AN ORDINANCE OF THE CITY OF MUKILTEO, WASHINGTON RELATING TO SHORELINE MASTER PROGRAM - PLAN AND REGULATIONS; AMENDING THE MUKILTEO MUNICIPAL CODE; REPEALING CHAPTER 16.24, FIRST CLASS TIDELANDS AND SHORELANDS, AND CHAPTER 16.28, SHORELINE MANAGEMENT; AMENDING CHAPTER 17.08 DEFINITIONS, CHAPTER 17.13 PROJECT PERMIT PROCEDURES, CHAPTER 17.16 PERMITTED USES, AND CHAPTER 17.25 DESIGN STANDARDS FOR MIXED-USE DEVELOPMENTS IN REGARDS TO SHORELINE REGULATION; ADOPTING NEW TITLE 17B SHORELINE MANAGEMENT REGULATIONS IN ACCORDANCE WITH THE STATE SHORELINE MANAGEMENT ACT; AMENDING CHAPTER 18.10 LAND USE ENFORCEMENT AND CHAPTER 18.25 CIVIL INFRACTIONS IN REGARDS TO ENFORCEMENT OF THE NEW SHORELINE REGULATIONS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Shoreline Management Act of 1971, codified at chapter 90.58 RCW ("SMA"), requires all cities and counties with "shorelines of the state" to prepare and adopt a Shoreline Master Program that is based on state laws and rules, but tailored to the specific jurisdiction; and

WHEREAS, on August 18, 1971, the City of Mukilteo adopted its SMA-based Shoreline Master Program ("SMP") and the SMP has not been amended in substance since its adoption; and

WHEREAS, the City's Shoreline Master Program (SMP) was approved by the Department of Ecology (DOE) on September 20, 1974;

WHEREAS, shoreline development regulations were adopted by the City of Mukilteo on December 4, 1978 with minor revisions over time, but the regulations relied upon the regulatory sections of the SMP making it difficult to administer; and

WHEREAS, the Shoreline Management Act ("SMA") of the State of Washington requires cities to update their Shoreline Management Plans and Regulations; and

WHEREAS, the Growth Management Act ("GMA") of the State of Washington requires Shoreline Management Plans and Regulations be consistent with locally adopted Comprehensive Plans; and

WHEREAS, effective January 17, 2004, the regulations implementing the SMA promulgated under chapter 173-26 WAC (the "SMA guidelines") were substantially revised and are administered by the Department of Ecology (DOE), and the City's current program requires a comprehensive master program update in order to achieve the procedural and substantive requirements of the SMA guidelines; and

WHEREAS, the draft ordinance was circulated to affected agencies and interested groups for review and comments; and
WHEREAS, the City has authority under RCW Title 35A, to adopt regulations related to the protection, mitigation and management of Shorelines;

WHEREAS, the Planning Commission held public hearings on November 18, 2010, and January 20, 2011 on the draft ordinance and after taking public comments and considering staff changes, recommended approval of the resolution to the Mukilteo City Council;

WHEREAS, the City Council held public hearings on February 22 and March 7, 2011, and adopted Resolution No. 2011-06 approving the draft SMP;

WHEREAS, the draft SMP was forwarded to DOE for review, edits and approval and this has been completed in November 2011; and

WHEREAS, the City Council held a public hearing and considered the AMP Plan and Regulations on December 12, 2011;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MUKILTEO, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Purpose and Intent of Ordinance. In adopting this Ordinance, it is the intent of the City Council to adopt the Shoreline Management Program – Plan and Regulations by creating new documents and a new title of the Mukilteo Municipal Code, Title 17B Mukilteo Municipal Code, Shoreline Management Regulations, that applies to all shoreline related permits and activities in the City of Mukilteo.

Section 2. Subdivision and Planning Definitions. Chapter 16.08, Definitions, of the Mukilteo Municipal Code is hereby amended to delete the following definitions.
   “First class shorelands”
   “First class tidelands”
   “Inner harbor line, the”

Section 3. Tidelands. Chapter 16.24, First Class Tidelands and Shorelands, of the Mukilteo Municipal Code is hereby repealed in its entirety.


Section 5. Definitions. Section 17.08.010, General, of the Mukilteo Municipal Code is hereby amended to read as set forth on Exhibit 1B to this Ordinance, which is incorporated herein by this reference as if set forth in full.

Section 6. Zoning Definitions. Section 17.08.020, Definitions, of the Mukilteo Municipal Code is hereby amended to delete the following definitions.
   “Breakwater”
   “Bulkhead”
   “Groin”
   “Ordinary High Water Mark”
"Pier"
"Public Access"
"Shorelands"
"Shoreline"
"Shoreline Activity"
"Shoreline Use"
"Shorelines of Mukilteo"
"Shoreline of the State"
"Shoreline of Statewide Significance"

Section 7. **Project Permit Procedures.** Chapter 17.13, Project Permit Procedures, of the Mukilteo Municipal Code is hereby amended as shown on **Exhibit 1B.**

Section 8. **Permitted Uses.** Chapter 17.16, Permitted Uses, of the Mukilteo Municipal Code is hereby amended to read as shown on **Exhibit 1B.**

Section 9. **Mixed-Use Developments.** Chapter 17.25, Design Standards for Mixed-Use Developments, of the Mukilteo Municipal Code is hereby amended to read shown on **Exhibit 1B.**

Section 10. **Waterfront Development and Shoreline Management Regulations.** New Title 17B, Shoreline Management Regulations, is hereby added to the Mukilteo Municipal Code to read as set forth on **Exhibit 1B.**

Section 11. **Land Use Enforcement.** Section 18.10.020, Land Use Enforcement, of Mukilteo Municipal Code, is hereby amended to read as set forth on **Exhibit 1B.**

Section 12. **Civil Infractions.** Section 18.25.010 of the Mukilteo Municipal Code is hereby amended to read as set forth on **Exhibit 1B.**

Section 13. **Findings and Conclusions.** In support of this ordinance, the Mukilteo City Council adopts the Findings and Conclusions attached hereto as **Exhibit 2** and incorporated herein by this reference.

Section 14. **Shoreline Management Program (SMP).** The SMP is recognized to include “The Shoreline Plan” as set forth in **Exhibit 1A** and incorporated herein by this reference and the “Regulations” promulgated under Title 17B of the Mukilteo Municipal Code as set forth in **Exhibit 1B.**

Section 15. **Severability.** If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 16. **Effective Date.** This ordinance shall take effect 14 days after the date of the Department of Ecology’s letter acknowledging the City’s acceptance of the Department of Ecology’s revisions, which revisions are contained in this ordinance.
PASSED by the City Council and APPROVED by the Mayor this 12\textsuperscript{th} day of December, 2011.

APPROVED:

\underline{\textbf{Mayor, Joe Marine}}

ATTEST/AUTHENTICATED:

\underline{\textbf{CITY CLERK, CHRISTINA BOUGHMAN}}

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

By: \underline{\textbf{ANGELA S. BELBECK}}

\begin{itemize}
  \item FILED WITH THE CITY CLERK: \textit{12-12-11}
  \item PASSED BY THE CITY COUNCIL: \textit{12-12-11}
  \item PUBLISHED: \textit{12-16-11}
  \item EFFECTIVE DATE: \textit{1295}
\end{itemize}