AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, REPEALING ORDINANCE NO. 2269; REPEALING 1995 SHORELINE MASTER PROGRAM; APPROVING AND ADOPTING A NEW SHORELINE MASTER PROGRAM UPDATE FOR THE CITY OF TUKWILA TO INCORPORATE NEW STATE REQUIREMENTS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City adopted a new Comprehensive Plan in 1995 to implement the goals and policies of the Growth Management Act of 1990 and the King County County-wide Planning Policies; and

WHEREAS, the Green/Duwamish River, a shoreline of the State regulated pursuant to RCW 90.58, runs through the entire length of the City of Tukwila; and

WHEREAS, due to the presence of the Green/Duwamish River in the City, the 1995 Comprehensive Plan included policies addressing shorelines; and

WHEREAS, as set forth in RCW 90.58.020, the State Legislature has found that shorelines of the State are among the most valuable and fragile of its natural resources and unrestricted construction on privately- and publicly-owned shorelines of the State is not in the best public interest; and

WHEREAS, in RCW 90.58.020 the State Legislature directed local governments developing Shoreline Master Programs for shorelines of State-wide significance to give preference to the following uses, in order of preference, which: 1) recognize and protect the State-wide interest over local interest; 2) preserve the natural character of the shoreline; 3) result in long-term over short-term benefit; 4) protect the resources and ecology of the shoreline; 5) increase public access to publicly-owned areas of shorelines; 6) increase recreational opportunities for the public in the shoreline; and 7) provide for any other element, as defined in RCW 90.58.100, deemed appropriate or necessary; and

WHEREAS, in 2003 the Washington State Department of Ecology (DOE) adopted new rules, pursuant to RCW 90.58.200, to carry out provisions of the Shoreline Management Act; and
WHEREAS, DOE's new rules are set forth in WAC 173-26, and these new rules provide direction to local jurisdictions concerning the regulation of uses on shorelines of the State; and

WHEREAS, RCW 90.58.080 directs local governments to develop or amend their shoreline master programs consistent with the required elements of the guidelines adopted by DOE, in accordance with a schedule established in that section; and

WHEREAS, the timetable set forth in RCW 90.58.080(2)(a)(ii) required the City of Tukwila to amend its Shoreline Master Program by December 1, 2009; and

WHEREAS, the City began an update of its Shoreline Master Program in 1998, established a Citizens Advisory Panel for initial policy and regulation guidance, prepared background studies and used consultant services to prepare technical documents; and

WHEREAS, the City renewed and continued its updating of the Shoreline Master Program in 2008; and

WHEREAS, an environmental checklist was prepared for the staff draft Shoreline Master Program update, accompanied by a draft “Cumulative Impacts Analysis,” an “Inventory and Characterization Report” and draft “Restoration Plan,” and a Determination of Non-Significance was issued August 13, 2008; and

WHEREAS, the Planning Commission reviewed a staff draft Shoreline Master Program, held a public hearing on August 27, 2008, continued the hearing to October 9, 2008 to allow additional public input, and recommended adoption of a revised Shoreline Master Program to the City Council in February 2009; and

WHEREAS, the City Council held a public hearing on April 20, 2009, continued the hearing to July 13, 2009 and July 20, 2009 and conducted ten in-depth work sessions to review the Planning Commission Recommended Draft Shoreline Master Program; and

WHEREAS, pursuant to WAC 173-26-186, City staff has analyzed the cumulative impacts of the staff draft Shoreline Master Program, the Planning Commission Recommended Draft Shoreline Master Program, and the Council revisions to the Planning Commission Recommended Draft Shoreline Master Program and determined that the Shoreline Master Program and accompanying goals, policies and regulations will achieve no net loss of shoreline ecological functions, as compared to current “baseline” conditions; and

WHEREAS, pursuant to WAC 173-26-186, the proposed Shoreline Master Program contains policies and regulations to ensure no net loss of shoreline ecological functions, to address adverse cumulative impacts and to fairly allocate the burden of addressing cumulative impacts among proposed developments; and

WHEREAS, the City Council reviewed written and verbal testimony and approved revisions to the Planning Commission Recommended Draft Shoreline Master Program to address issues raised by interested parties, individual Councilmembers, staff and the Department of Ecology; and
WHEREAS, throughout the process of updating the Shoreline Master Program, a variety of methods were used to notify the general public and property owners along the shoreline of the proposed Shoreline Master Program update, including mailings to property owners and tenants, notice boards along the Green River Trail, postings on the City's web site, creation of a broadcast email group that received updates of the shoreline review process and articles in the City's newsletter; and

WHEREAS, notice was provided to the Washington State Department of Commerce, pursuant to RCW 36.70A.106; and

WHEREAS, the City Council adopted Ordinance No. 2269 on December 14, 2009, which ordinance adopted by reference a new Shoreline Master Program; and

WHEREAS, Section 4 of Ordinance No. 2269 provided that it would not be effective until the later of five days after passage and publication or approval by the Washington State Department of Ecology of the Shoreline Master Program in the form attached to Ordinance No. 2269 as Exhibit A; and

WHEREAS, the City thereafter submitted the program to the Department of Ecology for review and approval; and

WHEREAS, the Department of Ecology accepted written public comments on the City's December 14, 2009 Shoreline Master Program, and held a public hearing on September 29, 2010; and

WHEREAS, the Department of Ecology reviewed the adopted Shoreline Master Program and required and recommended certain changes to the Program as a condition of final Department of Ecology approval; and

WHEREAS, notice of the review of DOE's required and recommended changes was provided via postings on the City's web site, e-mails to the broadcast e-mail group, and articles in the "Hazelnut" and "Tukwila Reporter;" and

WHEREAS, the City Council conducted a Council work session on May 11, 2011, to consider the DOE required and recommended changes, and held a public hearing on June 27, 2011 to receive public testimony on the DOE required and recommended changes; and

WHEREAS, the City Council concurs with and desires to adopt the required changes and some of the recommended changes;

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

Section 1. Shoreline Master Program Established. The Shoreline Master Program with accompanying maps, as set forth in "Attachment A," is hereby adopted and shall become binding as of the effective date of this ordinance on all properties within the shoreline jurisdiction.
Section 2. Repealer. Ordinance No. 2269, including the Shoreline Master Program adopted by reference in Section 1 thereof, is hereby repealed. Further, the Shoreline Master Program adopted by reference in Section 5 of the 1995 Comprehensive Plan, adopted in Section 1.A. of Ordinance No. 1757, is hereby repealed.

Section 3. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

Section 4. Effective Date. This ordinance or a summary thereof shall be published in the official newspaper of the City and shall take effect and be in full force upon approval of the Shoreline Master Program by the Washington State Department of Ecology and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Regular Meeting thereof this 15TH day of August, 2011.

ATTEST/AUTHENTICATED:

Christy O'Flaherty, CMC, City Clerk

Jim Haggerton, Mayor

APPROVED AS TO FORM BY:

Shelley M. Kerslake, City Attorney

Filed with the City Clerk: 8-10-11
Passed by the City Council: 8-15-11
Published: 8-18-11
Effective Date: per Section 4
Ordinance Number: 2269

Attachment A: Shoreline Master Program
City of Tukwila Public Notice of Ordinance Adoption for Ordinances 2344-2348.

On August 15, 2011 the City Council of the City of Tukwila, Washington, adopted the following ordinances the main points of which are summarized by title as follows:

**Ordinance 2344:** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, REPEALING ORDINANCE NO. 2269; REPEALING 1995 SHORELINE MASTER PROGRAM; APPROVING AND ADOPTING A NEW SHORELINE MASTER PROGRAM UPDATE FOR THE CITY OF TUKWILA TO INCORPORATE NEW STATE REQUIREMENTS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

**Ordinance 2345:** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, REPEALING ORDINANCE NO. 2270; AMENDING THE SHORELINE ELEMENT OF THE CITY’S COMPREHENSIVE LAND USE PLAN TO INCORPORATE POLICIES THAT REFLECT NEW STATE REQUIREMENTS FOR AREAS SUBJECT TO SHORELINE JURISDICTION; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

**Ordinance 2346:** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, AMENDING REQUIREMENTS FOR SHORELINE REGULATIONS CODIFIED AT TUKWILA MUNICIPAL CODE CHAPTER 18.44, “SHORELINE OVERLAY,” TO INCORPORATE NEW STATE REQUIREMENTS; REPEALING ORDINANCE 2271; REPEALING ORDINANCE NOS. 1796 §3 (PART), 1775 §2, AND 1758 §1 (PART), AS CODIFIED AT TUKWILA MUNICIPAL CODE CHAPTER 18.44, “SHORELINE OVERLAY”; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

**Ordinance 2347:** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, REPEALING ORDINANCE NO. 2272; AMENDING ORDINANCE NO. 1758 §1 (PART); ADOPTING AND AMENDING DEFINITIONS FOR SHORELINE REGULATIONS, AS CODIFIED IN CHAPTER 18.06 OF THE TUKWILA MUNICIPAL CODE, TO INCORPORATE NEW STATE REQUIREMENTS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

**Ordinance 2348:** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, ADOPTING A 12-MONTH MORATORIUM WITHIN THE CITY OF TUKWILA ON THE ESTABLISHMENT, LOCATION, OPERATION, LICENSING, MAINTENANCE OR CONTINUATION OF MEDICAL CANNABIS COLLECTIVE GARDENS OR DISPENSARIES, ASSERTED TO BE AUTHORIZED OR ACTUALLY AUTHORIZED UNDER E2SSB 5073, CHAPTER 181, LAWS OF 2011, CHAPTER 69.51A REVISED CODE OF WASHINGTON, OR ANY OTHER LAWS OF THE STATE OF WASHINGTON; SETTING A DATE FOR A PUBLIC HEARING ON THE MORATORIUM; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY AND ESTABLISHING AN EFFECTIVE DATE.

The full text of these ordinances will be provided upon request.

Christy O'Flaherty, CMC, City Clerk

Published Seattle Times: August 18, 2011
Attachment A to Ordinance 2344
may be found as a separate Laserfiche file titled:

"Attachment A: Shoreline Master Program Update"