



City of Tukwila

Washington

Ordinance No. 2272

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, UPDATING DEFINITIONS FOR SHORELINE REGULATIONS TO INCORPORATE NEW STATE REQUIREMENTS; AMENDING ORDINANCE NO. 1758 §1 (PART); 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 River in the City, the 1995 Comprehensive Plan included policies addressing shorelines; and

WHEREAS, as set forth in RCW 90.58.020, the Washington 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 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 the 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, the 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 the DOE, in accordance with a schedule established in that section; and

WHEREAS, the timetable set forth in RCW 90.58.080(2)(a)(ii) requires 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, 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, the creation of a broadcast e-mail group that received updates of the shoreline review process and articles in the City's newsletter; and

WHEREAS, the updated Shoreline Master Program will be implemented by revised shoreline regulations, codified in Tukwila Municipal Code (TMC) Chapter 18.44; and

WHEREAS, new and revised Zoning Code definitions, codified in Chapter 18.06 of the Tukwila Municipal Code, are required to implement the changes to TMC Chapter 18.44 and the updated Shoreline Master Program; and

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

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

Section 1. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Appurtenance" means a structure that is necessarily connected to the use and enjoyment of a single-family residence, including a garage, deck, driveway, utilities, fences, installation of a septic tank and drain field, and grading that does not exceed 250 cubic yards and does not involve placement of fill in any wetland or waterward of the Ordinary High Water Mark (WAC 173-27-040(2)(g)).

Section 2. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Armoring" means the control of shoreline erosion with hardened structures, such as bulkheads, sea walls and riprap.

Section 3. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Bank" means the rising ground bordering a water body and forming an edge or slope.

Section 4. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Bioengineering" means integrating living woody and herbaceous materials with organic (plants, wood, jute mats, coir logs, etc.) and inorganic materials (rocks, soils) to increase the strength and structure of the soil along a riverbank, accomplished by a dense matrix of roots that hold the soil together. The above-ground vegetation increases the resistance to flow and reduces flow velocities by dissipating energy.

Section 5. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Bulkhead" means vertical structures erected parallel to and near the ordinary high water mark for the purpose of protecting adjacent uplands from erosion from the action of waves or currents.

Section 6. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Channel migration zone" means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

Section 7. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Dike" means an embankment or structure built in the river channel to contain or redirect flow within the channel and prevent shoreline destabilization.

Section 8. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Development, shoreline" means, when conducted within the Shoreline Jurisdiction on shorelands or shoreland areas as defined herein, a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; construction of bulkheads; driving of piling; placing of obstructions; or any project of a permanent or temporary nature that interferes with the normal public use of the waters overlying lands subject to the Shoreline Management Act at any stage of water level.

Section 9. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Ecological/ecosystem functions (or shoreline functions)" means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-200(2)(c).

Section 10. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Ecosystem-wide processes" means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

Section 11. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Environment designation" means the term used to describe the character of the shoreline in Tukwila based upon the recommended classification system established by WAC 173-26-211 and as further refined by Tukwila's Shoreline Master Program (SMP).

Section 12. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Feasible" means, for the purpose of the Shoreline Master Program, that an action such as a development project, mitigation, or preservation requirement meets all of the following conditions:

1. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
2. The action provides a reasonable likelihood of achieving its intended purpose; and
3. The action does not physically preclude achieving the project's primary intended legal use.

In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

Section 13. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Flood plain" means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year (synonymous with 100-year flood plain). The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the Shoreline Management Act.

Section 14. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Flood hazard reduction" means actions taken to reduce flood damage or hazards. Flood hazard reduction measures may consist of nonstructural or indirect measures such as setbacks,

land use controls, wetland restoration, dike removal, use relocation, bioengineering measures, and storm water management programs, and of structural measures such as dikes and levees intended to contain flow within the channel, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.

Section 15. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Section 16. Definition Amended. Ordinance No. 1758 §1 (part), as codified at TMC Section 18.06.370, "Definitions," is amended to read as follows:

18.06.370 Grading

"Grading" means activity that results in change of the cover or topography of the earth or any activity that may cause erosion, including clearing, excavation, filling and stockpiling.

Section 17. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Large Woody Debris (LWD)" means whole trees with root wads and limbs attached, cut logs at least 4 inches in diameter along most of their length, and root wads at least 6.5 feet long and 8 inches in diameter. Large woody debris is installed to address a deficiency of habitat and natural channel forming processes.

Section 18. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Levee" means a broad embankment of earth built parallel with the river channel to contain flow within the channel and prevent flooding from a designated design storm.

Section 19. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Levee, minimum profile" means the minimum levee profile for any new or reconstructed levees is the King County "Briscoe Levee" profile - 2.5:1 overall slope with a 15-foot mid-slope bench for maintenance access and native vegetation plantings.

Section 20. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Mean Higher High Water (MHHW)" means the average of the higher high water height of each tidal day, and is used in determining the Ordinary High Water Mark for the tidally influenced portions of the river.

Section 21. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Native vegetation" means vegetation with a genetic origin of Western Washington, Northern Oregon and Southern British Columbia, not including cultivars.

Section 22. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"No Net Loss" means a standard intended to ensure that shoreline development or uses, whether permitted or exempt, are located and designed to avoid loss or degradation of shoreline ecological functions that are necessary to sustain shoreline natural resources.

Section 23. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Nonconforming use, shoreline" means a use or development that was lawfully constructed or established prior to the effective date of the Shoreline Management Act or the Shoreline Master Program or amendments thereto, but does not conform to present regulations or standards of the program.

Section 24. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Non-water-oriented uses" means those uses that are not water-dependent, water-related, or water-enjoyment.

Section 25. Definition Amended. Ordinance No. 1758 §1 (part), as codified at TMC Section 18.06.605, "Definitions," is amended to read as follows:

18.06.605 Ordinary high water mark

"**Ordinary high water mark**" means the mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters (all lakes, streams, and tidal water) 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 exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the Department of Ecology. 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.

Section 26. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"**Overwater structure**" means any device or structure projecting over the Ordinary High Water Mark, including, but not limited to, bridges, boat lifts, wharves, piers, docks, ramps, floats or buoys.

Section 27. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"**Public access**" means the ability of the general public to reach, touch or enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Public access may be provided by an owner by easement, covenant, or similar legal agreement of substantial walkways, corridors, parks, or other areas serving as a means of view and/or physical approach to public waters. The Director may approve limiting public access as to hours of availability, types of activity permitted, location and area.

Section 28. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"**Regional detention facility**" means a stormwater detention and/or retention facility that accepts flow from multiple parcels and/or public right-of-way. The facility may be public or private.

Section 29. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"**Revetment**" means a sloping structure built to increase bank strength and protect an embankment, or shore against erosion by waves or river currents. A revetment is usually built of rock riprap, wood, or poured concrete. One or more filter layers of smaller rock or filter cloth and "toe" protection are included. A revetment typically slopes and has a rough or jagged face. The slope differentiates it from a bulkhead, which is a vertical structure.

Section 30. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"**Riparian**" means the land along the margins of rivers and streams.

Section 31. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"**Riverbank analysis and report**" means a scientific study or evaluation conducted by qualified experts and the resulting report to evaluate the ground and/or surface hydrology and geology, the geomorphology and hydraulic characteristics of the river, the affected land form and its susceptibility to mass wasting, erosion, scouring and other geologic hazards or fluvial processes. The report shall include conclusions and recommendations regarding the effect of the proposed development on geologic and/or hydraulic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological, hydrological and hydraulic impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical/hydrological/hydraulic reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

Section 32. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Shorelands 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; floodways and contiguous flood plain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes and tidal waters that are subject to the provisions of the Shoreline Management Act.

Section 33. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Shoreline areas" means all "shorelines of the State" and "shorelands" as defined in RCW 90.58.030.

Section 34. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Shoreline jurisdiction" means the channel of the Green/Duwamish River, its banks, the upland area which extends from the Ordinary High Water Mark landward for 200 horizontal feet on each side of the river, floodways and all associated wetlands within its 100-year flood plain. For the purpose of determining shoreline jurisdiction only, the floodway shall not include those lands that have historically been protected by flood control devices and therefore have not been subject to flooding with reasonable regularity.

Section 35. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Shoreline modifications" means those actions that modify the physical configuration or qualities of the shoreline area through the construction or alteration of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. "Shoreline modifications" may also include other actions such as clearing, grading or application of chemicals.

Section 36. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Shoreline restoration or ecological restoration" means the re-establishment or upgrading of impaired ecological shoreline processes, functions or habitats, including any project that is approved by the Federal, State, King County, or City government or the WRIA 9 Steering Committee, is intended to provide habitat restoration and where the future use of the site is restricted through a deed restriction to prohibit non-habitat uses. This may be accomplished through measures including, but not limited to, re-vegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

Section 37. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Shoreline stabilization" means actions taken to protect riverbanks or adjacent uplands from erosion resulting from the action of waves or river currents. "Hard" structural stabilization includes levees, bulkheads and revetments. "Soft" shoreline stabilization includes use of bioengineering measures where vegetation, logs, and/or certain types of rock are used to address erosion control and/or slope stability.

Section 38. Definition Deleted. Ordinance 1758 §1 (part), as codified at TMC Section 18.06.765, "Shoreline Zone," is deleted.

Section 39. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Significant tree, shoreline" means a single-trunked tree that is 4 inches or more in diameter at a height of 4 feet above the ground or a multi-trunked tree with a diameter of 2 inches or more (such as willows or vine maple).

Section 40. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Significant vegetation removal" means the removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

Section 41. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

“Substantial development” means any development of which the total cost or fair market value exceeds \$5,000 or as adjusted by the State to account for inflation, or any development that materially interferes with the normal public use of the water or shorelines of the state. The following shall not be considered substantial developments for the purpose of the Shoreline Management Act, but are not exempt from complying with the substantive requirements of this Shoreline Master Program.

1. Normal maintenance or repair of existing structures or developments, including repair of damage caused by accident, fire, or elements.

2. Emergency construction necessary to protect property from damage by the elements.

3. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including, but not limited to, head gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other activities of a commercial nature, and alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations.

4. Construction or modification of navigational aids such as channel markers and anchor buoys.

5. Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence for his own use or for the use of his or her family, which residence does not exceed a height of 35 feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter.

6. Construction of a dock, including a community dock, designed for pleasure craft only, for the private non-commercial use of the owner, lessee, or contract purchaser of single and multiple family residences. This exception applies if either:

(a) In salt waters, the fair market value of the dock does not exceed \$2,500; or

(b) in fresh waters, the fair market value of the dock does not exceed \$10,000, but if subsequent construction having a fair market value exceeding \$2,500 occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter.

7. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water for the irrigation of lands.

8. The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with normal public use of the surface of the water.

9. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system.

10. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:

a. The activity does not interfere with the normal public use of the surface waters;

b. The activity will have no significant adverse impact on the environment including, but not limited to, fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

c. The activity does not involve the installation of a structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;

d. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure the site is restored to preexisting conditions; and

e. The activity is not subject to the permit requirements of RCW 90.58.550, "Oil or natural gas exploration in marine waters."

11. The process of removing or controlling an aquatic noxious weed, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the Department of Agriculture or the department jointly with other state agencies under chapter 43.21C RCW.

12. Watershed restoration projects, which means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:

a. A project that involves less than ten miles of stream reach, in which less than 25 cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings.

b. A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water.

c. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than 200 square feet in floor area and is located above the Ordinary High Water Mark of the stream.

13. Watershed restoration plan, which means a plan developed or sponsored by the Department of Fish and Wildlife, the Department of Ecology, the Department of Natural Resources, the Department of Transportation, a federally-recognized Indian tribe acting within and pursuant to its authority, a city, a county or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area or watershed for which agency and public review has been conducted pursuant to the State Environmental Policy Act.

14. A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the following apply:

a. The project has been approved in writing by the Department of Fish and Wildlife;

b. The project has received hydraulic project approval by the Department of Fish and Wildlife pursuant to Chapter 77.55 RCW; and

c. The local government has determined the project is substantially consistent with the local shoreline master program. The local government shall make such determination in a timely manner and provide it by letter to the project proponent.

Additional criteria for determining eligibility of fish habitat projects are found in WAC 173-27-040 2 (p) and apply to this exemption.

Section 42. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Water dependent" means a use or portion of a use that cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses include ship cargo terminal loading areas, marinas, ship building and dry docking, float plane facilities, sewer outfalls, and shoreline ecological restoration projects.

Section 43. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Water enjoyment" means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use. The use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. Examples of water-enjoyment uses include parks, piers, museums, restaurants, educational/scientific reserves, resorts and mixed-use projects.

Section 44. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Water oriented" means a use that is water dependent, water related or water enjoyment or a combination of such uses.

Section 45. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"Water related" means a use or portion of a use that is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

- a. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
- b. The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

Examples of water-related uses are warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, and log storage or oil refineries where transport is by tanker.

Section 46. Definition Added. A new definition is added to TMC Chapter 18.06 to read as follows:

"WRIA" means Water Resource Inventory Area - river basin planning and management areas formalized under Washington Administrative Code (WAC) 173-500-04 and authorized under the Water Resources Act of 1971, RCW 90.54. WRIA 9 refers to the Green/Duwamish River Basin within which Tukwila is located.

Section 47. 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 48. 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 Special Meeting thereof this 14th day of December, 2009.

ATTEST / AUTHENTICATED:

Christy O'Flaherty
Christy O'Flaherty, CMC, City Clerk

Jim Haggerton
Jim Haggerton, Mayor

APPROVED AS TO FORM BY:

[Signature]
Office of the City Attorney

Filed with the City Clerk: 12-9-09
Passed by the City Council: 12-14-09
Published: 12-17-09
Effective Date: Per Section 48
Ordinance Number: 2272

**SUMMARY OF
Ordinance No. 2272**

City of Tukwila, Washington

On December 14, 2009 the City Council of the City of Tukwila, Washington, adopted Ordinance No. 2272, the main points of which are summarized by its title as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, UPDATING DEFINITIONS FOR SHORELINE REGULATIONS TO INCORPORATE NEW STATE REQUIREMENTS; AMENDING ORDINANCE NO. 1758 §1 (PART); PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

The full text of this ordinance will be mailed upon request.

Approved by the City Council at a Special Meeting thereof on December 14, 2009.



Christy O'Flaherty, CMC, City Clerk

Published Seattle Times: December 17, 2009.