

**CHAPTER 46, ARTICLE II,
DIVISION 3.**

LAKE WASHINGTON AREA

Sec. 46-80. Area encompassed.

This division shall effect all properties within the unincorporated area of Brevard County within two miles of Lake Washington, west of I-95, and within the riverine floodplain of the St. Johns River.

(Ord. No. 2000-57, § 3, 11-28-00)

Sec. 46-81. Definitions.

Accessory use means a building, structure or use as defined in, and consistent with, section 62-1102. Accessory uses shall include but not be limited to all impervious surfaces within the shoreline protection buffer requiring a county building permit.

Building area shall be defined as property that is under single ownership and consists of one or more contiguous lots in a platted subdivision, combined to meet or exceed the minimum area requirements of this ordinance. The area waterward of the ordinary high water level shall not be included when calculating the minimum building area requirements.

Class III waters means waters designated by the state for recreation, propagation and maintenance of a healthy, well-balanced population of fish and wildlife. This includes all waters within the county, except:

- (1) Those designated as class I or class II waters, class III shellfish areas, Outstanding Florida Waters, and Aquatic Preserves as described in this section;
- (2) Those waters that are part of a designated stormwater management system, which are utilized only for stormwater management and are not considered class III waters by the state department of environmental regulation;
- (3) Those waters that are manmade water bodies that do not have a direct surface water connection to natural water bodies;
- (4) Existing manmade water bodies not connected to the Indian River lagoon system that are incidental to bona fide agricultural operations utilizing best management practices (BMP's), on lands having been granted an agricultural tax exemption; and

- (5) Those existing manmade water bodies defined in subsection (4) of this definition which are undergoing conversion during development, as evidenced by an approved development order, to approved designated stormwater management systems not designed to outfall to waters of the state, and which do not increase sediment or pollutant loading to the receiving water body during construction.

Minor structures means non-habitable structures such as storage sheds, pump-houses and gazebos, and which do not exceed 400 square feet in total area.

Riverine floodplain means lands which have a surface water connection to a major surface water body during the 100-year flood.
(Ord. No. 2000-57, § 4, 11-28-00)

Sec. 46-82. Minimum building area requirements, variance from the minimum building area requirements, habitable first floor elevations, and setbacks for the ordinary high water levels.

- (a) No building permits shall be issued after the effective date of the ordinance from which this division derives for those properties within the encompassed area unless:
 - (1) The property for which a building permit is sought is served by a central sewage treatment facility, or a State approved onsite sewage disposal systems is used satisfying the following requirements:
 - a. If the property is being serviced by a public water system, then there must be a minimum building area of at least 10,890 square feet (.25 acre).
 - b. If the property is being serviced by a private well, then the minimum building area must be at least 18,000 square feet (.41 acre).
 - c. All onsite sewage disposal systems shall comply with the standards and provisions of within Section 381.065 Florida Statutes, Chapter 64E-6 Florida Administrative Code and sections 46-36 through 46-69 of this Code.
 - (2) The county onsite sewage disposal variance board shall hear variances relating to the minimum building area requirements of this section under the following conditions provided that no topographic or water table conditions exist on the subject property that would present a health hazard.

- a. All other requirements and provisions of this division are met.
 - b. The property owner seeking a variance has submitted to the variance board sufficient written documentation to demonstrate that a reasonable, but unsuccessful, effort has been made to purchase contiguous property to comply with the minimum building area requirement.
- (3) The minimum elevation of the first habitable floor for all structures located on any affected property shall be no less than the 100-year flood elevation for the subject area, as established by the Federal Emergency Management Agency (FEMA).
- (4) All habitable structures located on the subject property shall be setback a minimum of 30 feet from the ordinary water level of any Class III adjacent body of water. Accessory uses as defined by section 62-1102 may be permitted closer to the ordinary high water level in accordance with the provisions of the section 62-3668.
- (5) Properties shall, through the use of swales, berms, native vegetation or other appropriate methods, detain stormwater runoff prior to discharge to the surface water. A professional engineer shall design a stormwater system to retain the first one inch of runoff from impervious surfaces that drain to the shoreline. All requirements for stormwater management shall be reviewed and approved by the county manager or designee(s) and shall be inspected as necessary.

(Ord. No. 2000-57, § 5, 11-28-00)

Sec. 46-83. Exemptions.

The restrictions in this division do not pertain to minor structures or accessory uses that do not require a connection to a public sewer or onsite sewage disposal system. Such exempted structures may include but are not limited to sheds, fences, boat docks, elevated walkways, pervious walkways, and the location of such structures are not prohibited under the provisions of sections 62-1102 and 62-3668.

(Ord. No. 2000-57, § 6, 11-28-00)

Sec. 46-84. Appeals.

In the event a property owner is not satisfied with any administrative decision or decision of the county onsite sewage disposal variance board regarding the implementation of this division, such property owner may appeal the decision to

the board of county commissioners. If so requested, the county onsite sewage disposal variance board may hear the appeal, take public comment and make a recommendation to the board of county commissioner as to the appropriateness of the interpretation or decision implementing this division. The board of county commissioner shall hold a second public hearing and shall make the final decision approving or disapproving the administrative decision or interpretation. An appeal from the decision of the county onsite sewage disposal variance board may proceed directly to the board of county commissioner. A written request for an appeal shall be filed with the county manager's office within 30 days of rendition of the decision or interpretation. The written decision or interpretation shall specify the precise basis for the determination and supporting rationale therefore.

(Ord. No. 2000-57, § 7, 11-28-00)

Sec. 46-85. Penalties.

Violations of this division shall be enforced pursuant to F.S. § 125.69, or Chapter 2, Article VI, Division 2. of this Code. The provisions of this section are an additional and supplemental means of enforcing county codes and ordinances. Nothing in this section shall prohibit the county from enforcing this section by injunctive relief, or by any other means provided by law.

(Ord. No. 2000-57, § 8, 11-28-00)

Sec. 46-86. Administration.

The Environmental Health Services Section of the Brevard County Health Department, and the county manager or designee(s) shall be responsible for the general administration of this division of this article. Review of applications and all administrative decisions shall be coordinated by the appropriate agency. Written confirmation of any decision or finding relating to applications or review made pursuant to this division and letters of interpretation or intent shall be provided upon request.

(Ord. No. 2000-57, § 9, 11-28-00)