharves, docks, and floats are removed, the site shall be restored.

(7) Piers, wharves, docks, and floats shall be designed and constructed to minimize interference with public use of the water and shoreline. The design of piers, wharves, docks, and floats should enhance public access and shall include access, unless access is incompatible with a water-dependent or single-family use.

(8) Noncommercial piers, wharves, docks, and floats shall be constructed perpendicular to the shoreline where practicable.

(9) Pilings for newly constructed piers, wharves, docks, and floats shall be of materials other than treated wood. The aforecited prohibition does not apply to fender systems, mooring bollards, dolphins, batter walls or wing walls; nor wood treatments deemed acceptable in the future by State and Federal agencies with expertise. For replacement of more than 50 percent of the pilings in an existing pier, wharf, dock, or float, materials other than treated wood shall be used unless extreme adverse economic or engineering impacts can be demonstrated. The exceptions listed above also apply to this limitation.

(10) In evaluating requests for projects involving the construction of piers, wharves, docks, and floats, the following shall be considered:

(a) Environmental and navigational impact, pier density, waste disposal, oil and gas spillage, parking availability, and impact on adjacent lands.

(b) Whether cooperative use is present or may be present in the future.

(c) Whether existing facilities may be used or expanded to be used in preference to the construction of new facilities. New facilities should require a demonstration of public benefit as appropriate.

(d) Whether an open pile or floating structure is the appropriate design.

b. The following regulations additionally apply to the specific Shoreline District indicated:

(1) "S-1" Shoreline District – Western Slope South: Piers, wharves, docks, and floats shall be built perpendicular to the shoreline rather than parallel to it.

(2) "S-5" Shoreline District – Point Defiance Conservation and "S-6" Shoreline District – Ruston Way: No piers, wharves, docks, or floats shall be permitted in areas having a high value for shellfish, fishlife, or wildlife.

(3) "S-8" Shoreline District – Thea Foss Waterway: All piers, wharves, docks, or floats shall be consistent with the guidelines of the Thea Foss Waterway Design and Development Plan.

(4) "S-14" Shoreline District – Wapato Lake:

(a) Piers, wharves, docks, and floats shall be permitted only for fishing and swimming purposes.

(b) Piers, wharves, docks, and floats shall be constructed at a maximum density of one per residential lot.

(c) Piers, wharves, docks, and floats shall be built perpendicular to the shoreline rather than parallel to it.

15. Port, Terminal, and Industrial.

a. The following regulations apply to Shoreline Districts within which industrial uses are allowed:

(1) Industrial developments shall include the capability to contain and clean up spills, discharges, or pollutants, and shall be responsible for any water pollution which they cause.

(2) Water-dependent port, terminal, and industrial uses shall have shoreline location priority over all other uses in designated shoreline industrial areas.

(3) Petroleum sump ponds shall be covered, screened, or otherwise protected to prevent bird kill.

(4) Where possible, oxidation and waste stabilization ponds shall be located outside the Shoreline District.

(5) Port, terminal, and industrial facilities shall incorporate public viewing access unless such viewing access would interfere unreasonably with operations or would endanger public health or safety.

b. The following regulations additionally apply to the specific Shoreline District indicated:

(1) "S-8" Thea Foss Waterway Shoreline District: Industrial development shall be limited to that area on the easterly side of the Waterway and north of the centerline of East 15th Street. New industrial uses shall be conditioned as follows:

(a) New industrial developments shall provide public access to the shoreline and/or provide opportunities for public viewing of the industrial use, except as set forth in Section 13.10.175 of this chapter.

(b) Developments on the east side of the Waterway and north of East 15th Street shall be buffered from adjacent shoreline properties which are used for industrial purposes. Buffers shall be of adequate width, height, and plant and soil composition to protect adjacent shoreline properties from visual or noise intrusion, but shall be a minimum of 20 feet wide, together with a solid fence six feet in height. The required view corridor/ side yard may be counted toward the buffer requirement.

(c) Demonstration that adequate consideration has been given to and plans made to mitigate negative environmental impacts including, but not limited to, air, water, aesthetics, noise pollution, and the loss of fish and wildlife habitat shall be required.

(d) Additional landscaping of industrial sites such as the planting of trees and screening of operations shall be provided for in development plans.

(e) For the purposes of determining whether these requirements should be applied, "new development" shall not include any expansion, adaptation, repair, replacement, or other modification, including changes necessitated by technological advances, of any industrial uses which existed on January 1, 1996, on the east side of the Waterway.

(2) "S-9" Shoreline District – Puyallup River: River-front vehicular access shall not be permitted except for emergency and/or maintenance vehicles.

16. Recreation, Water-Oriented.

a. The following regulations apply to all Shoreline Districts within which water-oriented recreation is permitted:

(1) Recreational uses and improvements shall include public access to shorelines.

(2) Accretional beaches shall be retained in their natural state for water-dependent multiple uses such as swimming, clamming, and beachcombing.

(3) Proposals for recreational developments which would substantially alter the natural characteristics of the shoreline will be considered a conditional use.

(4) Underwater parks and artificial reefs established in cooperation with State agencies shall include safety provisions to warn boating traffic of their location.

(5) Artificial reefs shall not include materials toxic or otherwise hazardous to persons, fish, or wildlife.

(6) Proposals for recreational developments which include restroom facilities shall include plans for sewage disposal in conformance with applicable State Water Quality Standards and local health regulations, and shall not cause significant alterations to wetlands.

(7) Motor vehicular traffic, except emergency vehicles, shall be prohibited on beach and roadless shoreline areas.

(8) Any recreational building or structure, excluding piers or docks or floats, proposed to be built over water, shall be considered a conditional use.

(9) Accesses for boats shall allow safe and convenient passage to the public water, dictated by the class of boats using the access.

(10) Where public access has been unlawfully appropriated to private use, or otherwise unlawfully denied to the public, such prohibition shall be abated, and the area made accessible to the public.

b. The following regulations additionally apply to the specific Shoreline District indicated.

(1) "S 2" Shoreline District – Western Slope Central:

(a) Proposals for recreational developments which would substantially alter the natural characteristics of the shoreline will be considered a conditional use; provided, that no development, except that stated in Subsection (d) below, shall be permitted seaward of mean higher high water and landward 50 feet from mean higher high water on a horizontal plane between the pond conduit and the bulkhead which existed at Hidden Beach Rocky Point on December 14, 1976.

(b) Additional parking for recreational uses shall be prohibited.

(c) New road construction for recreational use shall be prohibited.

(d) In the Hidden Beach Rocky Point area, the only recreational use allowed which requires structural modification of the shoreline shall be the construction and maintenance of unpaved trails and adjacent seating.

(2) "S-4" Shoreline District – Point Defiance Natural:

(a) Unpaved trails are permitted only where they will not cause erosion or landslides, or will not otherwise detract from the natural environment.

(b) Beaches, sea cliffs, and forests shall be retained in their natural state.

(c) No recreational building or structure, including piers and docks, shall be built within this Shoreline District.

(d) The only recreational use allowed which requires structural modification of the shoreline shall be the construction and maintenance of unpaved trails and adjacent seating.

(3) "S-7" Shoreline District – Schuster Parkway, "S-10" Shoreline District – Port Industrial: Proposals for recreational development shall be found to not have an adverse effect on industrial deep water terminal operations and facilities.

(4) "S-14" Shoreline District – Wapato Lake: Recreational development shall be designed and constructed so as to not unnecessarily interfere with public use of the waters of the lake.

17. Residential.

a. The following regulations apply to Shoreline Districts in which residential uses are allowed:

(1) Residential development over water, including garages, accessory buildings, houseboats, and floating homes, shall not be permitted unless otherwise specified in this chapter.

(2) Mobile homes shall not be permitted.

(3) Outdoor parking areas shall be located on the street/landward side of residential units.

(4) Home occupations shall be permitted subject to the criteria set forth in Chapter 13.06.

(5) Public access to and from the water's edge shall be included in multiple-family developments of four or more dwelling units.

b. The following regulations additionally apply to the specific Shoreline District indicated.

(1) "S-1" Shoreline District – Western Slope South: Residential development shall be designed for single-family, condominium, duplex, triplex, and multiple family dwellings.

(2) "S-3" Shoreline District – Western Slope North: Residential development shall be designed for single-family dwellings and shall be developed consistent with the following criteria:

(a) Residential development, including accessory buildings, shall be limited to existing Salmon Beach development sites. In no instance shall the construction of a new, overwater single-family dwelling be allowed.

(b) Expansion of overwater pier structures shall be allowed; provided, that such structures are designed consistent with Washington Department of Fish and Wildlife standards to limit impacts on the aquatic environment and fisheries habitat, and do not adversely affect the public use of the shoreline area or surface waters.

(c) The expansion of single-family dwellings waterward of their present location shall be allowed; provided significant view blockage to neighboring properties does not occur.

(d) In no instance shall waterward expansion of overwater dwellings, including the building or overwater deck, be allowed beyond the following locations:

(i) Salmon Beach North (Cabins #1 – 43): a line 85 feet waterward of the toe of the steep slope area or the bulkhead line, or the as-built location of the four-inch diameter vacuum manifold sanitary sewer line constructed under L.I.D. 3935 in 1992, whichever is less restrictive.

(ii) Salmon Beach Improvement Club, Inc. (Cabins #45 – 104): the meander line or the as-built location of the four-inch diameter vacuum manifold sanitary sewer line constructed under L.I.D. 3935 in 1991, whichever is less restrictive. In no instance shall development be allowed beyond the line of existing encroachments as set forth in the agreement for easement and permit recorded under Auditor's Fee No. 89-3150514.

(e) The reconstruction and upgrading of existing single-family dwellings on recognized Salmon Beach development sites shall occur in a manner consistent with building, fire, health, and sanitation codes.

(f) Structures, including accessory buildings, shall not be allowed on the steep slope area to the east. The existing stairways and trail systems which provide access from the two off-street parking areas serving Salmon Beach shall be permitted within the steep slope area.

(3) "S-6" Shoreline District – Ruston Way: Residential uses are prohibited except landward beyond a line located 150 feet from the OHWM, northwesterly 2,155 feet only.

(4) "S-8" Shoreline District – Thea Foss Waterway: Residential development shall be permitted in upland locations on the west side of the waterway and on the east side only, south of the East 11th Street right-of-way, and shall be designed for multiple-family development only, excluding duplex and/or triplex development.

(5) "S-10" Shoreline District – Port Industrial: Residential development shall be designed for single-family dwellings in upland locations only.

(6) "S-11" Shoreline District – Marine View Drive South and "S-12" Shoreline District – Marine View Drive North: Residential development shall be designed for single-family, duplex, triplex, and multiple-family development in upland locations only.

(7) "S-14" Shoreline District – Wapato Lake:

(a) Residential development shall be designed for single-family dwellings.

(b) Prior to issuance of a building permit, the developer shall submit adequate plans for preservation of shore vegetation, for control of erosion during and after construction, and for the replanting of the site after construction. Such plans shall be approved by the Land Use Administrator.

(c) Residential development shall provide storm drainage facilities which do not discharge contaminants or excessive nutrients into the waters of Wapato Lake and its associated wetlands. Such plans shall be approved by the Chief of the Buildings Division.

18. Road and Railroad Construction. The following regulations apply to the specific Shoreline Districts indicated:

a. "S-1" Shoreline District – Western Slope South, "S-2" Shoreline District – Western Slope Central, and "S-3" Shoreline District – Western Slope North: Road construction shall be limited to the repair and maintenance of existing facilities, and shall not include any new facilities.

b. "S-2" Shoreline District – Western Slope Central and "S-3" Shoreline District – Western Slope North: Additional crossings of the Tacoma Narrows shall be permitted.

c. "S-4" Shoreline District – Point Defiance Natural and "S-5" Shoreline District – Point Defiance Conservation: Road construction shall be limited to the repair and maintenance of existing facilities and shall not include any new facilities, except that new road construction shall be allowed in that part of the "S-5" District located in the southwest quarter of Section 14, Township 21, Range 2 East.

d. "S-6" Shoreline District – Ruston Way:

(1) Roads shall be limited to one moving lane in each direction. Further construction shall be limited to the repair, maintenance, and improvement of existing thoroughfares and shall not include any new facilities. None of the existing 100-foot Ruston Way right-of-way shall be vacated.

(2) Any new railroad construction shall be a conditional use except extensions of existing railroad spurs on private property.

e. "S-8" Shoreline District – Thea Foss Waterway:

(1) Dock Street shall be limited to one moving lane in each direction. Further construction shall be limited to the repair, maintenance, and improvement of existing thoroughfares and shall not include any new

facilities, but may include center turn lanes and other turning lanes. Street improvements shall be consistent with the unifying design elements in the Thea Foss Waterway Design and Development Plan.

f. "S-13" Shoreline District – Commencement Bay – Tacoma Narrows: Additional crossings of the Tacoma Narrows shall be permitted.

g. "S-14" Shoreline District – Wapato Lake:

(1) Bicycle paths and other mechanized modes of transportation shall be limited to existing corridors.

(2) Road construction shall be limited to the repair and maintenance of existing facilities and shall not include any new facilities.

19. Shoreline Protection (Streams). The following regulations apply to Shoreline Districts "S-9" and "S-10":

a. Materials used for bank stabilization shall consist of concrete, rock, or other materials of the earth and shall be of sufficient size to prevent their being washed away by high water, wave, or current action. Automobile bodies or other waste materials shall not be used.

b. No bank stabilization shall create hydrodynamic changes which may necessitate additional bank stabilization downstream.

c. Dikes, levees, berms, and similar flood control structures shall be shaped and planted with native vegetation suitable for wildlife habitat.

d. Materials capable of supporting growth used in construction of shoreline protection structures shall be revegetated with plants native to the area.

20. Solid Waste Disposal. The following regulations apply to all Shoreline Districts:

a. Permanent treatment and/or storage facilities for solid waste shall be prohibited. Disposal of hazardous substances or other materials generated, treated, or disposed of in conjunction with an environmental cleanup is permitted if in accordance with State and Federal regulations.

b. No person shall throw, discharge, or deposit from any vessel or the shore, pier, wharf, dock, float, or otherwise, any refuse matter of any kind whatsoever into or upon the waters or land area of Tacoma or Puget Sound, in accordance with local refuse disposal requirements.

c. No person shall dump or discharge oil, spirits, inflammable liquid, or contaminated bilge water into or upon the waters or land areas of Tacoma or Puget Sound.

d. All garbage shall be deposited in trash or recycling receptacles.

e. Solid waste disposal is further regulated in Marpol Annex V codified in Title 33, USC 1901-1912.

21. Utilities.

a. The following regulations apply to all Shoreline Districts within which utilities are allowed:

(1) Utilities shall be installed in such a manner that all banks are restored to a stable condition, replanted, and provided maintenance care until the newly planted vegetation is established. Plantings shall be native species or be similar to vegetation in the surrounding area.

(2) Construction of new storm drains or other outfalls into water bodies and improvements to existing facilities shall be accomplished to meet all applicable standards of water quality.

(3) Public access along utility rights-of-way shall be provided where possible. This shall not include access underneath overhead transmission lines, which shall not be permitted.

b. The following regulations additionally apply to the specific Shoreline District indicated:

(1) "S-1" Shoreline District – Western Slope South, "S-2" Shoreline District – Western Slope Central, "S-4" Shoreline District – Point Defiance Natural, "S-5" Shoreline District – Point Defiance Conservation, "S-6" Shoreline District – Ruston Way, "S-7" Shoreline District – Schuster Parkway, "S-8" Shoreline District – Thea Foss Waterway, "S-9" Shoreline District – Puyallup River, "S-11" Shoreline District – Marine View Drive South, and "S-12" Shoreline District – Marine View Drive North: New distribution lines or extension of existing distribution lines shall only be permitted underground, except where the applicant can demonstrate that, due to economical, technical, environmental, or safety considerations, placing utilities underground is infeasible.

(2) "S-3" Shoreline District – Western Slope North: Underground utilities only shall be permitted, except overhead electrical transmission lines, which are allowed.

(3) "S-12" Shoreline District – Marine View Drive North: Open channels shall be used where feasible for discharge from existing springs to the salt water.

(4) "S-14" Shoreline District – Wapato Lake:

(a) New storm drains into the lake or marsh shall be prohibited.

(b) Underground utilities only shall be permitted.

(Ord. 27432 § 19; passed Nov. 15, 2005: Ord. 26934 § 18; passed Mar. 5, 2002: Ord. 26410 § 3; passed Apr. 27, 1999: Ord. 26329 § 4; passed Dec. 1, 1998: Ord. 26175 § 5; passed Dec. 16, 1997: Ord. 25854 § 7; passed Feb. 27, 1996: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25718 § 9; passed Jun. 20, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.180 Shoreline permits.

Repealed by Ord. 26175

(Ord. 26175§ 6; passed Dec. 16, 1997: Ord. 25904 § 4; passed May 28, 1996: Ord. 25854 § 8; passed Feb. 27, 1996: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.190 Pre-existing uses.

Existing use activities not specifically identified as permitted or conditional uses shall be considered as pre-existing uses. Such pre-existing uses of land or structures shall have been in lawful existence at the time of the passage of this chapter, or subsequent amendment to this chapter, which made the use(s) pre-existing. Pre-existing uses shall be subject to the same development and improvement regulations controlling the permitted uses of the Shoreline District in which they are located, except as noted below:

A. A pre-existing use may be changed to another use of the same or more restriction, but may not be used for a less restrictive use than that in lawful existence at the time of passage of this chapter or subsequent amendment to this chapter, which made the use pre-existing.

B. A pre-existing use damaged by fire, flood, explosions, or other calamity or act of God may be restored and its use, at the time of such damage, resumed, if reconstruction commences within three years following such damage. Such reconstruction shall be in conformance with subsection C below.

C. A pre-existing use shall be permitted to expand from the site it lawfully occupied at the time of the passage of this chapter, or subsequent amendment to this chapter which made the use pre-existing only onto contiguous undeveloped property owned by or under lease to the use at the time of the passage of this chapter, or subsequent amendment to this chapter which made the use pre-existing.

D. When the operation of a pre-existing use is discontinued for a period in excess of two years, it shall be considered as an intent to abandon said use, and the future use of such property shall be in accordance with the permitted and conditional use regulations of the Shoreline District in which it is located.

A pre-existing use may be discontinued for a period of more than two years; provided a letter of intent to continue said use is filed with the Land Use Administrator and determined to be a valid request. The period of discontinuance shall be determined by the Land Use Administrator, but shall not exceed two additional years.

E. At such time as a pre-existing use has been changed to a more restrictive use, the subject property shall not be changed back to a less restrictive use. (Ord. 25854 § 9; passed Feb. 27, 1996: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.200 Revisions to shoreline permits.

Repealed by Ord. 26175

(Ord. 26175 § 7; passed Dec. 16, 1997: Ord. 25854 § 10; passed Feb. 27, 1996: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.210 Exemption from shoreline permit requirement.

Repealed by Ord. 26175

(Ord. 26175 § 8; passed Dec. 16, 1997: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.220 Enforcement and interpretation of chapter.

Repealed by Ord. 25854

(Ord. 25854 § 11; passed Feb. 27, 1997: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.230 Administration and filing of an application.

Repealed by Ord. 25854

(Ord. 25854 § 11; passed Feb. 27, 1996: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.250 Public notice.

Repealed by Ord. 25854

(Ord. 25854 § 11; passed Feb. 27, 1996: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.255 Land Use Administrator action.

Repealed by Ord. 25854

(Ord. 25854 § 11; passed Feb. 27, 1996: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994.)

13.10.260 Reconsideration of Land Use Administrator decision.

Repealed by Ord. 25854

(Ord. 25854 § 11; passed Feb. 27, 1996: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.265 Review of Land Use Administrator decision.

Repealed by Ord. 25854

(Ord. 25854 § 11; passed Feb. 27, 1996: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.270 Hearing Examiner action.

Repealed by Ord. 25854

(Ord. 25854 § 11; passed Feb. 27, 1996: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.275 Reconsideration of Hearing Examiner decision.

Repealed by Ord. 25854

(Ord. 25854 § 11; passed Feb. 27, 1996: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.280 Appeal of Hearing Examiner decision.

Repealed by Ord. 25854

(Ord. 25854 § 11; passed Feb. 27, 1996: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25738 § 8; passed Jul. 18, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.290 Notification to the State of Washington.

Repealed by Ord. 25854

(Ord. 25854 § 11; passed Feb. 27, 1996: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.300 Appeals to the State Department of Ecology decision.

Repealed by Ord. 25854

(Ord. 25854 § 11; passed Feb. 27, 1996: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25738 § 9; passed Jul. 18, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.310 Commencement of development.

Repealed by Ord. 26175

(Ord. 26175 § 9; passed Dec. 16, 1997: Ord. 25854 § 12; passed Feb. 27, 1996: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.320 Criteria for granting shoreline permits.

Repealed by Ord. 25854

(Ord. 25854 § 12; passed Feb. 27, 1996: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.330 Rescission of permits.

Any Shoreline Permit may be rescinded by the Land Use Administrator upon the finding that a permittee has not complied with the conditions of the permit. Any person aggrieved by the rescinding of a permit may file an appeal to the State Shoreline Hearings Board in accordance with WAC 173-27-220. (Ord. 26175 § 10; passed Dec. 16, 1997: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.340 Enforcement.

Upon appropriate request of the appropriate City departments or officers, the City Attorney is authorized to bring such injunctive, declaratory, regulatory order or other actions as are necessary to ensure that no uses are made of the shorelines of the City in conflict with the provisions and programs of this chapter or the Shoreline Management Act of 1971; and to otherwise enforce the provisions of this chapter in accordance with RCW 90.58.210, 90.58.220, 90.58.230,, and pursuant to Chapter 173-27 WAC. (Ord. 26175 § 13; passed Dec. 16, 1997: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.350 Criminal penalties.

Repealed by Ord. 26175

(Ord. 26175 § 14; passed Dec. 16, 1997: Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

13.10.360 Severability.

If any provision of this chapter or its application to any person or circumstances is held invalid, the remainder of this chapter or the application of the chapter to other persons or circumstances shall not be affected. (Ord. 25797 § 1; passed Dec. 5, 1995: Ord. 25632 § 1; passed Nov. 29, 1994)

Chapter 13.11

CRITICAL AREAS PRESERVATION

13.11.100 General Provisions.

The 100 section contains the general provisions, including the following:

13.11.110 Purpose.
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13.11.800 Aquifer recharge areas.
13.11.810 Classification.
13.11.820 Standards
13.11.900 Definitions.

(Ord. 27431 § 12; passed Nov. 15, 2005)

13.11.110 Purpose.

The purpose of this chapter is to protect the public health, safety, and welfare by establishing a regulatory scheme based on Best Available Science that classifies, protects, and preserves Tacoma's critical areas; by providing standards to manage development in association with these areas; and by designating some of these areas as environmentally sensitive in accordance with the State Environmental Policy Act (SEPA). Many critical areas provide a variety of valuable and beneficial biological and physical functions that benefit the City and its residents, while others may pose a threat to human safety, or to public and private property. (Ord. 27431 § 13; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.120 Intent.

A. Critical areas include critical aquifer recharge areas, fish and wildlife habitat conservation areas, flood hazard areas, geologically hazardous areas, stream corridors, wetlands, and any buffer zones. These critical areas serve many important ecological functions. Many of the critical areas in Tacoma have been lost or degraded through past development. Tacoma, as an urban growth area, is experiencing increasing growth and its land resource is diminishing. This increasing growth and diminishing land resource is creating pressure for the development of critical areas. New construction technology is also creating pressure on these sites by making development feasible on sites where it was formerly impractical to build.

B. Because of the ecological benefits of critical areas, their past destruction, and the increasing pressure to develop them, the intent of this chapter is to ensure that the City's remaining critical areas are preserved and protected and that development in or adjacent to these areas is managed. The preservation standards are provisions designed to protect critical areas from degradation caused by improper development. These criteria and standards will secure the public health, safety, and welfare by:

1. Protecting members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, volcanic eruptions, flooding or similar events;

2. Maintaining healthy, functioning ecosystems through the protection of ground and surface waters, wetlands, and fish and wildlife and their habitats, and to conserve biodiversity of plant and animal species;

3. Preventing cumulative adverse impacts to water quality, streams, fish and wildlife habitat conservation areas, and wetlands including the prevention of net loss of wetlands.

4. Providing open space and aesthetic value;

5. Providing migratory pathways for fish and birds;

6. Giving special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries;

7. Providing unique urban wilds that serve as natural laboratories for schools and the general public;

8. Avoiding public expenditures to correct damaged or degraded critical ecosystems;

9. Alerting appraisers, assessors, owners, potential buyers, or lessees to the potential presence of a critical ecosystem and possible development limitations; and

10. Providing City officials with information, direction, and authority to protect ecosystems when evaluating development proposals. (Ord. 27431 § 14; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.130 Scope and applicability.

A. The provisions of this chapter apply to all lands, all land uses and development activities, and all structures and facilities in the City, whether or not a permit or authorization is required, and shall apply to every person, firm, partnership, corporation, group, governmental agency, or other entity that owns, leases, or administers land within the City. This chapter specifically applies to any activity which would destroy the natural vegetation; result in a significant change in critical habitat, water temperature, physical, or chemical characteristics; or alter natural contours and/or substantially alter existing patterns of tidal, sediment, or storm water flow on any land which meets the classification standards for any critical area defined herein. Such activities include excavation, grading, filling, the removal of vegetation, and the construction, exterior alteration, or enlargement of any building or structure. In addition, this chapter applies to all public or private actions, permits, and approvals in or adjacent to a critical area and its buffer, including, but not limited to, the following:

1. Building, demolition, clearing and grading, filling, special, storm water, and sanitary sewer permits, and local improvement districts;

2. Subdivisions and short plats;

3. Reclassifications, site plan approvals, shoreline substantial development permits, and special and conditional use permits and variances.

B. Review of development activities waterward of the ordinary high water mark of any body of water regulated by the Shoreline Management Act, including Puget Sound, Wapato Lake, or any stream where the mean annual flow is 20 cubic feet per second or greater are regulated under provisions of Chapter 13.10 and do not require a separate critical area permit. For critical areas landward of the ordinary high water mark (OHWM) and within a shoreline district, review of a development activity shall occur during the Shoreline Permit review process and a separate critical areas permit is not required. If there are any conflicts between Chapter 13.10, Shoreline Management, and Chapter 13.11, the most restrictive requirements shall apply.

C. Critical areas may be located through the use of information from the United States Department of Agriculture Natural Resource Conservation Service, the United States Geological Survey, the Washington Department of Ecology, the Coastal Zone Atlas, the Washington Department of Fish and Wildlife Stream maps, the National Wetlands Inventory maps, Tacoma topography maps, the City's Generalized Wetland and Critical Areas Inventory maps, and Pierce County Assessor's maps. The City's Generalized Wetland and Critical Areas Inventory maps and other above-listed sources are only guidelines available for reference. The actual location of critical areas must be determined on a site-by-site basis according to the classification criteria. (Ord. 27431 § 15; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.140 Exempted Activities.

A. Exemption request and review process. A written request for an exemption may be required for review and concurrence by the Land Use Administrator. The exemption request shall include, but not be limited to a description of the specific activity and the section of the code that applies, and a description of the reasonable methods to avoid and minimize impact to the critical area.

B. Exempt activities and impacts to critical areas. All exempted activities shall use best management practices to avoid potential impacts to critical areas. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's expense.

C. Exempt Activities. The following activities are exempt from the provisions of this Chapter, provided they are not prohibited by any other ordinance or law. The exemption request and review process will apply to all exemptions unless specifically stated otherwise.

1. Emergencies. Those activities necessary to prevent an immediate threat to public health, safety, or welfare or pose an immediate risk of damage to private property and that require remedial or preventative action in a timeframe too short to allow for normal processing. Emergency actions that create an impact to a critical area or its buffer shall use best management practices to address the emergency and, in addition, the action must have the least possible impact to the critical area or its buffer.

The person or agency undertaking such action shall notify the City within one (1) working day following the commencement of the emergency activity. The Land Use Administrator shall determine if the action taken was within the scope of an emergency action and following that determination, may require the action to be processed in accordance with all provisions of this chapter including the acquisition of appropriate permits within thirty (30) days of the impact. The emergency exemption may be rescinded at any time upon the determination by the Land Use Administrator that the action was not, or is no longer necessary.

After the emergency, the person or agency undertaking the action shall fully fund and conduct necessary mitigative actions including, but not limited to, restoration and rehabilitation or other appropriate mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved mitigation plan. All mitigation activities must take place within one (1) year following the emergency action and impact to the critical area, or within a timeframe approved by the Land Use Administrator and reflected within an approved schedule. Monitoring will be required as specified in the Wetland Mitigation Procedures.

2. Utility operations and infrastructure maintenance and repair.

a. Maintenance and repair of legally existing roads, structures, or facilities used in the service of the public to provide transportation, electricity, gas, water, telephone, telegraph, telecommunication, sanitary sewer, or other services and the installation or construction within improved street rights-of-way of structures or facilities used to provide such services are exempt from the requirements of this chapter; provided a one-time application for such exemption is made to and approved by the Land Use Administrator. All work must be conducted using best management practices and comply with applicable manuals for the action, including but not limited to, the current Regional Road Maintenance Manual. The Land Use Administrator may place conditions on any such one-time exemption.

b. The maintenance and repair of legally existing roads, structures, or facilities used in the service of the public to provide storm water services may occur

without application to and approval by the Land Use Administrator provided such work is conducted using best management practices, and is in compliance with the current City Surface Water Management Manual.

c. Holding basins and detention ponds that are part of the municipality's storm water system are exempt from the provisions of this chapter when such holding basin and detention pond is controlled by an engineered outlet.

3. Any potential wetland area that does not meet the wetland definition as described within this Chapter is exempt from the provisions of this Chapter. Non-jurisdictional wetland determination may require a Wetland Assessment.

4. Isolated Category III or Category IV wetlands, which have been classified and identified as having a total cumulative area of less than 1,000 square feet, regardless of property lines are exempt from the provision of this Chapter provided they:

a. Are of low habitat function (less than 20 points in the Washington Wetlands Rating System for Western Washington).

b. Are not part of a mosaic wetland system.

c. Are not an associated wetland that is part of a riparian habitat area, and

d. Are not critical habitat to local populations of priority species.

5. Any public or private project designed to improve fish or wildlife habitat or fish passage that qualifies for a shoreline substantial development permit exemption pursuant to RCW 90.58.147, RCW 90.58.515, WAC 173-27-040(2)(o), or WAC 173-27-040(2)(p), shall also qualify for a similar exemption from the permit requirements of this chapter when the City has determined that the project is consistent with the requirements of this chapter and either of the following apply:

a. The project has been approved by the Washington Department of Fish and Wildlife; or

b. The project has received Hydraulic Project Approval by the Washington Department of Fish and Wildlife, pursuant to RCW 77.55.

The Land Use Administrator shall issue a decision regarding the consistency of the project with the provisions herein and shall provide it by letter to the applicant within 45 days of complete application. (A complete application shall include written approval by the Washington Department of Fish and Wildlife, pursuant to (a) or (b) above.) The decision will be accompanied by a 14-day appeal period.

6. Fish habitat enhancement projects that conform to the provision of RCW 77.55.290 are exempt from the procedural and substantive requirements of Chapter 13.11.

7. The removal of refuse, debris, sediment, vegetation or other items determined by the Land Use Administrator to be detrimental to the critical area may be removed upon approval of a written request. The removal of any item that requires restoration, rehabilitation or other appropriate mitigation of the critical area may require the action to be processed in accordance with all provisions of this chapter including the acquisition of appropriate permits.

8. Geotechnical investigation activities may be performed provided that an access plan, protection measures, best management practices, and restoration is utilized to protect and maintain the critical area where possible. The access plan, protection measures, best management practices and mitigative actions must be submitted to the Land Use Administrator for review and approval.

9. Reconstruction, remodeling, or maintenance of existing single-family residential structures and accessory structures that are located outside a flood hazard area and active landslide hazard area, provided that a one-time only expansion of the building footprint does not increase by more than 25 percent and that the new construction or related activity extends away from the critical area or related buffer as determined through a previous wetland/stream permit process. The exemption shall not apply to reconstruction which is proposed as a result of structural damage associated with a critical area, such as slope failure in a landslide hazard area or flooding in a flood hazard area. Expansion up to 25 percent may also occur in a direction parallel to the critical area or related buffer if the expansion takes place upon existing impervious surfaces. A Notice on Title must be recorded with the previously issued permit to be eligible for this exemption.

10. Reconstruction, remodeling, or maintenance of structures, other than single-family structures and accessory structures that are located outside a flood hazard area and active landslide hazard area, provided that such reconstruction, remodeling, or maintenance does not increase the footprint area nor extend beyond the existing ground coverage toward a critical area as determined under a previously issued wetland/stream permit. The exemption shall not apply to reconstruction which is proposed as a result of site or structural damage associated with a critical area, such as slope failure in a landslide hazard area or flood hazard area. A Notice on Title must be recorded with the previously issued permit to be eligible for this exemption.

11. Interrupted wetland and stream buffers.

a. Where a legally established, pre-existing use of the buffer exists (such as a road or structure that extends into the regulated wetland buffer), those proposed activities that are within the wetland or stream buffer, but are separated from the critical area by an existing permanent substantial improvement, which serves to eliminate or greatly reduce the impact of the proposed activity upon the critical area are exempt provided that the detrimental impact to the critical area does not increase. However, if the impacts do increase, the Land Use Administrator shall determine if additional buffer may be required along the impact area of the interruption. A substantial improvement may include, but is not limited to a paved area, dike, levee, or other permanent structure. An exemption request for an interrupted buffer may require a functional analysis report. In determining whether a functional analysis is necessary, the Land Use Administrator shall consider the hydrologic and habitat connection potential and the extent and permanence of the interruption.

b. Where a legally established, pre-existing structure or use is located within a regulated buffer area and where the regulated buffer is fully paved and does not conform to the interrupted buffer provision above, the buffer will end at the edge of pavement, adjacent to the critical area. (Ord. 27431 § 16; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.150 Allowed Activities.

A. The uses and activities listed below may be allowed on a site specific basis without a Wetland Assessment or Wetland Development Permit, after consideration by the Land Use Administrator, to the extent they are not prohibited by any other ordinance or law. The work shall be conducted using best management practices to ensure that flow, circulation patterns, and chemical and biological characteristics of the stream or wetland are not impaired. Any unavoidable adverse impact affecting a wetland or stream and associated buffer must be mitigated.

1. The preparation and recording of Conservation Deeds and Conservation Easements in order to promote the preservation of soil, water, vegetation, fish, shellfish and other wildlife are exempt from the provisions of this Chapter.

2. Passive recreational activities, educational activities and scientific research that do not have a detrimental effect within the critical area are allowed. Outdoor passive recreational activities include but are not limited to fishing, bird watching, walking or hiking trails and non-motorized boating. Construction of pedestrian trails may be allowed within the buffer of a wetland or stream, lake or pond subject to the following criteria:

a. The trail is constructed of pervious material.

b. The trail does not cross or alter any regulated drainage features or waters of the state.

3. Vegetation removal activities.

a. English Ivy (Hedera helix) may be removed from plants on which it is adhered, provided that appropriate removal methods are used to preserve and protect the underlying vegetation. Removal may be conducted by hand or with light equipment.

b. Hazard trees that pose a threat to public safety or an imminent risk of damage to private property may be removed provided that a report from a certified arborist is submitted to the Land Use Administrator for review and approval. The report must include removal techniques, procedures for protecting the surrounding critical area and replacement of native trees. Where possible, the cut portions of hazard trees are to be left within the critical area as a habitat tree such as a standing snag or downed woody debris. (Ord. 27431 § 17; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.160 Pre-existing uses/structures.

An established use or existing structure that was lawfully permitted prior to adoption of this chapter, but which is not in compliance with this chapter, may continue subject to the provisions of Tacoma Municipal Code (TMC) Section 13.11.140 and Section 13.06.630. (Ord. 27431 § 18; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.170 Critical area designation and SEPA.

A. Pursuant to WAC 197-11-908 and Section 13.12.908 of the TMC, aquifer recharge areas, fish and wildlife habitat conservation areas, flood hazard areas, geologically hazard areas, wetlands, and streams are hereby designated as critical areas. These areas are mapped on Tacoma's Generalized Critical Areas Maps available in the Tacoma Economic Development Department or as defined by this chapter. The following SEPA categorical exemptions shall not apply within these areas, unless the changes or alterations are confined to the interior of an existing structure:
Section 13.12.801 of the TMC and the following subsections of WAC 197-11-800(1)(b); (2)(d) excluding landscaping, (e), (f), and (g); (3); 24(a), (b), (c), and (d); and (25)(h).

B. The scope of environmental review of actions within critical areas shall be limited to: (a) documenting whether the proposal is consistent with the requirements of this chapter; and (b) evaluating potentially significant impacts on the critical area resources not adequately addressed by development regulations, if any, including any additional mitigation measures needed to protect the critical areas in order to achieve consistency with SEPA and other applicable environmental review laws. (Ord. 27431 § 19; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.180 Abrogation and greater restrictions.

A. It is not intended that this chapter repeal, abrogate, or impair any existing regulations, easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, provisions of this chapter shall prevail.

B. Where one site is classified as containing two or more critical areas, the project shall meet the minimum standards and requirements for each identified critical area set forth in this chapter. (Ord. 27431 § 20; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.190 Severability.

If any clause, sentence, paragraph, section, or part of this chapter or the application thereof to any person or circumstances shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any part thereof to any other person or circumstances, and to this end, the provisions of each clause, sentence, paragraph, section, or part of this chapter are hereby declared to be severable. (Ord. 27431 § 21; passed Nov. 15, 2005)

13.11.200 Notice on title.

In addition to provisions of Chapter 13.05, the owner of any property upon which approval under Title 13, Tacoma Municipal Code, or Chapter 2.02, Building Code, of the TMC, is sought with a critical area or critical area buffer verified on site through a wetland or building permit, shall record with the Pierce County Auditor a notice of presence of the critical area and buffer. Such recording shall contain notice of the critical area and buffer and the applicability of this chapter to said property. Such notification shall be in a form as specified by the Public Works Department, Building and Land Use Services Division. The notice shall be notarized and the applicant must submit proof that the notice has been legally recorded before the final approval for development is issued. The notice shall run with the land and failure to record such notice shall be in violation of this chapter. (Ord. 27431 § 22; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.210 Residential density credits.

A. For residential development proposals on lands containing fish and wildlife habitat conservation areas, erosion hazard areas, landslide hazard areas or steep slopes, the density that would have been allowed in the critical area and buffer but for the provisions of this chapter is generally transferred to the remainder of the site not in the critical area or buffer. For residential development proposals on lands containing wetland or stream buffers, the density that would have been allowed in the buffer but for the provisions of this chapter is generally transferred to the remainder of the site not in the critical area or buffer. For wetlands and streams, density credits do not apply to the portion of the site occupied by the critical area. The allowable number of dwelling units shall be determined using the following formula, table, 125 percent maximum density rule and setback provisions.

B. The formula for determining the number of dwelling units allowed after the application of density credits is as follows:

Dwelling units allowed on site = (CA x DC + DA)/MLS, where:

CA = Critical acreage: The amount of land on the project site which is located in the critical area and required buffer and in which no regulated activity is allowed. For wetlands and streams, the critical acreage only includes the amount of land which is located in the required buffer and in which no regulated activity is allowed.

DC = Density credit: The percentage of the density that would have been allowed in the critical area and/or required buffer but for the provisions of this chapter that is allowed to be transferred to the remainder of the site. The density credit is based on the percentage of the site in the critical area and/or buffer and is determined using the table in subsection C below.

DA = Developable acreage: The amount of land on the project site which is not located in the critical area or the required critical area buffer.

MLS = Minimum lot size: The minimum amount of land required for a dwelling unit in a specific zoning district.

C. Table of density credits.

Percentage of Site in Density Critical Area and/or Buffer Credit	
1 – 10%	100%
11 – 20%	90%
21 – 30%	80%
31 – 40%	70%
41 – 50%	60%
51 – 60%	50%
61 – 70%	40%
71 – 80%	30%
81 – 90%	20%
91 – 99%	10%

D. The 125 percent maximum density rule provides that the maximum number of dwelling units cannot exceed 125 percent of the allowed number of dwelling units without a density credit on the developable acreage of the site.

E. The setback requirements shall be the same as the setback requirements for Planned Residential Developments as provided in Section 13.06.140.

F. The density credits can only be transferred within the same development proposal site. (Ord. 27431 § 23; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.220 Regulated uses/activities.

Pursuant to the requirements of this chapter, a permit shall be obtained prior to undertaking any of the following activities within a wetland, stream or adjacent associated buffer:

A. Filling, placing, or dumping any soil, loam, peat, sand, gravel, rock, chemical substance, refuse, trash, rubbish, debris, or dredge material;

B. Excavating, dredging, or clearing any soil, loam, peat, sand, gravel, rock, vegetation, trees, or mineral substance;

C. Discharge of hazardous substances, including, but not limited to heavy metals, pesticides, petroleum products, or secondary effluent;

D. Any act which results in draining, flooding, or disturbing the water level or table;

E. Alteration, construction, demolition, or reconstruction of a structure or infrastructure, including driving pilings or placing obstructions;

F. Destroying or altering vegetation through clearing, harvesting, shading, pruning, or planting vegetation that would alter the character of the site; and

G. Any act or use which would destroy natural vegetation; result in significant change in water level, water temperature, physical, or chemical characteristics of the wetland or stream; substantially alter the existing pattern of tidal flow, obstruct the flow of sediment, or alter the natural contours of a site. (Ord. 27431 § 24; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.230 Application types.

A. This chapter allows three types of wetland/stream applications which result in the issuance of an appealable decision. After the appeal period expires, an approved decision becomes the official permit for each project, so a separate permit is not issued. The Land Use Administrator issues a decision for each type of application consistent with Chapter 13.05. All applications shall be consistent with the sections of this chapter, including provisions described below.

1. Assessment. An assessment decision may be issued verifying whether a regulated wetland or stream exists on the subject site or within 300 feet of the subject site. Applications must contain all submittal requirements as specified in 13.11.250. In conjunction with the assessment process, the Land Use Administrator may require additional information on the physical, biological, and anthropogenic features that contribute to the existing ecological conditions and functions of the site prior to a decision being issued. This information may be required to determine whether a formal wetland assessment decision is required.

An assessment may also be issued exempting a project from a wetland/stream development permit if the applicant can demonstrate the following:

a. No adverse impacts will occur to the wetland or stream and/or adjacent buffer zones;

b. The proposed use or structure is located beyond the required buffer zones based upon wetland category; and

c. Stormwater runoff will be appropriately analyzed to maintain existing flows to critical areas and additional stormwater runoff will discharge into an approved storm drainage system in accordance with 13.11.250 (h).

2. Wetland Delineation Verification. An applicant may request verification of a wetland or stream delineation without submitting plans for a specific project.

3. Wetland/Stream Development Permit. A Wetland/Stream Development decision will be issued where, in the opinion of the Land Use Administrator, the proposal may result in possible adverse impacts to the wetland or stream, or the applicant cannot meet

the minimum buffer requirements as provided in Section 13.11.320 or 13.11.420.

a. The applicant must meet the requirements of one of three legal tests; No Practicable Alternatives, Public Interest or Extraordinary Hardship, and

b. Provide mitigation as required in accordance with this Chapter. (Ord. 27431 § 25; passed Nov. 15, 2005: Ord. 27300 § 1; passed Dec. 14, 2004: Ord. 27294 § 2; passed Nov. 16, 2004:)

13.11.240 Legal Test(s).

A. No Practicable Alternatives. An alternative is considered practicable if the site is available and the project is capable of being done after taking into consideration cost, existing technology, infrastructure, and logistics in light of overall project purposes. No practicable alternatives need be considered if the applicant can demonstrate all of the following:

1. The project cannot be reasonably accomplished using one or more other sites in the general region that would avoid or result in less adverse impacts to the wetland or stream;

2. The goals of the project cannot be accomplished by a reduction in the size, scope, configuration or density as proposed, or by changing the design of the project in a way that would avoid or result in fewer adverse effects on the wetland or stream; and

3. In cases where the applicant has rejected alternatives to the project as proposed, due to constraints on the site such as inadequate zoning, infrastructure or parcel size, the applicant has attempted to remove or accommodate such constraints, unless the applicant can demonstrate that such attempt would be futile.

B. Extraordinary Hardship. An extraordinary hardship exists when the standards of this chapter deny all reasonable economic use of the property. To demonstrate extraordinary hardship, the applicant must demonstrate all of the following:

1. There is no reasonable economic use or value with less impact on the wetland or stream;

2. There are no feasible on-site alternatives to the proposed activity or use (e.g., reduction in density or use intensity, scope or size, change in timing, phasing or implementation, layout revision or other site planning considerations) that would allow reasonable economic use with less adverse impact;

3. The proposed activity or use will be mitigated to the maximum practical extent and result in minimum feasible alteration or impairment of functional characteristics of the site, including contours, vegetation, fish and wildlife habitat, groundwater, surface water and hydrological conditions;

4. The proposed activity or use complies with all local, state, and federal laws and will not jeopardize the continued existence of endangered, threatened, sensitive or priority habitat or species; and

5. The inability to derive reasonable economic use is not the result of any action, such as but not limited to, in segregating or dividing the property in a way that makes the property unable to be developed after the effective date of the ordinance codified in this chapter.

C. Public Interest. In determining whether a proposed use or activity in any wetland or stream is in the public interest, the public benefit of the proposal and the impact to the wetland or stream must be evaluated by the Land Use Administrator. The proposal is in the public interest if its benefit to the public exceeds its detrimental impact on the wetland or stream. In comparing the proposal's public benefit and impact, the following should be considered:

1. The extent of the public need and benefit;

2. The extent and permanence of the beneficial or detrimental effects of the use or activity;

3. The quality and quantity of the wetland or stream that may be affected;

4. The economic or other value of the use or activity to the general area and public;

5. The ecological value of the wetland or stream;

6. Probable impact on public health and safety, fish, plants, and wildlife; and

7. The policies of the comprehensive plan. (Ord. 27431 § 26; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.250 Review Process.

A. Overview. Application for an Assessment, Delineation Verification or Development Permit for wetlands and streams by one or more property owners or applicants shall be made in accordance with the provisions of Chapter 13.05 to the Public Works Department, Building and Land Use Services Division. The Building and Land Use Services Division may utilize information from the United States Department of Agriculture Natural Resource Conservation Service, the United States Geological Survey, the Washington Department of Ecology, the Coastal Zone Atlas, the Washington Department of Fish and Wildlife stream maps, the National Wetlands Inventory maps, Tacoma topography maps, the City's Generalized Wetland and Critical Areas

Inventory maps, and Pierce County Assessor's maps to establish general locations and/or verify the location of any wetland or stream site. The City's Generalized Wetland and Critical Area Inventory maps and other above-listed sources are only guidelines available for reference. The actual location of critical areas must be determined on a site-by-site basis according to the classification criteria.

B. Preparation by a qualified Wetland Specialist. A wetland delineation or stream report shall be prepared by a qualified wetland specialist as specified in 13.11.900.W.

C. Application Submittal Requirements:

1. Applications for all types of permit decisions shall contain the following information with the exception that an applicant who is only requesting a wetland delineation verification is not required to submit information concerning a specific development project. A written report shall be submitted and the Land Use Administrator shall review all information submitted as to its validity and may reject it as incomplete or incorrect.

a. A Joint Aquatic Resource Permit Application including, but not limited to, the name and contact information of the applicant, the name, qualifications, and contact information for the primary author(s) of the Wetland Delineation report, a description of the proposal, and identification of all the local, state and/or federal wetland related permit(s) required for the project, and a vicinity map for the project;

b. A surveyed site plan with an accompanying legal description of the delineated wetland boundary or the stream's ordinary high water mark and an electronic copy of the data;

c. Documentation of any fieldwork performed on the site, including field data sheets for delineations, functional assessments, baseline hydrologic data, etc. Wetland Delineations shall be prepared according to the currently adopted Department of Ecology, Washington State Wetlands Identification and Delineation Manual;

d. A description of the methodologies used to conduct the wetland delineations, functional assessments, or impact analyses including references;

e. Identification and characterization of all critical areas, wetlands, water bodies, shorelines, floodplains and buffers on or adjacent to the proposed project area. For areas off-site of the project site, estimate conditions within 300 feet of the project boundaries using best available information. In the event of conflicts regarding information in the delineation report, the Land Use Administrator may, at the applicant's expense, obtain competent expert services to verify information and establish a final delineation;

f. For each wetland identified on-site and within 300 feet of the project site, provide the wetland rating per the provisions of the Title, required buffers, hydrogeomorphic classification, wetland acreage based on a professional survey from the field delineation (acreages for on-site portion and entire wetland area including off-site portions), Cowardin classification of vegetation communities including vegetation characterization, habitat elements, soil conditions based on site assessment, soil information, and to the extent possible, hydrologic information such as location of inlet/outlets (if they can be legally accessed), estimate water depths within the wetland, estimated hydro-period patterns based on visual cues (e.g., algal mats, drift lines, flood debris, etc.). Provide square foot estimates, classifications, and ratings based on entire wetland complexes, not only the portion present on the proposed project site;

g. The written report shall contain a discussion of the potential direct and indirect physical and biological impacts to the wetland(s), stream(s) and associated impacts with anticipated hydro period alterations from the project;

h. A hydrologic study for the wetland or stream identifying the contributing basin and demonstrating that pre and post development flows will be maintained;

i. Shall demonstrate that all runoff from pollution generating surfaces discharging to wetlands or stream shall receive water quality treatment in accordance with the current City's Surface Water Management Manual. Water quality treatment is required for all sites irrespective of the thresholds established in this Manual; and

j. A description of the proposed actions including an estimation of square footage of impacts to wetland and buffers based on the field delineation and survey, and an analysis of site development alternatives including a no development alternative.

2. A copy of the site plan sheet(s) for the project must be included with the written report and must include, at a minimum:

a. Maps to scale depicting delineated and surveyed wetland, stream and required buffers on-site, including buffers for off-site critical areas that extend onto the project site; the development proposal; other critical areas; grading and clearing limits; and areas of proposed impacts to wetland(s), stream(s) and buffer(s), (include square footage estimates);

b. A depiction of the proposed stormwater management facilities and outlets (to scale) for the

development, including estimated areas of intrusion into the buffers of any critical areas;

c. Two-foot contours, terrain, and drainage-flow, significantly vegetated areas, specific location and species name of trees/shrubs with => 6-inch caliper, existing site improvements/structures (calculate square feet and percentage of coverage/impervious surfaces), existing grading, drainage control facilities (natural and artificial), and existing utilities above and below ground; and

d. The specifications of all proposed draining, excavation, filling, grading or dredging, including exact locations, amounts and methods, control facilities and utilities.

3. For Wetland/Stream Development Permits, the additional following information is required.

a. A description of reasonable efforts made to apply mitigation sequencing pursuant to Mitigation Sequencing to avoid, minimize, and mitigate impacts to critical areas;

b. A mitigation plan for impacts associated with actions contained within a development permit application. The mitigation plan must be in conformance with the 13.11.350 and 13.11.450 Mitigation Requirements;

c. Identification of which test(s) the applicant believes applies for a Development Permit application, an explanation of why the applicant believes it applies and an analysis of how the applicant intends to meet the requirements of the test(s);

d. Assessment and documentation of the wetland's or stream's functional characteristics, along with its ecological, aesthetic, economic, and other values. Evaluation of functions for the wetland or stream and adjacent buffer using a functions assessment method recognized by local or state agency staff and including the reference for the method and all data sheets;

e. An assessment of the probable cumulative impacts to the wetlands and buffers resulting from the proposed development;

f. Study of potential flood, erosion or other hazards on the site and provisions for protective measures that might be taken to reduce such hazards as required by the Land Use Administrator;

g. Any other information deemed necessary to verify compliance with the provisions of this chapter; and

h. A Construction Stormwater Pollution Prevention Plan shall be submitted by the applicant in accordance with the current City's Surface Water Management Manual. (Ord. 27431 § 27; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.260 Conditions, appeals and enforcement.

A. The Land Use Administrator shall have the authority, in accordance with Chapter 13.05, to attach such conditions to the granting of any permit under this chapter deemed necessary to mitigate adverse impacts and carry out the provisions of this chapter. In addition, such conditions may include, but are not limited to, the following:

1. Placement of Notice on Title on the subject parcels;

2. Limitations on minimum lot size;

3. Provisions for additional vegetative buffer zones depending on the intensity of the use or activity;

4. Requirements that structures be elevated on piles, limited in size or located with additional setback requirements;

5. Dedication of utility easements;

6. Modification of waste disposal or water supply facilities;

7. Imposition of easement agreements or deed restrictions concerning future use including conservation easements within wetland, stream or other natural area tracts and subdivision of lands;

8. Limitation of vegetation removal;

9. Setting minimum open space requirements;

10. Erosion control and storm water management measures, including restrictions on fill and other activities in the wetland or stream;

11. Development of a plan involving the creation or enhancement of a stream corridor or wetland or restoration of a damaged or degraded stream corridor or wetland, to compensate for adverse impacts;

12. Permanent Signs shall be required on each lot or wetland, stream or natural area tract affected by a wetland, stream or their buffer and shall be prepared in accordance with the approved City of Tacoma template for signs. Additional custom signs may be required for areas with sensitive species that require specific protection measures;

13. Fencing is required when the Land Use Administrator determines that a fence will prevent future impacts to a protected wetland or stream or other natural habitat area. Fencing installed as part of a proposed activity shall not interfere with species migration, including fish runs, nor shall it impede emergency egress; and

14. Subdivisions. The subdivision and short subdivision of land in wetlands and associated buffers is subject to the following and Chapter 13.04.310:

a. Land that is located partially within a wetland or its buffer may be subdivided provided that an accessible and contiguous portion of each new lot is located outside the wetland and its buffer.

b. Access roads and utilities serving the proposed subdivision may be permitted within the wetland and associated buffers only if the Land Use Administrator determines that no other feasible alternative exists and the project is consistent with the remaining provisions of this chapter.

c. A protection covenant such as a Conservation Easement shall be recorded with the Pierce County Assessor's Office for wetland, stream or natural area tracts that are created as part of the permitting process.

B. Compensation as a condition. As a condition of a permit or as an enforcement action under this chapter, the City shall require, where not in conflict with a reasonable economic use of the property, that the applicant provide compensation to offset, in whole or part, the loss resulting from an applicant's or violator's action or proposal. Such compensation may include the enhancement of a stream corridor or wetland, the restoration of a damaged or degraded wetland or stream or the creation of a new wetland or stream. In making a determination as to whether such a requirement will be imposed, and if so, the degree to which it would be required, the Land Use Administrator may consider the following:

1. The long-term and short-term effects of the action and the reversible or irreversible nature of the impairment to or loss of the wetland or stream;

2. The location, size, and type of and benefit provided by the original and altered wetland or stream;

3. The effect the proposed work may have upon any remaining critical area or associated aquatic system;

4. The cost and likely success of the compensation measures in relation to the magnitude of the proposed project or violation;

5. The observed or predicted trend with regard to the gains or losses of the specific type of wetland or stream; and

6. The extent to which the applicant has demonstrated a good faith effort to incorporate measures to minimize and avoid impacts within the project.

C. Appeals. An appeal of a decision regarding a critical area may be made in accordance with the provisions of Chapter 13.05 and Chapter 1.23 of the Tacoma Municipal Code.

D. Enforcement and penalties. No regulated activity, as defined in Section 13.11.220 hereof, shall be conducted without a permit and without full compliance with this chapter. Enforcement and fines shall be conducted and applied in accordance with Chapter 13.05.

1. The Land Use Administrator shall have authority to enforce this chapter, issue delineation verifications, permits, and violation notices, and process violations through the use of administrative orders and/or civil and criminal actions. Law enforcement officers or other authorized officials with police power shall assist the Building and Land Use Services Division in carrying out the duties necessary for compliance. All costs, fees, and expenses in connection with enforcement of such actions may be recovered as damages against the violator. Any person who commits, takes part in or assists in any violation of any provision of this chapter shall be guilty of a misdemeanor and upon conviction may be fined in an amount not to exceed $1,000 for each offense, be imprisoned for a term not exceeding 90 days or be both fined and imprisoned. Each violation of this act shall be considered a separate offense, and in case of continuing violation, each day's continuance shall be deemed to be a separate and distinct offense.

2. In the event of violation, the City shall have the authority to order restoration, enhancement, or creation measures to compensate for the destroyed or degraded critical area. If work is not completed in a reasonable time following the order, the City may implement a process to restore or enhance the affected site or create new wetlands or streams to offset loss as a result of a violation in accordance with Section 13.11.250 hereof. The violator shall be liable for all costs of such action, including administrative costs. (Ord. 27431 § 28; passed Nov. 15, 2005: Ord. 27300 § 2; passed Dec. 14, 2004: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.300 Wetlands.

The 300 section contains the regulations for wetlands, including the following:

13.11.310 Wetland Classification.
13.11.320 Wetland Buffers.
13.11.330 Wetland Buffer Modifications
13.11.340 Wetland Standards
13.11.350 Wetland Mitigation Requirements
13.11.360 Bonds

(Ord. 27431 § 29; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.310 Wetland classification.

A. Wetlands shall be classified Category I, II, III, and IV, in accordance with the criteria from the revised Washington State Wetlands Rating System for Western Washington developed by the Washington Department of Ecology, Publication Number 04-06-025, August 2004.

1. Category I wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of functions.

Category I wetlands include the following types of wetlands: Estuarine wetlands, Natural Heritage wetlands, Bogs, Mature and Old-growth Forested wetlands; wetlands in Coastal Lagoons; wetlands that perform many functions very well and that score 70 or more points in the Washington Wetlands Rating System for Western Washington.

2. Category II wetlands are those that are difficult to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection.

Category II wetlands include the following types of wetlands: Estuarine wetlands, Interdunal wetlands, and wetlands that perform functions well and score between 51-69 points.

3. Category III wetlands are those that perform functions moderately well and score between 30-50 points, and interdunal wetlands between 0.1 and 1 acre in size. These wetlands have generally been disturbed in some way and are often less diverse or more isolated from other natural resources in the landscape than Category II.

4. Category IV wetlands are those that have the lowest levels of functions (less than 30 points) and are often heavily disturbed. These are wetlands that may be replaced, and in some cases may be improved.

5. In addition, wetlands that require special protection and are not included in the general rating system shall be rated according to the guidelines for the specific characteristic being evaluated. The special characteristics that should be taken into consideration are as follows:

a. The wetland has been documented as a habitat for any Federally listed Threatened or Endangered plant or animal species. In this case, "documented" means the wetland is on the appropriate state or federal database.

b. The wetland has been documented as a habitat for State listed Threatened or Endangered plant or animal species. In this case "documented" means the wetland is on the appropriate state database.

c. The wetland contains individuals of Priority Species listed by the WDFW for the State.

d. The wetland has been identified as a Wetlands of Local Significance. (Ord. 27431 § 30; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.320 Wetland buffers.

A. General. A buffer area shall be provided for all uses and activities adjacent to a wetland area to protect the integrity, function, and value of the wetland. Buffers adjacent to wetlands are important because they help to stabilize soils, prevent erosion, act as filters for pollutants, enhance wildlife diversity, and support and protect plants and wildlife. A permit may be granted if it has been demonstrated that no adverse impact to a wetland will occur and a minimum buffer width will be provided in accordance with this section. The buffer shall be measured horizontally from the delineated edge of the wetland. The buffer shall be vegetated with the exception of areas that include development interruptions as described within this chapter.

B. Minimum Requirement.

1. Wetlands. Wetland buffer widths shall be established according to the following tables which are based on wetland classification, habitat function, land use intensity, and local significance:

Table 1. Land use impact "intensity" based on development types

Rating of impact from proposed changes in land use	Land Use Types
High	Commercial, Urban, Industrial, Institutional, Retail Sales, Residential with more than 1 unit/acre, new agriculture (high intensity processing such as dairies, nurseries and green houses, raising and harvesting crops requiring annual tilling, raising and maintaining animals), high intensity recreation (golf courses, ball fields), hobby farms

Table 1. Land use impact "intensity" based on development types	
Moderate	Residential with less than or equal to 1 unit/acre, moderate intensity open space (parks), new agriculture (moderate intensity such as orchards and hay fields)
Low	Forestry, open space (low-intensity such as passive recreation and natural resources preservation)

Table 2. Examples to minimize disturbance*		
Disturbance element	**Minimum measures to minimize impacts**	**Activities that may cause the disturbance**
Lights	Direct lights away from wetland	Parking Lots, Warehouses, Manufacturing, High Density Residential
Noise	Place activity that generates noise away from the wetland	Manufacturing, High Density Residential
Toxic runoff	Route all new untreated runoff away from wetland, Covenants limiting use of pesticides within 150 feet of wetland	Parking Lots, Roads, Manufacturing, residential Areas, Application of Agricultural Pesticides, Landscaping
Change in water regime	Infiltrate or treat, detain and disperse into buffer new runoff from surface	Any impermeable surface, lawns, tilling
Pets and Human disturbance	Fence around buffer, Plant buffer with "impenetrable" natural vegetation appropriate for region	Residential areas
Dust	Best Management Practices for dust	Tilled fields

*Washington State Department of Ecology and Washington State Department of Fish and Wildlife's Wetlands in Washington State; Volume 2: Guidance for Protecting and Managing Wetlands, Buffer Alternative 3

Table 3. Buffer width for category I wetlands located within a Habitat Zone*		
Wetland Characteristics	**Buffer Widths by Impact of Land Use (feet)**	**Other Measures Recommended for Protection**
Natural Heritage Wetlands	Low - 125 Moderate – 190 High – 250	No additional discharges of surface water. No septic systems within 300 feet. Restore degraded parts of the buffer.
Bogs	Low – 125 Moderate – 190 High – 250	No additional surface discharges. Restore degraded parts of the buffer.
Forested	Low – 150 Moderate – 225 High - 300	If forested wetland scores high for habitat, need to maintain connectivity to other natural areas. Restore degraded parts of the buffer.
Estuarine	Low – 100 Moderate – 150 High – 200	N/A
Wetlands in Coastal Lagoons	Low – 100 Moderate – 150 High – 200	N/A
High level of function for habitat (score for habitat 29-36 pts.)	Low – 150 Moderate – 225 High – 300	Maintain connectivity to other natural areas. Restore degraded parts of the buffer.
Moderate level of function for habitat (score for habitat 20-28 pts.)	Low – 75 Moderate – 110 High – 150	N/A

Table 3. Buffer width for category I wetlands located within a Habitat Zone*		
High level of function for water quality improvement (24-32 pts.) and low for habitat (less than 20 pts)	Low – 50 Moderate – 75 High – 100	No additional discharges of untreated runoff.
Not meeting any criteria above	Low – 50 Moderate – 75 High – 100	N/A

*Washington State Department of Ecology and Washington State Department of Fish and Wildlife's Wetlands in Washington State; Volume 2: Guidance for Protecting and Managing Wetlands, Buffer Alternative 3

Table 4. Buffer width for category II wetlands located within a Habitat Zone*		
Wetland Characteristics	**Buffer Widths by Impact of Land Use (feet)**	**Other Measures Recommended for Protection**
High level of function for habitat (score for habitat 29-36 pts.)	Low – 150 Moderate – 225 High – 300	Maintain connectivity to other natural resources
Moderate level of function for habitat (score for habitat 20-28 pts.)	Low – 75 Moderate – 110 High – 150	N/A
High level of function for water quality improvement and low for habitat (score for water quality 24-32 pts.; habitat less than 20 pts.)	Low – 50 Moderate – 75 High – 100	No additional discharges of untreated runoff
Estuarine	Low – 75 Moderate – 110 High – 150	N/A
Interdunal	Low – 75 Moderate – 110 High – 150	N/A.
Not meeting any criteria above	Low – 50 Moderate – 75 High – 100	N/A

*Washington State Department of Ecology and Washington State Department of Fish and Wildlife's Wetlands in Washington State; Volume 2: Guidance for Protecting and Managing Wetlands, Buffer Alternative 3

Table 5. Buffer width for category III wetlands located within a Habitat Zone*		
Wetland Characteristics	**Buffer Widths by Impact of Land Use (feet)**	**Other Measures Recommended for Protection**
Moderate level of function for habitat (score for habitat 20-28 points)	Low – 75 Moderate – 110 High – 150	N/A
Not meeting the above criteria	Low – 40 Moderate – 60 High – 80	N/A

*Washington State Department of Ecology and Washington State Department of Fish and Wildlife's Wetlands in Washington State; Volume 2: Guidance for Protecting and Managing Wetlands, Buffer Alternative 3

Table 6. Buffer width for category IV wetlands located within a Habitat Zone*		
Wetland Characteristics	**Buffer Widths by Impact of Land Use (feet)**	**Other Measures Recommended for Protection**
Score for functions less than 30 pts.	Low –25 Moderate –40 High –50	N/A.

*Washington State Department of Ecology and Washington State Department of Fish and Wildlife's Wetlands in Washington State; Volume 2: Guidance for Protecting and Managing Wetlands, Buffer Alternative 3

Table 7. Buffer width for all wetlands outside the perimeter of a Habitat Zone*	
Wetland Category	**Buffer Width (feet)**
Category I	**200**
Category II	**100**
Category III	**75**
Category IV	**50**

*Best Available Science Review, City of Tacoma, Critical Areas Preservation Ordinance, Tacoma, Washington, June 15, 2004, prepared by GeoEngineers

Table 8. Wetlands of local significance*	
Site	**Buffers (feet)**
Snake Lake	300

Table 8. Wetlands of local significance*	
China Lake	300
Delong Park	300
Wapato Lake	300
McKinley Park	300

*Best Available Science Review Recommendation from City of Tacoma Critical Areas Task Force June 2004

(Ord. 27431 § 31; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.330 Wetland Buffer Modifications.

A. Buffer Reduction. Buffer reduction does not apply to Table "7", unless the reduction of the buffer is the result of a No Practicable Alternatives legal test or the Extraordinary Hardship legal test.

Buffer widths that are recommended for land uses with high intensity impacts to wetlands can be reduced to those widths recommended for moderate intensity impacts if the following criteria are met:

1. Wetlands that score moderate or high for habitat (20 points or more). The width of the buffer around the wetland can be reduced if both of the following criteria are met;

a. A relatively undisturbed vegetated corridor at least 100 feet wide is protected between the wetland and any other Priority Habitats as defined by the Washington State Department of Fish and Wildlife. The corridor must be protected for the entire distance between the wetland and the Priority Habitat via some type of legal protection such as a conservation easement; and

b. Measures to minimize the impacts identified in Table "2" are applied.

2. Wetlands that score less than 20 points for habitat. The buffer width can be reduced to that required for moderate land use impacts if measures to minimize the impacts identified in Table "2" are applied.

B. Buffer Averaging.

The widths of buffers may be averaged if this will improve the protection of wetland functions, or if it is the only way to allow for use of the parcel. Averaging may not be used in conjunction with the provisions for reductions in buffers listed above.

1. Averaging to improve wetland protection may be permitted when all of the following conditions are met:

a. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a dual-rated wetland with a Category I area adjacent to a lower rated area, and

b. The buffer is increased adjacent to the high-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower-functioning or less sensitive portion; and

c. The total area of the buffer after averaging is equal to the area required without averaging; and

d. The buffer at its narrowest point is never less than ¾ of the standard width.

2. Averaging to allow a reasonable use of a legal lot of record may be permitted when all of the following are met:

a. There are no feasible alternatives to the site design that could be accomplished without buffer averaging; and

b. The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a report from a qualified wetland expert;

c. The total area of the buffer after averaging is equal to the area required without averaging; and

d. The buffer at its narrowest point is never less than ¾ of the standard width.

C. Buffer Increases. The widths of the buffers may be required to be increased if the following conditions are found on the subject site.

1. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with non-native species that do not perform needed functions, the buffer must either be planted to create the appropriate plant community or the buffer must be widened to the maximum buffer for the land use intensity to ensure that adequate functions in the buffer are provided.

2. If the buffer for a wetland is based on the score for water quality, rather than habitat, then the buffer should be increased by 50% if the slope is greater than 30% (a 3-foot rise for every 10 feet of horizontal distance).

3. If the wetland provides habitat for a particularly sensitive species (such as threatened or endangered species), the buffer must be increased to provide adequate protection for the species based on its particular life history needs as required by the Washington State Department of Fish and Wildlife. (Ord. 27431 § 32; passed Nov. 15, 2005

13.11.340. Wetland Standards.

A. General permit standards. The Land Use Administrator shall issue wetland or stream development permits in accordance with the wetland

or stream classification. No regulated activity or use shall be permitted within a wetland or stream corridor without prior approval and without meeting the provisions of this section. A permit for development in or adjacent to wetlands or stream corridors shall only be granted if it has been demonstrated that the permit, as conditioned, is consistent with the provisions of this chapter and provided:

1. The applicant has taken appropriate action to first, avoid adverse impacts, then minimize impacts and finally, compensate or mitigate for unavoidable impacts;

2. The result of the proposed activity is no net loss of wetland functions;

3. The existence of plant or wildlife species appearing on the federal or state endangered or threatened species list will not be jeopardized;

4. The proposal will not lead to significant degradation of groundwater or surface water quality; and

5. The proposal complies with the remaining standards of this chapter, which include those pertaining to wetland compensation and the provision of bonds.

B. Low-impact uses and activities consistent with the stream or wetland buffer function may be permitted within a buffer that has not been reduced depending upon the sensitivity of wetland and intensity of activity or use. These may include pedestrian trails, viewing platforms, utility easements and storm water management facilities such as grass-lined swales that are used to sustain existing hydrologic functions of the critical area.

C. Yard Reduction. In order to accommodate for the required buffer zone, the Land Use Administrator may reduce the front and/or rear yard set-back requirements on individual lots. The front and/or rear yard shall not be reduced by more than 50 percent. In determining whether or not to allow the yard reduction, the Land Use Administrator shall consider the impacts of the reduction on adjacent land uses.

D. As an incentive, the buffer area between a wetland or stream and regulated activity may be reduced or averaged, not less than ¾ of its standard regulated buffer width, depending upon the intensity of use and the wetland category or stream type, if the wetland or stream and its buffer area are dedicated to the public by deeding the property to the City, with City approval. (Ord. 27431 § 33; passed Nov. 15, 2005

13.11.350 Wetland Mitigation Requirements.

A. The applicant shall avoid all impacts that degrade the functions and values of wetland and their buffers. Unless otherwise provided in this Title, if alteration to the wetland or its buffer is unavoidable, all adverse impacts resulting from a development proposal or alteration shall be mitigated using the best available science, so as to result in no net loss of critical area functions and values.

B. Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the wetland.

C. Mitigation shall not be implemented until after permit approval of the Land Use Administrator and shall be in accordance with all reports and representations made therein.

D. Mitigation Sequencing

1. Avoiding the impact altogether by not taking a certain action or parts of an action.

2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.

3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

4. Reducing or eliminating the impact over time by preservation and maintenance operations.

5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.

6. Monitoring the required mitigation and taking remedial action where necessary.

E. Mitigation for Lost or Affected Functions. Compensatory mitigation shall address the functions affected by the proposed project or alteration to achieve functional equivalency or improvement and shall provide similar wetland functions as those lost, except when:

1. The lost wetland provides minimal functions as determined by a site-specific functional assessment, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington state watershed assessment plan or protocol; or

2. Out of kind replacement of wetland type or functions will best meet watershed goals formally identified by the City, such as replacement of historically diminished wetlands.

F. Preference of Mitigation Actions. Methods to achieve compensation for wetland functions shall be approached in the following order of preference:

1. Restoration (re-establishment and rehabilitation) of wetlands on upland sites that were formerly wetlands.

2. Creation (Establishment) of wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of non-native introduced species. This should only be attempted when there is an adequate source of water and it can be shown that the surface and subsurface hydrologic regime is conducive for the wetland community that is being designed.

3. Enhancement of significantly degraded wetlands in combination with restoration or creation. Such enhancement should be part of a mitigation package that includes replacing the impacted area and meeting appropriate ratio requirements.

G. Type and Location of Mitigation. Unless it is demonstrated that a higher level of ecological functioning would result from an alternative approach, compensatory mitigation for ecological functions shall be either in-kind and on-site, or in-kind and within the same stream reach, subbasin, or drift cell (if estuarine wetlands are impacted). Mitigation action shall be conducted within the same sub-drainage basin and on the site of the alteration except when all of the following apply:

1. There are no reasonable on-site or in subdrainage basin opportunities (e.g. on-site options would require elimination of high functioning upland habitat), or on-site and in subdrainage basin opportunities do not have a high likelihood of success based on a determination of the natural capacity of the site to compensate for impacts. Considerations should include: anticipated wetland mitigation ratios, buffer conditions and proposed widths, available water to maintain anticipated hydrogeomorphic classes of wetlands when restored, proposed flood storage capacity, potential to mitigate riparian fish and wildlife impacts (such as connectivity);

2. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland; and

3. Off-site locations shall be in the same sub-drainage basin unless established watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the City and strongly justify location of mitigation at another site.

H. Timing of Compensatory Mitigation. It is preferred that compensation projects will be completed prior to activities that will disturb the on-site wetlands. If not completed prior to disturbance, compensatory mitigation shall be completed immediately following the disturbance and prior to the issuance of final certificate of occupancy. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.

The Land Use Administrator may authorize a one-time temporary delay in completing construction or installation of the compensatory mitigation when the applicant provides a written explanation from a qualified wetland professional as to the rationale for the delay (i.e. seasonal planting requirements, fisheries window).

I. Mitigation ratios.

1. The ratios contained within Table "9" shall apply to all Creation, Re-establishment, Rehabilitation, and Enhancement compensatory mitigation.

2. Increased replacement ratios. The Land Use Administrator may increase the ratios under the following circumstances:

a. Uncertainty exists as to the probable success of the proposed restoration or creation;

b. A significant period of time will elapse between impact and replication of wetland functions;

c. Proposed mitigation will result in a lower category wetland or reduced function relative to the wetland being impacted; or

d. The impact was an unauthorized impact.

J. Wetland Enhancement as Mitigation. Impacts to wetland functions may be mitigated by enhancement of existing significantly degraded wetland, but should be used in conjunction with restoration and/or creation where possible. Applicants proposing to enhance wetlands must include in a report how the enhancement will increase the functions of the degraded wetland and how this increase will adequately mitigated for the loss of wetland area and function at the impact site. An enhancement proposal must also show whether any existing wetlands functions will be reduced by the enhancement action.

K. Innovative Wetland Mitigation. The Land Use Administrator may approve innovative mitigation projects that are based on best available science including but not limited to activities such as advance mitigation and preferred environmental alternatives. The Land Use Administrator shall consider the following for approval of an innovative mitigation proposal:

1. Creation or enhancement of larger system of natural areas and open space is preferable to the preservation of many individual habitat areas;

2. The applicant demonstrates that long-term protection and management of the habitat area will be provided;

3. There is clear potential for success of the proposed mitigation at the proposed mitigation site;

4. Mitigation according to the mitigation sequencing section of the code is not feasible due to site constraints such as parcel size, stream type, wetland category, excessive costs, a wetland of a different type is justified based on regional needs or functions and values;

5. The replacement ratios are not reduced or eliminated; unless the reduction results in a preferred environmental alternative; and

6. Public entity cooperative preservation agreements such as conservation easements.

7. Public entity cooperative preservation agreements such as conservation easements.

Table 9. Mitigation ratios for projects in Western Washington that do not alter the hydro-geomorphic setting of the site***

Category and Type of Wetland	Re-establishment or Creation	Rehabilitation	1:1 Re-establishment or Creation (R/C) and Enhancement (E)	Enhancement only
All Category IV	1:5:1	3:1	1:1 R/C and 2:1 E	6:1
All Category III	2:1	4:1	1:1 R/C and 2:1 E	8:1
Category II Estuarine	Case-by-case	4:1 rehabilitation of an estuarine wetland	Case-by-case	Case-by-case
Category II Interdunal	2:1 Compensation has to be interdunal wetland	4:1 compensation has to be interdunal	1:1 R/C and 2:1 E	8:1
All other Category II	3:1	8:1	1:1 R/C and 4:1 E	12:1
Category I Forested	6:1	12:1	1:1 R/C and 10:1 E	24:1
Category I based on score for functions	4:1	8:1	1:1 R/C and 6:1 E	16:1
Category I Natural Heritage site	Not considered possible	6:1	Case-by-case	Case-by-case
Category I Coastal lagoon	Not considered possible	6:1	Case-by-case	Case-by-case
Category I Bog	Not considered possible	6:1	Case-by-case	Case-by-case
Category I Estuarine	Case-by-case	6:1	Case-by-case	Case-by-case

*Natural heritage site, coastal lagoons, and bogs are considered irreplaceable wetlands, and therefore no amount of compensation would replace these ecosystems. Avoidance is the best option. In the rare cases when impacts cannot be avoided, replacement ratios will be assigned on a case-by-case basis. However, these ratios will be significantly higher than the other ratios for Category I wetland.

**Rehabilitation ratios area based on the assumption that actions judged to be most effective for that site are being implemented.

***Washington State Department of Ecology and Washington State Department of Fish and Wildlife's Wetlands in Washington State; Volume 2: Guidance for Protecting and Managing Wetlands, Buffer Alternative 3

L. Compensatory Mitigation Plan Requirements. When a project involves wetland or buffer impacts, a compensatory mitigation report shall be required, meeting the following minimum standards:

1. Preparation by qualified Wetland Specialist. A compensatory mitigation report for wetland or buffer impacts shall be prepared by a qualified Wetland Specialist as specified in 13.11.900.W.

2. A Wetland Delineation Report or stream report must accompany or be included in the compensatory mitigation report.

3. Compensatory Mitigation Report. Must include a written report and plan sheets that must contain, at a minimum, the following elements as found below. Full guidance can be found in the Draft Guidance on Wetlands Mitigation in Washington State, Part 2, 2004 (Washington State Department of Ecology, US Army Corps of Engineers Seattle District, and US Environmental Protection Agency Region 10; Ecology Publication number 0406-013B). The written report must contain, at a minimum:

a. The name and contact information of the applicant, the name, qualifications, and contact information for the primary author(s) of the Compensatory Mitigation Report, a description of the proposal, a summary of the impacts and proposed compensation concept, and identification of all the local, state, and federal wetland related permit(s) required for the project, plus a vicinity map for the project;

b. Description of the existing wetland and buffer areas proposed to be impacted including: square footage based on professional surveys of the delineations; Cowardin classifications including dominant vegetation community types (for upland and wetland habitats); the results of a functional assessment for the entire wetland and the portions proposed to be impacted; wetland rating based on the provisions of this Title;

c. An assessment of the potential changes in wetland hydroperiod for the proposed project and how the design has been modified to avoid, minimize or reduce impacts to the wetland hydroperiod;

d. A description of the proposed conceptual compensation actions for wetland and upland areas. Describe future vegetation community types for years 1,5,10 and 25 post-installation including the succession of vegetation community types and dominants expected. Describe the successional sequence of expected changes in hydroperiod for the compensation site(s) for the same time periods as vegetation success. Describe the change in habitat characteristics expected over the same 25 year time period;

e. An assessment of existing conditions in the zone of the proposed compensation, including; vegetation community structure and composition, existing hydroperiod, existing soil conditions, existing habitat functions. Estimate future conditions in this location if the compensation actions are NOT undertaken (i.e. how would this site progress through natural succession?);

f. The field data collected to document existing conditions and on which future condition assumptions are based for hydroperiod (e.g. existing hydroperiod based on piezometer data, staff/crest gage data, hydrologic modeling, visual observations, etc.) and soils (e.g. soil pit data-hand dug or mechanically trenched, soil boring data; do not rely on soil survey data for establishing existing conditions);

g. A discussion of ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs. The monitoring plan should include a period of not less than 5 years, and establish the responsibility for long-term removal of non-native, invasive vegetation;

h. Contingency plans which clearly define course of action or corrective measures needed if performance standards are not met; and

i. A bond estimate for the entire compensatory mitigation including the following elements: site preparation, plant materials, construction materials, installation oversight, maintenance twice/year for up to 5 years, annual monitoring field work and reporting, and contingency actions for a maximum of the total required number of years for monitoring.

4. The scaled plan sheets for the compensatory mitigation must contain, at a minimum:

a. Existing wetland and buffer surveyed edges, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation action, and a legal description of the wetland, stream and buffer for the proposed development site;

b. Existing topography, ground-proofed, at two foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed to create the compensation area(s). Indicate the existing cross-sections of on-site wetland areas that are proposed to be impacted. Provide cross-section(s) (estimated one-foot intervals) for the proposed areas of wetland or buffer compensation c. Surface and subsurface hydrologic conditions including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. Illustrate how data for existing hydrologic conditions were utilized to form the estimates of future hydrologic conditions;

d. Proposed conditions expected from the proposed action on site including future HGM types, vegetation community types by dominant species (wetland and upland), and future hydrologic regimes;

e. Required wetland buffers for existing wetlands and proposed compensation areas. Identify any

zones where buffers area proposed to be reduced or enlarged outside of the standards identified in this title;

f. A plant schedule including all species by proposed community type and hydrologic regime, size and type of plant material to be installed, spacing of plants, "typical" clustering patterns, total number of each species by community type, timing of installation, nutrient requirements, watering schedule and where appropriate measures to protect plants from destruction;

g. Performance standards (measurable standards reflective of years post-installation) for upland and wetland communities, monitoring schedule, reporting requirements to the City, and maintenance schedule and actions for each year of monitoring.

h. The applicant must demonstrate fiscal, administrative, and technical competence to successfully execute the overall project through completion. This compensation project shall be monitored for a minimum of five years, with monitoring reports provided to the City in accordance with the approved performance and maintenance agreement. In the event of a breach of any condition of said agreement, the Land Use Administrator may institute an action in court and prosecute the same to judgment and execution. Final approval for the completed compensation project involving creation, enhancement or restoration shall be granted by the Land Use Administrator when the applicant submits documentation that all requirements of this section have been completed. (Ord. 27431 § 34; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.360 Bonds.

Performance and Monitoring and Maintenance Bonds shall be posted prior to issuance of any development permits including but not limited to clearing and grading permits and building permits.

A. Performance Bonds. Except for public agencies, applicants receiving a permit involving compensation for mitigation are required to post a cash performance bond or other acceptable security to guarantee compliance with this chapter prior to beginning any site work. The surety shall guarantee that work and materials used in construction are free from defects. All bonds shall be approved by the City Attorney. The surety or bonds cannot be terminated or cancelled without written approval. The Land Use Administrator shall release the bond after documented proof that all structures and improvements have been shown to meet the requirements of this chapter.

B. Monitoring and Maintenance Bonds. Except for public agencies, an applicant shall be required to post a cash maintenance bond or other acceptable security guaranteeing that structures and improvements required by this chapter will perform satisfactorily for a minimum of five years after they have been constructed and approved. The value of the bond shall be based on the average or median of three contract bids that establish all costs of compensation, including costs relative to performance, monitoring, maintenance, and provision for contingency plans. The amount of the bond shall be set at 150 percent of the average expected cost of the compensation project. All bonds shall be on a form approved by the City Attorney. Without written release, the bond cannot be cancelled or terminated. The Land Use Administrator shall release the bond after determination that the performance standards established for measuring the effectiveness and success of the project have been met. (Ord. 27431 § 35; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.400 Streams and riparian habitats.

The 400 section contains the regulations for streams, including the following:

13.11.410 Stream Classification.
13.11.420 Stream Buffers.
13.11.430 Stream Buffer Modifications
13.11.440 Stream Crossing Standards
13.11.450 Stream Mitigation Requirements

(Ord. 27431 § 36; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.410 Stream classification.

A. Streams shall be generally classified in accordance with the Washington State Water Typing System set forth in WAC 222-16-030 to describe Type "F", "Np" and "Ns" streams. Additional typing for "F1", and "F2" and "Ns1" and "Ns2" streams are included within this section.

For permits previously issued, and pre-existing uses and structures, refer to WAC 222-16-031, the interim water typing system that describes stream categories utilized prior to the adoption of this Chapter. The new water typing system described in WAC 222-16-030 separates streams and other water courses into Type S, F, Np and Ns Water. The interim water typing system described in WAC 222-16-031 separates streams into Type I, II, III, IV, and V streams and their respective conversions to the types described in WAC-222-16-030.

General descriptions of the new water typing system are as follows:

1. Type "F" Water means segments of natural waters other than Type S Waters, which are within the bankfull widths of defined channels and periodically inundated areas of their associated wetlands, to within lakes, ponds, or impoundments having a surface area of 0.5 acre or greater at seasonal low water and which in any case contain fish habitat or as further described within WAC 222-16-031. Type "F1" Water means segments of natural waters containing salmonid fishes. Type "F2" Water means segments of natural water containing fish that are not salmonids.

2. Type "Np" Water means all segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are waters that do not go dry any time of a year of normal rainfall or as further described within WAC 222-16-031.

3. Type "Ns" Water means all segments of natural waters within the bankfull widths of the defined channels that are not Type S, F, or Np Water. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np Water. "Ns1" Waters must be physically connected by an above ground channel system to Type, F, or Np Waters. "Ns2" Waters may not be physically connected by an above ground channel system to Type, F, or Np Waters. (Ord. 27431 § 37; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.420 Stream buffers.

A. General. A buffer area shall be provided for all uses and activities adjacent to a stream to protect the integrity and function of the stream. Buffers adjacent to streams are important because they help to stabilize soils, prevent erosion, act as filters for pollutants, enhance wildlife diversity, and support and protect plants and wildlife. An assessment permit may be granted if it has been demonstrated that no adverse impact to a stream will occur and a minimum buffer width will be provided in accordance with this section. The buffer shall be measured horizontally from the edge of the ordinary high water mark. The buffer shall be vegetated with the exception of areas that include development interruptions as described within this Chapter.

B. Minimum Requirement.

1. Streams. Stream buffer widths shall be established according to the following table which is based on stream classification:

Table 10. Stream Types	
Stream Type	Buffer (feet)
Type F1 (Salmonids)	150
Type F2 (Non-Salmonids	100
Type Np (No fish)	100
Type Ns1 (Connected to S, F, or Np	75
Type Ns2 (Not connected to S, F, or Np	25

Streams of local significance	
Name	Buffer (feet)
Puyallup River	150
Hylebos Crek	150
Puget Creek	150
Wapato Creek	150
Swan Creek	150

(Ord. 27431 § 38; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.430 Stream buffer modification.

A. Stream Buffer Increase. The required buffer widths shall be increased as follows;

1. When the Land Use Administrator determines that the recommended width is insufficient to prevent habitat degradation and to protect the structure and functions of the habitat area;

2. When the frequently flooded area exceeds the recommended buffer width, the buffer area shall extend to the outer edge of the frequently flooded area;

3. When a channel migration zone is present, the riparian habitat area width shall be measured from the outer edge of the channel migration zone;

4. When the habitat area is in an area of high blowdown potential, the riparian habitat area width shall be expanded an additional fifty feet on the windward side; or

5. When the habitat area is within an erosion or landslide area, or buffer, the riparian habitat area width shall be the recommended distance, or the erosion or landslide hazard area or buffer, whichever is greater.

B. Stream Buffer Averaging. The Land Use Administrator may allow the recommended stream buffer width to be reduced in accordance with a stream habitat analysis report only if:

1 The stream buffer areas that are reduced through buffer averaging will not reduce stream or habitat functions, including those of nonfish habitat;

2. The stream buffer areas that are reduced will not degrade the habitat, including habitat for anadromous fish;

3. The proposal will provide additional habitat protection;

4. The total area contained in the stream buffer of each stream on the development proposal site is not decreased;

5. The recommended stream buffer width is not reduced by more than twenty-five (25%) percent in any one location;

6. The stream buffer areas that are reduced will not be located within another critical area or associated buffer; and

7. The stream buffer areas that are reduced and required mitigation are supported by best available science. (Ord. 27431 § 39; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.440 Stream Crossing Standards.

A. Type F1, F2, Np, and Ns1, and Ns2 streams may be relocated or placed in culverts provided it can be demonstrated that:

1. There is no other feasible alternative route with less impact on the environment;

2. Existing location of the stream would prevent a reasonable economic use of the property;

3. No significant habitat area will be destroyed;

4. The crossing minimizes interruption of downstream movement of wood and gravel;

5. The new channel or culvert is designed and installed to allow passage of fish inhabiting or using the stream;

6. The channel or culvert is large enough to accommodate a 100-year storm;

7. The applicant will, at all times, keep the channel or culvert free of debris and sediment to allow free passage of water and fish;

8. The applicant will provide a bond or other financial security to ensure maintenance as provided in Section 13.11.360 hereof;

9. Roads in riparian habitat areas or buffers shall not run parallel to the water body;

10. Trails shall be located on or near the outer edge of the riparian area or buffer, where possible, except for limited viewing platforms and crossings;

11. Crossing, where necessary, shall only occur as near to perpendicular with the water body as possible;

12. Road bridges are designed according to Washington Department of Fish and Wildlife Design of Road Culverts for Fish Passage, 2003, and the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossing, 2000; and

13. Where possible, trails and associated viewing platforms shall not be made of continuous impervious materials. Natural trails with pervious surfaces such as, but not limited, to bark chip are encouraged. (Ord. 27431 § 40; passed Nov. 15, 2005)

13.11.450 Stream mitigation requirements.

All proposed alterations in the buffer of a stream with riparian habitat shall be in accordance with the standards for the applicable wetland category. Where riparian habitat does not exist, restoration, enhancement or creation will be required within the standard or modified buffer width.

All stream mitigation will comply with applicable wetland mitigation requirements, including, but not be limited to, mitigation plan requirements, monitoring and bonding.

In the event stream corridor alterations or relocations, as specified above, are allowed, the applicant shall submit an alteration or relocation plan prepared by a wetlands specialist with expertise in this area. In addition to the general mitigation plan standards, the plan shall address the following information:

1. Creation of natural meander patterns and gentle side slope formations;

2. Creation of narrow sub channel, where feasible, against the south or west bank;

3. Provisions for the use of native vegetation;

4 Creation, restoration or enhancement of fish spawning and nesting areas;

5. The proposed reuse of the prior stream channel;

6. Provision of a qualified consultant, approved by the City, to supervise work to completion and to provide a written report to the Land Use Administrator stating the new channel complies with the provisions of this chapter; and

7. When streambank stabilization is necessary, bioengineering or soft armoring techniques are required, where possible.

The Washington Department of Fish and Wildlife has authority over all projects in State Waters which impact fish. Construction in State Waters is governed by Chapter 75.20 RCW, Construction

Projects in State Waters. (Ord. 27431 § 41; passed Nov. 15, 2005)

13.11.500 Fish and wildlife habitat conservation areas.

The 500 section contains the regulations for fish and wildlife habitat conservation areas, including the following:

13.11.510 Classification.
13.11.520 Standards.
13.11.530 Habitat Zones.

(Ord. 27431 § 42; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.510 Classification.

A. Fish and wildlife habitat conservation areas are areas identified by the Washington Department of Wildlife as being of critical importance to the maintenance of fish and wildlife species. These areas may include other critical areas such as geologically hazardous areas, stream corridors, wetlands, and these critical areas' associative buffers.

1. Potential Fish and Wildlife Habitat Conservation Areas. Fish and Wildlife habitat areas may include:

a. Lands containing priority habitats and species.

b. All public and private tidelands or bedlands suitable for shellfish harvest, including any shellfish protection districts established pursuant to Chapter 90.72 RCW. The Washington Department of Health's classification system shall be used to classify commercial shellfish areas.

c. Kelp and eelgrass beds and herring and smelt spawning areas. Kelp and eelgrass beds may be classified and identified by the Washington Department of Natural Resources Aquatic Lands Program and the Washington Department of Ecology. Locations are compiled in the Puget Sound Environmental Atlas, Volumes 1 and 2. Herring and smelt spawning times and locations are outlined in RCW 220-110, Hydraulic Code Rules and the Puget Sound Environmental Atlas.

d. Natural ponds under 20 acres and their submerged aquatic beds that provide critical fish or wildlife habitat.

e. Waters of the State, which are defined in WAC Title 222, Forest Practices Rules and Regulations. Waters of the State must be classified using the system in WAC 222-16-030. In classifying waters of the state as fish and wildlife habitat conservation areas the following may be considered:

(1) Species present which are endangered, threatened, sensitive, or priority;

(2) Species present which are sensitive to habitat manipulation;

(3) Historic presence of priority species;

(4) Existing surrounding land uses that are incompatible with salmonid habitat;

(5) Presence and size of riparian ecosystem;

(6) Existing water rights; and

(7) The intermittent nature of some of the higher classes of Waters of the State.

f. Lakes, ponds, streams and rivers planted with game fish, including those planted under the auspices of a federal, state, local, or tribal program and waters which support priority fish species as identified by the Washington Department of Fish and Wildlife.

g. State natural area preserves and natural resource conservation areas, which are defined, established, and managed by the Washington Department of Natural Resources.

2. Minimum Fish and Wildlife Habitat Conservation Areas. Any property meeting the requirements of subparagraphs a through g above may be classified as a fish and wildlife habitat conservation area. At a minimum, all property meeting any of the following characteristics will be classified as a fish and wildlife habitat conservation area:

a. Lands containing endangered or threatened species or habitats for endangered or threatened species; and

b. Streams containing salmonids. (Ord. 27431 § 43; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.520 Standards.

Alteration of fish and wildlife habitat conservation areas may reduce the likelihood that the species will survive or reproduce. Activities allowed in fish and wildlife habitat conservation areas shall be consistent with the species located there and all applicable state and federal regulations regarding that species. In determining allowable activities, the provisions of the Washington Department of Fish and Wildlife's Management Recommendations for Washington Priority Habitats and Species shall be reviewed. Development in these areas shall be in accordance with the requirements of the underlying zone and any overlapping critical area classification. (Ord. 27431 § 44; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.530 Habitat Zones.

Habitat Zones. Areas designated and mapped that depict high quality, relatively undisturbed natural

open spaces that provide valuable functions and values beyond the individual natural habitats contained within. Habitat Zones are lands mapped in the City of Tacoma for their biological diversity and remaining natural habitats for all flora and fauna native to the local environment, including special consideration for anadromous fish. The map depicting these lands is contained within the Environmental Policy Plan element of the Comprehensive Plan. Any parcel that is fifty percent (50%) or more within a mapped Habitat Zone shall be considered fully contained within the Habitat Zone. (Ord. 27431 § 45; passed Nov. 15, 2005)

13.11.600 Flood hazard areas.

The 600 section contains the regulations for flood hazard areas, including the following:

13.11.610 Classification.
13.11.620 Standards.

(Ord. 27431 § 46; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.610 Classification.

Classifications of flood hazard areas shall be consistent with the most recent official map of the Federal Insurance Administration that delineates areas of special flood hazards and includes the risk premium zones applicable to the City. Also known as "flood insurance rate map" or "FIRM."

Where the flood insurance map and studies do not provide adequate information, the City, through its Public Works Department, shall consider and interpret information produced by the Army Corps of Engineers, Natural Resource Conservation Service, Department of Housing and Urban Development, or any other qualified person or agency to determine the location of Flood Hazard Areas and Coastal High Hazard Areas. (Ord. 27431 § 47; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.620 Standards.

All development proposals shall comply with Sections 2.12.040 through 2.12.050, Flood Hazard and Coastal High Hazard Areas, and Chapter 12.08 Surface Water Management Manual of the TMC for general and specific flood hazard protection. Development shall not reduce the base flood water storage ability. Construction, grading, or other regulated activities which would reduce the flood water storage ability must be mitigated by creating compensatory storage on- or off-site. Base flood data and flood hazard notes shall be shown on the face of any recorded plat or site plan, including, but not limited to, base flood elevations, flood protection elevation, boundary of floodplain, and zero rise floodway. (Ord. 27431 § 48; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.630 General development standards.

(Deleted by Ord. 27431 § 49; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.700 Geologically hazardous areas.

The 700 section contains the general provisions, including the following:

13.11.710 Designation.
13.11.720 Classification.
13.11.730 General Development Standards.

(Ord. 27431 § 50; passed Nov. 15, 2005: Ord. 27300 § 3; passed Dec. 14, 2004: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.710 Designation.

A. Designation of Geologically Hazardous Areas. Geologically hazardous areas include areas susceptible to erosion, sliding, earthquake, or other geological events. Areas susceptible to one or more of the following types of geo-hazards shall be designated as a geologically hazardous area:

1. Erosion hazard;
2. Landslide hazard;
3. Seismic hazard;
4. Mine hazard;
5. Volcanic hazard; and
6. Tsunami hazard.

(Ord. 27431 § 51; passed Nov. 15, 2005)

13.11.720 Classification.

A. Classification of specific hazard areas.

1. Erosion hazard areas. Erosion hazard areas generally consist of areas where the combination of slope and soil type makes the area susceptible to erosion by water flow, either by precipitation or by water runoff. Concentrated stormwater runoff is a major cause of erosion and soil loss. Erosion hazard critical areas include the following:

a. Areas with high probability of rapid stream incision, stream bank erosion or coastal erosion, or channel migration.

b. Areas defined by the Washington Department of Ecology Coastal Zone Atlas as one of the following soil areas: Class U (Unstable) includes severe erosion hazards and rapid surface runoff areas, Class Uos (Unstable old slides) includes areas having severe limitations due to slope, Class Urs (Unstable recent slides), and Class I (Intermediate).

c. Any area characterized by slopes greater than 15 percent; and the following types of geologic units as defined by draft geologic USGS maps: m (modified land), Af (artificial fill), Qal (alluvium), Qw (wetland deposits), Qb (beach deposits), Qtf (tide-flat deposits), Qls (landslide deposits), Qmw (mass-wastage deposits), Qf (fan deposits), Qvr and Qvs series of geologic material types (Vashon recessional outwash and Steilacoom Gravel), and Qvi (Ice-contact deposits).

d. Slopes steeper than 25% and a vertical relief of 10 or more feet.

2. Landslide Hazard Areas. Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope, slope aspect, structure, hydrology, or other factors. Landslide hazard areas are identified as any area with all three of the following characteristics:

a. Slopes steeper than 25 percent and a vertical relief of ten (10) or more feet.

b. Hillsides intersecting geologic contacts that contain impermeable soils (typically silt and clay) frequently inter-bedded with permeable granular soils (predominantly sand and gravel), or impermeable soils overlain with permeable soils.

c. Springs or groundwater seepage.

d. Any area which has exhibited movement during the Holocene epoch (from 10,000 years ago to present) or that are underlain or covered by mass wastage debris of that epoch.

e. Any area potentially unstable due to rapid stream incision stream bank erosion or undercutting by wave action.

f. Any area located on an alluvial fan presently subject to, or potentially subject to, inundation by debris flows or deposition of stream-transported sediments.

g. Any area where the slope is greater than the angle of repose of the soil.

h. Any shoreline designated or mapped as Class U, Uos, Urs, or I by the Washington Department of Ecology Coastal Zone Atlas.

3. Seismic hazard areas. Seismic hazard areas shall include areas subject to severe risk of damage as a result of seismic-induced settlement, shaking, lateral spreading, surface faulting, slope failure, or soil liquefaction. These conditions occur in areas underlain by soils of low cohesion or density usually in association with a shallow groundwater table. Seismic hazard areas shall be as defined by the Washington Department of Ecology Coastal Zone Atlas (Seismic Hazard Map prepared by GeoEngineers) as: Class U (Unstable), Class Uos (Unstable old slides), Class Urs (Unstable recent slides), Class I (Intermediate), and Class M (Modified) as shown in the Seismic Hazard Map.

4. Mine Hazard Areas. Mine hazard areas are those areas underlain by or affected by mine workings such as adits, gangways, tunnels, drifts, or airshafts, and those areas of probable sink holes, gas releases, or subsidence due to mine workings. Underground mines do not presently exist within City limits.

Note: An underground structure, consisting of a partially completed underground railroad tunnel, exists within City limits, as defined in the mine hazard areas map. The tunnel was constructed in 1909 and discontinued that same year due to excessive groundwater flows within the tunnel. The dimensions of the tunnel are presently unknown, and it was reportedly backfilled with wood, sand, and gravel in 1915.

5. Volcanic Hazard Areas. Volcanic hazard areas are areas subject to pyroclastic flows, lava flows, debris avalanche, and inundation by debris flows, lahars, mudflows, or related flooding resulting from volcanic activity. The most likely types of volcanic hazard within the City are mudflows, lahars, or flooding relating to volcanic activity. The boundaries of the volcanic hazard areas within the City are shown in the volcanic hazard map.

6. Tsunami hazard areas. Tsunami hazard areas are coastal areas and large lake shoreline areas susceptible to flooding and inundation as the result of excessive wave action derived from seismic or other geologic events. Currently, no specific boundaries have been established in the City limits for this type of hazard area. (Ord. 27431 § 52; passed Nov. 15, 2005)

13.11.730 General Development Standards.

The standards in this section apply only to geologically hazardous areas. Other critical area standards may apply to areas which are exempted from the standards for geologically hazardous areas. The following definitions apply to this section:

“Geo-setback” is the minimum building setback from the applicable geo-hazard area.

“Geo-buffer” is a zone within a geo-setback area required to be vegetated with either native or non-native vegetation.

A. Erosion hazard areas.

1. Structures and improvements shall be required to maintain a minimum 50 foot geo-setback from the

boundary of all erosion hazard areas (Note: where no distinct break exists, the top of a steep slope is the upper most limit of the area where the ground surface drops greater than 10 feet or more vertically within a horizontal distance of 25 feet). No geo-setback shall be required where the vertical relief of the slope is 10 feet or less. The geo-setback may be reduced to 30 feet where the vertical relief of the slope is greater that 10 feet but no more than 20 feet.

The 30-foot or 50-foot geo-setback may be reduced to a minimum of 10 feet for the following conditions:

a. Construction of one-story detached accessory structures (garages, sheds, playhouses of similar structures not used for continuous occupancy) with less than 1,000 square feet of floor area, whichever is greater for existing residences.

b. Addition to existing residences, including decks that have a maximum 250 square feet footprint of building, deck or roof area, whichever is greater, and are not closer to the top or bottom of the slope than the existing residence.

c. Installation of fences where they do not impede emergency access.

d. Clearing only up to 2,000 square feet during May 1 to October 1, if determined by the Building Official to not cause significant erosion hazard.

e. Grading up to 5 cubic yards during April 1 to October 1 over an area not to exceed 2,000 square feet, if determined by the Building Official that such grading will not cause a significant erosion hazard.

f. Removal of noxious or invasive weeds, provided such areas are protected from erosion with either native vegetation or other approved erosion protection.

g. Forest practices regulated by other agencies.

h. The construction of public or private utility corridors; provided it has been demonstrated that such construction will not significantly increase erosion risks.

i. Trimming and limbing of vegetation for the creation and maintenance of view corridors, removal of site distance obstructions as determined by the City Traffic Engineer, removal of hazardous trees, or clearing associated with routine maintenance by utility agencies or companies; provided that the soils are not disturbed and the loss of vegetative cover will not significantly increase risks of landslide or erosion.

j. The construction of approved public or private trails; provided they are constructed in a manner which will not contribute to surface water runoff.

k. Remediation or critical area restoration project under the jurisdiction of another agency.

l. Where it can be demonstrated through an erosion hazard analysis prepared by a geotechnical specialist that there is no significant risk to the development proposal or adjacent properties, or that the proposal can be designed so that any erosion hazard is significantly reduced, the geo-setback may be reduced as specified by the geotechnical specialist. This geo-setback may be increased where the Building Official determines a larger geo-setback is necessary to prevent risk of damage to proposed and existing development. The development must also comply with the Specific Development Standards for Erosion and Landslide Hazard Areas. The erosion hazard analysis shall provide the following information:

(1) Alternative setbacks to the erosion hazard area.

(2) Recommended construction techniques for minimizing erosional damage.

(3) Location and methods of drainage and surface water management.

(4) Recommended time of year for construction to occur.

(5) Permanent erosion control (vegetation management and/or replanting plan) to be applied at the site.

m. In addition to the erosion hazard analysis, a Construction Stormwater Pollution Prevention Plan shall be required that complies with the requirements in the currently adopted City Stormwater Management Manual. Clearing and grading activities in an erosion hazard area shall also be required to comply with the City amendments to the most recently adopted International Building Code.

2. Erosion hazard areas that are also landslide hazard areas shall be required to comply with all standards for landslide hazard areas as well.

B. Landslide hazard areas.

1. Structures and improvements shall be required to maintain a minimum 50-foot geo-setback from the boundary of all landslide hazard area. (Note: where no distinct break exists, the top of a steep slope is the upper most limit of the area where the ground surface drops greater than 10 feet or more vertically within a horizontal distance of 25 feet). No geo-setback shall be required where the vertical relief of the slope is 10 feet or less. The geo-setback may be reduced to 30 feet where the vertical relief of the slope is greater than 10 feet but no more than 20 feet.

The 30-foot or 50-foot geo-setback may be reduced to a minimum of 10 feet for the following conditions:

a. Construction of one-story detached accessory structures (garages, sheds, playhouses of similar structures not used for continuous occupancy) with less than 1,000 square feet of floor area, whichever is greater.

b. Addition to existing residences, including decks that have a minimum 250 square feet footprint of building, deck or roof area, whichever is greater, and are not closer to the top or bottom of the slope than the existing residence.

c. Installation of fences where they do not impede emergency access.

d. Clearing only up to 2,000 square feet during May 1 to October 1, if determined by the Building Official to not cause significant landslide hazard.

e. Grading up to 5 cubic yards during April 1 to October 1 over an area not to exceed 2,000 square feet, if determined by the Building Official that such grading will not cause a landslide hazard.

f. Removal of noxious or invasive weeds, provided such areas are protected from erosion with either native vegetation or other approved erosion protection.

g. Forest practices regulated by other agencies.

h. Slopes modified by an engineered cut or fill engineered retaining wall system, where setbacks, if any, were established by the previous engineered design.

i. Steep slopes resulting for right-of-way improvements (streets, alleys, sidewalks, etc) may be exempted by the Building Official if improvements will not decrease slope stability on said property or adjacent properties.

j. The construction of an approved public surface water conveyance, provided it will result in minimum vegetation removal and soil disturbance on the slope.

k. The construction of approved public or private trails; provided they are constructed in a manner which will not contribute to surface water runoff.

l. The construction of public or private utility corridors; provided it has been demonstrated that such construction will not significantly increase landslide risks.

m. Trimming and limbing of vegetation for the creation and maintenance of view corridors, removal of site distance obstructions as determined by the City Traffic Engineer, removal of hazardous trees, or clearing associated with routine maintenance by utility agencies or companies; provided that the soils are not disturbed and the loss of vegetative cover will not significantly increase risks of landslide or erosion.

n. Remediation, critical area restoration, or mining and quarrying where local regulation is pre-empted by state or federal law.

o. Where it can be demonstrated through a geotechnical analysis prepared by a geologic hazards specialist that there is no significant risk to the development proposal or adjacent properties, or that the proposal can be designed so that any landslide hazard is significantly eliminated, the geo-setback may be reduced as specified by the geotechnical engineer. The geo-setback may be reduced to no less than 10 feet where slopes are 40 percent or greater. This geo-setback may be increased where the Building Official determines a larger geo-setback is necessary to prevent risk of damage to proposed and existing development. The development must also comply with all applicable Development Standards. The geotechnical analysis report shall include the following:

(1) A description of the extent and type of vegetative cover.

(2) A description of subsurface conditions based on data from site-specific explorations.

(3) Descriptions of surface runoff and groundwater conditions, public and private sewage disposal systems, fills and excavations, and all structural improvements.

(4) An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a 100-year storm.

(5) Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties.

(6) A study of the slope stability, including an analysis of proposed cuts, fills, and other site grading; and the effect construction and placement of structures will have on the slope over the estimated life of the structures.

(7) Recommendations for building site limitations, specifically, a recommendation for the minimum geo-buffer and minimum-setback.

(8) Recommendations for proposed surface and subsurface drainage, considering the soil and hydrology constraints of the site.

C. Specific Development Standards for Erosion and Landslide Hazard Areas.

1. The development shall not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions. Note that point

discharges onto adjacent properties is not permitted without approved easements. Dispersed flows meeting pre-developed flows will be permitted provided other development standards can be met.

2. The development shall not decrease slope stability on adjacent properties.

3. Such alterations shall not adversely impact other critical areas.

4. The proposed development shall not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static conditions and 1.2 for dynamic conditions. Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by the current version of the International Building Code.

5. Structures and improvements shall minimize alterations to the natural contour of the slope, and the foundation shall be tiered where possible to conform to existing topography. Terracing of the land; however, shall be kept to a minimum to preserve natural topography where possible. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation.

6. Development shall be designed to minimize impervious lot coverage. All development shall be designed to minimize impervious lot coverage and should incorporate understructure parking and multi-level structures within the existing height limit.

7. Roads, walkways, and parking areas should be designed parallel to topographic contours with consideration given to maintaining consolidated areas of natural topography and vegetation.

8. Removal of vegetation shall be minimized. Any replanting that occurs shall consist of trees, shrubs, and ground cover that is compatible with the existing surrounding vegetation, meets the objectives of erosion prevention and site stabilization, and does not require permanent irrigation for long-term survival.

9. The proposed development shall not result in greater risk or need for increased geo-buffers on neighboring properties.

10. Structures and improvements shall be clustered where possible. Driveways and utility corridors shall be minimized through the use of common access drives and corridors where feasible. Access shall be in the least sensitive area of the site.

D. Seismic hazard areas.

1. A hazard analysis report will be required for structures and improvements in a seismic hazard area. All developments shall be required to comply with the requirements of the most recently adopted edition of the International Building Code. The following types of projects will not require a seismic hazardous analysis report;

a. Construction of new buildings with less than 2,500 square feet footprint of floor or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly.

b. Additions to existing residences, including decks that have a maximum 250 square feet footprint of building, deck or roof area, whichever is greater.

c. Installation of fences where they do not impede emergency access.

d. The exceptions above may not apply to areas that are also landslide hazard areas.

2. The hazard report shall include the following:

a. Known and mapped faults within 200 feet of the project area.

b. Analysis of the potential impacts of seismic activity on the site.

c. Evaluation of the physical properties of the subsurface soils and their liquefaction potential, and mitigation measures.

3. All developments shall be required to comply with the requirements of the most recently adopted edition of the International Building Code.

E. Volcanic hazard areas. Development in volcanic hazard areas shall comply with the zoning and Building Code requirements of the TMC. New developments in volcanic hazard areas shall be required to submit an evacuation and emergency management plan, with the exception of the following:

1. Construction of new buildings with less than 2,500 square feet of floor area or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly;

2. Additions to existing residences, including decks that have a maximum 250 square feet footprint of building, deck or roof area, whichever is greater; and

3. Installation of fences where they do not impede emergency egress.

F. Mine hazard areas. Critical facilities, as defined by the currently adopted version of International Building Code, are not permitted in the area of the former railroad tunnel. Other development within 50 feet of the mapped location of the former railroad tunnel shall be required to perform a hazard analysis that identifies the following:

1. Location of the development relative to the former tunnel.

2. Evaluation of the potential effects of tunnel subsidence on the proposed structures.

3. Recommendations for mitigation of any potential subsidence.

G. Tsunami hazard areas. Development in tsunami hazard areas shall comply with the zoning and Building Code requirements of the TMC. There are no other specific development standards for tsunami hazard areas. (Ord. 27431 § 53; passed Nov. 15, 2005: Ord. 27294 § 2; passed Nov. 16, 2004)

13.11.800 Aquifer recharge areas.

The 800 section contains the regulations for aquifer recharge areas, including the following:

13.11.810 Classification.
13.11.820 Standards.

(Ord. 27431 § 54; passed Nov. 15, 2005)

13.11.810 Classification.

Classification of recharge areas as critical areas shall be based upon the susceptibility of the aquifer to degradation and contamination. High susceptibility is indicative of land uses which produce contaminants that may degrade groundwater and low susceptibility is indicative of land uses which will not. The following criteria should be considered in designating areas with critical recharging effects:

A. Availability of adequate information on the location and extent of the aquifer;

B. Vulnerability of the aquifer to contamination that would create a significant public health hazard. When determining vulnerability, depth of groundwater, macro and micro permeability of soils, soil types, presence of a potential source of contamination and other relevant factors should be considered; and

C. The extent to which the aquifer is an essential source of drinking water. (Ord. 27431 § 55; passed Nov. 15, 2005)

13.11.820 Standards.

Standards for development in aquifer recharge areas shall be in accordance with the provisions in Chapter 13.09, South Tacoma Groundwater Protection District, of the TMC and other local, state, and federal regulations. (Ord. 27431 § 56; passed Nov. 15, 2005)

13.11.900 Definitions.

Words and phrases used in this chapter shall be interpreted as defined below. Where ambiguity exists, words or phrases shall be interpreted so as to give this chapter its most reasonable application in carrying out its regulatory purpose.

13.11.900.A

Adjacent means immediately adjoining (in contact with the boundary of the influence area) or within a distance that is less than that needed to separate activates from critical areas to ensure protection of the functions and values of the critical areas. Adjacent shall mean any activity or development located:

a. On a site immediately adjoining a critical area;

b. A distance equal to or less than the required critical area buffer width;

c. A distance equal to or less than one-half mile (2,640 feet) from a bald eagle nest;

d. A distance equal to or less than three hundred (300) feet upland from a stream, wetland, or water body;

e. Bordering or within the floodway, floodplain or channel migration zone; or

f. A distance equal to or less than two hundred (200) feet from a critical aquifer recharge area.

Anadromous fish. Fish that spawn and rear in freshwater and mature in the marine environment. While Pacific salmon die after their first spawning, adult char (bull trout) can live for many years, moving in and out of saltwater and spawning each year. The life history of Pacific salmon and char contains critical periods of time when these fish are more susceptible to environmental and physical damage than at other times. The life history of salmon, for example, contains the following states; upstream migration of adults, spawning, inter-gravel incubation, rearing, smoltification (the time period needed for juveniles to adjust their body functions to live in the marine environment), downstream migration, and ocean rearing to adults.

Aquifer. A geologic formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

Aquifer critical recharging areas. Areas that, due to the presence of certain soils, geology, and surface water act to recharge groundwater by percolation.

13.11.900.B

Base flood. A flood event having a one percent (1%) chance of being equaled or exceeded in any given year, also referred to as the 100-year flood.

Designations of base flood areas on flood insurance map(s) always include the letters A or V.

Best available science. The current science information used in the process to designate, protect, or restore critical areas, that is derived from a valid scientific process as defined by WAC 365-195-900 through 925. Sources of best available science are included in "Citations of Recommended Sources of the Best Available Science for Designating and Protecting Critical Areas" published by the Washington State Office of Community, Trade and Economic Development.

Best management practices. (BMP's). Conservation practices or systems of practices and management measures that:

a. Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, and sediment;

b. Minimize adverse impacts to surface water and ground water flow and circulation patterns and to the chemical, physical, and biological characteristics of wetlands;

c. Protect trees and vegetation designated to be retained during and following site construction and use native plant species appropriate to the site for revegetation of disturbed areas; and

d. Provide standards for proper use of chemical herbicides within critical areas.

Bioengineering. A combination of engineering techniques and natural products that increase the strength and structure of the soil through biological and mechanical means.

Buffer zone. An area required by this chapter that is contiguous to and protects a critical area which is required for the continued maintenance, functioning, and/or structural stability of a critical area. The area may be surrounding a natural, restored, or newly created critical area.

13.11.900.C

Class, wetland. One of the wetland classes in the United States Fish and Wildlife Service publication, Classification of Wetlands and Deepwater Habitats of the United States (December 1979). A class describes the general appearance of the habitat in terms of either the dominant vegetation life form or the physical geography and composition of the substrate.

Clearing. The destruction or removal of logs, scrub-shrubs, stumps, trees or any vegetative material by burning, chemical, mechanical or other means.

Compensatory mitigation. Replacing project-induced loses or impacts to a critical area, and includes, but is not limited to, the following:

a. Restoration. Actions performed to reestablish wetland functional characteristics and processes that have been lost by alterations, activities, or catastrophic events within an area that no longer meets the definition of a wetland.

b. Creation. Actions performed to intentionally establish a wetland at a location where it did not formerly exist.

c. Enhancement. Actions performed to improve the condition of existing degraded wetlands so that the functions they provide are of a higher quality,

d. Preservaion actions taken to ensure the permanent protection of existing high quality wetlands.

Conservation easement. A legal agreement that the property owner enters into to restrict uses of the land. Such restrictions can include, but are not limited to, passive recreation uses such as trails or scientific uses and fences or other barriers to protect habitat. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property, therefore, providing permanent or long-term protection.

Critical areas. Critical areas include the following ecosystems: areas with a critical recharging effect on aquifers used for drinking water, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, wetlands, and streams.

13.11.900.E

Ecosystem. The system of interrelationships within and between a biological community and its physical environment.

Emergent wetland. A wetland with at least thirty percent (30%) of the surface area covered by erect, rooted, herbaceous vegetation extending above the water surface as the uppermost vegetation strata.

Endangered species. A regional plant or animal species which is in danger of extinction throughout all or a significant portion of its range. Such animal species are designated by the Washington Department of Wildlife pursuant to RCW 232-12 or United States Fish and Wildlife Service. Such plant species are designated by the Washington Department of Natural Resources, Washington Natural Heritage Program or United States Fish and Wildlife Service.

Enhancement means the manipulation of the physical, chemical, or biological characteristics present to develop a wetland site to heighten, intensify or improve specific function(s) or to change

the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention or wildlife habitat. Activities typically consist of planting vegetation, controlling nonnative or invasive species, modifying site elevations or the proportion of open water to influence hydro-periods, or some combination of these. Enhancement results in a change in some wetland functions and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres.

Erosion. Wearing away of earth's surface as a result of movement of wind, water, ice, or any means.

Erosion hazard areas. Areas which contain soils classified by the United States Department of Agriculture Soil Conservation Service that may experience severe to very severe erosion hazards.

Establishment (Creation) means the manipulation of the physical, chemical, or biological characteristics present to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species. Establishment results in a gain in wetland acres.

Exotic. A species of plants or animals that is foreign to the area in question.

13.11.900.F

Fill. Dumping or placing, by any means, any material on any soil or sediment surface, including temporary stockpiling of material.

Fish and wildlife habitat conservation areas. Areas identified as being of critical importance to the maintenance of fish and wildlife species.

Flood hazard areas. Lands in a floodplain including areas adjacent to lakes, streams, oceans or other bodies of water lying outside the ordinary bank of the water body and which are periodically inundated by flood flow with a one percent or greater expectancy of flooding in any given year.

Flood water storage. The ability to hold and slow down flood waters. Construction in a floodway reduces the flood water storage capacity and the removal of vegetation from a floodway reduces the floodway's ability to slow down flood waters.

Forested wetland. A wetland with at least thirty percent (30%) of the surface area covered by woody vegetation greater than (20) feet in height that is at least partially rooted within the wetland.

Function and values. The beneficial roles served by critical areas including, but are not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, ground water recharge and discharge, erosion control, wave attenuation, protection from hazards, historical and archaeological and aesthetic value protection, educational opportunities, and recreation. These beneficial roles are not listed in order of priority.

13.11.900.G

Geologic hazards specialist. A professional geologist or engineering geologist with a degree in the geologic sciences from an accredited college or university with a minimum of four years' experience in geologic practice involving geologic hazards. A qualified geotechnical engineer, licensed as a civil engineer with the state of Washington, with a minimum of four years' experience in landslide evaluation, may also qualify as a geologic hazards specialist.

Geologically hazardous areas. Areas that may not be suited to development consistent with public health, safety or environmental standards, because of their susceptibility to erosion, sliding, earthquake, or other geological events as designated by WAC 365-190-080(4). Types of geologically hazardous areas include: erosion, landslide, seismic, mine, and volcanic hazards.

Geo-buffer is a zone within a geo-setback area required to be vegetated with either native or non-native vegetation.

Geo-setback means the minimum building setback from the applicable geologically hazardous area.

Grading. Excavating, filling, leveling, or artificially modifying surface contours.

13.11.900.H

Habitat. The specific area or environment in which a particular type of animal lives.

Habitat conservation areas means areas designated as fish and wildlife habitat conservation areas.

Habitats of local importance. Those areas that include a seasonal range or habitat element with which a given species has a primary association, and which, if altered may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or high vulnerability to alternations such as cliffs, talus, and wetlands.

Habitat Zones. Areas designated and mapped that depict high quality, relatively undisturbed critical areas and natural open spaces that provide valuable functions and values beyond the individual natural habitats contained within. Habitat Zones are lands mapped in the City of Tacoma for their biological diversity and remaining natural habitats for all flora and fauna native to the local environment, including the special consideration for anadromous fish. The map depicting these lands is contained within the Environmental Policy Plan element of the Comprehensive Plan. Any parcel that is fifty percent (50%) or more within a mapped Habitat Zone shall be considered fully contained within the Habitat Zone.

Hazard trees. Trees that are damaged, diseased, or have fully matured and their health is in decline and that pose a threat to life or property due to their location and increasing potential of falling.

Hydraulic project approval (HPA). A permit issued by the Department of Fish and Wildlife for modifications to waters of the state in accordance with Chapter 75.20 RCW.

Hydric soil. Soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the uppermost level.

Hydrogeomorphic or HGM. A system used to classify wetlands based on the position of the wetland in the landscape (geomorphic setting), the water source for the wetland and the flow and fluctuation of the water once in the wetland.

Hydroperiod. The seasonal occurrence of flooding and/or soil saturation which encompasses the depth, frequency, duration, and seasonal pattern of inundation.

Hydrophytic vegetation. Macrophytic plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. The presence of hydrophytic vegetation shall be determined following the methods described in the Washington State Wetland Identification and Delineation Manual.

Hyporheic zone. The saturated located beneath and adjacent to streams that contains some portion of surface water, serves as a filter for nutrients, and maintains water quality.

13.11.900.I

Impervious surfaces. A hard surface that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development or that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarity impede the natural infiltration of stormwater.

In-kind compensation. To replace critical areas with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by a regulated activity. It does not mean replacement "in category."

Isolated wetlands. Those wetlands that are outside of and not contiguous to any 100-year floodplain of lake, river or stream, and have no continuous hydric soil or hydrophytic vegetation between the wetland and any surface water.

13.11.900 J.

Joint Aquatic Resource Permit Application (JARPA). A single application form that may be used to apply for hydraulic project approvals, shoreline management permits, approvals of exceedance of water quality standards, water quality certifications, coast guard bridge permits, Department of Natural Resources use authorization, and Army Corps of Engineers permits.

13.11.900.L

Lahars. Mudflows and debris flows originating from the slope of a volcano.

Land modification. A human-induced action which affects the stability of an erosion hazard area, landslide hazard area, or steep or moderate slope. Land modification includes clearing, grading, and other soil disturbances. It does not include pruning of vegetation; provided such pruning is not so extensive as to disturb the soil stability.

Landslide. An episodic down slope movement of a mass of soil and/or rock.

Landslide hazard areas. Areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope aspect, structure, hydrology, or other features.

13.11.900.M

Mine hazard areas are those areas underlain by or affected by mine workings such as adits, gangways, tunnels, drifts, or airshafts, and those areas of sink holes, gas releases, or subsidence due to mine workshops. Underground mines do not presently exist within the City of Tacoma.

Mitigation. Avoiding, minimizing, or compensating for adverse critical areas impacts. Mitigation, in the following sequential order of preference, is:

a. Avoiding the impact altogether by not taking a certain action or parts of an action.

b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps such as project redesign, relocation, or timing, to avoid or reduce impacts.

c. Rectifying the impact to wetlands by repairing, rehabilitation, or restoring the affected environment to the conditions existing at the time of the initiation of the project:

d. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods.

e. Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action.

f. Compensating for the impact to wetlands by replacing, enhancing, or providing substitute resources or environments.

g. Monitoring the hazard or other required mitigation and taking remedial action when necessary.

Mitigation for individual actions may include a combination of the above measures.

Monitoring. Evaluating the impacts of development proposals on the biological, hydrological, and geological elements of such systems and assessing the performance of required mitigation measures throughout the collection and analysis of data by various methods for the purposes of understanding and documenting changes in natural ecosystems and features, and includes gathering baseline data.

Mosaic wetlands are wetlands that should be considered one unit when each patch of wetland is less than 1 acre, and each patch of wetland is less than 100 feet apart, on the average, and the areas delineated as vegetated wetland are more than 50% of the total area of the wetlands and the uplands together, or wetlands, open water, and river bars.

13.11.900.N

Native vegetation. Vegetation comprised of plant species which are indigenous to the area in question.

13.11.900.O

Off-site compensation. To replace critical areas away from the site on which a critical area has been impacted.

On-site compensation. To replace critical areas at or adjacent to the site on which a critical area has been impacted.

Ordinary high water mark. A mark that has been found where the presence and action of waters are common, usual, and maintained in an ordinary year long enough to create a distinction in character between water body and the abutting upland.

13.11.900.P

Parties of record. Individuals, entities and groups who have commented on a proposal in writing or in person or who have asked to be included on a mailing list for a specific proposal.

Priority habitats. Seasonal range or habitat element with which a given species is primarily associated and which, if altered, may reduce survival potential of that species over the long term. Priority habitats are designated by the Washington Department of Wildlife, Priority Habitat and Species Program, and may include habitat areas of high relative density or species richness, breeding habitat or habitats used as winter range or movement corridors. Habitats of limited availability or with high vulnerability to alteration, such as cliffs, talus, and wetlands, may also be included.

Priority species. Species which are of concern because of their population status and sensitivity to habitat alteration. Priority species are designated by the Washington Department of Wildlife, Priority Habitat and Species Program, and may include endangered, threatened, sensitive, candidate, monitored, or game species.

Protection/Maintenance (Preservation) means removing a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This includes the purchase of land or easements, repairing water control structures or fences, or structural protection such as repairing a barrier island. This term also includes activities commonly associated with preservation. Preservation does not result in a gain of wetland acres, and may result in a gain of functions.

13.11.900.R

Re-establishment means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Activities could include removing fill material, plugging ditches, or breaking drain tiles. Re-establishment results in a gain in wetland acres.

Rehabilitation means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic

functions of a degraded wetland. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres.

Repair or maintenance. An activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter critical areas are not included in this definition.

Restoration. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded wetland. For the purposes of tracking net gains in wetland acres, restoration is divided into Re-establishment and Rehabilitation.

Riparian zone. Areas adjacent to aquatic systems with flowing water that contain elements of both aquatic and terrestrial ecosystems that mutually influence each other. The width of these areas extends to that portion of the terrestrial landscape that directly influences the aquatic ecosystem by providing shade, fine or large woody material, nutrients, organic and inorganic debris, terrestrial insects, or habitat for riparian-associated wildlife. Width shall be measured from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified. It includes the entire extent of the floodplain and the extent of vegetation adapted to wet conditions as well as adjacent upland plant communities that directly influence the stream system. Riparian habitat areas include those riparian areas severely altered or damaged due to human development activities.

13.11.900.S

Scrub-shrub wetland. A wetland with at least thirty percent (30%) of its surface area covered by woody vegetation less than twenty (20) feet in height as the uppermost strata.

Seismic hazard areas means areas subject to severe risk damage as a result of seismic induced settlement, shaking, lateral spreading, surface faulting, slope failure or soil liquefaction. These conditions occur in areas underlain by soils low cohesion or density usually in association with a shallow groundwater table. Seismic hazard areas shall be defined by the Washington Department of Ecology Coastal Zone Atlas (Seismic Hazard Map prepared by GeoEngineers) as: Class U (Unstable), Class Uos (Unstable old slides), Class Urs (Unstable recent slides, Class I (intermediate) and Class M (Modified) as shown in the Seismic Hazard Map.

Species-Any group of animals or plants classified as a species or subspecies as commonly accepted by the scientific community.

Species, endangered. Any plant, fish or wildlife species that is threatened with extinction throughout all or a significant portion of its range and is listed by the state or federal government as an endangered species.

Species, priority. Any plant, fish or wildlife species requiring protection measures and/or management guidelines to ensure their persistence as genetically viable population levels as classified by the Department of Fish and Wildlife, including endangered, threatened, sensitive, candidate and monitor species, and those of recreational, commercial or tribal importance.

Species, threatened. Any plant, fish or wildlife species that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range without cooperative management or removal of threats, and is listed by the state or federal government as a threatened species.

Streams. Lands and waters contained within a channel which support hydrophytes and where the substrate is predominantly undrained hydric soils, nonsoil and/or is saturated with water or covered by water each growing season.

Streams of Local Significance. Streams that contain salmon and bull trout.

Stream corridor. Perennial, intermittent or ephemeral waters included within a channel of land and its adjacent riparian zones which serves as a buffer between the aquatic and terrestrial upland ecosystems.

Subclass, wetland. One of the wetland subclasses in the United States Fish and Wildlife Service publication, Classification of Wetlands and Deepwater Habitats of the United States (December 1979). A subclass is based on finer distinctions in life forms and/or substrate materials. Examples of subclasses of vegetation include needle-leafed evergreen, broad-leafed evergreen, needle-leafed deciduous and broad-leafed deciduous.

13.11.900.T

Toe of slope. A distinct topographic break in slope at the lowermost limit of an area where the ground surface drops 10 feet or more vertically within a horizontal distance of 25 feet.

Tsunami hazard areas are coastal areas and large lake shoreline areas susceptible to flooding and inundation as the result of excessive wave action derived from seismic or other geologic events. Currently, no

specific boundaries have been established in the City of Tacoma limits for this type of hazard area.

13.11.900.U

Unavoidable impacts. Impacts to a wetland or stream or associated buffers that will remain after project completion, when it has been demonstrated that no practicable alternatives exist, that extraordinary hardship exists or that the project is in the public interest.

13.11.900.V.

Volcanic hazard areas are areas subject to pyroclastic flows,

13.11.900.W

Water-dependent activity. Activity or use that requires the use of surface water to fulfill the basic purpose of the proposed project.

Wetlands. Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include small lakes, ponds, streams, swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including but not limited to irrigation and drainage ditches, grass-lined swales, canals, detention facilities, farm ponds, and landscape amenities if routinely maintained for those purposes. Wetlands do not include those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. However, wetlands do include those artificial wetlands intentionally created to mitigate conversion of wetlands.

Wetlands of Local Significance. Wetlands that are of special concern to the City of Tacoma and require additional protection measures beyond that afforded to them through the buffers required for each wetland category. Wetlands of Local Significance may be nominated through a process described in the Environmental Policy Plan Element of the City of Tacoma Comprehensive Plan

Wetland Specialist. A person with professional work experience and training in wetland issues and with experience in performing delineations, analyzing wetland functions and values, analyzing wetland impacts, and recommending wetland mitigation and restoration. Qualifications include: (1) Bachelor of Science or Bachelor of Arts or equivalent degree in biology, botany, environmental studies, fisheries, soil science, wildlife or related field, and two years of related professional work experience, including a minimum of one year experience delineating wetlands using the Unified Federal Manual and preparing wetland reports and mitigation plans. Additional education may substitute for one year of related work experience; or (2) Four years of related professional work experience and training, with a minimum of two years experience delineating wetlands using the Unified Federal Manual and preparing wetland reports and mitigation plans. The person should be familiar with the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, Corps of Engineers Wetlands Delineation Manual 1987 and corresponding guidance letters, March 1997 Washington State Wetland Identification and Delineation Manual, Washington State Wetlands Rating System for Western Washington, City of Tacoma wetland development regulations and the requirements of this chapter.

Water resource inventory area (WRIA). One of sixty-two (62) watersheds in the state of Washington, each composed of the drainage areas of a stream or streams, as established in Chapter 173-5000 WAC as it existed on January 1, 1997. (Ord. 27431 § 57; passed Nov. 15, 2005)

Chapter 13.12

ENVIRONMENTAL CODE

Sections:

13.12.004 Adoption of SEPA rules.
13.12.010 Authority.
13.12.020 Purpose, applicability, and intent.
13.12.025 Environmental policy.
13.12.045 Additional definitions.
13.12.055 Timing of the SEPA process.
13.12.305 Categorical exemptions.
13.12.315 Environmental checklist.
13.12.340 Determination of non-significance (DNS).
13.12.350 Mitigated DNS.
13.12.355 Optional DNS process.
13.12.408 Scoping.
13.12.410 Expanded scoping (optional).
13.12.420 EIS preparation.
13.12.460 Issuance of final environmental impact statement (FEIS).
13.12.510 Public notice.
13.12.660 Substantive authority and mitigation.
13.12.680 Appeals of SEPA threshold determination and adequacy of final environmental impact statement.
13.12.685 Repealed.
13.12.801 Flexible thresholds for categorical exemptions.
13.12.880 Emergencies.
13.12.905 Responsibility of the City's SEPA public information center (SEPA PIC).
13.12.908 Critical areas.
13.12.910 Designation of responsible official.
13.12.911 Designation of the SEPA public information center.
13.12.914 Repealed.
13.12.923 Lead agency – Responsibilities.
13.12.950 Severability.

(Ord. 27296 § 34; passed Nov. 16, 2004)

13.12.004 Adoption of SEPA rules.

The City of Tacoma hereby adopts by reference the following sections or subsections of Chapter 197-11 of the Washington Administrative Code (SEPA Rules):

WAC

197-11-030 Policy.
197-11-030 Policy.
197-11-040 Definitions.
197-11-050 Lead agency.
197-11-060 Content of environmental review.
197-11-070 Limitations on actions during SEPA process.
197-11-080 Incomplete or unavailable information.
197-11-090 Supporting documents.
197-11-100 Information required of applicants.
197-11-158 GMA project review. Reliance on existing plans, laws, and regulations.
197-11-164 Planned actions. Definition and criteria.
197-11-168 Ordinance or resolution designating planned actions. Procedures for adoption.
197-11-172 Planned actions. Project review.
197-11-210 SEPA/GMA integration.
197-11-220 SEPA/GMA definitions.
197-11-228 Overall SEPA/GMA integration procedures.
197-11-230 Timing of an integrated SEPA/GMA process.
197-11-232 SEPA/GMA integration procedures for preliminary planning, environmental analysis, and expanded scoping.
197-11-235 Documents.
197-11-238 Monitoring.
197-11-250 SEPA/Model Toxics Control Act integration.
197-11-253 SEPA lead agency for MCTA actions.
197-11-256 Preliminary evaluation.
197-11-259 Determination of non-significance for MCTA remedial action.
197-11-262 Determination of significance and EIS for MCTA remedial actions.
197-11-265 Early scoping for MCTA remedial actions.
197-11-268 MCTA interim actions.
197-11-300 Purpose of this part.
197-11-310 Threshold determination required.
197-11-330 Threshold determination process.
197-11-335 Additional information.
197-11-360 Determination of significance (DS)/initiation of scoping.
197-11-390 Effect of threshold determination.
197-11-400 Purpose of EIS.
197-11-402 General requirements.
197-11-405 EIS types.
197-11-406 EIS timing.
197-11-425 Style and size.
197-11-430 Format.
197-11-435 Cover letter or memo.
197-11-440 EIS contents.
197-11-442 Contents of EIS on nonprofit proposals.
197-11-443 EIS contents when prior non-project EIS.
197-11-444 Elements of the environment.
197-11-448 Relationship of EIS to other considerations.
197-11-450 Cost-benefit analysis.
197-11-455 Issuance of DEIS.
197-11-500 Purpose of this part.
197-11-502 Inviting comment.
197-11-504 Availability and cost of environmental documents.

197-11-508 SEPA Register.
197-11-535 Public hearings and meetings.
197-11-545 Effect of no comment.
197-11-550 Specificity of comments.
197-11-560 FEIS response to comments.
197-11-570 Consulted agency costs to assist lead agency.
197-11-600 When to use existing environmental documents.
197-11-610 Use of NEPA documents.
197-11-620 Supplemental environmental impact statement – Procedures.
197-11-625 Addenda – Procedures.
197-11-630 Adoption – Procedures.
197-11-635 Incorporation by reference – Procedures.
197-11-640 Combining documents.
197-11-650 Purpose of this part.
197-11-655 Implementation.
197-11-700 Definitions.
197-11-702 Act.
197-11-704 Action.
197-11-706 Addendum.
197-11-708 Adoption.
197-11-710 Affected tribe.
197-11-712 Affecting.
197-11-714 Agency.
197-11-716 Applicant.
197-11-718 Built environment.
197-11-720 Categorical exemption.
197-11-721 Closed record appeal.
197-11-722 Consolidated appeal.
197-11-724 Consulted agency.
197-11-726 Cost-benefit analysis.
197-11-728 County-city.
197-11-730 Decision-maker.
197-11-732 Department.
197-11-734 Determination of non-significance (DNS).
197-11-736 Determination of significance (DS).
197-11-738 EIS.
197-11-740 Environment.
197-11-742 Environmental checklist.
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197-11-746 Environmental review.
197-11-750 Expanded scoping.
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197-11-794 Significant.
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197-11-800 Categorical exemptions.
197-11-810 Exemptions and none-exemptions applicable to specific state agencies.
197-11-820 Department of licensing.
197-11-825 Department of labor and industries.
197-11-830 Department of natural resources.
197-11-835 Department of fisheries.
197-11-840 Department of game.
197-11-845 Department of social and health services.
197-11-850 Department of agriculture.
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197-11-865 Utilities and transportation commission.
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197-11-875 Other agencies.
197-11-890 Petitioning DOE to change exemptions.
197-11-900 Purpose of this part.
197-11-902 Agency SEPA policies.
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197-11-920 Agencies with environmental expertise.
197-11-922 Lead agency rules.
197-11-924 Determination of lead agency – Procedures.
197-11-926 Lead agency for governmental proposals.
197-11-928 Lead agency for public and private proposals.
197-11-930 Lead agency for private projects with one agency with jurisdiction.
197-11-932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city.

197-11-934 Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies.
197-11-936 Lead agency for private projects requiring licenses for more than one state agency.
197-11-938 Lead agencies for specific proposals.
197-11-940 Transfer of lead agency status to a state agency.
197-11-942 Agreements on lead agency status.
197-11-944 Agreements on division of lead agency duties.
197-11-946 DOE resolution of lead agency disputes.
197-11-948 Assumption of lead agency status.
197-11-955 Effective date.
197-11-960 Environmental checklist.
197-11-965 Adoption notice.
197-11-970 Determination of non-significance (DNS).
197-11-980 Determination of significance and scoping notice (DS).
197-11-985 Notice of assumption of lead agency status.
197-11-990 Notice of action.
(Ord. 27296 § 35; passed Nov. 16, 2004: Ord. 25856 § 1; passed Jan. 27, 1996: Ord. 23262 § 8; passed Sept. 25, 1984)

13.12.010 Authority.

The following regulations concerning environmental policies and procedures are hereby established and adopted pursuant to Washington State law, Chapter 109, Laws of 1971, Extraordinary Session (Chapter 43.21C RCW) as amended, entitled the "State Environmental Policy Act of 1971," (SEPA), and Washington State Administrative Code regulations, Chapter 197-11, entitled "SEPA Rules." (Ord. 23262 § 8; passed Sept. 25, 1984)

13.12.020 Purpose, applicability, and intent.

(1) The purpose of this chapter is to provide City regulations implementing the State Environmental Policy Act of 1971 (SEPA) which are consistent with the SEPA rules.

(2) This chapter is applicable to all City departments/divisions, commissions, boards, committees, and City Council.

(3) The intent of this chapter is to govern compliance by all City departments/divisions, commissions, boards, committees, and City Council with the procedural requirements of the State Environmental Policy Act of 1971.

(4) This chapter is not intended to govern compliance by the City with respect to the National Environmental Policy Act of 1969 (NEPA). In those situations in which the City is required by Federal law or regulations to perform some element of compliance with NEPA, such compliance will be governed by the applicable Federal statute and regulations and not by this chapter. (Ord. 23262 § 8; passed Sept. 25, 1984)

13.12.025 Environmental policy.

The environmental policies of the City of Tacoma are the policies set forth in the following documents and statute: the "comprehensive plan," including all of its elements, the "Master Program for Shoreline Development," and Chapter 43.21C RCW. (Ord. 27079 § 59; passed Apr. 29, 2003: Ord. 23826 § 1; passed Apr. 14, 1987: Ord. 23262 § 8; passed Sept. 25, 1984)

13.12.045 Additional definitions.

In addition to those definitions contained within WAC 197-11-700, the following terms shall have the following meanings, unless the context indicates otherwise:

(1) "Department" means any division, subdivision, or organizational unit of the City established by ordinance.

(2) "SEPA Rules" means WAC Chapter 197-11 adopted by the Department of Ecology.

(3) "Administrative Permit" means any permit issued by a City employee, officer, board, commission, or committee which authorizes or regulates, as required by City ordinance, the activities of a private applicant which involve modification of the physical environment and for which the exercise of discretion is primarily authorized by the provisions of the State Environmental Policy Act of 1971. Administrative permits shall include, but not be limited to:

(a) Building permits;

(b) Business licenses;

(c) Short plat approvals;

(d) Storm sewer hook-up permits;

(e) Sanitary sewer hook-up permits;

(f) Septic tank permits;

(g) Electrical hook-up permits;

(h) Water hook-up permits;

(i) Parking lot development permits;

(j) Grading permits;

(k) Administrative site plan approvals in P-D Districts;

(l) Conditional use, and automotive service station permits;

(m) Site plan approvals;

(n) Variances;

(o) Shoreline substantial development permits, including those involving variances or conditional uses;

(p) Waivers, appeals, and other discretionary land use permits requiring action by the Hearing Examiner pursuant to the authority provided in Chapter 13.03 of this title;

(q) Street occupancy permits;

Reclassification and subdivision requests (except short subdivisions) shall expressly not be considered administrative permits for the purposes of this chapter.

(4) "Early Notice" means the responsible official's response to an applicant stating whether he/she considers issuance of a determination of significance likely for the applicant's proposal (mitigated DNS procedures, Section 13.12.350 of this chapter).

(5) "Responsible Official" for City Government means the Department Director for projects initiated or processed by that department, and for the Department of Public Utilities means the Superintendent or Division Head of the respective division for projects initiated or processed by that division. Responsible official duties may be delegated to appropriate staff persons, but the respective Director or Superintendent shall approve and is responsible for the determination of Environmental Significance and the adequacy of an Environmental Impact Statement.

(6) "SEPA Public Information Center" means the section within the Public Works Department that performs the functions and duties as described in Section 13.12.905 of this chapter. (Ord. 27245 § 30; passed Jun. 22, 2004: Ord. 23262 § 8; passed Sept. 25, 1984)

13.12.055 Timing of the SEPA process.

(1) The SEPA process shall be integrated with City activities at the earliest possible time to ensure that planning and decisions reflect environmental values, to avoid delays later in the process, and to seek to resolve potential problems.

(2) The responsible official shall prepare the threshold determination and environmental impact statement (EIS), if required, at the earliest possible point in the planning and decision making process, when the principal features of a proposal and its environmental impacts can be reasonably identified.

(a) A proposal exists when the responsible official is presented with an application or has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the environmental effects can be meaningfully evaluated. The fact that proposals may require future City approvals or environmental review shall not preclude current consideration, as long as proposed future activities are specific enough to allow some evaluation of their probable environmental impacts.

(b) The environmental process shall commence upon receipt by the responsible official of an environmental document accompanying an application. The responsible official may also organize environmental review in phases as specified in WAC 197-11-060(5).

(c) Appropriate consideration of environmental information shall be completed before the responsible official commits to a particular course of action (WAC 197-11-070).

(d) A GMA county/city is subject to additional timing requirements (WAC 197-11-310).

(3) The timing of environmental review for applications and for rulemaking shall be as follows: At the latest, the responsible official shall begin environmental review, if required, when an application is complete. The responsible official may initiate review earlier and may have informal conferences with applicants. A final threshold determination or Final Environmental Impact Statement (FEIS) shall precede or accompany the staff report, if any, in a public hearing on an application.

(4) When the environmental effects can be meaningfully evaluated on a proposal, the responsible official shall begin the preparation of EIS on private proposals at the conceptual stage rather than the final detailed design stage.

(a) If the responsible official's only action is a decision on a building permit or other license that requires detailed project plans and specifications, the responsible official shall provide applicants with the opportunity for environmental review under SEPA prior to requiring applicants to submit such detailed project plans and specifications.

(b) The responsible official may specify the amount of detail needed from applicants for such early environmental review, consistent with WAC 197-11-100 and 197-11-335.

(c) This subsection does not preclude the responsible official or applicants from preliminary discussions or exploration of ideas and options prior to commencing formal environmental review.

(5) An overall decision to proceed with a course of action may involve a series of actions or decisions by one or more agencies. If several agencies have jurisdiction over a proposal, they should coordinate their SEPA processes wherever possible. The responsible official shall comply with lead agency determination requirements in WAC 197-11-040 and 197-11-922, and Section 13.12.924 of this chapter.

(6) To meet the requirement to ensure that environmental values and amenities are given appropriate consideration along with economic and technical considerations, environmental documents and analyses shall be circulated and reviewed with other planning documents to the fullest extent possible.

(7) When a proposed major action is a proposal for either a governmental action of a project nature or a governmental action of a non-project nature, and the proponent of the major action is also the lead agency, then the maximum time limits contained in these rules for the threshold determination and EIS process need not apply to the proposal. (Ord. 27296 § 36; passed Nov. 16, 2004: Ord. 23262 § 8; passed Sept. 25, 1984)

13.12.305 Categorical exemptions.

(1) Those activities excluded from the definition of "action" in WAC 197-11-704, or categorically exempted by WAC 197-11-800, are exempt from the threshold determination (including completion of the environmental checklist) and EIS requirements of this chapter and RCW 43.21C.030 (2)(c) and 43.21C.030(2)(d). No exemption is allowed for the sole reason that actions are considered to be of a "ministerial" nature or of an environmentally regulatory or beneficial nature.

(2) The applicability of the exemptions shall be determined by the responsible official who received an application, or in the case of governmental proposals, by the responsible official initiating the proposal.

(3) If a proposal includes a series of actions, physically or functionally related to each other, some of which are exempt and some of which are not, the proposal is not exempt.

(4) If the proposal includes a series of exempt actions which are physically or functionally related to each other, but which together may have a significant environmental impact, the proposal is not exempt.

(5) The responsible official who is determining whether or not a proposal is exempt shall ascertain the total scope of the proposal and the governmental licenses required. If a proposal includes a series of actions, physically or functionally related to each other, some of which are exempt and some of which are not, the proposal is not exempt. For any such proposal, the lead agency shall be determined, even if the application which triggers the responsible official's consideration is otherwise categorically exempt. If the lead agency is the City, then the responsible official shall be designated.

(6) If a proposal includes both exempt and nonexempt actions, exempt actions may be authorized with respect to the proposal prior to compliance with the procedural requirements of these rules subject to the following limitations:

(a) No major action (nonexempt action) shall be authorized;

(b) No action shall be authorized which will irrevocably commit the City to approve or authorize a major action;

(c) The responsible official may withhold approval of an exempt action which would lead to modification of the physical environment, when such modifications would serve no purpose if later approval of a major action is not secured; and

(d) The responsible official may withhold approval of exempt actions which would lead to substantial financial expenditures by a private applicant which would serve no purpose if later approval of a major action is not secured.

(7) Pursuant to RCW 36.70B.140(2), categorically exempt project permits under Chapter 43.21C RCW shall be excluded from the provisions of RCW 36.70B.060 and 36.70B.110 through 36.70B.130. (Ord. 25856 § 2; passed Jan. 27, 1996: Ord. 23262 § 8; passed Sept. 25, 1984)

13.12.315 Environmental checklist.

(1) The form in subsection (2) of this section is the environmental checklist. The checklist shall be filed no later than the time an application is filed for a permit, license, certificate, or other approval not specifically exempted in this chapter or WAC Chapter 197-11; except a checklist is not needed if the responsible official has decided to prepare an EIS, or the responsible official and applicant agree an EIS is required.

(2) Environmental checklist form shall be the same as that on file with the office of the City Clerk and the SEPA Public Information Center, titled "Environmental Checklist," which is by reference incorporated in this chapter.

(3) For private proposals, the responsible official shall require the applicant to complete the environmental checklist, providing assistance as necessary. For public proposals, the department

initiating the proposal shall complete the environmental checklist for that proposal.

(4) The items in the environmental checklist are not weighted. The mention of one or many adverse environmental impacts does not necessarily mean that the impacts are significant. Conversely, a probable significant adverse impact on the environment may result in the need for an EIS. (Ord. 23262 § 8; passed Sept. 25, 1984)

13.12.340 Determination of nonsignificance (DNS).

(1) If the responsible official determines there will be no probable significant adverse environmental impacts from a proposal, the responsible official shall prepare and issue a determination of non-significance (DNS) substantially in the form provided in WAC 197-11-970. If an agency adopts another environmental document in support of a threshold determination, the notice of adoption in WAC 197-11-965 and the DNS shall be combined or attached to each other.

(2) A DNS issued under the provisions of this section shall not become effective until the expiration of the period for appealing such determination as provided for in Section 13.12.680 of this chapter. The filing of an appeal of a DNS pursuant to Section 13.12.680 of this chapter shall stay the effect of such DNS and no major action in regard to a proposal may be taken during the pendency of an appeal and until the appeal is finally disposed of by the Hearing Examiner. A decision to reverse the determination of the responsible official and uphold the appeal shall further stay any decision, proceedings, or actions in regard to the proposal.

(3) When a DNS is issued for any of the proposals listed in subsection 3.a of this section, the requirements in this subsection shall be met The requirements of this subsection do not apply to a DNS issued when the optional DNS process in WAC 197-11-355 is used.

(a) An agency shall not act upon a proposal for 15 days after the date of issuance of a DNS if the proposal involves:

(i) Another agency with jurisdiction;

(ii) Demolition of any structure or facility not exempted by WAC 197-11-800(2)(f), or Section 13.12.880 of this chapter;

(iii) Issuance of clearing or grading permits not exempted in Part Nine of these rules; or

(iv) A DNS under Sections 13.12.350.2 or 13.12.350.5.a of this chapter or WAC 197-11-360(4).

(b) The responsible official shall send the DNS and environmental checklist to agencies with jurisdiction, the Department of Ecology, and affected tribes, and each local agency or political subdivision whose public services would be changed as a result of implementation of the proposal, and shall give notice under Section 13.12.510 of this chapter.

(c) Any person, affected tribe, or agency may submit comments to the lead agency within 15 days of the date of issuance of the DNS.

(d) The date of issuance for the DNS is the date the DNS is sent to the Department of Ecology and agencies with jurisdiction and is made publicly available.

(e) An agency with jurisdiction may assume lead agency status only within this 15-day period (WAC 197-11-948).

(f) The responsible official shall reconsider the DNS based on timely comments and may retain or modify the DNS or, if the responsible official determines that significant adverse impacts are likely, withdraw the DNS. When a DNS is modified, the responsible official shall send the modified DNS to agencies with jurisdiction.

(4)(a) The responsible agency shall withdraw a DNS if:

(i) There are substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts;

(ii) There is significant new information indicating, or on, a proposal's probable significant adverse environmental impacts; or

(iii) The DNS was procured by misrepresentation or lack of material disclosure; if the DNS resulted from such actions by an applicant, any subsequent environmental checklist on the proposal shall be prepared directly by the responsible official or his or her consultants at the expense of the applicant.

(b) Subsection 4.a(ii) of this section shall not apply when a nonexempt license has been issued on a private project.

(c) If the responsible official withdraws a DNS, a new threshold determination shall be made and other agencies with jurisdiction shall be notified of the withdrawal and new threshold determination. (Ord. 27296 § 37; passed Nov. 16, 2004: Ord. 25856 § 3; passed Jan. 27, 1996: Ord. 23262 § 8; passed Sept. 25, 1984)

13.12.350 Mitigated DNS.

(1) As provided in this section, the responsible official may issue a determination of nonsignificance

(DNS) based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.

(2) If an applicant requests early notice of whether a DS is likely, the request must:

(a) Be written;

(b) Follow submission of an environmental checklist for a nonexempt proposal for which the department is lead agency; and

(c) Precede the department's actual threshold determination for the proposal.

(3) The responsible official shall respond to the request in writing; the response shall:

(a) State whether the responsible official is considering issuance of a Declaration of Significance (DS) and, if so, indicate the general or specific area(s) of concern that are leading to consideration of a DS; and

(b) State that the applicant may change or clarify the proposal to mitigate the impacts indicated in the letter, revising the environmental checklist as necessary to reflect the changes or clarifications.

(4) As much as possible, the responsible official should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.

(5) If the applicant submits a changed or clarified proposal, along with a revised environmental checklist, the responsible official will make a threshold determination based on the changed or clarified proposal:

(a) If the responsible official indicated specific mitigation measures in a response to the request for early notice that would allow him or her to issue a DNS, and the applicant changed or clarified the proposal to include those specific mitigation measures, the responsible official shall issue a determination of nonsignificance.

(b) If the responsible official indicated general or specific areas of concern, but did not indicate specific mitigation measures that would allow a DNS to be issued, the responsible official shall make the threshold determination, issuing a DNS or DS as appropriate.

(c) The applicant's proposed mitigation measures (clarifications, changes, or conditions) must be in writing and must be specific.

(d) Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.

(6) A mitigated DNS issued under Section 13.12.340(3) of this chapter requires a 15-day comment period.

(7) Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit, unless revised or changed by the decision maker. The conditions shall be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the City.

(8) If the tentative decision for an approval of a permit does not include mitigation measures that were incorporated in the mitigated DNS for the proposal, the threshold determination should be evaluated to assure consistency with Section 13.12.340.4.a of this chapter (withdrawal of DNS).

(9) The responsible official's written response under subsection (3) of this section shall not be construed as a determination of significance. In addition, preliminary discussions of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the responsible official to a mitigated DNS. (Ord. 25856 § 4; passed Jan. 27, 1996: Ord. 23262 § 8; passed Sept. 25, 1984)

13.12.355 Optional DNS process.

(1) As provided in this section, the responsible official may use the optional DNS process if it is determined that significant adverse environmental impacts are unlikely, and a single integrated comment period is desired to obtain comments on the notice of application and the likely threshold determination for the proposal. If this process is used, a second comment period will typically not be required when the DNS is issued (refer to subsection (4) of this section).

(2) If the optional DNS process is used, the following shall apply:

(a) State on the first page of the notice of application that the lead agency expects to issue a DNS for the proposal, and that: (i) The optional DNS process is being used; (ii) This may be the only opportunity to comment on the environmental impacts of the proposal; (iii) The proposal may include mitigation measures under applicable codes, and the project review process may incorporate or require mitigation measures regardless of whether an EIS is prepared; and (iv) A copy of the subsequent threshold determination for the specific proposal may be obtained upon request (in addition, the lead agency may choose to maintain a general mailing list for the threshold determination distribution).

(b) List in the notice of application the conditions being considered to mitigate environmental impacts, if a mitigated DNS is expected.

(c) Comply with the requirements for a notice of application and public notice in RCW 36.70B.110; and

(d) Send the notice of application and environmental checklist to: (i) Agencies with jurisdiction, the Department of Ecology, affected tribes, and each local agency or political subdivision whose public services would be changed as a result of implementation of the proposal; and (ii) Anyone requesting a copy of the environmental checklist for the specific proposal.

(3) If the lead agency indicates on the notice of application that a DNS is likely, an agency with jurisdiction may assume lead agency status during the comment period on the notice of application (WAC 197-11-948).

(4) The responsible official shall consider timely comments on the notice of application and either:

(a) Issue a DNS or mitigated DNS with no comment period using the procedures in subsection (5) of this section;

(b) Issue a DNS, or mitigated DNS with a comment period using the procedures in subsection (5) of this section, if the lead agency determines a comment period is necessary;

(c) Issue a DS, or

(d) Require additional information or studies prior to making a threshold determination.

(5) If a DNS or mitigated DNS is issued under subsection (4)(a) of this section, the lead agency shall send a copy of the DNS or mitigated DNS to the Department of Ecology, agencies with jurisdiction, those who commented, and anyone requesting a copy. A copy of the environmental checklist need not be re-circulated. (Ord. 27296 § 38; passed Nov. 16, 2004)

13.12.408 Scoping.

(1) The responsible official shall narrow the scope of every EIS to the probable significant adverse impacts and reasonable alternatives, including mitigation measures. For example, if there are only two or three significant impacts or reasonable alternatives, the EIS shall be focused on those.

(2) To ensure that every EIS is concise and addresses the significant environmental issues, the responsible official shall:

(a) Invite agencies with jurisdiction, if any, affected tribes, and the public to comment on the DS (WAC 197-11-360). The responsible official shall require comments in writing. Agencies with jurisdiction, affected tribes, and the public shall be allowed 21 days from the date of issuance of the DS in which to comment, unless expanded scoping is used. The date of issuance for a DS is the date it is sent to the Department of Ecology and other agencies with jurisdiction, and is publicly available;

(b) Identify reasonable alternatives and probable significant adverse environmental impacts;

(c) Eliminate from detailed study those impacts that are not significant;

(d) Work with other agencies to identify and integrate environmental studies required for other government approvals with the EIS, where feasible.

(3) Meetings or scoping documents, including notices that the scope has been revised, may be used but are not required. The responsible official shall integrate the scoping process with the existing planning and decision making process in order to avoid duplication and delay.

(4) The responsible official shall revise the scope of an EIS if substantial changes are made later in the proposal, or if significant new circumstances or information arise that bear on the proposal and its significant impacts.

(5) DEISs shall be prepared according to the scope decided upon by the responsible official in the scoping process.

(6) EIS preparation may begin during scoping. (Ord. 25856 § 5; passed Jan. 27, 1996: Ord. 23262 § 8; passed Sept. 25, 1984)

13.12.410 Expanded scoping (optional).

The responsible official may expand the scoping process to include any or all of the provisions found in WAC 197-11-410, which may be applied on a proposal-by-proposal basis. (Ord. 23262 § 8; passed Sept. 25, 1984)

13.12.420 EIS preparation.

For draft, a final, and supplemental EISs:

(1) Preparation of the EIS is the responsibility of the City, by or under the direction of its responsible official, as specified by Section 13.12.910 of this chapter. Regardless of who participates in the preparation of the EIS, it is the EIS of the responsible official. The responsible official, prior to distributing an EIS, shall be satisfied that it complies with these rules and the procedures of the City of Tacoma.

(2) The responsible official may have an EIS prepared by City staff, an applicant or its agents, or

by an outside consultant retained by either an applicant or the responsible official. The responsible official shall assure that the EIS is prepared in a professional manner and with appropriate interdisciplinary methodology. The responsible official shall direct the areas of research and examination to be undertaken as a result of the scoping process, as well as the organization of the resulting document.

(3) If a person other than the responsible official is preparing the EIS, the responsible official or designee shall:

(a) Coordinate any scoping procedures so that the individual preparing the EIS receives all substantive information submitted by any agency or person;

(b) Assist in obtaining any information on file with another agency that is needed by the person preparing the EIS;

(c) Allow any party preparing an EIS access to all public records of the City that relate to the subject of the EIS, under Chapter 42.17 RCW (Public Disclosure and Public Records Law);

(d) Review and examine pertinent sections of the EIS to assure the completeness, accuracy, and objectivity of the EIS.

(4) Any outside person, firm, or corporation assisting in the preparation of an EIS shall have expertise and experience in preparing environmental impact statements and shall be approved by the responsible official prior to participation in the EIS development process.

(5) Field investigation or research by the applicant, reasonably related to determining the environmental impacts associated with the proposal, may be required, with the cost of such field investigation or research to be borne by the applicant. (Ord. 23262 § 8; passed Sept. 25, 1984)

13.12.460 Issuance of final environmental impact statement (FEIS).

(1) A FEIS shall be issued by the responsible official and sent to the Department of Ecology (two copies), to all agencies with jurisdiction, to all agencies who commented on the DEIS, and to anyone requesting a copy of the FEIS. (Fees may be charged for the FEIS, see WAC 197-11-504.)

(2) The responsible official shall send the FEIS, or a notice that the FEIS is available, to anyone who commented on the DEIS or scoping notice and to those who received but did not comment on the DEIS. If the responsible official receives petitions from a specific group or organization, a notice or EIS may be sent to the group and not to each petitioner. Failure to notify any individual under this subsection shall not affect the legal validity of an agency's SEPA compliance.

(3) The responsible official shall make additional copies available for review in his or her office and in the SEPA Public Information Center.

(4) The date of issue is the date the FEIS, or notice of availability, is sent to the persons and agencies specified in the preceding subsections and the FEIS is publicly available. Copies sent to the Department of Ecology shall satisfy the statutory requirement of availability to the governor.

(5) The City shall not act on a proposal for which an EIS has been required prior to 15 days after issuance of the FEIS. Further, filing of an appeal of the adequacy of a FEIS pursuant to Section 13.12.680 of this chapter shall stay the effect of such FEIS and no major action in regard to a proposal may be taken during the pendency of an appeal and until the appeal is finally disposed of by the Hearing Examiner. A decision that the FEIS is inadequate and upholding the appeal shall further stay any decision, proceedings, or actions in regard to the proposal.

(6) The responsible official shall issue the FEIS within 60 days of the end of the comment period for the DEIS, unless the proposal is unusually large in scope, the environmental impact associated with the proposal is unusually complex, or extensive modifications are required to respond to public comments.

(7) The form and content of the FEIS shall be as specified in WAC 197-11-560. (Ord. 25856 § 6; passed Jan. 27, 1996: Ord. 23262 § 8; passed Sept. 25, 1984)

13.12.510 Public notice.

(1) When notice is required under Section 13.12.340(3), WAC 197-11-502(4)(b) and 197-11-360(3), the responsible official must use reasonable methods to inform the public and other agencies that an environmental document is being prepared or is available and that public hearing(s), if any, will be held.

(2) Notice Requirements.

(a) When a land use decision is required for a proposal, notice of the SEPA pre-threshold determination or the availability of the final environmental impact statement shall be provided in conjunction with notification of the proposed land use action. The notice shall inform recipients where the SEPA records are located and that a final environmental determination shall be made following a comment period.

(b) Notice of the SEPA pre-threshold environmental determination for projects which do not require a land use decision shall be published in a newspaper of general circulation within the area in which the project is located, and shall include information as stated above.

(c) Notice of the SEPA pre-threshold environmental determination for nonproject actions shall be provided in conjunction with notification of the earliest hearing (e.g., Planning Commission, Environmental Commission).

(d) If an appeal is filed pursuant to subsection 2.a of this section, notification of hearing such appeal shall be mailed to parties of record and to all parties who have in writing to the Public Works Department indicated an interest in the proposed land use action.

(e) Notice of determination of significance, scoping, and availability of draft and final EISs shall be published in a newspaper of general circulation within the area in which the project is located.

(f) For project actions requiring the preparation of an EIS, the determination of significance and scoping notice shall be mailed by first class mail to the applicant; property owner (if different from applicant); Neighborhood Councils, and qualified neighborhood or community organizations in the vicinity where the proposal is located; the Puyallup Indian Tribe for substantial actions defined in the "Agreement Between the Puyallup Tribe of Indians, Local Governments in Pierce County, the State of Washington, the United States of America, and Certain Property Owners," dated August 27, 1988; and to owners of property as indicated by the records of the Pierce County Assessor, within 400 feet of the proposed action. Those parties who comment on the project shall receive notice of the draft and final EISs.

(g) For project actions requiring the preparation of an EIS, a public information sign shall be erected on the site by the applicant, in a location determined by the Department of Public Works, within seven calendar days of the date of issuance of the determination of significance. The sign shall contain, at a minimum, the following information: type of application, name of applicant, description and location of proposal, and where additional information can be obtained. The sign shall remain on the site until a final decision on the project is made.

(h) Documents which are required to be sent to the Department of Ecology under these rules will be published in the SEPA register, which will also constitute a form of public notice. However, publication in the SEPA register shall not, in itself, meet notice requirement compliance of this section.

(Ord. 25856 § 7; passed Jan. 27, 1996: Ord. 23262 § 8; passed Sept. 25, 1984)

13.12.660 Substantive authority and mitigation.

(1) Any action by the City of Tacoma on public or private proposals that is not exempt may be conditioned or denied under SEPA to mitigate the environmental impact subject to the following limitations:

(a) Mitigation measures or denials shall be based on policies, plans, rules, or regulations formally designated by the City of Tacoma as a basis for the exercise of substantive authority and in effect when the DNS or DEIS is issued.

(b) Mitigation measures shall be related to specific, adverse environmental impacts clearly identified in an environmental document on the proposal and shall be stated in writing by the responsible official. The responsible official shall cite the City's SEPA policy that is the basis of any condition or denial under this chapter. The responsible official shall make available to the public, in his or her office, a document that states the decision. The document shall state the mitigation measures, if any, that will be implemented as part of the decision, including any monitoring of environmental impacts. Such a document may be the permit itself, or may be combined with other City documents, or may reference relevant portions of environmental documents.

(c) Mitigation measures shall be reasonable and capable of being accomplished.

(d) Responsibility for implementing mitigation measures may be imposed upon an applicant only to the extent attributable to the identified adverse impacts of its proposal. Voluntary additional mitigation may occur.

(e) Before requiring mitigation measures, the responsible official shall consider whether local, State, or Federal requirements and enforcement would mitigate an identified significant impact.

(f) To deny a proposal under SEPA, the decision maker must find that:

(i) The proposal would be likely to result in significant adverse environmental impacts identified in a final or supplemental environmental impact statement prepared under this chapter; and

(ii) Reasonable mitigation measures are insufficient to mitigate the identified impact.

(g) If, during project review, the responsible official determines that the requirements for environmental analysis, protection, and mitigation in the City's development regulations, or Comprehensive Plan

adopted under Chapter 36.70A RCW, or in other applicable local, state, federal laws, or rules, provide adequate analysis of, and mitigation for the specific adverse environmental impacts of the project action under RCW 43.21C.240, the responsible official shall not impose additional mitigation under this chapter.

(2) The decision maker should judge whether possible mitigation measures are likely to protect or enhance environmental quality. EIS should briefly indicate the intended environmental benefits of mitigation measures for significant impacts (WAC 197-11-440(6)). EIS are not required to analyze in detail the environmental impacts of mitigation measures, unless the mitigation measures:

(a) Represent substantial changes in the proposal so that the proposal is likely to have significant adverse environmental impacts, or involve significant new information indicating, or on, a proposal's probable significant adverse environmental impacts; and

(b) Will not be analyzed in a subsequent environmental document prior to their implementation. (Ord. 27296 § 39; passed Nov. 16, 2004: Ord. 25856 § 8; passed Jan. 27, 1996: Ord. 23262 § 8; passed Sept. 25, 1984)

13.12.680 Appeals of SEPA threshold determination and adequacy of final environmental impact statement.

(1) Appeal to the Hearing Examiner.

(a) Threshold determination or adequacy of a final environmental impact statement for a proposed land use action shall be appealable to the Hearing Examiner. All other appeals under this chapter shall be made to Superior Court.

(b) Appeal Procedure/Fee. A notice of appeal, together with a filing fee as set forth in Section 2.09.500 of the Tacoma Municipal Code, shall be filed with the Public Works Department. The Public Works Department shall process the appeal in accordance with Chapter 13.05 of this title.

(c) Time Requirement. An appeal shall be filed within 14 calendar days after issuance of the determination by the responsible official. If the last day for filing an appeal falls on a weekend day or holiday, the last day for filing shall be the next working day.

(d) Content of the Appeal. Appeals shall contain:

(i) The name and mailing address of the appellant and the name and address of his/her representative, if any;

(ii) The appellant's legal residence or principal place of business;

(iii) A copy of the decision which is appealed;

(iv) The grounds upon which the appellant relies;

(v) A concise statement of the factual and legal reasons for the appeal;

(vi) The specific nature and intent of the relief sought;

(vii) A statement that the appellant has read the appeal and believes the contents to be true, followed by his/her signature and the signature of his/her representative, if any. If the appealing party is unavailable to sign the appeal, it may be signed by his/her representative.

(e) Dismissal of Appeal. The Hearing Examiner may summarily dismiss an appeal without hearing when such appeal is determined by the Examiner to be without merit on its face, frivolous, or brought merely to secure a delay, or that the appellant lacks legal standing to appeal.

(f) Effect of Appeal. The filing of an appeal of a threshold determination or adequacy of a final environmental impact statement (FEIS) shall stay the effect of such determination or adequacy of the FEIS and no major action in regard to a proposal may be taken during the pendency of an appeal and until the appeal is finally disposed of by the Hearing Examiner. A decision to reverse the determination of the responsible official and uphold the appeal shall further stay any decision, proceedings, or actions in regard to the proposal.

(2) Withdrawal of Appeal. An appeal may be withdrawn, only by the appellant, by written request filed with the Public Works Department. The Public Works Department shall inform the Hearing Examiner and responsible official of the withdrawal request. If the withdrawal is requested before the response of the responsible official, or before serving notice of the appeal, such request shall be permitted and the appeal shall be dismissed without prejudice by the Hearing Examiner, and the filing fee shall be refunded.

(3) Response of Responsible Official. The responsible official shall respond in writing to the appellant's objections. Such response shall be transmitted to the Public Works Department. The Public Works Department shall forward all pertinent information to the Hearing Examiner, appellant, and responsible official no later than seven days prior to hearing. The official's response shall contain, when applicable, a description of the property and the nature of the proposed action. Response shall be made to each specific and explicit objection set forth in the appeal, but no response need be made to vague or ambiguous allegations. The response shall be limited to facts available when the threshold

determination was made. In the case of a response to an appeal of the adequacy of a final environmental impact statement, the response shall be limited to facts available when the final environmental impact statement is issued. No additional environmental studies or other information shall be allowed.

(4) Public Hearing.

(a) The hearing of an appeal of a determination of nonsignificance or adequacy of an environmental impact statement on a proposed land use action which requires a hearing shall be held concurrently with the hearing on the application request.

(b) The hearing of an appeal of a determination of nonsignificance or adequacy of the final environmental impact statement for a proposal which requires an administrative land use decision shall be expeditiously scheduled upon receipt of a valid appeal. If the SEPA determination and land use decision are appealed, the SEPA appeal and the land use hearing shall be held concurrently.

(c) The hearing of an appeal by a project sponsor of a determination of significance issued by the responsible official shall be expeditiously scheduled upon receipt of a valid appeal.

(d) The public hearing shall be conducted in accordance with the provisions of Chapter 1.23 of the Tacoma Municipal Code.

(e) Standards of Review. The Hearing Examiner may affirm the decision of the responsible official or the adequacy of the environmental impact statement, or remand the case for further information; or the Examiner may reverse the decision if the administrative findings, inferences, conclusions, or decisions are:

(i) In violation of constitutional provisions as applied; or

(ii) The decision is outside the statutory authority or jurisdiction of the City; or

(iii) The responsible official has engaged in unlawful procedure or decision-making process, or has failed to follow a prescribed procedure; or

(iv) In regard to challenges to the appropriateness of the issuance of a DNS clearly erroneous in view of the public policy of the Act (SEPA); or

(v) In regard to challenges to the adequacy of an EIS shown to be inadequate employing the "rule of reason."

(f) Evidence – Burden of Proof. In each particular proceeding, the appellant shall have the burden of proof, and the determination of the responsible official shall be presumed prima facie correct and shall be afforded substantial weight. Appeals shall be limited to the records of the responsible official.

(g) Continuation of Hearing.

(i) Cause. A hearing may be continued by the Hearing Examiner with the concurrence of the applicant for the purpose of obtaining specific pertinent information relating to the project which was unavailable at the time of the original hearing.

(ii) Notification. The Hearing Examiner shall announce the time and place of a continued hearing at the time of the initial hearing or by written notice to all parties of record.

(5) The Examiner's decision for an appeal shall be made in accordance with Chapter 1.23 of the Tacoma Municipal Code.

(6) Pursuant to RCW 43.21C.080, notice of any action taken by a governmental agency may be publicized by the applicant for, or proponent of, such action in the form as provided by the Public Works Department and WAC 197-11-990.

The publication establishes a time period wherein any action to set aside, enjoin, review, or otherwise challenge any such governmental action on grounds of noncompliance with the provisions of SEPA must be commenced, or be barred. Any subsequent action of the City for which the regulations of the City permit use of the same detailed statement to be utilized and as long as there is not substantial change in the project between the time of the action and any such subsequent action, shall not be set aside, enjoined, reviewed, or thereafter challenged on grounds of noncompliance with RCW 43.21C.030(2)(c). (Ord. 25856 § 9; passed Jan. 27, 1996: Ord. 25738 § 10; passed Jul. 18, 1995: Ord. 23262 § 8; passed Sept. 25, 1984)

13.12.685 Appeal from denial or conditioning of an administrative permit.

Repealed by Ord. 25856

(Ord. 25856 § 10; passed Jan. 27, 1996: Ord. 23262 § 8; passed Sept. 25, 1984.)

13.12.801 Flexible thresholds for categorical exemptions.

The City of Tacoma establishes the following exempt levels for minor new construction as allowed under WAC 197-11-800(1)(c), except when undertaken wholly or partly on lands covered by water or in critical areas defined in Chapters 13.09 and 13.11 of this title.

(1) The construction or location of any residential structure of four or less dwelling units;

(2) The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 10,000 square feet or less, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots;

(3) The construction of an office, school, commercial, recreational, service, or storage building with 12,000 square feet or less of gross floor area, and with associated parking facilities designed for 20 automobiles;

(4) The demolition of an office, school, commercial, recreational, service, or storage building with 12,000 square feet or less of gross floor area;

(5) The construction of a parking lot designed for no more than 20 automobiles;

(6) Any landfill or excavation of 500 cubic yards or less throughout the total lifetime of the fill or excavation; and any fill or excavation classified as a class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder. (Ord. 27296 § 40; passed Nov. 16, 2004: Ord. 25856 § 11; passed Jan. 27, 1996: Ord. 23262 § 8; passed Sept. 25, 1984)

13.12.880 Emergencies.

Actions which must be undertaken immediately, or within a time too short to allow full compliance with this chapter, to avoid an imminent threat to public health and safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation, shall be exempt from the procedural requirements of this chapter. The responsible official shall determine on a case-by-case basis emergency actions which satisfy the general requirements of this section. (Ord. 23262 § 8; passed Sept. 25, 1984)

13.12.905 Responsibility of the City's SEPA public information center (SEPA PIC).

(1) The SEPA PIC shall maintain a DNS register.

(2) The SEPA PIC shall maintain an EIS register including for each proposal the location, a brief description of the nature of the proposal, the date first listed on the register, and a contact person or office from which further information may be obtained.

(3) The documents are required to be maintained at the information center for seven years, and shall be available for public inspection, and copies thereof shall be provided upon request. The City may charge for copies in the manner provided by Chapter 42.17 RCW (Public Disclosure and Public Records Law) and for the cost of mailing.

It shall be the responsibility of the applicable responsible official of the City for responding to requests received from other local, regional, State, or Federal agencies requesting consultation and comment from a specific City department/division.

(4) The SEPA Public Information Center shall maintain a listing of recommended Federal, State, regional, local and private agencies/organizations and their addresses for use by responsible officials of the City in making scoping requests and circulating draft EISs.

(5) The SEPA Public Information Center shall review all threshold determinations and final environmental impact statements submitted to the Information Center by departments of General Government and Tacoma Public Utilities and approve such determinations of nonsignificance as to form at the time of filing. (Ord. 25856 § 12; passed Jan. 27, 1996: Ord. 23262 § 8; passed Sept. 25, 1984)

13.12.908 Critical areas.

The City may, at its option, designate areas within its jurisdiction which are environmentally sensitive areas pursuant to WAC 197-11-908.

The South Tacoma Groundwater Protection District, as described in Chapter 13.09 of this title, is hereby designated a critical area, subject to the requirements set forth in Chapter 13.09 of this title.

Fish and wildlife habitat conservation areas, erosion hazard areas, landslide hazard areas, steep slopes, wetlands and streams, as described in Chapter 13.11 of this title, are hereby designated critical areas, subject to the requirements set forth in Chapter 13.11 of this title.

The scope of environmental review of actions within these areas shall be limited to:

(a) Documenting whether the proposal is consistent with the requirements of the critical areas ordinance; and

(b) Evaluating potentially significant impacts on the critical area resources not adequately addressed by GMA planning documents and development regulations, if any, including any additional mitigation measures needed to protect the critical areas in order to achieve consistency with SEPA and other applicable environmental review laws. (Ord. 25856 § 13; passed Jan. 27, 1996: Ord. 25060 § 12; passed Feb. 25, 1992: Ord. 24083 § 2; passed May 10, 1988: Ord. 23262 § 8; passed Sept. 25, 1984)

13.12.910 Designation of responsible official.

(1) In instances in which the City is the lead agency, the responsible official as designated by subsections (2), (3), (4) and (5) of this section shall carry out such duties and functions assigned the City as a lead agency.

(2) The responsible official for General Government shall be the department director for projects initiated by that department or processed by that department. However, a department director may designate an environmental officer to carry out the duties and responsibilities mandated by this chapter, except that all threshold determinations shall only be made with the express consent and approval of the director.

(3) The responsible official for the Department of Public Utilities shall be the Director of Utilities or his designees for projects initiated or processed by the Department of Public Utilities.

(4) For proposals initiated jointly by several departments within General Government, designation of the responsible official shall be by common agreement among the directors of the involved departments. In the event such department directors are unable to agree on who shall be the responsible official for such matter, determination of the responsible official shall be made by the City Manager.

(5) For proposals initiated jointly by General Government and Public Utilities, designation of the responsible official shall be by common agreement between the City Manager and the Director of Utilities. (Ord. 23262 § 8; passed Sept. 25, 1984)

13.12.911 Designation of the SEPA public information center.

The following location constitutes the SEPA public information center:

Tacoma Public Works Department
Tacoma Municipal Building
747 Market Street
Tacoma, Washington 98402.

(Ord. 23262 § 8; passed Sept. 25, 1984.)

13.12.914 SEPA fees and costs.

Repealed by Ord. 25856

(Ord. *25856*§ 14; passed Feb 27, 1996: Ord. 24827 § 9; passed Jan. 29, 1991: Ord. 23909 § 17; passed Aug. 4, 1987: Ord. 23262 § 8; passed Sept. 25, 1984)

13.12.923 Lead agency – Responsibilities.

(1) The City when acting in the capacity of the lead agency shall be the only agency responsible for complying with the threshold determination procedures of WAC 197-11-300 through 197-11-390 as adopted by reference and Sections 13.12.315 through 13.12.350 of this chapter; and the responsible official of the City, as designated pursuant to Section 13.12.910 of this chapter, shall be responsible for the supervision, or actual preparation, of draft EISs pursuant to WAC 197-11-400 through 197-11-455 as adopted by reference, including Sections 13.12.408 through 13.12.460 of this chapter, including the circulation of such statements and the conduct of any public hearings required by this chapter. The responsible official of the City shall also prepare or supervise preparation of any required final EIS pursuant to WAC 197-11-360 through 197-11-640 as adopted by reference and Sections 13.12.408 through 13.12.680 of this chapter. (Ord. 23262 § 8; passed Sept. 25, 1984)

13.12.950 Severability.

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter or the application of the provision to other persons or circumstances shall not be affected. (Ord. 23262 § 8; passed Sept. 25, 1984)

Chapter 13.13

SOLAR LOT DEVELOPMENT STANDARDS

Repealed by Ord. 25988

(Ord. 25988 § 1; passed Dec. 12, 1989)

Chapter 13.14

ENVIRONMENTAL COMMISSION

Repealed by Ord. 27378

(Ord. 27378 § 1; passed Jul. 12, 2005)

Chapter 13.15

COMMUTE TRIP REDUCTION

Sections:

13.15.010 Purpose.
13.15.020 Intent.
13.15.030 Definitions.
13.15.040 Responsible City of Tacoma Agency.
13.15.050 Applicability.
13.15.060 Notification of applicability.
13.15.070 Requirements for employers.
13.15.080 CTR goal modification and CTR Program exemption.
13.15.090 Recognition of transportation demand management efforts.
13.15.100 Submittal and review of CTR Program descriptions, annual reports, and measurement year reports.
13.15.110 Credit for Schedule Changes.
13.15.115 Enforcement.
13.15.120 Appeals.
13.15.130 Review of local parking policies and ordinances.

(Ord. 27296 § 41; passed Nov. 16, 2004)

13.15.010 Purpose.

The purpose of this chapter is to promote the public health, safety, and general welfare by establishing goals for employers to reduce single-occupant vehicle (SOV) use and vehicle miles traveled (VMT); by providing standards to measure SOV and VMT reduction against; and by requiring that Commute Trip Reduction Programs be established in accordance with RCW 70.94. The City recognizes the importance of increasing individual citizens' awareness of air quality, energy consumption, and traffic congestion and the contribution individual actions can make toward addressing these issues. (Ord. 26215 § 1; passed Apr. 7, 1998: Ord. 25258 § 1; passed Feb. 2, 1993)

13.15.020 Intent.

The intent of this chapter is to improve air quality, reduce traffic congestion, and reduce the consumption of petroleum fuels through employer-based programs that encourage the use of alternatives to the single-occupant vehicle for the commute trip. (Ord. 25258 § 1; passed Feb. 2, 1993)

13.15.030 Definitions.

For the purpose of this chapter, the following definitions shall apply in the interpretation and enforcement of this chapter:

A. "Affected employee" means a full-time employee who begins his or her regular work day at a single work site between 6:00 a.m. and 9:00 a.m. (inclusive) on two or more weekdays per week for at least 12 continuous months. Seasonal agriculture employees, including seasonal employees of processors of agricultural products are excluded from the count of affected employees. Construction workers who work at a construction site with an expected duration of less than two years are excluded from this definition.

B. "Affected employer" means an employer that employs 100 or more full-time employees at a single work site who are scheduled to begin their regular work day between 6:00 a.m. and 9:00 a.m. (inclusive) on two or more weekdays per week for at least 12 continuous months, or an employer with ten or more full-time employees who are scheduled to begin their regular workday between 6:00 a.m. and 9:00 a.m., inclusive, on two or more weekdays per week, for at least 12 continuous months that has a worksite located in a federally designated non-attainment area for carbon monoxide and ozone.

C. "Alternative commute mode" refers to any means of commuting other than that in which the single-occupant motor vehicle is the dominant mode. Telecommuting and compressed work weeks are considered alternative commute modes if they result in the reduction of commute trips.

D. "Alternative work schedules" are programs such as compressed work weeks that eliminate work trips for affected employees. Alternative work schedules are understood to be an ongoing arrangement between the employee and the employer.

E. "Base year" means the time period from which goals for vehicle miles traveled per employee and proportion of single-occupant vehicle trips shall be based.

F. "Carpool" means a motor vehicle occupied by two to six people traveling together for their commute trip which results in the reduction of a minimum of one motor vehicle commute trip.

G. "Commute trip" means a trip that is made from a worker/student's home to a work site/school with a regularly scheduled work start time of 6:00 a.m. to 9:00 a.m. (inclusive) on weekdays.

H. "Commute Trip Reduction (CTR) Law" means the portion of the Clean Air Act adopted to accomplish commute trip reduction (RCW 70.94.521 through 70.94.551.

I. "Commute Trip Reduction (CTR) Program" means an employer's strategies to reduce affected employees' single-occupant vehicle use and vehicle miles traveled per employee.

J. "Commute Trip Reduction (CTR) Task Force Guidelines" means the official guidelines to the State CTR Law (RCW 70.94.521 through 70.94.551) developed by the Washington State Commute Trip Reduction Task Force (RCW 70.94.537).

K. "Commute Trip Reduction (CTR) Zone" means an area, such as a census tract or combination of census tracts, within the City characterized by similar employment density, population density, level of transit service, parking availability, access to high occupancy vehicle facilities, and other factors that are determined to affect the level of single-occupant vehicle commuting.

L. "Commuter matching service" means a system that assists in matching commuters for the purpose of commuting together.

M. "Compressed work week" means a full-time employee schedule that allows an employee to eliminate at least one work day every two weeks by working longer hours during the remaining work days, resulting in fewer commute trips by the employee; for example, three or four workdays per week. Compressed work weeks are understood to be an ongoing arrangement.

N. "Custom bus/buspool" means a commuter bus service arranged specifically to transport employees to work.

O. "Day(s)" means calendar day(s).

P. "Dominant mode" means the mode of travel used for the greatest distance of a commute trip.

Q. "Employee Transportation Coordinator (ETC)" means a designated person who is responsible for administering the employer's Commute Trip Reduction Program.

R. "Employer" means a sole proprietorship, partnership, corporation, unincorporated association, cooperative, joint venture, agency, department, district or other individual or entity, whether public, nonprofit or private, that employs people.

S. "Flex-time" is a work schedule which allows the employee to choose his/her work time, but not the number, of their working hours to facilitate the use of alternative modes. Flex-time is understood to be an ongoing arrangement.

T. "Full-time employee" means a person, other than an independent contractor, scheduled to be employed on a continuous basis for 52 weeks for an average of at least 35 hours per week.

U. "Good faith effort" means that an employer has met the minimum requirements identified in RCW 70.94.531 and this chapter, and is working collaboratively with the City to continue its existing CTR Program or is developing and implementing program modifications likely to result in improvements to its CTR Program over an agreed upon length of time.

V. "Implementation" or "implement" means active pursuit by an employer to achieve the CTR goals of the CTR law (RCW 70.94.521 through 70.94.551) and this chapter.

W. "Mode" is the means of transportation used by employees, such as single-occupant motor vehicle, rideshare vehicle (carpool, vanpool), transit, ferry, bicycle, and walking.

X. "Newly affected employer" refers to an employer that is not an affected employer upon the effective date of this chapter, but who becomes an affected employer subsequent to the effective date of this chapter.

Y. "Notice" means written communication delivered via the United States Postal Service with receipt deemed accepted three days following the day on which the notice was deposited with the Postal Service unless the third day falls on a weekend or legal holiday, in which case the notice is deemed accepted the day after the weekend or legal holiday.

Z. "Proportion of single-occupant vehicle (SOV) trips" or "single-occupant vehicle (SOV) rate" means the number of commute trips over a set period made by affected employees in SOVs divided by the number of affected employees working during that period.

AA. "Single-occupant vehicle (SOV)" means a motor vehicle occupied by one employee/student for commute purposes, including a motorcycle.

BB. "Single-occupant vehicle (SOV) trips" means trips made by employees/students in SOVs.

CC. "Single work site" means a building or group of buildings on physically contiguous parcels of land, or on parcels separated solely by private or public roadways or rights-of-way.

DD. "Telecommuting" means the authorization of an employee to work at home, satellite office, or a telecommuting center on a regular basis, thus eliminating a commute trip or reducing the distance traveled in a commute trip by at least half of the employee's regular commute distance. Telecommuting can include, but is not limited to, the use of telephones, computers, or other similar technology.

EE. "Transportation demand management (TDM)" means the use of strategies to reduce the use of single-occupant vehicles and vehicle miles traveled.

FF. "Transit" means a multiple-occupant vehicle operated on a shared-ride basis. This definition includes bus, ferry, rail, shared-ride taxi, or shuttle bus.

GG. "Transportation Management Organization (TMO)" or "Transportation Management Association (TMA)" means a group of employers or an association representing a group of employers in a defined geographic area. A TMO may represent employers within specific city limits, or may have a sphere of influence that extends beyond city limits.

HH. "Vanpool" means a vehicle occupied by five to 15 people traveling together for their commute trip which results in the reduction of a minimum of four motor vehicle trips.

II. "Vehicle miles traveled (VMT) per employee" means the sum of the individual vehicle commute trip lengths, in miles, made by affected employees over a set period, divided by the number of affected employees during that period.

JJ. "Week" means a seven-day calendar period, starting on Monday and continuing through Sunday.

KK. "Weekday" means Monday, Tuesday, Wednesday, Thursday, or Friday.

LL. "Writing," "written," or "in writing" means original signed and dated documents. Facsimile (fax) transmissions are a temporary notice of action that must be followed by the original signed and dated via mail or delivery. (Ord. 27296 § 42; passed Nov. 16, 2004: Ord. 26215 § 2; passed Apr. 7, 1998: Ord. 25258 § 1; passed Feb. 2, 1993)

13.15.040 Responsible City of Tacoma agency.

The Community and Economic Development Department will be responsible for implementing this chapter. (Ord. 27466 § 39; passed Jan. 17, 2006: Repealed and reenacted by Ord. 27296 § 43, 44; passed Nov. 16, 2004: Ord. 26386 § 35; passed Mar. 23, 1999: Ord. 26215 § 3; passed Apr. 7, 1998: Ord. 25258 § 1; passed Feb. 2, 1993)

13.15.050 Applicability.

A. Affected Employer. The provisions of this chapter shall apply to any affected employer at any single work site within the limits of the City of Tacoma, or located in the city limits of jurisdictions where the City of Tacoma has entered into an interlocal agreement to administer CTR.

B. Change in Status as an Affected Employer. Any of the following changes in an employer's status will change the employer's CTR Program requirements:

1. Becomes a Non-affected Employer. If an employer initially designated as an affected employer no longer employs 100 or more affected employees and expects not to employ 100 or more affected employees for the next 12 months, that employer is no longer an affected employer. It is the responsibility of the employer to notify the City of Tacoma that it is no longer an affected employer and provide supporting evidence.

2. Change in Status Within a 12-Month Period. If an employer drops below the threshold and then returns to the threshold level of 100 or more affected employees within the same 12 months, that employer will be considered an affected employer for the entire 12 months, and will be subject to the Program requirements as other affected employers.

3. Change in Status After a 12-Month Period. If an employer drops below the threshold and then returns to the threshold level of 100 or more affected employees 12 or more months after its change in status to an "unaffected" employer, that employer shall be treated as a newly affected employer.

C. Newly Affected Employers.

1. Reporting Date. Newly affected employers must identify themselves to the City of Tacoma within 180 days of either moving into the boundaries of the City of Tacoma or growing in employment at a work site to 100 or more affected employees. It is the responsibility of the employer to notify the City of Tacoma of its affected employer status. Newly affected employers who do not identify themselves within 180 days will be considered to be in violation of this chapter.

2. CTR Program Schedule. Newly affected employers shall have 180 days, after reporting their affected status to the City, to develop and submit a CTR Program. After submittal of the Program, newly affected employers shall have 180 days to implement the CTR Program.

3. CTR Goal Achievement. For the duration of RCW 70.94 and from the time of affected employer status, newly affected employers shall have two years to demonstrate progress towards meeting the first CTR goal of 15 percent; four years for the second goal of 20 percent; six years for the third goal of 25 percent; and 12 years for the fourth goal of 35 percent.

D. City of Tacoma Employees. The City of Tacoma, including General Government and the Public Utilities, is required to implement a Commute Trip Reduction Program in accordance with this chapter for its employees. (Ord. 27296 § 45; passed Nov. 16, 2004: Ord. 26215 § 4; passed Apr. 7, 1998: Ord. 25258 § 1; passed Feb. 2, 1993)

13.15.060 Notification of applicability.

A. Publication Notice. The City of Tacoma shall publish a notice of the adoption and amendment of the CTR Ordinance and the availability of the CTR Ordinance. The notice shall appear at least once in the City of Tacoma's official newspaper not more than 30 days after adoption of this chapter or any revisions.

B. Notice to known Affected Employers. Known affected employers located in the City of Tacoma, or within the jurisdictions for which the City of Tacoma administers the CTR programs, as per Section 13.15.050.A, will receive written notification that they are subject to this chapter and any revisions or amendments to this chapter. Such notice shall be addressed to the company's chief executive officer, senior official, or CTR manager at the work site.

C. Self-identification of Affected Employers. Employers that, for whatever reasons, do not receive notice within 30 days of the adoption or amendment of this chapter shall identify themselves to the City of Tacoma within 90 days of the adoption of this chapter. Upon self-identification, such affected employers will be granted 180 days to develop and submit a CTR Program.

D. Notification of non-applicability. It is the responsibility of the employer to provide the City of Tacoma with information, in writing, regarding the non-applicability of this chapter to their work site. (Ord. 27296 § 46; passed Nov. 16, 2004: Ord. 26215 § 5; passed Apr. 7, 1998: Ord. 25258 § 1; passed Feb. 2, 1993)

13.15.070 Requirements for employers.

Employer Goals and CTR Zones. The employer's program must be designed to meet the SOV/VMT reduction goals of 15 percent, 20 percent, 25 percent, and 35 percent for 1995, 1997, 1999, and 2005, respectively, from the zone's base year values. That is, the 1995 goal is 85 percent of the zone's base year values, the 1997 goal is 80 percent of the base year values, the 1999 goal is 75 percent of the base year values, and the 2005 goal is 65 percent of the base year values. Two CTR zones have been designated in Pierce County, the Tacoma/Fife Zone and the Outer Pierce County Zone. The purpose of CTR zones is to identify areas that are similar in character and the potential for an affected employer to meet commute trip reduction goals based on available opportunities for reducing SOV use. Characteristics include: level of service, access now (or in the future) to high capacity transit and park and ride facilities, the density of development, land use characteristics, and the availability and price of parking.

1. Tacoma/Fife Zone. This includes the City of Tacoma, the City of Fife, the Town of Ruston, and surrounding areas. Base year values for the Tacoma/Fife Zone are 85 percent for SOV rate and 7.2 miles for VMT per employee.

2. Outer Pierce County Zone. This includes all areas and jurisdictions not designated in the Tacoma/Fife Zone. Base year values for the Outer Pierce County Zone are 90 percent for SOV rate and 7.7 miles per employee.

B. CTR Program Description. An affected Employer is required to make a good faith effort as defined in RCW 70.94.534(2) and this chapter. Employers must develop and implement a commute trip reduction program for their employees that will encourage their employees to reduce VMT and SOV commute trips. The program must be consistent with and meet the requirements of this chapter.

The employer shall submit a description of its program and shall submit annual progress reports. The program description must include the following:

1. Site description. General description of the employment site location, transportation characteristics, and surrounding services, including unique conditions experienced by the employer or its employees.

2. Employee description. Number of employees affected by the CTR Program.

3. CTR Program elements. Description of CTR elements to be implemented by the employer to meet the commute trip reduction goals of the CTR Law, this chapter, and the City of Tacoma's CTR Ordinance.

4. CTR Program schedule. Schedule of implementation, assignment of responsibilities, and commitment to provide appropriate resources.

C. CTR Mandatory Program elements. Each employer CTR Program shall include the following program mandatory elements:

1. Employee transportation coordinator. The employer shall designate a transportation coordinator to administer the CTR Program. The coordinator's name, location, and telephone number must be displayed prominently at each affected work site. The coordinator shall oversee all elements of the employer's CTR Program and act as liaison between the employer and the City of Tacoma. An employer may have a single employee transportation coordinator if there are multiple affected sites. An employer may utilize the employee transportation coordinator services of a transportation management organization. If a transportation management organization is utilized, the employer will still be

held responsible for making progress towards the identified zone or work site SOV and VMT goals.

2. Information distribution. Information about alternatives to SOV commuting shall be provided to employees at least twelve times per year. Each employer's program description and annual report must report the information to be distributed and the method of distribution. The annual report shall include all promotional pieces provided to employees/students throughout the annual progress report year. Following submittal of the report, the marketing pieces will be reviewed for consistency.

3. Annual progress report. The CTR Program must include an annual review of employee commuting and of progress and good faith efforts toward meeting the SOV reduction goals. Affected employers shall file an annual progress report with the City of Tacoma in accordance with the format established by this chapter and consistent with the CTR Task Force Guidelines. The report shall describe each of the CTR measures that were in effect for the previous year, the results of any commuter surveys undertaken during the year, and the number of employees participating in CTR Programs. Within the report, the employer should evaluate the effectiveness of the CTR Program and, if necessary, propose modifications to achieve the CTR goals. The City of Tacoma may require employers to submit quarterly reports, as needed, to track the progress and compliance of the employer's CTR program.

4. Transportation Demand Management Program elements. In addition to the specific program elements described above, the employer's CTR Program shall include additional elements as needed to meet CTR goals. These may include, but are not limited to, one or more of the following:

a. Provision of preferential parking or reduced parking charges, or both, for high occupancy vehicles;

b. Instituting or increasing parking charges for SOVs;

c. Provision of commuter ride matching services to facilitate employee ride-sharing for commute trips;

d. Provision of subsidies for transit fares;

e. Provision of vans for vanpools;

f. Provision of subsidies for carpools or vanpools;

g. Permitting the use of the employer's vehicles for carpooling or vanpooling;

h. Permitting flexible work schedules to facilitate employees' use of transit, carpools, vanpools, trains or ferries;

i. Cooperation with transit providers to provide additional regular or express service to the work site;

j. Construction of special loading and unloading facilities for transit, carpool, and vanpool users;

k. Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;

l. Provision of a program of parking incentives such as rebate for employees who do not use the parking facilities;

m. Establishment of a program to permit employees to work part- or full-time at home or at an alternative work site closer to their homes;

n. Establishment of a program of alternative work schedules which reduce commuting, such as a compressed work week;

o. Implementation of other measures designed to facilitate the use of high-occupancy vehicles, such as on-site day care facilities and emergency taxi services.

p. Implementation of an emergency ride home program, either provided by a local transit agency or the employer.

D. Survey requirements. Employers are required to survey their affected employees to measure progress toward CTR performance targets. Survey years are 1995, 1997, 1999, 2001, 2003, and 2005. Newly affected employers shall survey on an alternative schedule as set forth in Pierce County Code 10.50.050.C. An employer's survey of employees shall utilize the Washington State Department of Transportation form or submit approved equivalent data as set forth in the Washington State CTR Task Force Guidelines.

E. Record keeping. Affected employers shall keep records related to the CTR Program they implement. Employers shall maintain all records listed in their CTR Program for a minimum of 24 months. The City and the employer shall agree on the record keeping requirements as part of the accepted CTR Program. (Ord. 27296 § 47; passed Nov. 16, 2004: Ord. 26215 § 6; passed Apr. 7, 1998: Ord. 25258 § 1; passed Feb. 2, 1993)1

13.15.080 Goal modifications, extensions, and exemptions.

A. Modification of CTR Program elements. Any affected employer may make a request to the City of Tacoma for modification of CTR Program elements, other than the mandatory elements specified in this

[1] Ord. 26215 contained two sections numbered 6 – see also Section 13.15.090.

chapter, including record-keeping requirements. Such request may be granted if one of the following conditions exist:

1. The employer can demonstrate it would be unable to comply with the CTR Program elements for reasons beyond the control of the employer; or

2. The employer can demonstrate that compliance with the Program elements would constitute an undue hardship. This may include evidence from employee surveys administered at the work site: first, in the base year, showing that the employer's own base year values of VMT per employee and SOV rates were higher than the CTR zone average; and subsequently, in the measurement year(s), showing that the employer has achieved reductions from its own base values that are comparable to the reduction goals established for the employer's CTR zone.

B. Extensions. An employer may request additional time to submit a CTR Program or CTR annual progress report, or to implement or modify a program. Such requests shall be made in writing no less than 30 days before the due date for which the extension is being requested. Extensions not to exceed 90 days shall be considered for reasonable causes. The City shall grant or deny the employer's extension request within ten working days of receipt. If there is no response issued to the employer, an extension is automatically granted for 30 days. Extensions shall not exempt an employer from any responsibility in meeting program goals. Extensions granted due to delays or difficulties with any program element(s) shall not be cause for discontinuing or failing to implement other program elements. An employer's annual reporting date shall not be permanently adjusted as a result of these extensions. An employer's annual reporting date may be extended at the discretion of the City of Tacoma.

C. CTR goal adjustment.

1. Employer's work site conditions differ from the base year values. To apply for a goal modification under this subsection, the employer must demonstrate that its work site conditions differ from the base year values. This demonstration must include evidence from employee surveys administered within 120 days of the adoption of this chapter, or within 120 days of becoming a newly identified affected employer. These surveys must be administered at the work site and show that the employer's own base year values of average VMT per employee or SOV rates were higher than the CTR zone average; and subsequently, in the measurement year(s), showing that the employer has achieved reductions from its own base values that are comparable to the stated reduction goals of 15 percent, 20 percent, 25 percent, and 35 percent.

2. CTR values of contiguous CTR zone are more applicable. An affected employer may apply for a modification of CTR goals if it demonstrates that its work site is contiguous with a CTR zone boundary and that the work site conditions affecting alternative commute options are similar to those for employers in the adjoining CTR zone. Under this condition, the employer's work site may be made subject to the same goals for VMT per employee and modification based on these conditions prior to the CTR Program implementation date.

D. Employee exemption. Specific employee or groups of employees who are required to drive alone to work as a condition of employment may be exempted from a work site's CTR Program. Exemptions may also be granted for employees who work variable shifts throughout the year and who do not rotate as a group to identical shifts. The City will use the criteria identified in the CTR Task Force Guidelines to assess the validity of employee exemption requests. The City shall review annually all employee exemption requests, and shall determine whether the exemption will be in effect during the following program year. Affected employees who are exempted from a work site's CTR Program shall be counted when determining the total number of affected employees at the work site.

E. Minor/major goal modification. An affected employer may request that the City modify its CTR Program goals. Such requests shall be filed in writing at least 60 days prior to the date the work site is required to submit its program description and annual report. The goal modification request must clearly explain why the work site is unable to achieve the applicable goal. The work site must also demonstrate that it has implemented all of the elements contained in its approved CTR Program. The City will review and grant or deny requests for goal modifications in accordance with procedures and criteria identified in the CTR Task Force Guidelines. An employer may not request a modification of the applicable goals until one year after City approval of its initial program description and annual report. Criteria for major and minor goal modification shall include the following:

1. Major goal modification. A 10 percent reduction may be granted from the applicable SOV or VMT performance targets (e.g., reducing the 1999 goal from 25 percent to 15 percent) if all of the following conditions apply:

a. No transit access within 1/4 mile of the site;

b. Limited potential for internal ride-matching opportunities;

c. No potential for ride-matching with other employers in the area;

d. No reasonable access to the site for bicyclist and pedestrians;

e. Limited ability to implement compressed work weeks and/or telecommuting due to characteristics of the business.

f. ETC/employer participation in training sessions, events, and promotions;

g. Utilization of services provided by the local jurisdiction, transit agencies, and TMAs.

2. Minor goal modification. A 5 percent reduction (e.g., reducing the 1999 performance target from 25 percent to 20 percent) may be granted from the applicable SOV or VMT performance targets after considering all of the following factors:

a. Transit access to the site;

b. Frequency of transit service during peak periods;

c. Potential for internal ride-matching opportunities;

d. Potential for ride-matching with other employers in the area;

e. Access to the site for bicyclist and pedestrians;

f. Ability to implement compressed work weeks and/or telecommuting.

g. ETC/employer participation in training sessions, events, promotions, and networking activities;

h. Utilization of services provided by the local jurisdiction, transit agencies, and TMAs. (Ord. 27296 § 48; passed Nov. 16, 2004: Ord. 26215 § 6; passed Apr. 7, 1998: Ord. 25258 § 1; passed Feb. 2, 1993)2

13.15.090 Recognition of transportation demand management efforts.

A. Leadership Certificate. As public recognition for their efforts, employers with a proportion of SUV's or VMTs in either zone or work site will receive a commute Trip Reduction Leadership Certificate from the City of Tacoma and Pierce Transit.

B. Existing TDM Credit. Credit for TDM/CTR programs implemented prior to the base year may be eligible to apply for TDM Program credit towards the 15 percent reduction goal. If the employer's VMT per employee and proportion of SOV trips are equivalent to a 12 percent or greater reduction from the base year CTR zone values when these employers apply for the TDM Program credit in their initial CTR Program descriptions, shall be considered to have met the first CTR goals. This credit applies only to the first CTR goals.

C. Process to apply for TDM Program credit. Affected employers may apply for credit by applying to the City of Tacoma in their initial program description report. This application shall be made within 180 days of the adoption of this chapter or within 180 days of attaining status as an affected employer. Application shall include survey results from a survey of employees utilizing the Washington State Department of Transportation Employee CTR Survey form or equivalent information as specified in the Washington State Commute Trip Reduction Task Force Guidelines.

D. Annual reporting and measurement year reporting. Employers whose VMT per employee and proportion of SOV trips are equal to or less than goals for one or more future goal years may submit a letter to the Community and Economic Development Department demonstrating how they met such goal. If the employer commits in writing to continue their current level of effort, they shall be exempt from the requirements of this chapter except for the requirements to submit annual CTR Program reports utilizing the official City of Tacoma CTR Program report form as specified in Section 13.15.080.C, Survey requirements. If any of these reports indicate the employer has not satisfied the next applicable goal, the employer shall immediately become subject to all requirements of this chapter. (Ord. 27466 § 40; passed Jan. 17, 2006: Ord. 27296 § 49; passed Nov. 16, 2004: Ord. 26386 § 36; passed Mar. 23, 1999: Ord. 26215 § 7; passed Apr. 7, 1998: Ord. 25258 § 1; passed Feb. 2, 1993)

13.15.100 Submittal and review of CTR Program descriptions, annual reports, and measurement year reports.

A. CTR Program. Within six months after an employer qualifies under the provisions of this chapter, the employer shall develop a CTR Program and shall submit to the City a description of that program for review.

B. Annual progress reports. Annual reports shall be prepared by affected employers utilizing the official CTR Employer Annual Report and Program Description form provided by the Washington State Department of Transportation. The annual reports must include a review of employee commuting and of progress toward meeting the SOV and VMT reduction goals. All annual reports shall be due to the Community and Economic Development Department no later than the second Wednesday of December.

C. Document review. Within 90 days of receipt of an employer's CTR Program report form, the City of

[2] Ord. 26215 contained two sections numbered 6 – see also Section 13.15.080.

Tacoma shall provide the employer with written notification of the acceptability of the CTR Program. If the CTR Program is deemed unacceptable, the notification must give cause for the rejection. The City of Tacoma may extend the review period up to 90 days. If the review period is extended, the implementation date for the employer's CTR Program will be extended an equivalent number of days.

1. Review Criteria. The City of Tacoma shall use the following criteria in determining whether an affected employer shall be required to make modifications to its CTR Program because it is unacceptable:

a. If an employer makes a good faith effort, as defined in RCW 70.94.534(2) and this chapter, and meets either or both the applicable SOV or VMT goals, the employer has satisfied the objectives of the CTR Ordinance, and will not be required to modify its CTR Program.

b. If an employer makes a good faith effort, as defined in RCW 70.94.534(2) and this chapter, but has not met or is not likely to meet the applicable SOV or VMT goal, the City shall work collaboratively with the employer to make modifications to its CTR Program. After agreeing on modifications, the employer shall submit a revised CTR Program description to the City for approval within 30 days of reading an agreement.

c. If an employer fails to make a good faith effort, as defined in RCW 70.94.534(2) and this chapter, and fails to meet either the applicable SOV or VMT reduction goal, the City shall work collaboratively with the employer to identify modifications to the CTR Program and shall direct the employer to revise its program within 30 days to incorporate the modifications. In response to the recommended modifications, the employer shall submit a revised CTR Program description, including the requested modifications or equivalent measures, within 30 days of receiving written notice to revise its program. The City shall review the revisions and notify the employer of acceptance or rejection of the revised program. If a revised program is not accepted the City will send a written notice to the employer within 30 days and, if necessary, require the employer to attend a conference with program review staff for the purpose of reaching a consensus on the required program. A final decision on the required program will be issued in writing by the City within ten working days of the conference.

2. Request for Conference. Within ten days of receipt of written notice for an unacceptable CTR Program, the City or employer may request a conference to discuss the City's decision. This conference shall be scheduled during the City's official hours. (Ord. 27466 § 41; passed Jan. 17, 2006: Ord. 27296 § 50; passed Nov. 16, 2004: Ord. 26386 § 37; passed Mar. 23, 1999: Ord. 26215 § 8; passed Apr. 7, 1998: Ord. 25258 § 1; passed Feb. 2, 1993)

13.15. 110 Credit for Schedule Changes.

A. Employers who have permanently modified their employees' work schedules so that some or all affected employees are not scheduled to begin work between 6:00 a.m. and 9:00 a.m. are provided credit when calculating SOV trips and VMT per employee (RCW 70.94.537(2)(I). This credit is to be awarded if implementation of the schedule change was an identified element in a work site's approved CTR Program, or if the schedule change occurred due to impacts associated with RCW 36.70A, the Growth Management Act.

B. Credit. For every five employees whose schedules are changed in order to avoid a peak-hour commute, a work site will be credited with one full trip reduced.

1. Retroactive Credit. Any employer may apply for a retroactive credit for schedule changes implemented prior to the 1997 survey. Application for the retroactive credit shall be made in writing to the City of Tacoma by March 31, 1998, or within 180 days of becoming affected.

2. New Credit. At anytime an employer may apply for new credit for schedule changes.

3. Application Process. The application must be submitted in writing. The credit application must include an explanation of how the schedule change is related to provisions of the Growth Management Act of 1990 or a demonstration that the schedule change was an identified element of a previously approved Annual Report.

4. Shift Below 100 Affected Employees. Employers who shift below 100 affected employees are not affected as outlined in Pierce County Code 10.50.050(B). (Ord. 27296 § 51; passed Nov. 16, 2004: Ord. 26215 § 9; passed Apr. 7, 1998)

13.15.115 Enforcement.

A. Compliance. For purposes of this section, compliance shall mean fully implementing all provisions in an approved CTR Program and is determined to have made a good faith effort as defined in RCW 70.94.534(2) and this chapter.

B. Violations. The following constitute violations of this chapter:

1. Failure to develop and/or submit on time a complete CTR Program by the applicable deadlines as stated in this chapter;

2. Failure to implement an approved CTR Program by the applicable deadlines as stated in this chapter;

3. Failure to modify an unacceptable CTR Program by the applicable deadlines as stated in this chapter;

4. Failure of an affected employer to identify itself to the City of Tacoma within 180 days of the adoption of this chapter;

5. Failure of a newly affected employer to identify itself to the City of Tacoma within 180 days of becoming an affected employer;

6. Failure to submit on time an annual CTR Progress Report to the City of Tacoma;

7. Failure to maintain agreed-upon CTR Program records;

8. Intentionally submitting fraudulent or false information, data, and/or survey results;

9. Failure to make good faith effort, as defined in RCW 70.94.534(4) and this chapter.

C. Penalties.

1. Civil Infraction. Any affected employer violating any provision of this chapter shall be deemed to have committed a civil infraction, and shall be subject to civil penalties pursuant to RCW 7.80.

2. Written Notice. Whenever the City of Tacoma, through the Community and Economic Development Department Director or his or her designated representative, makes a determination that an affected employer is in violation of this chapter, the City of Tacoma shall issue a written notice and order and send it certified mail or registered mail, return receipt requested, to the affected employer. The notice and order shall contain:

a. The name and address of the affected employer;

b. A statement that the City of Tacoma has found the affected employer to be in violation of this chapter with a brief and concise description of the conditions found to be in violation;

c. A statement of the corrective action required to be taken. If the City of Tacoma has determined that corrective action is required, the order shall require that all corrective action be completed by a date stated in the notice;

d. A statement specifying the amount of any civil penalty assessed on account of the violation;

e. A statement advising that the order shall become final unless, no later than ten days after the notice and order are served, any person aggrieved by the order requests in writing an appeal before the City of Tacoma Hearing Examiner.

3. Penalty Amount. The penalty for violation shall be $250 per day.

4. Penalty Accrual. Penalties will begin to accrue following the official date of notice from the City of Tacoma. In the event that an affected employer appeals the imposition of penalties, the penalties will not accrue during the appeals process. Should the Hearing Examiner decide in favor of the appellant, all or a portion of the monetary penalties will be dismissed.

5. Union Negotiations. An employer shall not be liable for civil penalties if failure to implement an element of a CTR Program was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith. Unionized employers shall be presumed to act in good faith compliance if they:

a. Propose to a recognized union any provisions of the employer's CTR Program that is subject to bargaining as defined by the National Labor Relations Act; and

b. Advise the union of the existence of the statute and the mandates of the CTR Program approved by the City of Tacoma and advise the union that the proposal being made is necessary for compliance with state law (RCW 70.94.531).

6. No affected employer with an approved CTR Program may be held liable for failure to reach the applicable SOV or VMT goals.

7. Written notification to jurisdiction. If the affected employer found in violation is located within a jurisdiction for which the City of Tacoma administers the CTR Program, as per Section 13.15.050.A, the City will send written notice to the jurisdiction. It is the responsibility of the jurisdiction to issue written notice to the employer and assess a penalty.
(Ord. 27466 § 42; passed Jan. 17, 2006: Ord. 27296 § 52; passed Nov. 16, 2004: Ord. 26386 § 38; passed Mar. 23, 1999: Ord. 26215 § 10; passed Apr. 7, 1998: Ord. 25258 § 1; passed Feb. 2, 1993)

13.15. 120 Appeals.

A. Appeals. Any affected employer may appeal administrative decisions regarding modification of goals, modification of CTR Program elements, and penalties to the City of Tacoma Hearing Examiner. Appeals shall be filed within 30 days of the administrative decision. Appeals shall be heard pursuant to those applicable procedures found in Chapter 1.23. Such appeals to the Hearing Examiner

shall be de novo. The Hearing Examiner will evaluate employers' appeals of administrative decisions by determining if the decisions were consistent with the CTR Law (RCW 70.94.521 through 70.94.551).

B. Judicial Appeal. The decision of the Hearing Examiner shall be considered a final decision, appealable only to the Superior Court of Washington for Pierce County. Appeals to the Superior Court shall be made within 30 days of the final action of the Hearing Examiner. (Ord. 27296 § 53; passed Nov. 16, 2004: Ord. 25258 § 1; passed Feb. 2, 1993)

13.15.130 Review of local parking policies and ordinances.

In accordance with RCW 70.94.527, the City of Tacoma shall review its local parking policies and ordinances as they relate to employers and major worksites to determine if the policies encourage, and support the use of high-occupancy vehicles, and make revisions as necessary to comply with commute trip reduction goals and guidelines. (Ord. 27296 § 54; passed Nov. 16, 2004)

Chapter 13.16

CONCURRENCY MANAGEMENT SYSTEM

Sections:

13.16.010 Intent.
13.16.020 Definitions.
13.16.030 Concurrency test.
13.16.040 Certificate of capacity.
13.16.050 Exemptions.
13.16.060 Facility capacity fees.
13.16.070 Appeals.

13.16.010 Intent.

Pursuant to the State Growth Management Act, Chapter 36.70A RCW, after the adoption of its comprehensive plan, the City of Tacoma is required by RCW 36.70A.070(6)(e) to ensure that transportation improvements or strategies to accommodate the impacts of development are provided concurrent with the development. In the same vein, the City is bound by the planning goals of RCW 36.70A.020 to ensure that public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards, hereinafter "concurrency."

The intent of this chapter is to establish a concurrency management system to ensure that concurrency facilities and services needed to maintain minimum level of service standards can be provided simultaneous to, or within a reasonable time after, development occupancy or use. Concurrency facilities are roads, transit, potable water, electric utilities, sanitary sewer, solid waste, storm water management, law enforcement, fire, emergency medical service, schools, parks and libraries. This chapter furthers the goals, policies, implementation strategies and objectives of the comprehensive plan.

The concurrency management system provides the necessary regulatory mechanism for evaluating requests for development to ensure that adequate concurrency facilities can be provided within a reasonable time of the development impact. The concurrency management system also provides a framework for determining facilities and services needs and provides a basis for meeting those needs through capital facilities planning. (Ord. 27079 § 61; passed Apr. 29, 2003: Ord. 25646 § 3; passed Dec. 13, 1994)

13.16.020 Definitions.

"Adequate" means at or above the level of service standards specified in the current adopted Capital Facilities Program.

"Applicant" means a person or entity who has applied for a development permit.

"Available capacity" means capacity for a concurrency facility that currently exists for use without requiring facility construction, expansion or modification.

"Certificate of capacity" means a document issued by the Building and Land Use Services Division, Public Works Department indicating the quantity of capacity for each concurrency facility that has been reserved for a specific development project on a specific property. The document may have conditions and an expiration date associated with it.

"Concurrency facilities" means facilities for which concurrency is required in accordance with the provisions of this chapter. They are roads, transit, potable water, electric utilities, sanitary sewer, solid waste, storm water management, law enforcement, fire, emergency medical service, schools, parks and libraries.

"Concurrency test" means the comparison of an applicant's impact on concurrency facilities to the capacity, including available and planned capacity, of the concurrency facilities.

"Development permit" means a land use or building permit. Development permits are classified as exempt, final or preliminary. Exempt permits are set out in Section 13.16.050.B.

"Development permit, final" means building permit.

"Development permit, preliminary" means short plat, preliminary plat, reclassification, shoreline substantial development permit, shoreline substantial development/conditional use permit, site plan approval, conditional use permit, special development permit, wetland or stream development permit.

"Facility and service provider" means the department, district or agency responsible for providing the specific concurrency facility.

"Level of service standard" means the number of units of capacity per unit of demand. The level of service standards used in concurrency tests are those standards specified in the current adopted Capital Facilities Program.

"Planned capacity" means capacity for a concurrency facility that does not exist, but for which the necessary facility construction, expansion or modification project is contained in the current adopted Capital Facilities Program and scheduled to be completed within six years.

"Planned capacity, transportation facilities" means capacity for transportation facilities, including roads and transit, that does not exist, but for which the necessary facility construction, expansion or modification project is contained in the current adopted Capital Facilities Program and financial commitment is in place to complete the improvements within six years.

"Vested" means the right to develop or continue development in accordance with the laws, rules, and other regulations in effect at the time vesting is achieved. (Ord. 27245 § 31; passed Jun. 22, 2004: Ord. 25646 § 3; passed Dec. 13, 1994)

13.16.030 Concurrency test.

A. Application. All development permit applications are subject to a concurrency test except those exempted in Section 13.16.050. If a concurrency test is conducted for the preliminary plat application, no concurrency test shall be required for the final plat application.

B. Procedures. The concurrency test will be performed in the processing of the development permit and conducted by the Building and Land Use Services Division, Public Works Department and the facility and service providers.

1. The Building and Land Use Services Division, Public Works Department, shall provide the overall coordination of the concurrency test by notifying the facility and service providers of all applications requiring a concurrency test as set forth in subsection A above; notifying the facility and service providers of all exempted applications which use capacity as set forth in Section 13.16.050; notifying the applicant of the test results; notifying the facility and service providers of the final outcome (approval or denial) of the development permit; and notifying the facility and service providers of any expired development permits or discontinued certificates of capacity.

2. All facility and service providers shall be responsible for maintaining and monitoring their available and planned capacity by conducting the concurrency test, for their individual facility, for all applications requiring a concurrency test as set forth in subsection A above; reserving the capacity needed for each application; accounting for the capacity for each exempted application which uses capacity as set forth in Section 13.16.050; notifying the Building and Land Use Services Division, Public Works Department, of the results of the tests; and reinstating any capacity for an expired development permit, discontinued certificate of capacity, or other action

resulting in an applicant no longer needing capacity which has been reserved.

3. The facility and service providers shall be responsible for annually reporting to the City of Tacoma the total, available and planned capacity of their facility or service as of the end of each calendar year. Such reporting shall be made before January 31st for inclusion in the amendment process of the Capital Facilities Program.

C. Test. Development applications that would result in a reduction of a level of service below the minimum level of service standard cannot be approved. For potable water, electric utilities, sanitary sewer, solid waste and storm water management only available capacity will be used in conducting the concurrency test. For roads, transit, law enforcement, fire, emergency medical service, schools, parks and libraries, available and planned capacity will be used in conducting the concurrency test.

1. If the capacity of concurrency facilities is equal to or greater than the capacity required to maintain the level of service standard for the impact from the development application, the concurrency test is passed. A certificate of capacity will be issued according to the provisions of Section 13.16.040.

2. If the capacity of concurrency facilities is less than the capacity required to maintain the level of service standard for the impact from the development application, the concurrency test is not passed. The applicant may:

a. Accept 90-day reservation of concurrency facilities that exist and modify the application to reduce the need for concurrency facilities that do not exist;

b. Accept 90-day reservation of concurrency facilities that exist and demonstrate to the service provider's satisfaction that the development will have a lower need for capacity than usual and, therefore, capacity is adequate;

c. Accept 90-day reservation of concurrency facilities that exist and arrange with the service provider for the provision of the additional capacity of concurrency facilities required; or

d. Appeal the results of the concurrency test to the Hearing Examiner in accordance with the provisions of 13.16.070.

D. Concurrency Inquiry Application. An applicant may inquire whether or not concurrency facilities exist without an accompanying request for a development permit. As set forth in Tacoma Municipal Code Chapter 2.09, Fee Code, a fee may be charged for such concurrency test. Any available capacity cannot be reserved. A certificate of capacity will only be issued in conjunction with a development permit approval as outlined in 13.16.040. (Ord. 25646 § 3; passed Dec. 13, 1994)

13.16.040 Certificate of capacity.

A. Issuance. A certificate of capacity shall be issued at the same time the development permit is issued and upon payment of any fee and/or performance of any condition required by a service provider.

B. A certificate of capacity shall apply only to the specific land uses, densities, intensities and development project described in the application and development permit.

C. A certificate of capacity is not transferable to other land, but may be transferred to new owners of the original land.

D. Life Span of Certificate. A certificate of capacity shall expire if the accompanying development permit expires or is revoked. A certificate of capacity may be extended according to the same terms and conditions as the accompanying development permit. If the development permit is granted an extension, so shall the certificate of capacity. If the accompanying development permit does not expire, the certificate of capacity shall be valid for three years from issuance of the certificate.

E. Unused Capacity. Any capacity that is not used because the developer decides not to develop or the accompanying development permit expires shall be returned to the pool of available capacity.
(Ord. 25646 § 3; passed Dec. 13, 1994)

13.16.050 Exemptions.

A. No Impact. Development permits for development which creates no additional impacts on any concurrency facility are exempt from the requirements of this chapter. Such development includes, but is not limited to:

1. Any addition or accessory structure to a residence with no change in use or increase in the number of dwelling units;

2. Interior renovations with no change in use or increase in number of dwelling units;

3. Interior completion of a structure for use(s) with the same or less intensity as the existing use or a previously approved use;

4. Replacement structure with no change in use or increase in number of dwelling units;

5. Temporary construction trailers;

6. Driveway, resurfacing or parking lot paving;

7. Reroofing of structures;

8. Demolitions.

B. Exempt Permits. The following development permits are exempt from the requirements of this chapter:

1. Boundary line adjustment;

2. Final plats, (if a concurrency test was conducted for the corresponding preliminary plat permit);

3. Variance;

4. Waiver;

5. Shoreline substantial development permit/variance.

C. Application Filed Before January 1, 1995. Complete development permit applications that have been submitted before the effective date of the ordinance codified in this chapter are exempt from the requirements of this chapter.

D. Pre-existing Use Rights. Development permits that were issued before January 1, 1995 shall be considered to have capacity as long as the accompanying development permit is valid. If the accompanying development permit does not expire, capacity shall be considered to exist for three years after the effective date of the ordinance codified in this chapter.

E. Single-family Homes and Duplexes. Building permits for single-family homes and duplexes are exempt from the requirements of this chapter.

F. Interior Renovations. Interior renovations that only add one additional dwelling unit are exempt from the requirements of this chapter.

G. Accessory Dwelling Units. All accessory dwelling units, as defined in Section 13.06.700 are exempt from the requirements of this chapter.

H. Accounting for Capacity. The capacity for development permits exempted under subsections C, D, E, F, and G above shall be taken into account. (Ord. 27245 § 32; passed Jun. 22, 2004: Ord. 26934 § 21; passed Mar. 5, 2002: Ord. 25646 § 3; passed Dec. 13, 1994)

13.16.060 Facility capacity fees.

Facility and service providers may continue to charge fees based on their existing fee schedules. This chapter does not independently authorize the collection of any new fees. Any new capacity fees must be authorized through another authority. All such concurrency fees are to be paid in full upon approval of and prior to issuance of the certificate of capacity. (Ord. 26934 § 21; passed Mar. 5, 2002: Ord. 25646 § 3; passed Dec. 13, 1994)

13.16.070 Appeals.

A. Procedures. The applicant may appeal the results of the concurrency test based on three grounds: (1) a technical error; (2) the applicant provided alternative data or a traffic mitigation plan that was rejected by the City; or (3) unwarranted delay in review that allowed capacity to be given to another applicant. The applicant must file a notice of appeal with the Public Works Department within 15 days of the notification of the test results. The notice of appeal must specify the grounds thereof, and must be submitted on the forms authorized by the Public Works Department. Each appeal shall be accompanied by a fee as set forth in Chapter 2.09, Fee Code, with said fee refunded to the appellant should the appellant prevail. Upon filing of such appeal, the Public Works Department shall notify the appropriate facility and service provider(s) of such appeal.

B. Hearing Scheduling and Notification. When the appeal has been filed within the time prescribed, in proper form, with the required data and payment of the required fee, the Public Works Department shall place such appeal upon the calendar to be heard. Notice of such public hearing shall be given to the applicant and the appropriate facility and service provider(s), at least 15 days prior to the hearing date.

C. Record. The Land Use Administrator and appropriate service provider(s) shall transmit to the Hearing Examiner all papers, calculations, plans, and other materials constituting the record of the concurrency test, at least seven days prior to the scheduled hearing date. The Examiner shall consider the appeal upon the record transmitted, supplemented by any additional competent evidence which the parties in interest may desire to submit.

D. Burden of Proof. The burden of proof shall be on the appellant to show by a preponderance of the evidence that the Land Use Administrator was in error.

E. Hearing and Decision. The Examiner shall conduct the hearing and render the decision in accordance with the provisions of Sections 1.23.100 and 1.23.110.

F. Reconsideration and Appeal of Examiner Decision. Reconsideration of the Examiner's decision shall be allowed as set forth in Section 1.23.120. The decision of the Examiner shall be considered a final decision, appealable only to the Superior Court of Washington for Pierce County. (Ord. 27017 § 10; passed Dec. 3, 2002: Ord. 25646 § 3; passed Dec. 13, 1994)

Chapter 13.17

MIXED-USE CENTER DEVELOPMENT

Sections:

13.17.010 Definitions.
13.17.020 Residential target area designation and standards.
13.17.030 Tax exemptions for multi-family housing in residential target areas.

13.17.010 Definitions.

A. "Multi-family housing" means building(s) having four or more dwelling units designed for permanent residential occupancy resulting from new construction or rehabilitation or conversion of vacant, underutilized, or substandard buildings.

B. "Owner" means the property owner of record.

C. "Mixed-use center" means a center designated as such in the land use element of the City's comprehensive plan. A mixed-use center is a compact identifiable district containing several business establishments, adequate public facilities, and a mixture of uses and activities, where residents may obtain a variety of products and services.

D. "Director" means the Director of the Community and Economic Development Department or authorized designee.

E. "Permanent residential occupancy" means multi-family housing that provides either rental or owner occupancy for a period of at least one month. This excludes hotels and motels that predominately offer rental accommodation on a daily or weekly basis.

F. "Rehabilitation improvements" means modifications to existing structures that are vacant for 12 months or longer, or modification to existing occupied structures which convert nonresidential space to residential space and/or increase the number of multi-family housing units.

G. "Residential target area" means an area within a mixed-use center that has been designated by the City Council as lacking sufficient, available, desirable, and convenient residential housing to meet the needs of the public. (Ord. 27466 § 43; passed Jan. 17, 2006: Ord. 26386 § 39; passed Mar. 23, 1999: Ord. 25789 § 3; passed Nov. 21, 1995)

13.17.020 Residential target area designation and standards.

A. Criteria. Following a public hearing, the City Council may, in its sole discretion, designate one or more residential target areas. Each designated target area must meet the following criteria, as determined by the City Council:

1. The target area is located within a designated mixed-use center;

2. The target area lacks sufficient available, desirable, and convenient residential housing to meet the needs of the public who would likely live in the mixed-use center if desirable, attractive, and livable places were available; and

3. The providing of additional housing opportunity in the target area will assist in achieving the following purposes:

a. Encourage increased residential opportunities within the target area; or

b. Stimulate the construction of new multi-family housing and the rehabilitation of existing vacant and underutilized buildings for multi-family housing.

In designating a residential target area, the City Council may also consider other factors, including, but not limited to: whether additional housing in the target area will attract and maintain a significant increase in the number of permanent residents; whether an increased residential population will help alleviate detrimental conditions and social liability in the target area; and whether an increased residential population in the target area will help to achieve the planning goals mandated by the Growth Management Act under RCW 36.70A.020. The City Council may, by ordinance, amend or rescind the designation of a residential target area at any time pursuant to the same procedure as set forth in this chapter for original designation.

B. Target Area Standards and Guidelines. For each designated residential target area the City Council shall adopt basic requirements for both new construction and rehabilitation, including the application process and procedures. The City Council may also adopt guidelines including the following:

1. Requirements that address demolition of existing structures and site utilization; and

2. Building requirements that may include elements addressing parking, height, density, environmental impact, public benefit features, compatibility with the surrounding property, and such other amenities as will attract and keep permanent residents and will properly enhance the livability of the residential target area.

The required amenities shall be relative to the size of the proposed project and the tax benefit to be obtained.

C. Designated Target Areas. The proposed boundaries of the "residential target areas" are the

boundaries of the 14 mixed-use centers listed below and as indicated on the map and accompanying legal descriptions which are incorporated herein by reference and on file in the City Clerk's Office.

MIXED-USE CENTER	CENTER TYPE
South 56th and South Tacoma Way	Neighborhood
Downtown Tacoma	CBD
North 26th and Proctor	Neighborhood
Tacoma Mall Area	Urban
South 11th and MLK Jr. Way	Neighborhood
Westgate	Community
South 38th and "G" Street	Neighborhood
6th Avenue and Pine Street	Neighborhood
Tacoma Central Plaza/Allenmoore	Community
South 72nd and Pacific Avenue	Community
South 72nd and Portland Avenue	Neighborhood
Stadium (North 1st and Tacoma)	Neighborhood
James Center/TCC	Community
Lower Portland Avenue	Community

(Ord. 25823 § 1; passed Jan 16, 1996: Ord. 25789 § 3; passed Nov. 21, 1995)

13.17.030 Tax exemptions for multi-family housing in residential target areas.

A. Intent. Limited 10-year exemptions from ad valorem property taxation for multi-family housing in mixed-use centers are intended to:

1. Encourage increased residential opportunities within mixed-use centers designated by the City Council as residential target areas;

2. Stimulate new construction or rehabilitation of existing vacant and underutilized buildings for multi-family housing in residential target areas to increase and improve housing opportunities;

3. Assist in directing future population growth to designated mixed-use centers, thereby reducing development pressure on single-family residential neighborhoods; and

4. Achieve development densities which are more conducive to transit use in designated mixed-use centers.

B. Duration of Exemption. The value of improvements qualifying under this chapter will be exempt from ad valorem property taxation for ten successive years beginning January 1 of the year immediately following the calendar year of issuance of the Final Certificate of Tax Exemption.

C. Limits on Exemption. The exemption does not apply to the value of land or to the value of improvements not qualifying under this chapter, nor does the exemption apply to increases in assessed valuation of land and non-qualifying improvements. In the case of rehabilitation of existing buildings, the exemption does not include the value of improvements constructed prior to submission of the completed application required under this chapter.

D. Project Eligibility. A proposed project must meet the following requirements for consideration for a property tax exemption:

1. Location. The project must be located within a residential target area, as designated in Section 13.17.020.

2. Tenant Displacement Prohibited. The project must not displace existing residential tenants of structures that are proposed for redevelopment. Existing dwelling units proposed for rehabilitation must have been unoccupied for a minimum of 12 months prior to submission of application and must have one or more violations of the City's minimum housing code. Applications for new construction cannot be submitted for vacant property upon which an occupied residential rental structure previously stood, unless a minimum of 12 months has elapsed from the time of most recent occupancy.

3. Size. The project must include at least four units of multi-family housing within a residential structure or as part of a mixed-use development. A minimum of four new units must be constructed or at least four additional mult-family units must be added to existing occupied multi-family housing. Existing multi-family housing that has been vacant for 12 months or more does not have to provide additional units so long as the project provides at least four units of new, converted, or rehabilitated multi-family housing.

4. Permanent Residential Housing. At least 50 percent of the space designated for multi-family housing must be provided for permanent residential occupancy, as defined in Section 13.17.010.

5. Proposed Completion Date. New construction multi-family housing and rehabilitation improvements must be scheduled to be completed within three years from the date of approval of the application.

6. Compliance With Guidelines and Standards. The project must be designed to comply with the City's comprehensive plan, building, housing, and zoning codes, and any other applicable regulations in effect at the time the application is approved. Rehabilitation and conversion improvements must comply with the City's minimum housing code. New construction

must comply with the Uniform Building Code. The project must also comply with any other standards and guidelines adopted by the City Council for the residential target area in which the project will be developed.

E. Application Procedure. A property owner who wishes to propose a project for a tax exemption shall complete the following procedures:

1. File with the Community and Economic Development Department the required application along with the required fees. The application fee to the City shall be $1,000 for four units, plus $100 per additional multi-family unit, up to a maximum total fee to the City of $5,000. If the application shall result in a denial by the City, the City will retain that portion of the fee attributable to its own administrative costs and refund the balance to the applicant.

2. A complete application shall include:

a. A completed City of Tacoma application form setting forth the grounds for the exemption;

b. Preliminary floor and site plans of the proposed project;

c. A statement acknowledging the potential tax liability when the project ceases to be eligible under this chapter; and

d. Verification by oath or affirmation of the information submitted.

For rehabilitation projects, the applicant shall also submit an affidavit that existing dwelling units have been unoccupied for a period of 12 months prior to filing the application and shall secure from the City verification of properly noncompliance with the City's minimum housing code.

F. Application Review and Issuance of Conditional Certificate. The Director may certify as eligible an application which is determined to comply with the requirements of this chapter. A decision to approve or deny an application shall be made within 90 days of receipt of a complete application.

1. Approval. If an application is approved, the applicant shall enter into a contract with the City, subject to approval by resolution of the City Council regarding the terms and conditions of the project. Upon Council approval of the contract, the Director shall issue a Conditional Certificate of Acceptance of Tax Exemption. The Conditional Certificate expires three years from the date of approval unless an extension is granted as provided in this chapter.

2. Denial. The Director shall state in writing the reasons for denial and shall send notice to the applicant at the applicant's last known address within ten days of the denial. An applicant may appeal a denial to the City Council within 30 days of receipt of notice. On appeal, the Director's decision will be upheld unless the applicant can show that there is no substantial evidence on the record to support the Director's decision. The City Council's decision on appeal will be final.

G. Extension of Conditional Certificate. The Conditional Certificate may be extended by the Director for a period not to exceed 24 consecutive months. The applicant must submit a written request stating the grounds for the extension, accompanied by a $50.00 processing fee. An extension may be granted if the Director determines that:

1. The anticipated failure to complete construction or rehabilitation within the required time period is due to circumstances beyond the control of the owner;

2. The owner has been acting and could reasonably be expected to continue to act in good faith and with due diligence; and

3. All the conditions of the original contract between the applicant and the City will be satisfied upon completion of the project.

H. Application for Final Certificate. Upon completion of the improvements agreed upon in the contract between the applicant and the City and upon issuance of a temporary or permanent certificate of occupancy, the applicant may request a Final Certificate of Tax Exemption. The applicant must file with the Community and Economic Development Department the following:

1. A statement of expenditures made with respect to each multi-family housing unit and the total expenditures made with respect to the entire property;

2. A description of the completed work and a statement of qualification for the exemption; and

3. A statement that the work was completed within the required three-year period or any authorized extension.

Within 30 days of receipt of all materials required for a Final Certificate, the Director shall determine which specific improvements satisfy the requirements of this chapter.

I. Issuance of Final Certificate. If the Director determines that the project has been completed in accordance with the contract between the applicant and the City and has been completed within the authorized time period, the City shall, within ten days, file a Final Certificate of Tax Exemption with the Pierce County Assessor.

1. Denial and Appeal. The Director shall notify the applicant in writing that a Final Certificate will not be filed if the Director determines that:

a. The improvements were not completed within the authenticated time period;

b. The improvements were not completed in accordance with the contract between the applicant and the City; or

c. The owner's property is otherwise not qualified under this chapter.

2. Within 14 days of receipt of the Director's denial of a Final Certificate, the applicant may file an appeal with the City's Hearing Examiner, as provided in Section 1.23.070 of the Tacoma Municipal Code. The applicant may appeal the Hearing Examiner's decision in Pierce County Superior Court, if the appeal is filed within 30 days of receiving notice of that decision.

J. Annual Compliance Review. Within 30 days after the first anniversary of the date of filing the Final Certificate of Tax Exemption, and each year thereafter, for a period of ten years, the property owner shall file a notarized declaration with the Director indicating the following:

1. A statement of occupancy and vacancy of the multi-family units during the previous year;

2. A certification that the property continues to be in compliance with the contract with the City; and

3. A description of any subsequent improvements or changes to the property.

City staff shall also conduct on-site verification of the declaration. Failure to submit the annual declaration may result in the tax exemption being canceled.

K. Cancellation of Tax Exemption. If the Director determines the owner is not complying with the terms of the contract, the tax exemption will be canceled. This cancellation may occur in conjunction with the annual review or at any other time when noncompliance has been determined. If the owner intends to convert the multi-family housing to another use, the owner must notify the Director and the Pierce County Assessor within 60 days of the change in use.

1. Effect of Cancellation. If a tax exemption is canceled due to a change in use or other noncompliance, the Pierce County Assessor may impose an additional tax on the property, together with interest and penalty, and a priority lien may be placed on the land, pursuant to State legislative provisions.

2. Notice and Appeal. Upon determining that a tax exemption is to be canceled, the Director shall notify the property owner by certified mail. The property owner may appeal the determination by filing a notice of appeal with the City Clerk within 30 days, specifying the factual and legal basis for the appeal. The Hearing Examiner will conduct a hearing at which all affected parties may be heard and all competent evidence received. The Hearing Examiner will affirm, modify, or repeal the decision to cancel the exemption based on the evidence received. An aggrieved party may appeal the Hearing Examiner's decision to the Pierce County Superior Court. (Ord. 27466 § 44; passed Jan. 17, 2006; Ord. 27321 § 1; passed Mar. 1, 2005; Ord. 26492 § 1; passed Aug. 10, 1999; Ord. 26386 § 40; passed Mar. 23, 1999; Ord. 25789 § 3; passed Nov. 21, 1995)