



**SUBSTITUTE
ORDINANCE NO. 27360**

1 BY REQUEST OF MAYOR BAARSMA, DEPUTY MAYOR LADENBURG, AND
2 COUNCILMAN STENGER

3 AN ORDINANCE relating to adopting an immediate interim moratorium on the
4 establishment of and/or the acceptance of applications for land use permits
5 and/or building permits for new or expansion of Group Homes, Group
6 Residential facilities, Lodging Houses, Emergency and Transitional
7 Housing, and for high-risk/high-needs residents, to be effective for a period
8 of 180 days; setting a date for a public hearing on the interim moratorium;
9 establishing an Inter-Governmental High-Risk/High-Needs Task Force with
10 Pierce County and the incorporated towns and cities of Pierce County; and
11 declaring an emergency in the passage of this ordinance, to become
12 effective immediately upon publication.

13 WHEREAS, in November 2004, the City amended the housing element of
14 its Comprehensive Plan for policies on dispersion of housing and service facilities
15 for high-risk populations, calling for their dispersion within the City to foster the
16 promotion of safe and healthy neighborhoods, and

17 WHEREAS, pursuant to the state's Growth Management Act ("GMA"),
18 RCW 36.70A.040, a city's development regulations must implement its
19 Comprehensive Plan, and

20 WHEREAS changes to the City's development regulations will further
21 implementation of the City Council's policy regarding fair share and dispersion of
22 housing and service facilities for high-risk populations (Section H-HF-2 of the
23 Housing Element of the City of Tacoma Comprehensive Plan), and

24 WHEREAS the U.S. Department of Housing and Urban Development, in its
25 Community Development Block Grant and HOME programs, encourages the City
26 to "deconcentrate poverty" for the best interests of all citizens and all
neighborhoods, and



1 WHEREAS the City wishes to engage all citizens and the housing and
2 human service providers in a cooperative effort to continuously improve the quality
3 of life in our neighborhoods for people of all backgrounds, especially those with
4 special needs. These efforts can include formal adoption of industry-recognized
5 “best practices” for homeless, housing, and human service programs, and

6 WHEREAS the City wishes to have an immediate and expedited policy
7 review to minimize disruption and uncertainty to the legitimate homeless, housing,
8 and human service providers, to victims of domestic violence, and to those with
9 special needs, and

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11 WHEREAS TMC 13.06.700 defines “Group Home” as “a home or facility for
12 adults that may or may not be licensed by the City, that is not licensed by the
13 state, that provides room and board, as well as an on-site manager/caregiver for a
14 group of up to six unrelated adults; provided, however, any limitation on the
15 number of residents resulting from this definition shall not be applied if it prohibits
16 the City from making reasonable accommodations to disabled persons in order to
17 afford such persons equal opportunity to use and enjoy a dwelling as required by
18 the Fair Housing Amendments Act of 1988, 42 U.S.C. 3604(f)(3)(b). This facility
19 may provide services for the exclusive use of the tenants. This use does not
20 include emergency and transitional housing or housing of sex offenders, as
21 defined in RCW 9A.44.130(9)(a),” and

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24 WHEREAS TMC 13.06.700 defines “Group Residential” as “shared living
25 quarters without separate kitchen or bathroom facilities for each room or unit. This
26 classification includes boardinghouses, dormitories, lodging houses, private



1 residential clubs, residential hotels, and apartment-hotels. This definition shall not
2 be construed to include housing of sex offenders, as defined in
3 RCW 9A.44.130(9)(a),” and

4 WHEREAS TMC 13.06.700 defines “Lodging house” as “a building with not
5 more than nine guest rooms where lodging is provided for three or more persons
6 for compensation, and

7 WHEREAS TMC 13.06.700 defines “Emergency and transitional housing”
8 as “establishments offering food and housing to more than six persons who are in
9 need of shelter. This classification does not include confidential shelters, group
10 homes, or facilities licensed for residential care by the state of Washington,” and

11 WHEREAS the location of such specified housing facilities, as presently
12 allowed by Tacoma Municipal Code (“TMC”) 13.06, may result in a concentration
13 of such housing facilities in certain areas of the City which may cause serious
14 adverse impacts to the surrounding neighborhoods and its citizens, and may be in
15 conflict with the City’s Comprehensive Plan housing element regarding fair share
16 dispersion, and

17 WHEREAS it is commonly understood that “high-risk/high-needs residents”
18 are individuals whose physical, mental, and social conditions require effective,
19 comprehensive therapeutic and social support services to sustain their health,
20 stability, and accountability in community settings, and

21 WHEREAS the City recognizes the state of Washington’s licensing,
22 regulation, and inspection of many residentially-based programs to the degree that
23 a moratorium of these facilities is not presently needed, including those defined as
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1 Adult Family Home, Community care facility for adults, Community care facility for
2 youth, Confidential shelter, Continuing care retirement community, Extended care
3 facility, Foster home, Intermediate care facility, Residential care facility for adults,
4 and Staffed residential home as defined in TMC 13.06.700, and

5 WHEREAS TMC 13.06 does not contain any criteria and standards for
6 Group Homes, Group Residential facilities, Lodging Houses, Emergency and
7 Transitional Housing, and for high-risk/high-needs residents in the City, and

8 WHEREAS RCW 35.63.200 and RCW 36.70A.390 authorize the City to
9 adopt an interim moratorium on development and to hold a public hearing on the
10 interim moratorium within 60 days of the commencement of the moratorium, and

11 WHEREAS the City Council finds that the interim moratorium imposed by
12 this ordinance is necessary for the protection of the public health, safety, property,
13 or peace, and

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15 WHEREAS the City should impose a moratorium barring the establishment
16 of and/or acceptance of applications relating to land use permits and building
17 permits for new or the expansion of Group Homes, Group Residential facilities,
18 Lodging Houses, Emergency and Transitional Housing, and for high-risk/high
19 needs residents until the necessary Code revisions are complete; Now, Therefore,
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21 BE IT ORDAINED BY THE CITY OF TACOMA:

22 Section 1. That there is hereby imposed an interim 180-day moratorium on
23 the establishment, location, or permitting of new or the expansion of Group
24 Homes, Group Residential facilities, Lodging Houses, Emergency and Transitional
25 Housing, and for high-risk/high-needs residents within the City. During the term of
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1 this interim moratorium, unless earlier terminated by ordinance, the City will
2 prohibit the establishment of and will not accept land use permit or building permit
3 applications for the location or establishment of new or the expansion of Group
4 Homes, Group Residential facilities, Lodging Houses, Emergency and Transitional
5 Housing, and for high-risk/high-needs residents in the City; provided, reasonable
6 accommodations shall be made in administering this interim moratorium, as
7 required by the federal Fair Housing Act, as amended, 42 U.S.C. § 3604(f)(3)(B)
8 and RCW 35.63.220, when such accommodations may be necessary to afford
9 handicapped persons equal opportunity to use and enjoy a dwelling. This interim
10 moratorium does not apply to the establishment, location, or permitting of
11 residential facilities licensed by the state of Washington.
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13 Section 2. That the City Manager shall direct staff to develop, within
14 30 days of adoption of the interim moratorium, a comprehensive inventory of the
15 existing subject housing facilities, including their geographical dispersal within the
16 City.
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18 Section 3. That the City Manager shall direct staff, within a reasonable time
19 and as far as practicable, to also identify properties in the City that have a
20 "grandfathered non-conforming use" that could potentially allow the placement of
21 subject housing facilities, in spite of restricted zoning that would normally prohibit
22 such a use.
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24 Section 4. That, pursuant to TMC 13.02.055, the City Council hereby refers
25 the interim moratorium to the Planning Commission to formulate findings of facts
26 and recommendations. The Planning Commission shall respond with its findings



1 of facts and recommendations within 30 days of the date of the Commission
2 meeting at which it is made aware of the City Council's referral.

3 Section 5. That, pursuant to RCW 35.63.200, the City Council will hold a
4 public hearing on this moratorium on July 12, 2005. Immediately after the public
5 hearing, the City Council shall adopt findings of facts on the subject of this interim
6 moratorium and either justify its continued imposition or cancel the moratorium.

7 Section 6. That the City Council requests the Planning Commission to
8 initiate a study and directs the City Manager to provide resources to assist staff of
9 the Tacoma Economic Development, Public Works, Human Rights and Human
10 Services, and Legal Departments to develop proposed changes to the Tacoma
11 Municipal Code to bring the Code into compliance with the Comprehensive Plan
12 with respect to the location and dispersment for Group Homes, Group Residential
13 facilities, Lodging Houses, Emergency and Transitional Housing, and for high-
14 risk/high-needs residents, such proposed changes to include standards for
15 variances based on type of use, need, and/or presence of an operational
16 agreement and a method for appeals and exemptions, subject to public hearing.
17 The Planning Commission shall present its findings and recommendations to the
18 City Council concerning necessary Code revisions pursuant to TMC 13.02.055
19 before the expiration of the imposed interim moratorium or provide findings of facts
20 to justify the extension of the interim moratorium for an additional 180-day interval.
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24 Section 7. That the City Council requests that the Planning Commission
25 and staff, based on the comprehensive inventory of subject housing facilities, to
26 develop definitions for the following: "high risk/high-need housing," "Community



1 Development Overlay zone," "emergency housing," "transitional housing,"
2 "supportive housing," and "program", and guidelines for the prohibition of siting of
3 new or expanded "high-risk/high-need housing" in a Community Development
4 Overlay zone.

5 Section 8. That the City Council requests that the Planning Commission
6 and staff recommend restrictions on subject facilities for high-risk/high-needs
7 residents that can be strategically applied to specific geographic areas, based
8 upon objective, measurable criteria to be regularly evaluated. Criteria for a
9 regularly-reviewed, geographically-specific "protective overlay" may include the
10 physical inventory of subject facilities, calls for emergency service, chronic
11 nuisance property cases, assessed property values and sales, median household
12 income, etc.

14 Section 9. That the City Council commission a community-based Blue
15 Ribbon Panel ("Panel") on high-risk/high-needs residents to study issues and
16 make recommendations for a community model for affecting change relating to
17 standards of care, quality assurance, and community relations for programs which
18 serve high-risk/high-needs residents; that the Panel make specific
19 recommendations regarding the appropriate role of local government in
20 addressing these issues; and that the Panel make a report and recommendations
21 to the City Council within 180 days of the adoption of this interim moratorium. The
22 City Council, by separate resolution, shall establish this Panel.

25 Section 10. That the City Council, under the leadership of Deputy Mayor
26 Connie Ladenburg (Chair, standing committee on Public Safety and Human



1 Services), form an inter-governmental High-Risk/High-Needs Task Force with
2 Pierce County government and the incorporated towns and cities of Pierce County,
3 to identify common issues and goals related to dispersal of high-risk/high-needs
4 residents who are under the supervision of the Department of Corrections and
5 Department of Social and Health Services; and that the High-Risk/High-Needs
6 Task Force form a united statement of intent and a unified government relations
7 action plan to deal with siting and community notification of essential public
8 facilities, and the community-based programs of the Department of Corrections
9 and Department of Social and Health Services, to foster consistency with
10 County-wide Planning Policies pursuant to RCW 36.70A.100.
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12 Section 11. The City hereby supports affordable housing for low-income
13 citizens and does not see the need for a moratorium on housing regulated by the
14 state Landlord and Tenant Act
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16 Section 12. The City has a continued commitment to increased units of
17 affordable housing, to uphold Fair Housing law and to ensure safe, high-quality
18 dwellings for all citizens.
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20 Section 13. That if any section, sentence, clause, or phrase of this
21 ordinance should be held to be invalid or unconstitutional by a court of competent
22 jurisdiction, such invalidity or unconstitutionality shall not affect the validity or
23 constitutionality of any other section, sentence, clause, or phrase of this ordinance.
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25 Section 14. That notice of and hearing on this ordinance, in the normal
26 course, would undermine effective City planning by allowing the establishment of
or the submittal of land use and building permit applications for new or the



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establishment of Group Homes, Group Residential facilities, Lodging Houses, Emergency and Transitional Housing, and for high-risk/high-needs residents between the time notice was published and the time the ordinance was adopted, to vest to City regulations which may be inadequate to protect the public health, safety, and general welfare. Therefore, for this reason, the City Council hereby finds and declares that an emergency exists, and that the 180-day interim moratorium imposed by this ordinance shall become effective immediately upon passage of this ordinance and its publication, unless repealed, extended, or modified by the City Council after subsequent public hearings and entry of appropriate findings of fact pursuant to RCW 35.63.200.

Passed _____

Mayor

Attest:

City Clerk

Approved as to form and legality:



Assistant City Attorney