

**EXISTING DEFINITIONS**

**BREVARD COUNTY COMPREHENSIVE PLAN  
GLOSSARY**

**CHAPTER 62, ARTICLE X, DIVISION 3  
SURFACE WATER PROTECTION  
Sec. 62-3661. Definitions.**

For the purpose of this division, certain terms and words are defined as follows:

*Accessory use* means a building, structure or use as defined in, and consistent with, article VI of this chapter. Accessory uses shall include but not be limited to all impervious surfaces within the shoreline protection buffer requiring a county building permit.

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*Alteration of mangroves* means the cutting, removing, defoliating, disturbing or otherwise damaging or destroying of mangroves.

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*Aquatic Preserves* - those sovereignty lands established by the state of Florida and managed under the provisions set forth in Chapters 253 and 258 of the Florida Statutes.

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*Aquatic preserves* means those sovereignty lands established by the state and managed under the provisions set forth in F.S. chs. 253 and 258.

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*Best Public Interest* means public projects which clearly demonstrate a net benefit to the public, as determined by the Board of County Commissioners, and which adequately mitigate adverse environmental impacts.

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*Boat Slip (Wet or dry slip)* - an area within a boating facility which is intended for the mooring or storage of a vessel.

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*Boat slip* means a space designed for the mooring of a single watercraft and usually projecting from a dock or shoreline.

**Bulkhead** - a retaining wall built along a body of water behind which fill is placed.

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**Class I Waters** - waters utilized as a source of potable water supply as determined by the Florida Department of Environmental Regulations and defined within Chapter 17-3, F.A.C.

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**Class II Waters** - waters utilized for shellfish propagation and harvesting as determined by the Florida Department of Environmental Regulations and defined within Chapter 17-3, F.A.C.

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**Class III Waters** - all waters within Brevard County except those designated by the Florida Department of Environmental Regulation as Class I or Class II; those which are part of a designated stormwater management system; or those that are man-made waterbodies that do not have a direct surface water connection to open water.

**Bulkhead and seawall** mean a manmade shoreline wall, breakwater or encroachment, excluding riprap, designed or positioned to break the force of waves or to hold back or protect the shoreline from erosion. Headwalls and other similar minor structures necessary for the implementation of permitted stormwater management systems shall not be considered bulkheads.

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**Canal** means a manmade linear waterway constructed through uplands and designed for navigation of vessels excluding those linear waterways whose primary purpose is conveyance of drainage.

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**Class I waters** means waters designated by the state as a source of potable water supply and defined within F.A.C. ch.17-3.

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**Class II waters** means waters designated by the state for shellfish propagation and harvesting as determined by the state department of environmental regulation and defined within F.A.C. ch.17-3.

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**Class III shellfishing areas** means those areas within class III waters designated suitable for shellfish harvesting by the state department of natural resources under F.A.C. ch. 16R-7.

**Class III waters** means waters designated by the state for recreation, and 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 which 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 which 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.

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**Degrade** means to discharge or release, through direct or specific manmade activities or events, any substance into the waters within the county which reduces, lowers or contaminates existing receiving water quality.

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**Designated stormwater management system** means the manmade features of the property which collect, convey, channel, store, inhibit or divert the movement of stormwater and are identified as drainage easements or stormwater facilities on plats or subdivision plans and site plans. Common features include retention and detention basins.

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**Direct surface water connection** means a situation where the single point of connection of a water body to class I, II or III waters is 35 square feet or greater in cross sectional area and normally has a water depth of three

<p>-----</p> <p><b>Dock</b> means a fixed or floating structure, including moorings, used for the purpose of berthing buoyant vessels either temporarily or indefinitely.</p> <p>-----</p>	<p>feet or greater.</p> <p>-----</p> <p><b>Dock, private</b> means a fixed or floating structure, including moorings, used for berthing buoyant vessels or for shoreline access or water-oriented recreation. A private dock shall contain no more than two boat slips, and shall not be utilized for the purpose of producing or as an inducement to producing income.</p> <p>-----</p>
<p>-----</p> <p><b>Erosion</b> means the gradual and imperceptible wearing away of riparian or littoral land due to natural causes. Artificial erosion refers to erosion caused by man-made projects and operations.</p> <p>-----</p>	<p><b>Elevated</b> means those structures designed, constructed and located above the ground surface so as to not impede the natural flow of water on the ground surface.</p> <p>-----</p> <p><b>Erosion</b> means the wearing away of a shoreline or side slopes through the operation of currents, boat wakes, tides or the natural activity of rainfall.</p> <p>-----</p>
<p>-----</p> <p><b>Hazardous Material</b> - any material which, because of its physical, chemical, or infectious characteristics, can pose a substantial or potential hazard to human health or safety or the environment when improperly used, treated, stored, transported, or disposed of. A hazardous material generally exhibits one of four characteristics: toxic, ignitable, corrosive, or reactive. Reactive means a material may react violently and/or produce hazardous vapors or gases when exposed to water. A hazardous material can be a liquid, a solid, or a gas, or can exist in different forms dependent on the temperature and pressure of its surroundings.</p> <p>-----</p>	<p><b>Hardening</b> means alteration of the shoreline from its natural state utilizing riprap material, interlocking brick systems, rock revetments, seawalls and bulkheads or similar structures.</p> <p>-----</p> <p><b>Hazardous material</b> means any material which is either a hazardous substance or hazardous waste as defined in this section. A hazardous material includes any solution, mixture or formulation containing such material.</p> <p>-----</p>
<p>-----</p> <p><b>Hazardous Substance</b> - can be used interchangeably with hazardous material.</p> <p>-----</p>	<p><b>Hazardous substance</b> means any material defined, listed or classified as a hazardous substance or toxic substance according to any of the following state or federal codes or regulations:</p> <p>-----</p>

	<p>(1) F.A.C. ch.38F-41 (the Florida Substance List); or</p> <p>(2) Title 40 of the Code of Federal Regulations part 302.4 (Designation of Hazardous Substances).</p>
<p><b>Hazardous Waste</b> - hazardous materials which have outlived their originally intended purpose, and are ready to be disposed of, recycled, regenerated, or otherwise treated or altered.</p>	<p><b>Hazardous waste</b> means any material defined, listed or classified as a hazardous waste according to the following state or federal codes or regulations:</p> <p>(1) Title 40 of the Code of Federal Regulations part 261 (Identification and Listing of Hazardous Substances); or</p> <p>(2) F.A.C. ch.17-30 (Hazardous Waste).</p>
<p><b>Impervious Surface Area</b> - the aerial extent of any material that prevents or resists penetration by fluids and absorption of stormwater into the ground.</p>	<p><b>Impervious surface</b> means a surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. This shall include but not be limited to semi-impervious surfaces such as compacted clay, as well as most surfaced areas, roofs, sidewalks and other similar structures.</p>
<p><b>Indian River Lagoon</b> - the area including the Indian River, the Banana River, Sykes Creek, and Newfound Harbor. Unless specifically excluded, the Indian River Lagoon shall also include the tributaries of these waters. The terms Indian River Lagoon system and Indian River Lagoon may be used interchangeably.</p> <p><b>Indian River Lagoon System</b> - see Indian River Lagoon.</p>	<p><b>Indian River lagoon system</b> includes the Indian River, the Banana River, Mosquito Lagoon, Newfound Harbor and Sykes Creek, and their tributaries.</p>
	<p><b>Mangrove</b> means any specimen, or any portion of any specimen, living or dead, of the species <i>Avicennia germinans</i> (black mangrove), <i>Laguncularia racemosa</i> (white mangrove), <i>Rhizophora mangle</i> (red mangrove) or <i>Conocarpus erectus</i> (buttonwood).</p>

	<p><b>Marina</b> means a facility or structure which provides mooring, docking, anchorage, fueling, repairs or other services for watercraft. Docks accessory to single-family uses are exempt from this definition.</p> <ol style="list-style-type: none"> <li>1. <i>Residential/recreational marina</i> means community docks serving subdivisions, condominiums or private organizations having three to 30 slips, inclusive. No fueling, wastewater pumpout or repair facilities are associated with these marinas.</li> <li>2. <i>Commercial/recreational marina</i> means facilities having greater than 30 slips or any marina which has fueling, wastewater pumpout or repair facilities serving recreational interests.</li> <li>3. <i>Commercial/industrial marina</i> means facilities serving largely commercial interests. Fueling facilities, repair, wastewater pumpout facilities and commercial sale of fish, including loading and shipping activities, are permitted within this category.</li> </ol> <hr/> <p><b>Minor structures</b> means non-habitable structures such as storage sheds, pump houses and gazebos, and which do not exceed 400 square feet in total area.</p> <hr/>
<hr/> <p><b>Mitigation</b> - methods used to alleviate or lessen the impact of development.</p> <hr/>	<hr/> <p><b>Mitigation</b> means restoration, reclamation or compensation for manmade or man-induced environmental damage or adverse conditions. All mitigations for environmental impacts shall be reviewed and approved by the natural resources management division as subject to section 62-3662.</p> <hr/>
<hr/> <p><b>Native Vegetation</b> - plant species that naturally occur in and are indigenous to a specified geographic area.</p>	<hr/> <p><b>Native vegetation</b> means vegetation originating, found or usually occurring within a particular region, area, climate or ecosystem. Native vegetation shall not include non-native, noxious or nuisance species such as Brazilian pepper (<i>Schinus terebinthifolius</i>), Australian pine (<i>Casuarinaceae</i> spp.), <i>Melaleuca</i> (<i>Melaleuca</i> spp.) or other similarly recognized species. In addition, ornamental, landscape or typical crop vegetation, including sod and lawn grasses, shall not be included as native vegetation.</p>

***Outstanding Florida Waters*** - those water bodies afforded special protection and described within Rule 17-3.041, F.A.C. and designated under the authority of Chapter 403 of the Florida Statutes.

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***Outstanding Florida Waters*** means those water bodies afforded special protection and described within F.A.C. 17-3.041, and designated under the authority of F.S. ch. 403.

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***Overriding public benefit*** means the result of a development action by a private property owner that substantially preserves, restores or enhances those natural functions which define areas of critical concern, environmentally sensitive areas, shorelines or water bodies, identified by the county comprehensive plan, the natural resources management division or state or federal agencies. An overriding public benefit shall include but not be limited to proposals which preserve, restore or enhance floodplain, wetland, shoreline or prime aquifer recharge functions and provide for the dedication of associated lands to the county or other acceptable public entity or agency.

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***Petroleum*** means oil of any kind and in any form and derivatives thereof, to include but not be limited to crude petroleum or liquid products that are derived from crude petroleum by distillation, cracking, hydroforming or other petroleum refinery processes, including gasoline.

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***Public Interest*** means demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all demonstrable environmental, social, and economic costs of the proposed action. In determining the public interest in a request for use, sale, lease, or transfer of interest in sovereignty lands or severance of materials from sovereignty lands, the board shall consider the ultimate project and purpose to be served by said use, sale, lease, or transfer of lands or materials.

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***Reinforced rock revetment habitat*** means an approved bulkhead or seawall established between existing seawalls on each immediately

	<p>adjacent shoreline, with a required rock revetment adjoining the structure on the seaward (waterward) side, designed to allow for aquatic habitat and additional shoreline benefits.</p> <p>-----</p> <p><b>Release</b> means any sudden or gradual spilling, leaking, pumping, pouring, emitting, emptying, discharging, injection, escaping, leaching, dumping or disposing of substances or wastes, including the abandonment or discarding of barrels, containers and other receptacles containing any substances or wastes, into the environment, in such a manner as to endanger the public health, safety, aesthetics or welfare or the environment, or in violation of any federal, state or local law, rule or regulation.</p> <p>-----</p> <p><b>Riprap</b> means any shoreline hardening, revetment or structural alteration utilizing rock, concrete or other similar material, which alters the naturally occurring shoreline for the purpose of stabilization or erosion protection. Riprap shall not include bulkheads, seawalls or approved reinforced rock revetment habitats.</p> <p>-----</p> <p><b>Safe upland line</b> means a boundary line determined by the state department of natural resources (FDNR), bureau of survey and mapping, in consultation with the applicant. The safe upland line is normally located landward of either the mean or ordinary high-water line and is based upon the location of known or approximated mean high-water lines, ordinary high-water lines and mature upland vegetative communities, whichever is applicable.</p> <p>-----</p>
<p>-----</p> <p><b>Seawall</b> means a vertical structure built along a portion of a coast, retaining earth against its landward face and designed to prevent erosion and other damage by wave action.</p> <p>-----</p> <p><b>Shoreline Protection Buffer</b> - a setback established from the mean or ordinary high water line or safe upland line whichever the applicant</p>	<p>-----</p> <p><b>Seawall.</b> See <i>Bulkhead</i>.</p> <p>-----</p> <p><b>Shoreline protection buffer</b> means the protected area adjacent to and landward of the surface waters of the county as established by this</p>

chooses. Within the shoreline protection buffer, passive recreation, hunting, fish and wildlife management open space, nature trails and limited amounts and types of shoreline access facilities shall be allowed. The amounts and types of development allowed within the shoreline protection buffer and other development restrictions are found in Conservation Element Policies 3.3, 3.4, and 3.5.

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**Structure** - anything constructed or erected, the use of which requires rigid location on the ground or attachment to something having a permanent location on the ground.

division. On nonbulkheaded lots, the waterward extent of the shoreline protection buffer shall be the mean high-water line or the safe upland line, as agreed upon by the applicant. On bulkheaded lots, the waterward extension of the shoreline protection buffer shall be the established or existing bulkhead line.

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**Structure** means anything constructed or erected, the use of which requires rigid location on the ground or attachment to something having a permanent location on the ground, including but not limited to supporting walls, signs, covered screened enclosures and any other covered area; provided, however, neither a fence, a permitted stormwater management system nor an elevated boardwalk shall be considered a structure for the purposes of this division.

**DEFINITIONS FROM COMPREHENSIVE PLAN THAT MAY BE USEFUL**

<b>General</b>	<b>Manatee Protection Plan (MPP) Specific</b>
<p><b>Channel</b> means a marked navigation channel, unless otherwise described or designated, and is not intended to mean an access or side channel unless otherwise designated for the purpose of regulation.</p> <p>-----</p> <p><b>Coastal Zone</b> - the area within the watershed of the Atlantic Ocean and the Indian River Lagoon system. It also includes the barrier islands, Merritt Island (a remnant barrier island) and that portion of the mainland which drains into the lagoon.</p> <p>-----</p> <p><b>Development</b> - the term "development" means the carrying out of any building activity, the renovation, rehabilitation or remodeling of any structure, the alteration of land, the dividing of land into three or more parcels, or the establishment of flag lots or access easements. The following activities or uses shall be taken for purposes of this Plan to involve "development" as defined:</p> <ol style="list-style-type: none"> <li>1. A reconstruction or alteration of the size of a structure on the land.</li> <li>2. A change in the intensity of use of land, such as the increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land.</li> <li>3. Alteration of a shore or bank of a seacoast, river, stream, lake, pond, or canal, including any "coastal construction" as defined in S.161.021, Florida Statutes.</li> </ol>	<p><b>Boating Facility</b> means a facility where boats are moored, or launched such as a dock, pier, marina, dry storage facility with launching capability, or a boat ramp which is contiguous to the waters of the state of Florida. For the purposes of this rule, boating facility shall be synonymous with marine facilities.</p> <p>-----</p> <p><b>Boating Facility Siting Plan</b> means a county-wide or locally based siting plan for determining the preferred locations for boating facility development based on an evaluation of water quality, flushing characteristics, natural resources, manatee protection needs, and recreation and economic demands.</p> <p>-----</p> <p><b>Boat Facility Siting Zones</b></p> <ul style="list-style-type: none"> <li>• <b>Zone A</b> -The Banana River basin south to Mathers Bridge, the Sykes Creek/Newfound Harbor basin north to the Lambert Drive bridge; that portion of the Indian River Lagoon between the NASA Causeway and the S.R. 528 Causeway; Mullet Creek (Sections 26, 35 &amp;36 of Township 29, Range 38); and that portion of the following tributaries lying west of the existing railroad bridges: St. Sebastian River, Turkey Creek, Crane Creek, and the Eau Gallie River.</li> <li>• <b>Zone B</b> - The Barge Canal from the west shoreline of Merritt Island to the east shoreline of Merritt Island.</li> <li>• <b>Zone C</b> - The Port Canaveral Harbor lying east of the S.R. 401 Bridge.</li> </ul>

4. Commencement of drilling, except to obtain soil samples; mining; or excavating on a parcel of land.
5. Demolition of a structure
6. Clearing of land as an adjunct of construction.
7. Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

**Dredging** means mechanical or other methods used to remove sovereign submerged land.

**Environmentally Sound** - not contrary to the continued viability of the natural environment or detrimental to public health, safety, and welfare.

**Estuarine Floodplain** - the area susceptible to being inundated by waters from the Indian River Lagoon System from a given storm event.

**Fishery Industry** - an industry which produces, harvests, processes, or markets food and other products from ocean or brackish waters.

**General Contour of the Shoreline** means a line defined as the most waterward of the outside edge of emergent aquatic vegetation, if present, or a line of Mean Low Water as defined in Chapter 177, Part II, Florida Statutes, as approximated on NOAA nautical charts. Waters lying landward of this line are to be included up to the shoreline, as defined under paragraph (14), above. Emergent aquatic vegetation shall include plants rooted in the ground that extend above the surface of the water.

**High Risk Vulnerability Zones** - those areas predicted to received sufficient flooding to require evacuation during a Category 1-2, or Category 3-5 storm, as determined by the East Central Florida Regional

- **Zone D** - The remainder of the County not under federal jurisdiction and not included in boat facility siting zones A, B, or C.

**Caution Zone** means an area where manatees frequently inhabit on a somewhat regular basis and motorboat operators are advised to use caution so as not to strike a manatee.

**Existing Boating Facilities** - For the purpose of the Brevard County Manatee Protection Policies as found in the Coastal Element, existing boating facilities shall be defined as those facilities which have all active and required permits or those facilities that were in operation up to ten (10) years prior to the date of the final adoption of the Plan (01/16/03). All existing boating facilities shall be allowed to continue with the existing use and may renovate according to permitting guidelines, provided there is no change in facility size, including no increase in the number of wet or dry slips, unless the facility meets the expansion criteria as provided in the Brevard County Manatee Protection Plan. Boating facilities are generally defined as those structures or operations where boats are moored or launched, such as a dock (excluding single-family), pier, marina, dry storage facility with launching capability, or a boat ramp, which is contiguous to the waters of the state of Florida. For the purpose of this plan, boating facility shall be synonymous with "marina facility."

**Existing Linear Shoreline** for the purpose of the Brevard County Manatee Protection Plan, means the high water line in tidally influenced areas and the ordinary high water line along waterways that are not tidally influenced. This definition shall not apply to shoreline artificially created through dredge or fill activities (such as boat basins or canals) after January 01, 1996. Such artificially created shoreline created after January 01, 1996 shall not be considered in the calculation of linear shoreline. Artificially created shoreline that was created prior to January 01, 1996 must have received the proper permitting authorization required

<p>Planning Council. Please refer to Map 7.</p> <hr/> <p><b>Hydrologic Basin</b> - the region or area that supplies a particular body of water or aquifer.</p> <hr/> <p><b>Hydroperiod</b> - a means of expressing the average timing of water retention or flows through a specified area.</p> <hr/> <p><b>Indian River Lagoon Program</b> - refers to the combined Indian River Lagoon Surface Water Improvements and Management Plan (SWIM) and National Estuary Programs.</p> <hr/> <p><b>Isolated Wetlands</b> - wetlands which are not directly connected to open water, but exhibit the other characteristics of wetlands.</p> <hr/> <p><b>Main Access Dock</b> means that walkway which connects a riparian owner's property to a terminal platform.</p> <hr/> <p><b>Maintenance Dredging</b> means mechanical or other methods used to remove sovereign submerged land in existing channels where navigation by vessels presently occurs. For the purpose of this rule, requests to dredge previously dredged areas that have regained natural characteristics due to lack of use, lack of upkeep, or other factors or requests to change the design specification of previously dredged areas shall not be considered as maintenance dredging but shall be considered new dredging.</p> <hr/> <p><b>Marina (general)</b> means all boating facilities with <math>\geq 3</math> wet and/or dry slips (consistent with current County definition). A marina is a facility or structure, which provides mooring, docking, anchorage, fueling repairs, launching, or other related services for watercraft. Private boat docks associated with single family dwellings are exempt from this category.</p> <ul style="list-style-type: none"> <li>• <b>Residential Marina</b> - Community docks serving subdivisions,</li> </ul>	<p>at the time of construction. Man-made drainage ditches (such as mosquito control, flood control ditches or any non-navigable waterway) shall not qualify as linear shoreline, regardless of their date of construction. Linear shoreline shall be calculated using survey quality aerial photographs or by accurate field survey. The calculation of linear shoreline is based upon contiguous shoreline that is owned or legally controlled by the applicant. Exception to include non-contiguous shoreline within the sphere of influence of the proposed project will be considered if the federal, state, and local permitting agencies agree that inclusion of that shoreline will not result in significant adverse impacts to manatee or manatee habitat.</p> <hr/> <p><b>Idle Speed</b> means the minimum speed that will maintain the steerageway of a motorboat.</p> <hr/> <p><b>Idle Speed Zone</b> means an area where vessels may not be operated at greater than Idle Speed, as defined in 62N-22.002(2), F.A.C.</p> <hr/> <p><b>Linear Shoreline</b> means the mean high water line in tidally influenced areas and the ordinary high water line along waterways that are not tidally influenced. This definition shall not apply to shorelines artificially created through dredge and fill activities (such as boat basins or canals) after October 24, 1989. Such artificially created shorelines created after October 24, 1989 must have received the proper permitting authorization required at that time. Man-made drainage ditches (such as mosquito control ditched) shall not qualify as linear shoreline regardless of their date of creation. Linear shoreline shall be calculated using survey quality aerial photographs or by field survey.</p> <hr/> <p><b>Manatee Habitat Features</b> The following manatee habitat features are to be applied in Boat Facility Planning Zone D and shall be determined using the map series and data update schedule identified in Appendix 10.</p> <p><b>A. Each of the following increases the number of habitat</b></p>
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condominiums, duplexes, or other multi-family developments with between and including three (3) and thirty (30) slips. No fueling, or repair facilities shall be associated with these marinas.

- **Commercial/Recreational Marina** - Facilities with greater than thirty (30) slips, or those facilities with less than thirty slips which have fueling facilities, and/or which include utilities and services available for the general public, or facilities which provide docking for vessels of private, non-residential usage and which are not associated with a subdivision, condominium, duplex or other multi-family development. Permitted uses may include dockage, fueling facilities, repairs, utilities, custom recreational boat building and wastewater pump-out facilities, commercial sales and handling of fish and farmed/harvested seafood, along with similar services.
- **Industrial Marina** - Facilities serving largely commercial interests, including commercial boat building, ship repairs or construction, and commercial seafood harvesting and processing. Permitted uses may include fueling facilities, repairs and construction, boat production, ship repairs up to 100 feet or 100 tons, wastewater pump-out facilities, utilities, and commercial sales of fish and farmed/harvested seafood.

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**Mean High Water Line** means the plane or local elevation of mean high water or high tides with the shore. Mean high water is the average height of the high waters over an approximate 19 year period (Section 18-2.003, F.A.C.)  
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**Minimize** - to reduce to the least quantity possible.  
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**Mooring** - a place or structure to which a vessel or aircraft can be moored.  
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**Mosquito Impoundment** - a body of water confined by a dam, dike,

**features by 1.**

1. Seagrass - 5% or more seagrass present on the proposed project site is considered significant.
2. Manatee Abundance - Level 1 = 10 or more manatees observed/overflight within a 5 mile radius equals 1 point. Level 2 = 25 or more manatees observed/overflight within 5 mile radius equals 2 points. If more than one survey falls within the 5 mile radius, the number of manatees observed will be counted for each survey, divided by the number of overflights and then the normalized values will be summed.
3. Significant Manatee Mortality - Level 1 = the number of watercraft mortality within a 5 mile radius, divided by the total number of watercraft mortalities in Brevard County. A value greater than 0.05 is considered significant and is equal to 1 point. Level 2 = the number of watercraft mortalities within a 5 mile radius, divided by the total watercraft mortalities in Brevard in the last 5 years. A value greater than 0.10 is significant and is equal to 2 points.
4. The proposed site is in a Class II Waterbody, Outstanding Florida Waterway (OFW), or an Aquatic Preserve

**B. Each of the following reduces the number of habitat features by 1.**

1. The proposed site is presently located in a year-round “Slow Speed” or “Idle speed” manatee zone as authorized by the Florida Manatee Sanctuary Act Chapter 62N-22 F.A.C., other Federal designation or local ordinance.
2. The proposed site is within 3 miles of Sebastian Inlet.

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**Manatee Protection Plan** means a comprehensive plan developed adopted and implemented by a county, local government, or port authority (pursuant to Chapter 315 F.S.), and approved by the Department of Environmental protection for the purpose of reducing manatee mortalities, protecting manatee habitat, promoting boating

floodgate or other barrier for the purpose of controlling the reproduction of salt marsh mosquitoes.

**Natural Resources** - the actual and potential forms of wealth supplied by nature that possess a value and function within the natural systems and which are essential for the perpetuation of life.

**Natural System** - the complex network of natural resources in which no resource is capable of functioning independently of the other resources in the network.

**Natural Water Body** - occurring normally; a water system occurring in conformity with the ordinary course of nature; not originally created through man's activities, not artificial. May include those normally occurring water bodies which have been dredged or channelized.

**Non-point Source** - stormwater runoff which is not discharged through a pipe or other identified, specific conveyance mechanism.

**Offshore Emergent Vegetation** - aquatic or marine plants whose canopy continuously or frequently extends above water level.

**Onsite Sewage Disposal System** - any domestic sewage treatment and disposal facility, as defined by Florida Administrative Code Section 10D-6.42(29), including standard subsurface systems, gray-water systems, laundry wastewater systems, alternative systems or experimental systems, installed or proposed to be installed on land of the owner or on the land to which the owner of owners have the legal right to install a system.

**Ordinary High Water Line** means the boundary between uplands and submerged lands beneath non-tidal navigable natural water bodies (Section 18-2.003, F.A.C.).

safety, and increasing public awareness.

**Maximum 25MPH Speed Zone** means a controlled area within which a boat's speed made good over the bottom measured in statute miles, shall not exceed 25 miles per hour. Although it is the intention of the Department to allow those vessels capable of attaining a planing configuration at 25 MPH to do so, this speed limit shall not be construed as authorizing any vessel to travel an unsafe speed, in violation of 33 U.S.C. s. 2006, as adopted pursuant to subsection 327.33(3), F.S., by reason of:

- a) An elevated bow which restricts visibility, and/or
- b) An excessive wake which unreasonably or unnecessarily endangers other vessels or natural resources of the state.

**Maximum 30 MPH Speed Zone** means a controlled area within which a boat's speed made good over the bottom measured in statute miles, shall not exceed 30 miles per hour. Although it is the intention of the Department to allow those vessels capable of attaining a planing configuration at 30 MPH to do so, this speed limit shall not be construed as authorizing any vessel to travel an unsafe speed, in violation of 33 U.S.C. s. 2006, as adopted pursuant to subsection 327.33(3), F.S., by reason of:

- a) An elevated bow which restricts visibility, and/or
- b) An excessive wake which unreasonably or unnecessarily endangers other vessels or natural resources of the state.

**Maximum 35 MPH Speed Zone** means a controlled area within which a boat's speed made good over the bottom measured in statute miles, shall not exceed 35 miles per hour.

**Motorboats Prohibited Zone** means an area in which it is posted or it is apparent that because of the density of manatees or the condition of the area, motorboat activity shall be hazardous to the manatees and shall be

**Passive Recreation** - recreation uses are considered passive where very minimum alteration of vegetation, topography or other native feature is necessary, for the enjoyment of the site amenities. Activities which are considered passive include, but are not limited to, hiking, bicycling, nature observation, camping, non-motorized boating, rowing, swimming, picnicking, archaeological or historic preservation.

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**Point Source** - a source, such as a pipe, from which stormwater or wastewater is discharged.

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**Private Residential Single-family Dock** means a dock, which is used for private, recreational or leisure purposes for a single family residence, cottage or other such single dwelling unit.

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**Public Access** - the ability of the public to physically reach, enter or use public sites, facilities and activities and shores.

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**Public Interest** means demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all demonstrable environmental, social, and economic costs of the proposed action. In determining the public interest in a request for use, sale, lease, or transfer of interest in sovereignty lands or severance of materials from sovereignty lands, the board shall consider the ultimate project and purpose to be served by said use, sale, lease, or transfer of lands or materials.

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**Public Navigation Project** means a project primarily for the purpose of navigation which-is authorized and funded, by the United States Congress or by port authorities as defined in Section 315.02(2), F.S.

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**Public Services** - the programs and employees determined necessary by

prohibited.

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**No Entry Zone** means a limited area of critical importance as a safe haven for manatees to rest, feed, reproduce, give birth, nurse, or otherwise habituate undisturbed by human activity. No vessel of any kind, whether power-driven or non-motorized, as referenced in Section 1(b), Article VII, of the Florida Constitution, including every description of watercraft, barge, and airboat, shall be permitted within the designated area. No other vessel or floatation device, including but not limited to a seaplane, sailboard, surfboard, raft, or any other water toy or other like object intended for or capable of use as a means of transportation of the water, shall be permitted within the designated area, nor shall other human activities including but not limited to diving, snorkeling, swimming, fishing (except by pole from an adjacent bank or bridge), and the introduction by persons of food or other objects, that involves disturbance of these waters or the manatees so inhabiting them, be permitted within such a designated area, except as provided under 62N-22.003(5), F.A.C.

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**One to One Hundred (1:100)** means one powerboat slip for every one hundred feet of contiguous linear shoreline that is owned or controlled by the applicant. Exceptions include non-contiguous shoreline within the sphere of influence of the proposed project will be considered by the Department if it can be demonstrated that inclusion of that shoreline will no result in significant adverse impacts to manatees or manatee habitat. For the purpose of calculating powerboat slips, linear shoreline footage will be rounded up to the nearest increment of 100.

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**Percent (%) Seagrass Coverage** - Seagrass coverage shall be determined on a project site during the months of May through October. The percent coverage of seagrass is determined by counting short shoots in a one square meter (1m<sup>2</sup>) plot frame that has been evenly subdivided into one hundred square cells. The plot is placed every five meters (5m) along a

local government to provide adequate operation and maintenance of public systems and facilities.

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**Public Utilities** means those services, provided by persons requested by the Public Service Commission, or which are provided by rural cooperatives, municipalities, or other governmental agencies, including electricity, telephone, public water and wastewater services, and structures necessary for the provision of these, services.  
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**Recreation** - the pursuit of leisure time activities occurring in an indoor or outdoor setting.  
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**Redevelopment** - activities or projects in an area to eliminate and prevent the development or spread of slums and blight, or to provide affordable housing, whether for rent or sale, to low and moderate income households; or to generate renewed economic activity and development.  
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**Regulatory Discharge** - discharges of water from canals in order to regulate the water level of lands within the drainage basin of the canal.  
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**Retention (surface water)** - a drainage technique that retards or detains runoff or discharge to enhance groundwater recharge and reduce erosion and surface water pollution, such as a retention basin, parking lot storage, porous pavement, dry well, or any combination thereof.  
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**Rights of Boaters, Fishermen, and Waterskiers (as they apply under 370.12(2)(j), F.S.)** means that boaters, fisherpersons and waterskiers have the right to use the waters of the State of Florida for recreational or commercial purposes in a manner consistent with all applicable federal, state and local laws and regulations. Such laws and regulations include, but are not limited to, those governing the operation and safety of vessels on the water to promote public safety, environmental/natural resource protection, and/or responsible use of the waters of the State.

minimum of three (3) transect lines perpendicular to the shoreline and extending to the end of the project site. The transect lines are to be evenly spaced along the project site shoreline with one transect located at the middle of the site and one at each end of the project site. Transects shall be no greater than fifty meters (50m) apart. If the project site is greater than one hundred meters (100m) in width, additional transects shall be added at a rate of one for every fifty meters (50m) of shoreline. If ten of the sample plot frames contain ten percent (10%) or more seagrass, then the final coverage for the site is greater than or equal to ten percent (10%). The project site is defined as that area within which boats will be docked. If the project site and the shoreline are not contiguous then the first plot frame shall be placed at the intersection of the project site and the transect line.  
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**Planing** means riding on or near the water's surface as a result of the hydrodynamic forces on a vessel's hull, sponsons, foils or other surfaces. A vessel is considered "on plane" when it is being operated at or above the speed necessary to keep the vessel planing.  
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**Powerboat** Any vessel which is primarily propelled or powered by an internal combustion engine and which is used or is capable of being used as a means of navigation or transportation on water. Sailboats with auxiliary engines are not considered powerboats for the purpose of this plan. For the purpose of this plan powerboat and motorboat are synonymous.  
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**Seagrass Coverage (%)** - Seagrass coverage shall be determined on a project site during the months of May through October. The percent coverage of seagrass is determined by counting short shoots in a one square meter (1m<sup>2</sup>) plot frame that has been evenly subdivided into one hundred square cells. The plot is placed every five meters (5m) along a minimum of three (3) transect lines perpendicular to the shoreline and extending to the end of the project site. The transect lines are to be

**Runoff** - (aka surface runoff) the portion of precipitation or irrigation on an area that flows across the ground surface as sheet or stream flow to natural or manmade catchment basins without returning to the atmosphere nor infiltrating the soil to recharge groundwater.

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**Shoreline** means the point where the water meets the land at any point in time.

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**Solid Waste** - sludge from a waste treatment works, water supply treatment plant, or air pollution control facility; or, garbage, rubbish, refuse, derelict vessels, junk vehicles, and other discarded material, including solid, liquid, semisolid, and contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

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**Sovereignty Lands** means those lands including, but not limited to: tidal lands, islands, sandbars, shallow banks, and lands waterward of the ordinary or mean high water line, to which the State of Florida acquired title on March 3, 1845, by virtue of statehood, and of which it has not since divested its title interest. For the purposes of this rule sovereignty lands shall include all submerged lands within the boundaries of the preserve, title to which is held by the Board.

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**Spoil Islands** - dirt, rock, or waste material that has been removed from its prior location, often the bottoms of waterways, and deposited as emergent mounds.

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**Surface Water** - water on the earth's surface exposed to the atmosphere as rivers, lakes, streams, and oceans.

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**Terminal Platform** means that part of a dock or pier, including finger piers, that is connected to the access walkway, is located at the terminus

evenly spaced along the project site shoreline with one transect located at the middle of the site and one at each end of the project site. Transects shall be no greater than fifty meters (50m) apart. If the project site is greater than one hundred meters (100m) in width, additional transects shall be added at a rate of one for every fifty meters (50m) of shoreline. If ten of the sample plot frames contain ten percent (10%) or more seagrass, then the final coverage for the site is greater than or equal to ten percent (10%). The project site is defined as that area within which boats will be docked. If the project site and the shoreline are not contiguous then the first plot frame shall be placed at the intersection of the project site and the transect line.

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**Short Shoot** - The area between the rhizome (root) and the blade of a seagrass.

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**Significant Adverse Impacts** means that within the sphere of influence of a proposed boating facility, death or injury to manatees or destruction of manatee habitat can be reasonably expected to occur as a result of the construction, expansion, or increase in powerboat densities and activities associated with boating facility.

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**Significant Manatee Habitat Features** - each of the following five habitat features is considered significant as described.

1. Seagrass - 5% or more seagrass present on the proposed project site is considered significant.
2. Manatee Abundance - five (5) or more observations/overflight within a 5 mile radius of the site. If more than one survey falls within the 5-mile radius, the number of manatees observed will be counted for each survey, divided by the number of overflights and then the normalized values will be summed.
3. Significant Manatee Mortality - the number of watercraft mortality within a 5 mile radius, divided by the total number of watercraft mortalities in Brevard County, A value of 0.03 or

of the facility, and is designed, to secure and load or unload a vessel or conduct other water dependent activities.

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**Tributary** - a natural stream or other natural water body that flows, falls or empties into another water body. This definition is not to include non-point sources.

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**Turbidity** - a thick, hazy condition of air or water due to the presence of suspended particulates or other pollutants.

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**Turning Basin** means the area of sovereign submerged land which is required to maneuver a vessel into or out of a facility.

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**Water Dependent Uses** - activities which can be carried out only on, in or adjacent to water areas because the use requires access to the water body for: waterborne transportation including ports and marinas; recreation; electrical generating facilities; or water supply.

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**Water Enhanced Uses** - activities which are not water dependent but whose value is increased due to location along the water. This increased value is not related to the increased property values of water-front property. Water enhanced uses include restaurants, some upland recreational areas and tourist attractions.

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**Water Quality** - a measure of the levels of pollutants occurring within a specified area of a waterbody.

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**Water Related Uses** - activities which are not directly dependent upon access to a water body, but which provide goods and services that are directly associated with water-dependent or waterway uses. These land uses include bait and tackle shops, and boat sales and rentals.

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**Watershed** - the region or area of land that drains water, sediment, and

larger is considered significant.

4. Manatee Freshwater Source/Calving/Cavorting/Feeding/Resting Area is within a 1/2 mile of the proposed site.
5. The proposed site is in a Class II Waterbody, Outstanding Florida Waterway (OFW), or an Aquatic Preserve.

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**Slip, Wet Slip, or Dry Slip** means an area within a boating facility which is intended for the mooring storage of a vessel.

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**Slow Speed** means the speed at which a vessel proceeds when it is fully off plane and completely settled into the water. Vessels shall not be operated a speed that creates an excessive wake or other hazardous condition, which is unreasonably or unnecessarily, endangers other vessels under the existing circumstances. This requiring level of protection for the safety of vessels and vessel operators is also intended to provide adequate protection for manatees and is therefore adopted because of its familiarity to vessel operators. Due to the different speeds at which vessels of different sizes and configurations may travel while in compliance with this definition, there is no specific numerical speed assigned to Slow Speed.

A vessel is not proceeding at Slow Speed if it is:

1. On a plane;
2. in the process of coming off plane and settling into the water or coming up onto plane;
3. creating an excessive wake or other hazardous condition which unreasonably or unnecessarily endangers other vessels.

A vessel is proceeding at Slow Speed if it is fully off plane and completely settled into the water and not creating an excessive wake or other hazardous condition which unreasonably or unnecessarily endangers other vessels

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**Slow Speed Zone** means an area where vessels may not be operated at greater than Slow Speed, as defined above and in 62N-22.002(7), F.A.C.

<p>dissolved materials to a common outlet or body of water.</p> <hr/> <p><b><i>Water's Edge Wetlands</i></b> - wetlands which are a transitional area between dry land and open water.</p> <hr/> <p><b><i>Wildlife Habitat</i></b> - An area that provides an animal with food, water, and shelter and that also provides the spatial requirements that facilitate breeding, foraging, roosting, and resting.</p>	<p><b><i>Wake</i></b> means all change in the vertical height of the water's surface caused by the passage of a vessel including, but not limited to, a vessel's bow wave, stern wave, and propeller wash.</p>
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<p style="text-align: center;"><b>COMPREHENSIVE PLAN CONSERVATION ELEMENT CHAPTER 1, OBJECTIVE 3 SURFACE WATER</b></p>	<p style="text-align: center;"><b>SURFACE WATER PROTECTION ORDINANCE</b></p>
<p style="text-align: center;"><b>NOTE: Comprehensive Plan policies have been arranged so that they are adjacent to coinciding Ordinance language. Policies that have not been codified are included last.</b></p>	
<p>-----</p> <p><b>Objective 3</b></p> <p>Improve the quality of surface waters within Brevard County and protect and enhance the natural functions of these waters.</p>	<p><b>Sec. 62-3662. Penalty; additional remedies; restoration of disturbed areas.</b></p> <p>Penalties for violations of this division shall be as specified in F.S. § 125.69 or F.S. ch.162, or as provided in this Code. In addition, mitigation or restoration of the area may be required in order to restore disturbed areas to the previously existing state prior to the unpermitted disturbance, or to allow for off-site mitigation, as applicable. The director of the natural resources management division shall be responsible for reviewing and approving all restoration or mitigation plans, which shall be subject to approval by the board of county commissioners. 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 Code by injunctive relief, or by any other means provided by law.</p> <p>-----</p> <p><b>Sec. 62-3663. Purpose and intent.</b></p> <p>It is the purpose and intent of this division to improve the quality of surface waters within the county, and protect and enhance the natural functions of these waters. It is also the intent of this division to apply the standards set out in this division for development in and adjacent to class I, II and III waters, Outstanding Florida Waters and aquatic preserves.</p>

**Sec. 62-3664. Administration.**

The director of the natural resources management division, or his designee, shall be responsible for the general administration of this division of this article. The director shall be responsible for all reviews of all applications, in addition to providing the administrative decisions which pertain to this division. Upon request, the director shall provide written confirmation of any decision or findings relating to applications or reviews made pursuant to this division and letters of interpretation or intent.

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**Sec. 62-3665. Appeals.**

(a) The county local planning agency shall hear appeals relating to any administrative decision or determination concerning implementation or application of the provisions of this division, and shall submit recommendations to the board of county commissioners for approval or denial.

(b) Such appeals shall be taken within 30 days from the date of rendition of such decisions or determination by filing with the director from which the appeal is taken and with the local planning agency a notice of appeal, specifying the grounds thereof. The director from whom the appeal is taken shall forthwith transmit to the local planning agency all the papers constituting the records upon which the action appealed from was taken. Appeal procedures shall be the same procedures as specified in section 62-507.

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**Sec. 62-3666. General provisions.**

The following provisions shall apply to all class I, II and III waters within the county:

**Policy 3.6**

Vertical seawalls and bulkheads shall be prohibited along the Indian River Lagoon system, excluding man-made canals. Hardening of the estuarine shoreline shall be allowed only when erosion is causing a serious (significant) threat to life or property. Rip-rap material, pervious interlocking brick systems, filter mats and other similar stabilization methods combined with vegetation shall be used in lieu of vertical seawalls and bulkheads when hardening of the shoreline is approved.

(1) New seawalls and bulkheads shall be prohibited along the Indian River lagoon system, except along existing canals in residential neighborhoods adjoining class III waters. Applications for permits for any seawall or bulkhead on canals adjoining class III waters shall be submitted in writing to the county office of natural resources management for consideration. All applications must meet all of the following minimum criteria:

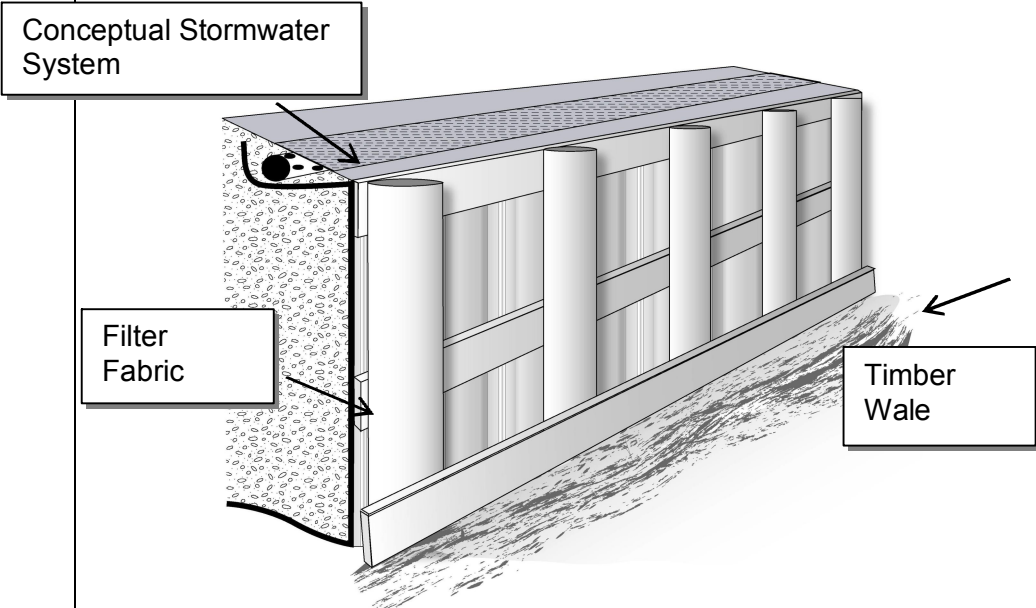
- a. The permitted activity shall not be immediately adjacent to or contain a shoreline within state department of environmental protection (FDEP) class I waters, FDEP class II waters, FDEP class III shellfishing areas, FDNP aquatic preserves or Outstanding Florida Waters;
- b. On those lots where new bulkheads may be permitted, the establishment of the bulkhead shall not increase the waterward extension of the existing shoreline except to locate parallel and in line with adjacent existing and legally permitted bulkheads. New bulkheads shall also meet the avoidance, minimization and mitigation standards contained within the wetlands protection regulations (Article X, Division 4, Brevard County Code).
- c. The applicant shall design and install the permitted bulkhead system as to provide reasonable assurance that the erosion of the abutting properties will not be accelerated by the establishment of the applicant's bulkhead.
- d. On those lots where replacement bulkheads may be permitted and the existing bulkhead cannot be safely removed without causing structural damage to the existing residence, the waterward extension of the new bulkhead shall meet the least waterward extension of these criteria:

- (1) no more than twelve (12) inches from the existing bulkhead; or
- (2) shall be located parallel and in line with adjacent existing and legally permitted bulkheads; or
- (3) shall be located no more than twelve (12) inches waterward of the lot's recorded property line.

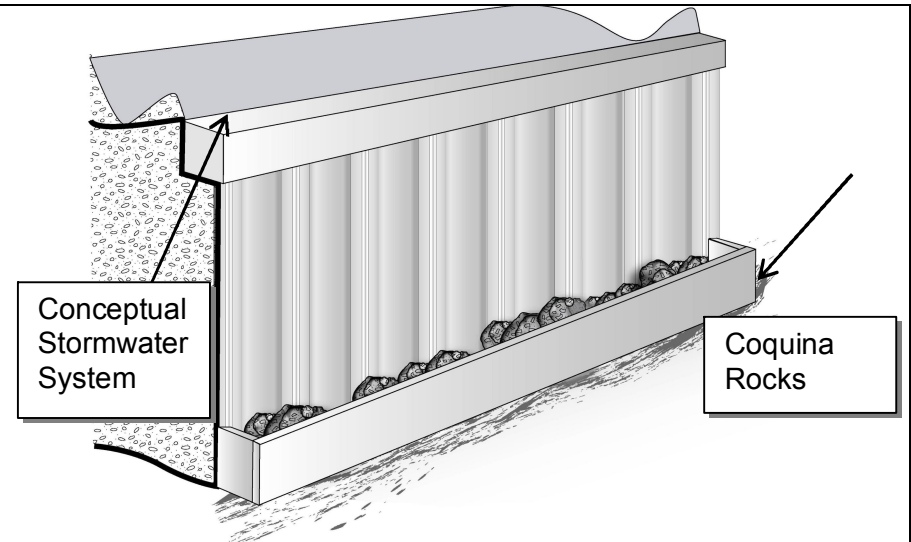
e. In addition to the design standards in Chapter 22-Article VII, Seawall Construction, Brevard County Code, the proposed bulkhead design shall meet or exceed the following minimum standards:

- (1) Retention of the first one inch of runoff from all surfaces that drain to the property's shoreline. Stormwater calculations and designs shall be prepared by a professional engineer registered in the State of Florida and submitted with the permit application.
- (2) Increased potential for improving water quality and habitat diversity. This criterion shall be presumed to have been met by the installation of a continuous timber wale two inches by eight inches along the entire bulkhead on the waterward side of the pilings and located at or very near the existing bottom of the canal. See Figure A for examples of these designs.
- (3) Alternative bulkhead designs may be approved by the natural resources management office when such designs clearly exceed the minimum standards established in sections 62-3666(1)(d)(1) and (2).

**Figure A. Design Concepts for Canal Bulkheads**



**Bulkhead with pilings and perforated pipe/pervious drainage area.**



**Sheet bulkhead without pilings and swale drainage.**

(2) For shorelines not within the criterion of subsection (1) of this section, hardening of the shoreline shall be allowed only when the applicant can demonstrate that erosion is causing a significant shoreline loss as recognized by the natural resources management division, pursuant to subsection (4) of this section. All requests for shoreline hardening must be submitted to and approved by the natural resources management division prior to any hardening activities. Riprap material, pervious interlocking brick systems, filter mats and other similar stabilization methods, combined with vegetation, shall be used in lieu of seawalls and bulkheads when hardening of the shoreline is approved under this subsection. For those properties on the Indian River lagoon immediately between two adjacent existing seawalls, the natural resources management division may permit reinforced rock revetment habitats, provided all additional required permits and reviews from appropriate agencies have been obtained. All permitted structures shall be subject to the additional requirements of this division. When feasible, the

seawall portion of the structure shall be located above the mean high-water line.

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(3) For any proposed shoreline hardening, the natural resources management division must be provided with plans, test results or other professionally accepted information that affirmatively demonstrates that any proposed shoreline hardening project will not:

- a. Adversely impact water quality.
  - b. Result in the loss of shoreline and aquatic vegetation.
  - c. Adversely affect adjacent properties.
  - d. Adversely affect biological communities.
  - e. Increase the waterward extension of the existing shoreline, except as provided in subsection (1)e of this section.
  - f. Adversely affect the flow of water or create a navigational hazard.
- 

(4) Utilizing the following minimum criteria, the natural resources management division shall assess each estuarine or riverine shoreline under application for shoreline hardening for significant shoreline loss. Shorelines must exhibit one or more of the following criteria to qualify for local approval of stabilization alternatives other than the establishment of native vegetation:

- a. Clear and convincing evidence of increasing destructive loss of existing established native vegetation due to wave, wake or stormwater activity;

- b. Clear and convincing evidence of properly designed, permitted and installed alternatives to shoreline hardening which have failed to stabilize the shoreline, such as but not limited to the establishment of native vegetation, gently sloping or tiered shorelines, or other similar alternatives;
- c. Clear and convincing evidence of lawfully existing permanent structures which face imminent threat of destruction from continued shoreline loss; or
- d. Clear and convincing evidence of continuous historical accelerated shoreline loss greater than one foot per year, for a period of not less than ten consecutive years.

Clear and convincing evidence shall be the responsibility of the applicant or his authorized agent. The criteria set out in this subsection shall be the minimum required. All applicants shall be subject to and responsible for obtaining all additional necessary approvals or permits, prior to local approval. State or federal approval of shoreline hardening shall not exempt the applicant from local approval or denial of a project. All appeals of decisions of the natural resources management division shall be subject to the provisions of section 62-3665.

**Policy 3.3.E (Class II)**

Prohibit channelization, dredging and filling, and impoundment of natural waters of the State unless the activity is clearly in the public interest and does not adversely impact water quality, natural habitat and adjacent shoreline uses. Dredging shall not be permitted in or connected to Class II Waters, Outstanding Florida Waters (OFWs), Aquatic Preserves, areas that contain ten percent (10%) seagrass or more, and conditionally approved shellfish harvesting waters unless the activity is a federal navigation project, in the public interest, such as approved

(5) New navigation canals connected to the Indian River lagoon system are not permitted. Existing ditches, drainage rights-of-way, drainage easements and stormwater facilities which connect to the Indian River lagoon system shall not be widened or deepened to accommodate boat traffic. New boat docks, boathouses and other related structures, or the expansion of these existing structures, shall not be allowed or permitted within or adjacent to existing ditches, drainage rights-of-way, drainage easements or stormwater facilities which connect to the Indian River lagoon system. Existing ditches, drainage rights-of-way, drainage

maintenance dredging of existing public or private navigational channels, or where dredging may improve water quality by removing accumulated silt or improving circulation, or for maintenance of existing structures and utility structures and utility crossings, or for shoreline hardening as allowed by this element.

**Policy 3.7**

New man-made canals connected to the Indian River Lagoon system are prohibited. The expansion (widening and/or deepening) of existing ditches, drainage right-of-ways, drainage easements and stormwater facilities connected to unless it is in the public interest, as defined in the glossary, and does not adversely impact-the Indian River Lagoon to accommodate boat traffic shall be prohibited unless the activity is an approved maintenance dredging on existing public navigational channels, private or public canals, or an existing marina's maintenance dredging.

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easements or stormwater facilities which connect to the Indian River lagoon system that have been specifically designated for boat traffic on subdivision plats or site plans, or which have been historically and effectively utilized for buoyant vessel navigation prior to the effective date of the ordinance from which this division is derived, shall be exempt from this subsection.

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(6) Marina siting criteria shall be as follows:

- a. Development of new residential/recreational, commercial/recreational and commercial/industrial marinas shall be subject to the following conditions:
  - 1. Marinas shall not be located in approved or conditionally approved shellfish harvesting waters or class II waters.
  - 2. Commercial/recreational and commercial/industrial marinas shall not be located in Aquatic Preserves or Outstanding Florida Waters.
  - 3. All marinas shall affirmatively demonstrate compliance with Policy 9.9 of the Conservation element and Objective 5 and subsequent policies of the Coastal Management element of the Brevard County Comprehensive Plan, as amended. The affirmation shall include, but not be limited to, siting, habitat,

	<p>and water quality criteria.</p> <p>b. Redevelopment or expansion of existing residential/recreational, commercial/recreational and commercial/industrial marinas shall affirmatively demonstrate compliance with Policy 9.9 of the Conservation element and Objective 5 and subsequent policies of the Coastal Management element of the Brevard County Comprehensive Plan, as amended. The affirmation shall include, but not be limited to, siting, habitat, and water quality criteria.</p>
<p><b>Policy 3.8</b></p> <p>Septic tanks and drain fields shall be set back at least one hundred (100) feet from the shoreline of the Indian River Lagoon. In those cases where there is insufficient lot depth, except where a variance has been granted by the state, the septic tank and drainfield shall be placed the maximum distance possible from the edge of the lagoon, a minimum of seventy-five (75) feet.</p>	<p>(7) For lots platted or established by deed on the official record books of the county after April 3, 1989, septic tanks and drainfields shall be set back at least 100 feet from the ordinary high-water line or the safe upland line of the Indian River lagoon.</p> <p>(8) For lots with no existing septic system and drainfield platted or established by deed on the official record books of the county before April 3, 1989, septic tanks and drainfields shall be set back at least 100 feet from the ordinary high-water line or the safe upland line of the Indian River lagoon. In those cases where there is insufficient lot depth, the septic tank and drainfield shall be a minimum of 75 feet from mean high water or the safe upland line, except where a variance has been granted by the state, or where the state allows the setback to be 50 feet and there is insufficient room to increase the setback.</p> <p>(9) Approved alteration pursuant to this division that occurs within the shoreline protection buffers shall be reviewed by the county natural resources management division. The natural resources management division shall have the authority to require the applicant to utilize temporary sediment or turbidity control methods during construction. All erosion control methods shall be submitted in writing, shall be approved by the natural resources management division and shall be installed by the applicant. Sediment and turbidity control methods shall be in place</p>

and maintained throughout the alteration process. One of the following erosion control methods may be used by the applicant in most circumstances. Combinations of these methods or other methods may be required depending upon site-specific characteristics:

a. *Baled hay or straw barriers.* Bales, approximately 1.5 feet by 1.5 feet by three feet or 40 to 50 pounds in size, shall be placed in a line (end to end) that is perpendicular to the runoff flow from the alteration site. Each bale shall be firmly staked with a minimum of two stakes approximately two inches by two inches by four feet in dimension. A small amount of loose soil, of a size approximately six inches by six inches by the length of the hay bales, shall be placed by shovel and lightly compacted along the landward edge of the bales. If the baled hay or straw barrier is breached during the alteration process, the breach must be repaired immediately. It is recommended that extra bales and stakes be kept at the alteration site to make any necessary repairs.

b. *Silt fence.* Filter fabric, in conformance with section 985 of the specifications of the state department of transportation, shall be placed in a line that is perpendicular to the runoff flow from the alteration site. The fabric shall be firmly attached to wooden posts, two inches by four inches by four feet in size, or having a 2.5-inch diameter, spaced at a maximum distance of six feet. Posts may be positioned either vertically or canted 20 degrees toward flow direction and the alteration site.

c. *Vegetative buffer.* A densely vegetated buffer may effectively prevent sedimentation of the surface water body if the vegetation completely or nearly completely covers the ground. Vegetation buffers shall consist of existing vegetation with a greater than 75 percent understory cover and shall remain undisturbed. The removal of existing native vegetation for the replacement of non-native

vegetation as a buffer requirement shall be prohibited. Minimum required buffer depths shall be 50 percent of the required shoreline protection buffer depth. Additional erosion control methods may be required in conjunction with approved vegetation buffers.

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(10) For structures that existed prior to the effective date of the ordinance from which this division is derived, remodeling and other types of development which do not increase the amount of impervious surfaces within or threaten the integrity of the shoreline protection buffer will be allowed.

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(11) The release of petroleum or hazardous materials into class I, II and III waters, aquatic preserves, Outstanding Florida Waters and designated stormwater systems shall be prohibited.

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(12) Non-Native Invasive or Undesirable plant species may be removed from the shoreline protection buffer in the manner authorized in Section 62-4334(4).

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(13) All improvements, mitigations and special conditions approved or set forth by this division shall be required to be installed, constructed and maintained in a viable, approved, functional working order.

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(14) The provisions of this division shall not prohibit the location or construction of public utility crossings or other similar public structures by public utilities, provided these utilities have received all additional required permits or approvals.

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**Policy 3.2 (Class I)**

Brevard County shall continue to prevent negative impacts of development in and adjacent to Class I waters by implementing and revising, as necessary, the Surface Water Protection Ordinance including the following minimum criteria:

**Sec. 62-3667. Class I waters.**

The following regulations shall apply to development in and adjacent to class I waters:

<p><b>Policy 3.2.A (Class I)</b>  Maintain a two hundred (200) foot shoreline protection buffer from ordinary or mean high waterline.</p>	<p>(1) There shall be a 200-foot shoreline protection buffer extending landward from the ordinary high-water line or the safe upland line as determined by the bureau of survey and mapping of the state department of natural resources, whichever the applicant prefers.</p>
<p><b>Policy 3.2.F (Class I)</b>  Prohibit alteration within the shoreline protection buffer unless it is in the public interest or does not adversely impact water quality and natural habitat.</p>	<p>(2) Alteration within the shoreline protection buffer other than that which is permitted under this division shall be prohibited, unless it is shown to be in the best public interest and does not adversely impact water quality and natural habitat. Acceptable uses within the shoreline protection buffer are passive recreation, hunting, fishing, fish and wildlife management, open space and nature trails, and similar uses. Development within the buffer is limited to structures for water access such as docks, boat ramps and pervious walkways and elevated minor structures.</p>
<p><b>Policy 3.2.B (Class I)</b>  Acceptable uses within the shoreline protection buffer are passive recreation, hunting, fish and wildlife management, open space and nature trails, and similar uses.</p>	<p>(3) No more than 20 percent of the lot width or 25 linear feet, whichever is greater, of any shoreline protection buffer of a project or parcel, or the offshore emergent vegetation associated with a project or parcel, may be altered for reasonable access. This shall not preclude mitigation projects or the planting of native vegetation.</p>
<p><b>Policy 3.2.C (Class I)</b>  Require discharges of any substances into Class I waters to meet or exceed applicable receiving water quality standards.</p>	<p>(4) All discharges into class I waters shall not degrade existing water quality below existing conditions, or those outlined in F.A.C. 17-302 for class I water bodies.</p>
<p><b>Policy 3.2.D (Class I)</b>  Prohibit dredging and filling, except for permitted utility crossings, publicly owned recreational projects which do not degrade water quality and necessary maintenance of existing projects.</p>	<p>(5) Dredging or filling of class I waters shall be prohibited, except for permitted utility crossings, publicly owned recreational projects which do not degrade water quality, environmental restoration projects, necessary maintenance of existing projects, and projects with an overriding public benefit.</p>
<p><b>Policy 3.2.E. (Class I)</b>  Regulate development and mining operations within the hydrologic basin</p>	<p>(6) Development of mining operations shall not degrade water quality of class I waters. No commercial borrow pits or mining operations shall be</p>

of Class I waters. Prohibit mining operations within the 10-year floodplain of Class I waters.

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**Policy 3.3 (Class II)**

Brevard County shall continue to make efforts to prevent negative impacts of development in and adjacent to the Indian River Lagoon and its tributaries designated as Class II waters, Aquatic Preserves, and Outstanding Florida Waters by implementing and revising as necessary, the Surface Water Protection Ordinance, including the following minimum criteria:

**Policy 3.4 (Class III)**

Brevard County shall continue to prevent negative impacts of development in and adjacent to Class III waters (except Outstanding Florida Waters and Aquatic Preserves) along the St. Johns River and Indian River Lagoon and its tributaries by implementing and revising as necessary, the Surface Water Protection Ordinance including the following minimum criteria:

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**Policy 3.3.A (Class II)**

Maintain a fifty (50) foot shoreline protection buffer from the mean high water line or the safe upland line as determined by the FDEP Bureau of Survey and Mapping.

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**Policy 3.4.A (Class III)**

A twenty-five (25) foot shoreline protection buffer from the mean high water line or the safe upland line as determined by the FDEP Bureau of Survey and Mapping shall be established.

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**Policy 3.3.D (Class II)**

Prohibit shoreline alteration other than that allowed for reasonable access

permitted within the ten-year floodplain of class I waters.

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**Sec. 62-3668. Class II waters, Outstanding Florida Waters, aquatic preserves, conditionally approved Class III shellfishing waters and Class III waters.**

The following regulations shall apply to development in and adjacent to class II waters, Outstanding Florida Waters, aquatic preserves, conditionally approved class III shellfishing waters and class III waters excluding existing canals within residential neighborhoods:

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(1) Along class II waters, Outstanding Florida Waters, aquatic preserves and conditionally approved class III shellfishing waters, a 50-foot shoreline protection buffer extending landward from the mean high-water line or the safe upland line as determined by the bureau of survey and mapping of the state department of natural resources, whichever the applicant prefers, shall be established.

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(2) Along class III waters, except conditionally approved class III shellfishing waters, a 25-foot shoreline protection buffer extending landward from the mean high-water line or the safe upland line as determined by the bureau of survey and mapping of the state department of natural resources, whichever the applicant prefers, shall be established.

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(3) Alteration or construction within the shoreline protection buffer other than that which is permitted under this division shall be prohibited,

or approved accessory uses, unless the alteration is in the public interest and does not adversely impact water quality, natural habitat and adjacent shoreline uses.

**Policy 3.4.D (Class III)**

Prohibit shoreline alteration other than that allowed for reasonable access or approved accessory uses, unless it is in the public interest; or prevents or repairs erosion; or does not adversely impact water quality, natural habitat and adjacent shoreline uses.

.....

**Policy 3.3 B (Class II)**

No more than twenty (20) percent of the lot width or twenty-five (25) linear feet, whichever is greater, of any shoreline protection buffer of a project or parcel, or the offshore emergent vegetation associated with a project or parcel may be altered for reasonable access or for allowable development. Within the shoreline protection buffer, allowable development shall be limited to docks, boat ramps, pervious walkways, elevated walkways, and approved accessory uses, as set forth by the County land development regulations. Accessory uses shall be allowable only on existing bulkheaded lots utilizing required stormwater management techniques.

The remainder of the shoreline protection buffer shall be maintained in unaltered vegetation, except for noxious species, as permanent open

unless it is shown to be in the best public interest and does not adversely impact water quality and natural habitat.

.....

(4) 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 which drain to the shoreline. All requirements for stormwater management shall be reviewed and approved by the division of stormwater management and shall be inspected by the natural resources management division, as necessary.

.....

(5) Development within the shoreline protection buffer is limited to fences, docks, boat ramps, pervious walkways and elevated walkways. In addition, approved accessory uses are permitted in nonvegetated bulkheaded canals adjacent to class II and class III waters which utilize approved stormwater management techniques.

(6) For projects or parcels without mangroves, no more than 20 percent of the lot width or 25 linear feet, whichever is greater, of any shoreline protection buffer of a project or parcel, or the offshore emergent vegetation associated with a project or parcel, may be altered for reasonable access. The remainder of the shoreline protection buffer shall be maintained in unaltered vegetation, except for noxious species, as permanent open space. This, however, shall not preclude mitigation projects, the planting of native vegetation, or the development described

space. This shall not preclude mitigation projects or the planting of native species. Provisions for the alteration and/or removal of non-native noxious vegetation shall be established by the Brevard County Natural Resources Management Division.

**Policy 3.4.B (Class III)**

No more than twenty (20) percent of the lot width or twenty-five (25) linear feet, whichever is greater, of any shoreline protection buffer of a project, parcel, or the offshore emergent vegetation associated with a project or parcel may be altered for a reasonable access or for allowable development. Within the shoreline protection buffer, allowable development shall include docks, boat ramps, pervious walkways, elevated walkways, and approved accessory uses, as set forth by the County land development regulations. Accessory uses shall be allowable only on existing bulkheaded lots utilizing required stormwater management techniques. The remainder of the shoreline protection buffer shall be maintained in unaltered vegetation, except for noxious species, as permanent open space. This shall not preclude mitigation projects or the planting of native species. Provisions for the alteration and/or removal of non-native, noxious vegetation shall be established by the Brevard County Office of Natural Resources.

**Policy 3.3.C (Class II)**

For residential lots platted or established by deed on the official record books of Brevard County prior to September 8, 1988, an alternative to the fifty (50) foot shoreline protection buffer described above shall be available for those lots which have insufficient lot depth to construct a primary structure or pool with its associated decking and features. In the case where there is insufficient lot depth to construct a primary structure, this alternative shall allow the shoreline protection buffer to be reduced to twenty five (25) feet if additional measures are taken to preserve water quality and natural habitat within the adjacent surface water body. In the case where there is insufficient lot depth to construct a pool with its

in applicable sections of this division within the shoreline protection buffer areas.

(7) For projects or parcels with mangroves, alteration of mangroves is prohibited unless the applicant can demonstrate to the satisfaction of the office of natural resources management that reasonable access and development described in subsection (5) of this section cannot occur without the alteration of mangroves. If alteration is allowed by the natural resources management division, no more than ten percent or six feet, whichever is less, of the mangroves may be altered for reasonable access and development described in subsection (5) of this section. The remainder of the shoreline protection buffer shall remain unaltered, except as provided in this division for the removal of noxious species. This shall not preclude mitigation projects or the planting of native vegetation.

(8) For residential lots platted or established by deed on the official record books of the county prior to September 8, 1988, the following shall apply: Structures may be built within the shoreline protection buffer only if it can be shown that there is insufficient lot depth to allow the development of primary and accessory structures permitted and defined by the existing zoning classification of the property, and if all other alternatives and remedies are not applicable.

- a. Within class II waters, Outstanding Florida Waters, aquatic preserves and conditionally approved class III shellfishing waters, structures may be built within the landward 25 feet of the shoreline

associated decking and features, an encroachment of up to 720 square feet within the shoreline protection buffer shall be available if additional measures are taken to preserve water quality and natural habitat within the adjacent surface water body. These additional measures should, at a minimum, be consistent with DEP 17-25 and 17.302 F.A.C. and may include but are not limited to the provision of a stormwater system which is capable of preventing the first inch of runoff from a 25 year, 24 hour storm from entering surface waters and revegetation with native shoreline vegetation. Within the shoreline protection buffer, development shall be limited to those activities outlined in 3.4 (B).

**Policy 3.4.C (Class III)**

For residential lots platted or established by deed on the official record books of Brevard County prior to September 8, 1988, an alternative to the twenty five (25) foot shoreline protection buffer described above along Class III waters shall be available for those lots which have insufficient lot depth to construct a primary structure or pool with its associated decking and features. In the case where there is insufficient lot depth to construct a primary structure, this alternative shall allow the shoreline protection buffer to be reduced to fifteen (15) feet if additional measures are taken to preserve water quality and natural habitat within the adjacent surface water body. In the case where there is insufficient lot depth to construct a pool with its associated decking and features, an encroachment of up to 720 square feet within the shoreline protection buffer shall be available if additional measures are taken to preserve water quality and natural habitat within the adjacent surface water body. These additional measures should, at a minimum, be consistent with DEP 17-25 and 17.302 F.A.C. and may include but are not limited to the provision of a stormwater system which is capable of preventing the first inch of runoff from a 25 year, 24 hour storm from entering the surface waters and revegetation with native shoreline vegetation. Within the shoreline protection buffer, development shall be limited to those activities outlined in this policy.

protection buffer if all other requirements of this division are met.

- b. Within class III waters, structures may be built within the landward ten feet of the shoreline protection buffer if all other requirements of this division are met.
- c. In the case where there is insufficient lot depth to construct a pool with its associated decking and features, an encroachment up to 720 square feet within the shoreline protection buffer shall be permitted if additional measures are taken to preserve water quality and natural habitat within the adjacent water body. These additional measures shall, at a minimum, be consistent with Chapters 17-25 and 17.302 F.A.C., as may be amended, and shall include but are not limited:(1) to the provision of a stormwater system which is capable of preventing the first inch of runoff from a 25 year, 24 hour storm from entering the surface waters, and (2) revegetation with native shoreline vegetation.

**Policy 3.3.G (Class II)**

Within the shoreline protection buffer the maximum amount of impervious surface is thirty (30) percent.

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(9) Within the shoreline protection buffer, the total amount of alteration, including all impervious surface, within the shoreline protection buffer shall be limited to 30 percent of the required shoreline protection buffer area, excluding the approved removal of non-native noxious vegetation.

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(10) A surface water protection plan must be submitted to and approved by the natural resources management division prior to the establishment of structures or uses described in subsection (8) of this section. The surface water protection plan must include:

- a. A survey of the property, signed and sealed by a surveyor registered in the state, locating the mean high-water line, the ordinary high-water line or the safe upland line.
- b. A sketch, drawn to scale, on the survey described in subsection (10)a of this section, indicating the location and building dimensions of the structures, and any proposed alteration of the shoreline protection buffer.
- c. A description of the type of structures proposed and the construction materials to be used.
- d. A description of how the surface water quality will be protected. The following methods may be used by the applicant in most circumstances. However, combinations of these methods or other methods may be required, depending upon site-specific characteristics:
  - 1. A stormwater system shall be designed by an engineer registered by the state. The stormwater system must be capable of retaining the first one inch of runoff from all impervious surfaces which drain to the shoreline. The stormwater system may be located within the shoreline protection buffer, but shall

not be located or designed to require the removal of existing native shoreline vegetation within ten feet of the shoreline without approval by the county office of natural resources.

2. A densely planted shoreline of viable native vegetation, a minimum of ten feet in width for the entire length of the shoreline, may be utilized. The types and numbers of plants must be determined and approved by the county office of natural resources on a site-specific basis, however, total ground cover must be maintained. The ground must be stabilized with mulch or similar material to protect against erosion until plant material completely covers the ground.

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**Policy 3.3.E (Class II)**

Prohibit channelization, dredging and filling, and impoundment of natural waters of the State unless the activity is clearly in the public interest and does not adversely impact water quality, natural habitat and adjacent shoreline uses. Dredging shall not be permitted in or connected to Class II Waters, Outstanding Florida Waters (OFWs), Aquatic Preserves, areas that contain ten percent (10%) seagrass or more, and conditionally approved shellfish harvesting waters unless the activity is a federal navigation project, in the public interest, such as approved maintenance dredging of existing public or private navigational channels, or where dredging may improve water quality by removing accumulated silt or improving circulation, or for maintenance of existing structures and utility structures and utility crossings, or for shoreline hardening as allowed by this element.

**(?) Policy 3.5**

All dredging activities must be done with effective turbidity controls. Where turbidity screens or similar devices are used, they should be secured and regularly monitored to avoid manatee entrapment.

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(11) Dredging and filling shall not be permitted in or connected to class II waters, Outstanding Florida Waters, aquatic preserves and conditionally approved class III shellfishing waters unless the activity is clearly in the public interest, such as approved maintenance dredging on existing public navigational channels, or where dredging may improve the water quality by removing accumulated silt or improving circulation, or for maintenance of existing structures and utility crossings, or for shoreline hardening as allowed by this division.

<p>.....</p> <p><b>Policy 3.3.F (Class II)</b> Prohibit discharges of any substances below ambient water quality standards.</p> <p>.....</p>	<p>.....</p> <p>(12) Discharges into class II waters, Outstanding Florida Waters, aquatic preserves and conditionally approved class III shellfishing waters shall not degrade existing water quality below existing conditions, or those standards outlined in F.A.C. ch.17-3 for class II water bodies, whichever provides for better water quality.</p> <p>.....</p>
<p>.....</p> <p><b>Policy 3.4.E (Class III)</b> Prohibit discharges of any substances below ambient water quality standards.</p> <p>.....</p>	<p>.....</p> <p>(13) Discharges into class III waters shall not degrade existing water quality below existing conditions, or those standards outlined in F.A.C. ch.17-3 for class III water bodies, whichever provides better water quality.</p> <p>.....</p> <p>(14) Within the shoreline protection buffer, the storage of fertilizers, pesticides, hazardous materials or other pollutants which may run off into surface waters shall be prohibited unless the storage system is an above ground vehicular fuel system meeting the requirements of Chapter 62-761 Florida Administrative Code.</p> <p>.....</p>

**NON-CODIFIED COMP PLAN POLICIES**

**Policy 3.1**

Brevard County shall cooperate with the Florida Department of Environmental Protection (FDEP) to require small package treatment plants adjacent to surface waters to comply with existing federal, state, or regional rules and regulations, and to ensure that the necessary renovations to achieve compliance are completed in a timely manner.

**(?) Policy 3.5**

All dredging activities must be done with effective turbidity controls. Where turbidity screens or similar devices are used, they should be secured and regularly monitored to avoid manatee entrapment.

**Policy 3.9**

By 2002, Brevard County will undertake a spoil island assessment project to determine which islands are valuable bird rookery areas. These islands will then be designated as such, and protected during nesting season. Other islands will be designated as recreational areas. This study will be coordinated with any spoil island management plans designed and implemented by other agencies, such as the Florida Inland Navigational District.

**Policy 3.10**

Brevard County shall continue to work with the St. Johns River Water Management District (SJRWMD), FDEP, and Indian River Lagoon Program (IRLP) and other appropriate agencies in developing appropriate water quality standards for estuarine waters within the Indian River Lagoon.

**Policy 3.11**

Brevard County shall continue to support and implement its program for plugging free-flowing artesian wells, with highest priority being given to those adjacent to the Lagoon.

**Policy 3.12**

Brevard County should cooperate with the SJRWMD in the District's aquatic weed program for the St. Johns River.

**Policy 3.13**

Brevard County strongly supports the designation of the Indian River Lagoon from SR 405 north to the County line as an Aquatic Preserve.

**Policy 3.14**

The creation of new spoil islands should be discouraged. Existing spoil islands should be retained in public ownership and utilized as bird rookeries and recreational areas. In addition, restoration efforts such as wetland vegetation planting, upland vegetation planting, and refuse removal that could foster biological production, control erosion and enhance the habitat, aesthetic and recreational values of the island should be undertaken.