

<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>	
<hr style="border-top: 1px dashed black;"/> <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> <hr style="border-top: 1px dashed black;"/> <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:

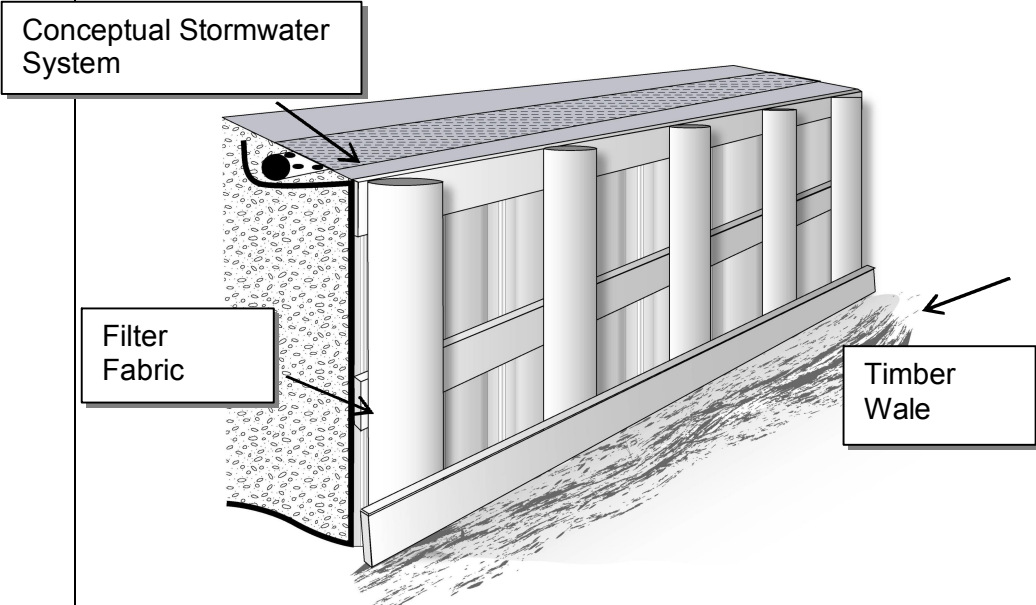
- a. The permitted activity shall not be immediately adjacent to or contain a shoreline within state department of environmental protection (FDEP) class I waters, FDEP class II waters, FDEP class III shellfishing areas, FDNP aquatic preserves or Outstanding Florida Waters;
- b. On those lots where new 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.

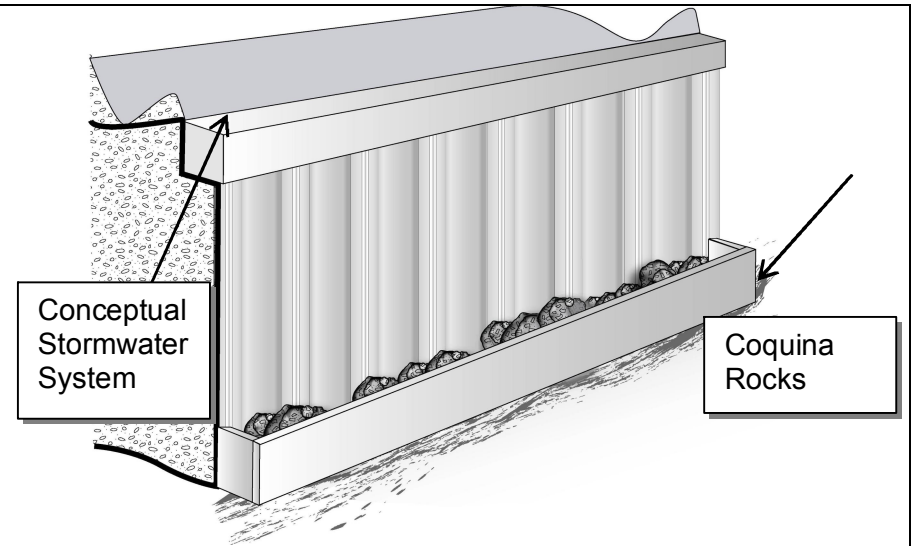
e. In addition to the design standards in Chapter 22-Article VII, Seawall Construction, Brevard County Code, the proposed bulkhead design shall meet or exceed the following minimum standards:

- (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

	<p>seawall portion of the structure shall be located above the mean high-water line.</p> <hr/> <p>(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:</p> <ul style="list-style-type: none"><li>a. Adversely impact water quality.</li><li>b. Result in the loss of shoreline and aquatic vegetation.</li><li>c. Adversely affect adjacent properties.</li><li>d. Adversely affect biological communities.</li><li>e. Increase the waterward extension of the existing shoreline, except as provided in subsection (1)e of this section.</li><li>f. Adversely affect the flow of water or create a navigational hazard.</li></ul> <hr/> <p>(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:</p> <ul style="list-style-type: none"><li>a. Clear and convincing evidence of increasing destructive loss of existing established native vegetation due to wave, wake or stormwater activity;</li></ul>
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	<p>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;</p> <p>c. Clear and convincing evidence of lawfully existing permanent structures which face imminent threat of destruction from continued shoreline loss; or</p> <p>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.</p> <p>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.</p>
<p><b>Policy 3.3.E (Class II)</b> 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</p>	<p>(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</p>

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 3.7**

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. Existing ditches, drainage rights-of-way, drainage 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

	<p>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. 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>
<hr/> <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> <hr/>	<hr/> <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> <hr/> <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</p>

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 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

<p>-----</p> <p><b>Policy 3.2 (Class I)</b>  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:</p> <p>-----</p> <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>-----</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><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>-----</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>-----</p>	<p>required permits or approvals.</p> <p>-----</p> <p><b>Sec. 62-3667. Class I waters.</b>  The following regulations shall apply to development in and adjacent to class I waters:</p> <p>-----</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>-----</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>-----</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>-----</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>-----</p>
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**Policy 3.2.D (Class I)**

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.

**Policy 3.2.E. (Class I)**

Regulate development and mining operations within the hydrologic basin of Class I waters. Prohibit mining operations within the 10-year floodplain of Class I waters.

**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:

**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.

(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.

(6) Development of mining operations shall not degrade water quality of class I waters. No commercial borrow pits or mining operations shall be permitted within the ten-year floodplain of class I waters.

**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:

(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.

**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.

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

Prohibit shoreline alteration other than that allowed for reasonable access 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

(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.

(3) Alteration or construction 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.

(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

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 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.

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 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.

**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 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

(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 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.

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.

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**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.

	<p>c. A description of the type of structures proposed and the construction materials to be used.</p> <p>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:</p> <ol style="list-style-type: none"> <li>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.</li> <li>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.</li> </ol>
<p><b>Policy 3.3.E (Class II)</b></p> <p>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</p>	<p>(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</p>

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.

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

Prohibit discharges of any substances below ambient water quality standards.

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

Prohibit discharges of any substances below ambient water quality standards.

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.

(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.

(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.

(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.

**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.