City of Titusville
"Gateway to Nature and Space"

REPORT TO COUNCIL

To: The Honorable Mayor and City Council
From: William S. Larese, City Manager
Subject: Shoreline Protection Ordinance
Department/Office: Community Development

Recommended Action:

Conduct the first reading of the proposed Ordinance No. 36-2017 amending the Land Development Regulations by amending Chapter 29 “Special Districts and Overlays”, Article II “Titusville Shoreline Area Overlay District (TSA)”, specifically amending Section 29-25 “Minimum Building Setback from the Mean High Water Line of the Indian River Lagoon”; by amending and renaming Chapter 30 “Development Standards”, Article II “Environmental”, Division 4 “Riparian Buffer”, to be named “Shoreline Protection”; and specifically amending Section 30-61 Intent”, Section 30-62 “Applicability”, Section 30-63 “Buffers/Setbacks”; adding Section 30-64 establishing standards and minimum criteria relating to alterations in the shoreline protection setbacks and surface water protection permits; adding Section 30-65 establishing setbacks for onsite sewage treatment and disposal system; adding section 30-21 establishing non-conforming impervious area standards to allow existing structures and impervious areas in the shoreline protection setback; adding Section 30-67 establishing Class II and Class III waters and surface water protection plan to regulate lot depth of principal structures within the shoreline protection setback, to require mangrove alteration in compliance with federal and state regulations, requiring a surface water protection plan, prohibiting dredging and filling connected to certain waters, prohibiting discharges that degrade existing water quality; adding Section 30-68 establishing exemption standards; adding Section 30-69 by adding vested rights criteria for computing the density of submerged lands; amending Division 5 “Bulkhead/dredge and Fill Permits”, specifically amending Section 30-71 “Minimum Building Setback from the mean high water level of the Indian River”; providing for severability; repeal of conflicting ordinances; incorporation into the code; and an effective date.

Summary Explanation & Background:

During the Land Development Code reformatting, the City Council directed staff to replace the Area Impact Plan (AIP) requirement, which previously applied to all new construction or the expansion of existing uses within the Shoreline Mixed Use zoning district. The proposed ordinance to replace the AIP includes regulations to protect the shoreline, water quality and biodiversity of the Indian River Lagoon.

The Planning and Zoning Commission is scheduled to review this ordinance during its October 4, 2017 meeting.

The Titusville Environmental Commission is scheduled to review this ordinance during a special meeting scheduled for October 5, 2017.
Alternatives:

1) Conduct the first reading, and do not recommend changes to the ordinance.
2) Conduct the first reading and recommend changes to the ordinance.
3) Do not conduct the first reading.

Item Budgeted:

No

Source/use of funds/Budget Book Page:

Strategic Plan:

No. 1 - Sustain a High Quality of Life
No. 2 - Expand Economic Development

Strategic Plan Impact:

Protection of the Indian River Lagoon and shoreline furthers both a high quality of life and enhanced economic opportunities in the City.

ATTACHMENTS:

<table>
<thead>
<tr>
<th>Description</th>
<th>Upload Date</th>
<th>Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shoreline Protection Ordinance</td>
<td>9/19/2017</td>
<td>Backup Material</td>
</tr>
</tbody>
</table>
ORDINANCE NO. XX-2017

AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA
AMENDING THE LAND DEVELOPMENT REGULATIONS BY
AMENDING CHAPTER 29 “SPECIAL DISTRICTS AND
OVERLAYS”, ARTICLE II “TITUSVILLE SHORELINE AREA
OVERLAY DISTRICT (TSA)”, SPECIFICALLY AMENDING
SECTION 29-25 “MINIMUM BUILDING SETBACK FROM THE
MEAN HIGH WATER LINE OF THE INDIAN RIVER LAGOON”;
BY AMENDING AND RENAMING CHAPTER 30
“DEVELOPMENT STANDARDS”, ARTICLE II
“ENVIRONMENTAL”, DIVISION 4 “RIPARIAN BUFFER”, TO
BE NAMED “SHORELINE PROTECTION”; AND SPECIFICALLY
AMENDING SECTION 30-61 “INTENT”, SECTION 30-62
“APPLICABILITY”, SECTION 30-63 “BUFFERS/SETBACKS”;
ADDING SECTION 30-64 ESTABLISHING STANDARDS AND
MINIMUM CRITERIA RELATING TO ALTERATIONS IN THE
SHORELINE PROTECTION SETBACKS AND SURFACE WATER
PROTECTION PERMITS; ADDING SECTION 30-65
ESTABLISHING SETBACKS FOR ONSITE SEWAGE
TREATMENT AND DISPOSAL SYSTEM; ADDING SECTION 30-
66 ESTABLISHING NON-CONFORMING IMPERVIOUS AREA
STANDARDS TO ALLOW EXISTING STRUCTURES AND
IMPERVIOUS AREAS IN THE SHORELINE PROTECTION
SETBACK; ADDING SECTION 30-67 ESTABLISHING CLASS II
AND CLASS III WATERS AND SURFACE WATER
PROTECTION PLAN TO REGULATE LOT DEPTH OF
PRINCIPAL STRUCTURES WITHIN THE SHORELINE
PROTECTION SETBACK, TO REQUIRE MANGROVE
ALTERATION IN COMPLIANCE WITH FEDERAL AND STATE
REGULATIONS, REQUIRING A SURFACE WATER
PROTECTION PLAN, PROHIBITING DREDGING AND FILLING
CONNECTED TO CERTAIN WATERS, PROHIBITING
DISCHARGES THAT DEGRADE EXISTING WATER QUALITY;
ADDING SECTION 30-68 ESTABLISHING EXEMPTION
STANDARDS; ADDING SECTION 30-69 BY ADDING VESTED
RIGHTS CRITERIA FOR COMPUTING THE DENSITY OF
SUBMERGED LANDS; AMENDING DIVISION 5
“BULKHEAD/DREDGE AND FILL PERMITS”, SPECIFICALLY
AMENDING SECTION 30-71 “MINIMUM BUILDING SETBACK
FROM THE MEAN HIGH WATER LEVEL OF THE INDIAN
RIVER”; PROVIDING FOR SEVERABILITY; REPEAL OF
CONFLICTING ORDINANCES; INCORPORATION INTO THE
CODE; AND AN EFFECTIVE DATE.
WHEREAS, the City of Titusville, Florida is a municipal corporation organized and existing pursuant to Chapter 63-2001, Laws of Florida, Special Acts of 1963, Article VII, Section 2 of the Constitution of the State of Florida, and Chapter 166, Florida Statutes; and

WHEREAS, the City of Titusville possesses certain governmental, corporate, and proprietary powers to conduct and perform municipal functions; and

WHEREAS, the City of Titusville, pursuant to its Home Rule Powers, possesses full governmental authority to manage and determine growth within its corporate limits subject to and only limited by applicable law; and

WHEREAS, the City of Titusville has adopted a comprehensive plan consistent with Chapter 163, Florida Statutes; and

WHEREAS, the Titusville City Council desires to regulate development on its shores, by amending the Land Development Regulations, and

WHEREAS, the Titusville City Council recognizes the need to protect the Indian River Lagoon and other shorelines from environmental impacts, and

WHEREAS, on September 13, 2016, the City Council approved advisability to remove the Area Impact Plan (AIP) regulations from the Land Development Regulations and directed the staff to bring back more stringent standards along the Indian River Lagoon, and

WHEREAS, the Planning and Zoning Commission have considered the proposed Ordinance on September 20, 2017, made a recommendation to the City Council; and

WHEREAS, the City Council, pursuant to Chapter 163 and 166, Florida Statutes, and after due public notice held a public hearing to receive public input on said Land Development Regulations on September 26, 2017, and

WHEREAS, the City Council wishes to adopt amendments to Chapter 29, Article II and Chapter 30, Article II, Division 4 and Division 5 of the Land Development Regulations relating to shoreline development standards, review criteria and procedures in the best interest of the public, health, safety and welfare of the citizens of Titusville.

NOW, THEREFORE, BE IT ENACTED by the City of Titusville, Florida as follows:

SECTION 1. That Section 29-25 of the Land Development Regulations of the City of Titusville is hereby amended to read as follows:

Sec. 29-25. - Minimum building setback from the mean high water line of the Indian River Lagoon

(a) In all zoning districts in which properties abut the Indian River Lagoon, principal structures and accessory uses, except as specifically permitted below, shall be set back from the mean high water line (MHWL) of the Indian River Lagoon, as established by a land surveyor registered in the State of Florida, as specified in Chapter 30 Development Standards, Article II Environmental, Division 4 Shoreline Protection, Section 30-63 Shoreline Protection Setbacks.
Shoreline Mixed Use (SMU) zoning district:

a. Less than 100 feet lot depth — twenty-five (25) feet.

b. 100-150 feet of lot depth — thirty-five (35) feet.

e. Greater than 150 feet of lot depth — fifty (50) feet.

(2) All other zoning districts — twenty (20) feet, unless more restrictive in the applicable underlying zoning district.

(b) Land uses and/or structures permitted within the shoreline setback area (not to cover more than thirty-five (35) percent of setback area): are listed in Chapter 30 Development Standards, Article II Environmental, Division 4 Shoreline Protection, Section 30-63 Shoreline Protection Setbacks.

(1) Bulkheads and seawalls.

(2) Piers, wharves and docks.

(3) Boathouses.

(4) Sidewalks, walkways and boardwalks.

(5) Boat launching facilities.

(6) Tennis courts, swimming pools and similar recreational uses.

(c) Land uses or structures prohibited within the shoreline setback area: are listed in Chapter 30 Development Standards, Article II Environmental, Division 4 Shoreline Protection, Section 30-63 Shoreline Protection Setbacks.

(1) Parking facilities.

(2) Artificial grass or turf.

(3) Garages or carports.

(4) Driveways.

(5) Other uses or structures which would cover more than thirty-five (35) percent of the setback area with an impervious surface.

(d) Procedure for determination of mean high water line. Within this context, the mean high water line shall be as established by the National Ocean Survey (NOS) and referenced by tidal bench marks at various locations. The survey to locate the mean high water line shall begin at an interior section corner, quarter corner, subdivision corner or base line with known coordinates, and run toward the Indian River Lagoon. When such a line first intercepts a continuous line of mean high water line, the first intercept shall be considered a point on a line demarcating the upland and sovereign owners. Connecting the intercepts at maximum...
intervals of twenty-five (25) feet, or as indicated by an inspection of the appropriate coastal zone maps or aerial photographs, would represent the mean high water line. Such line may be curvilinear or a series of angle points, but in all cases, coordinates and grid azimuths or bearings would be established for the mean high water line as herein determined.

SECTION 2. That Chapter 30 “Development Standards”, Article II “Environmental”, Division 4 “Riparian Buffer” of the Land Development Regulations of the City of Titusville is hereby amended to read as follows:

DIVISION 4. – Riparian buffer Shorline protection

SECTION 3. That Section 30-61 “Intent” of the Land Development Regulations of the City of Titusville is hereby amended to read as follows:

Sec. 30-61. Intent

Riparian buffers are intended to protect the substantial public interest of the Indian River and other water bodies. It is the intent of this division to improve the quality of class II and class III surface waters surrounding and within the city, minimize shoreline erosion, manage stormwater runoff, 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 along Class II and III waters as defined by the Florida Administrative Code Rule Number 62-302, as amended.

SECTION 4. That Section 30-62 “Applicability” of the Land Development Regulations of the City of Titusville is hereby amended to read as follows:

Sec. 30-62. Applicability Administration

This section applies to any development approval including, but not limited to, a subdivision plat, building permit, or site plan along the Indian River Lagoon and other water bodies within the jurisdictional boundaries of the City of Titusville, class II and class III waters within the jurisdictional boundaries of the City of Titusville. The administrator shall be responsible for the general administration of this division. The administrator shall be responsible for the review of all applications, in addition to providing the administrative decisions which pertain to this division. Any permit may be suspended by the Administrator for noncompliance by the permittee with the terms of the permit. No building permits for construction will be issued on newly created land through dredge and fill action until the fill area and bulkhead construction is inspected and approved by the Administrator. Illustrations and specific technical specifications for the following sections will be included in Section 7 Stormwater Management Technical Design Manual.

SECTION 5. That Section 30-63 “Buffers/setbacks” of the Land Development Regulations of the City of Titusville is hereby amended to read as follows:

Sec. 30-63 Buffers/Setbacks Shoreline protection setbacks

(a) Riparian buffers and setbacks for properties located within the Titusville Shoreline Area Overlay (TSA) and developed prior to the effective date of this ordinance shall adhere to the minimum building setbacks set forth per the Riparian Buffers and Shoreline Protection Setbacks Table [Sec. 30-632(c)] of this Chapter and per Chapter 29 Special Districts and
Overlays Section 29-25, Minimum building setback from the mean high water line of the Indian River Lagoon.

(b) All other riparian buffers and setbacks not regulated by the Titusville Shoreline Area Overlay shall adhere to the standards set forth in Riparian Buffers and the Shoreline Protection Setbacks Table [Sec. 30-62(c)] and this Article.

(c) Riparian Buffer and Shoreline protection Setbacks.
**Table 30-1 Riparian Buffers and Shoreline Protection Setbacks**

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Setback</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Shoreline Overlay (TSA)</strong></td>
<td><strong>Shoreline Mixed Use Zoning (SMU)</strong> Less than 100ft lot depth = 25ft</td>
</tr>
<tr>
<td></td>
<td>100-150ft lot depth = 35ft</td>
</tr>
<tr>
<td></td>
<td>Greater than 150 ft = 50ft</td>
</tr>
<tr>
<td><strong>All other zoning districts in the TSA</strong></td>
<td>20ft.</td>
</tr>
<tr>
<td><strong>All other areas not regulated by the Shoreline Overlay</strong></td>
<td>All zoning districts None</td>
</tr>
</tbody>
</table>

**Table 30-1 Shoreline Protection Setbacks**

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Shoreline Protection Setbacks</th>
<th>Max Impervious Coverage of Shoreline Setback Area</th>
<th>Water Class</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lots within the Titusville Shoreline Overlay (TSA) developed with a principal use prior to the effective date of</td>
<td>Less than 100ft lot depth = 25ft.</td>
<td>35%</td>
<td>II &amp; III</td>
</tr>
<tr>
<td>Shoreline Mixed Use Zoning (SMU)</td>
<td>100-150ft lot depth = 35ft.</td>
<td>Greater than 150ft = 50ft.</td>
<td></td>
</tr>
</tbody>
</table>
(d) In addition to the exemptions specified in Section 30-67 Exemptions of this Article, Land uses and/or structures permitted within the shoreline setback area include:

1. Bulkheads and seawalls (See Sec. 30-64. Alterations in the Shoreline Protection Setbacks and Surface Water Protection Permit)
2. Piers, wharves and docks.
4. Sidewalks, walkways and boardwalks.
5. Boat launching facilities.
6. Tennis courts, swimming pools and similar recreational uses.

(e) Land uses or structures prohibited within the shoreline setback area include:

1. Parking facilities.
2. Artificial grass or turf.
3. Garages or carports.
4. Driveways.
5. All uses or structures which would cover more than maximum impervious coverage of the shoreline setback area.
SECTION 6. That Section 30-64 of the Land Development Regulations of the City of Titusville is hereby created to read as follows:

Sec. 30-64. Alterations in the Shoreline Protection Setbacks and Surface Water Protection Permit

(a) Any alteration within the shoreline protection setback which changes the existing topography, shoreline, or vegetation shall be reviewed and/or permitted by the city and necessary authorities unless exempt pursuant to Sec. 30-68. Exemptions. Required as a condition of approval shall be the issuance or approval of any necessary floodplain development permit. A shoreline protection setback is defined as the area measured from the mean high water line extending across the entire width of the lot to the principal building line.

(b) Any alteration as allowed under this division, including redevelopment, within the shoreline protection setback shall require stormwater management so as not to degrade the water quality of the receiving water body. Properties shall, through the use of swales, berms, native vegetation, or other appropriate methods; convey and detain stormwater runoff prior to discharge to the surface water.

(1) For activities in the shoreline protection setback, stormwater management shall include, but not be limited to:

a. The provision of a stormwater system designed, signed, and sealed by a professional engineer registered in the State of Florida, which is consistent with Chapter 62-302 F.A.C., as amended, and is capable of preventing the first inch of runoff from a 25-year, 24-hour storm, from all impervious surfaces that drain to the property's shoreline from entering surface waters; or

b. A densely planted shoreline of viable native vegetation, a minimum of ten feet in width for the entire length of the shoreline.

(2) With the exception of activities that are exempt in accordance with Section 30-65, all requirements for stormwater management shall be reviewed, approved, and inspected by the city, as necessary.

(3) All discharges into surface waters shall not degrade existing water quality below existing conditions, or those outlined in Chapter 62-302, F.A.C., as amended, whichever provides for better water quality.

(4) All stormwater management systems shall be maintained for functionality in perpetuity by the property owner.

(5) Stormwater management retrofitting in accordance with this subsection, shall be required for all back lot drainage at the time of the permitted activity.

(6) Stormwater management systems shall demonstrate avoidance and minimization of impacts to native vegetation.

(7) The administrator may consider alternative stormwater management systems that utilize established low impact development best management practices.
Shoreline stabilization and bulkhead projects completed under a city, and state permit as applicable, may be located within the shoreline protection setback. Any shoreline project involving bulkheads, revetments, or retaining walls shall be implemented by a marine contractor licensed in the State of Florida, or by a person recognized by the Director as qualified in construction in the marine environment. Alternatively, projects may be completed by a property owner/builder provided that the project is designed, signed, and sealed by a professional engineer registered in the State of Florida. Shoreline stabilization projects completed primarily by means of vegetation may be implemented by a person recognized by the Director as qualified in the evaluation of environmental systems and vegetative resources, such as a biologist, environmental scientist, or landscaping professional.

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.

All applications for bulkheads and reinforced rock revetments shall meet the following minimum criteria, as applicable:

1. For lots along Class II and Class III waters, the following shall apply:
   a. New bulkheads shall be prohibited.
   b. For those properties on the Indian River Lagoon system immediately between two adjacent existing bulkheads, a reinforced rock revetment may be permitted, provided that 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 bulkhead portion of the structure shall be located above the mean high-water line.
   c. The permitted system design shall provide reasonable assurance that the erosion of the abutting properties will not be accelerated by the establishment of the applicant's bulkhead.
   d. The repair and replacement of legally existing bulkheads shall be allowable in accordance with the “repair and replacement of bulkheads” standards set forth in subsection 30-64(e)(2) of this section.
   e. Stormwater management shall be provided in accordance with Section 30-63(b).
   f. Applications for permits along the Indian River Lagoon system shall be submitted for a City of Titusville Surface Water permit per the Titusville Procedures Manual. The applicant shall also obtain permits from all applicable state and federal agencies prior to submittal of the City of Titusville Surface Water permit.
(2) The repair and replacement of bulkheads may be permitted in accordance with the following:

a. The repair and replacement of legally existing bulkheads on the Indian River Lagoon system shall be allowable, except where the existing structure is less than 50 percent functional per original constructed design and a reinforced rock revetment is not permissible.

b. If permittable, the repair and replacement of bulkheads on the Indian River Lagoon system shall require the establishment of a reinforced rock revetment.

c. If an existing bulkhead cannot be removed due to safety, structural, or other environmental concerns, the waterward extension of the new bulkhead, where practicable, shall meet the least waterward extension of these criteria:

1. Shall not exceed a maximum of 18 inches from the existing waterward bulkhead face, except where otherwise permitted by Florida Department of Environmental Protection.

2. Shall be located parallel and in line with adjacent existing and legally permitted bulkheads.

d. Stormwater management shall be provided in accordance with “alterations” standards of subsection 30-64(b) of this section.

(f) For shorelines where bulkheads are prohibited, shoreline stabilization shall be allowed to protect structures and real property from both gradual and accelerated erosion. A city surface water permit for shoreline stabilization shall be obtained prior to any stabilization activities.

(1) Living shorelines shall be a preferred shoreline stabilization technique. A living shoreline is defined as an erosion management technique, such as the strategic placement of plants, stone, sand, and other structural and organic materials, that is used primarily in areas with low to moderate wave energy, and is designed to mimic natural coastal processes.

(2) Riprap material, rock revetments, pervious interlocking brick systems, filter mats, vegetation, and other allowable methods may be used as stabilization methods within the shoreline protection setback. The following standards shall be implemented unless the state provides alternative project-specific construction criteria:

a. Material shall be natural or clean (free from reinforcing rods and other debris).

b. Rock size shall be one to three feet in diameter.

c. Slope shall be no steeper than two feet horizontal to one foot vertical.

d. Filter fabric shall be installed.

e. Navigation shall not be impeded.
If a revetment restoration or replacement project meets all of the following criteria, the City shall approve the required stormwater management system under an environmental review; however, a city surface water permit shall not be required when one of the following applies:

a. A St. Johns River Water Management District or Florida Department of Environmental Protection permit or exemption has been issued.

b. No filling can occur except in the actual restoration of the revetment.

c. The project will not require wetland impacts or the removal of native vegetation.

d. No construction shall be undertaken without necessary ownership or leasehold interest, especially where private and public ownership boundaries have changed as a result of natural occurrences such as accretion, reliction, and natural erosion.

e. This exemption shall be limited to functioning revetments.

For any proposed shoreline stabilization, the applicant must provide plans, test results or other professionally accepted information that affirmatively demonstrates that any proposed shoreline stabilization project will not:

1. Adversely impact water quality.

2. Result in the loss of shoreline and aquatic vegetation.

3. Adversely affect adjacent properties.

4. Increase the waterward extension of the existing shoreline, except as provided in subsection (e) of this section.

5. Adversely affect the flow of water or create a navigational hazard.

SECTION 7. That Section 30-65 of the Land Development Regulations of the City of Titusville is hereby created to read as follows:

Sec. 30-65. Public Sanitary Sewer and Onsite Sewage Treatment and Disposal Systems

(a) For shoreline lots platted or established by deed on the official record books of the county after the effective date of this ordinance, with or without existing septic tank and drainfield systems, and where a public sanitary utility is available to the property as defined herein, building sewers shall connect to the public sanitary utility via gravity lateral or private lift station.

1. "Public Sanitary Utility" is defined in Section 30-63 as any public gravity sewer or force main.

2. "Available" is defined in Section 30-63 as where any public easement or right-of-way that abuts any property line of the subject lot and contains a public sanitary utility.
(b) For shoreline lots platted or established by deed on the official record books of the county after the effective date of this ordinance, and where a public sanitary utility is not available to the property as defined herein, onsite sewage treatment and disposal systems shall be set back at least 100 feet from the mean high water line, except where a variance has been granted by the state, and there is insufficient room to increase the setback. Advanced wastewater treatment or advanced secondary treatment shall be required for any onsite sewage treatment and disposal system within 100 feet of the Indian River Lagoon.

(c) For shoreline lots with no existing onsite sewage treatment and disposal system platted or established by deed on the official record books of the county before the effective date of this ordinance, and where a public sanitary utility is not available to the property as defined herein, onsite sewage treatment and disposal system shall be set back at least 100 feet from the mean high water line. In those cases where there is insufficient lot depth, the onsite sewage treatment and disposal system shall be a minimum of 75 feet from the mean high water line, except where a variance has been granted by the state, and there is insufficient room to increase the setback. Advanced wastewater treatment or advanced secondary treatment shall be required for any onsite sewage treatment and disposal system within 100 feet of the Indian River Lagoon.

(d) For shoreline lots platted or established by deed on the official record books of the county prior to the effective date of this ordinance, with existing septic tank and drainfield systems, and where a public sanitary utility is available to the property as defined herein, property owners are encouraged to connect building sewers to the public sanitary utility via gravity lateral or private lift station.

SECTION 8. That Section 30-66 of the Land Development Regulations of the City of Titusville is hereby created to read as follows:

Sec. 30-66. Non-conforming Impervious Areas

(a) For structures and impervious areas that existed prior to the effective date of this ordinance, and exceed the allowable impervious impact criteria established herein, remodeling and other types of development which do not increase the amount of impervious surfaces within or threaten the integrity of the shoreline protection setback will be allowed. Proposed redevelopment may occur in the existing vertical envelope or may be relocated within the shoreline protection setback to achieve a net impact reduction. At a minimum, staff will assess the following mitigating factors:

(1) The applicant shall not increase the amount of impervious surfaces within the shoreline protection setback, regardless of location within the setback.

(2) New impervious areas shall be located parallel with, or landward of, the waterward-most pre-existing impervious areas.

(3) Stormwater management in accordance with Sec. 30-64. Alterations in the Shoreline Protection Setbacks and Surface Water Protection Permit.
SECTION 9. That Section 30-67 of the Land Development Regulations of the City of Titusville is hereby created to read as follows:

Sec. 30-67. Class II and Class III Waters and Surface Water Protection Plan

The following regulations shall apply to development in and adjacent to Class II and Class III waters:

(1) A shoreline protection setback per Sec. 30-63(c) Table 30-1 shall be established extending landward from the mean high water line.

(2) Except as allowable per subsection (a)(6) below, principal structures shall not be allowed within the shoreline setback area. Alteration or construction of accessory structures is allowable within the shoreline setback provided that:

a. Stormwater management is provided in accordance with Sec. 30-64. Alterations in the Shoreline Protection Setbacks and Surface Water Protection Permit; and

b. Impervious areas within the required shoreline setback area do not exceed the percent specified in Sec. 30-63(c) Table 30-1, “Shoreline Protection Setbacks” of this Division; and

c. The alteration occurs in accordance with all other applicable federal, state, and local regulations. Alteration or construction other than that which is allowed under this division shall be prohibited, unless it is shown to be in the public interest and does not adversely impact water quality and natural.

(3) All alteration shall demonstrate avoidance and minimization of shoreline protection setback impacts, including the location of the alteration within the most landward portion of the setback, as practicable. The remainder of the shoreline protection setback shall be maintained in unaltered vegetation, except for non-native invasive plants. Approved shoreline stabilization systems are not subject to the provisions of this section. This shall not preclude mitigation projects, the planting of native vegetation, or the development described in applicable sections of this division within the shoreline setback areas.

(4) For projects or parcels with mangroves, mangrove alteration shall be in compliance with applicable federal and state regulations.

(5) For residential lots platted or established by deed on the official record books of the county prior to the effective date of this ordinance, a principal structure may be built within the shoreline protection setback, as indicted below, only if it can be shown that there is insufficient lot depth to allow the development of a principal structure as defined by the existing zoning classification of the property, and if all other alternatives and remedies are not applicable.
a. Within Class II waters, principal structures may be built within the landward twenty-five (25) feet of the shoreline protection setback, as measure from the mean high water line, if all other requirements of this division are met.

b. Within Class III waters, principal structures may be built within the landward ten (10) feet of the shoreline protection setback, as measured by the mean high water line, if all other requirements of this division are met.

c. The total amount of impervious area within the required shoreline setback area shall not exceed the percent set forth in Sec. 30-63(c) Table 30-1 in this Division.

(7) A surface water protection plan must be submitted to and approved prior to the establishment of structures or uses described herein. 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.

b. Within Class III waters, principal structures may be built within the landward ten (10) feet of the shoreline protection setback, as measured by the mean high water line, if all other requirements of this division are met.

b. A sketch, drawn to scale, on the survey indicating the location and building dimensions of the structures, and any proposed alteration of the shoreline protection setback.

c. A description of the type of structures proposed and the construction materials to be used.

d. A description of how stormwater management shall be provided in accordance with this Article.

(8) Dredging and filling shall not be permitted in or connected to Class II waters, Outstanding Florida Waters, Aquatic Preserves, and conditionally approved Class III shellfish harvesting waters unless:

a. The activity is approved maintenance dredging on existing public navigational channels, or

b. Where dredging is in the public interest by improving the water quality by removing accumulated silt or improving circulation, or

c. For maintenance of existing structures and utility crossings, or

d. For the construction of bulkheads or other shoreline stabilization methods as allowed by this division.

(9) Discharges into Class II waters, Outstanding Florida Waters, Aquatic Preserves, and conditionally approved Class III shellfish harvesting waters shall not degrade existing water quality below existing conditions, or those standards outlined in Chapter 62-302.
F.A.C., as amended, for Class II water bodies, whichever provides for better water quality.

(10) Discharges into Class III waters shall not degrade existing water quality below existing conditions, or those standards outlined in Chapter 62-302, F.A.C., as amended, for Class III water bodies, whichever provides better water quality.

(11) Within the shoreline protection setback, 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 62-762 F.A.C., as amended. The release of petroleum or hazardous materials into Class II and III waters and designated stormwater systems shall be prohibited as referenced in the Code of Ordinances Chapter 16 – Solid Waste and Section 7 Stormwater Management Technical Design Manual.

SECTION 10. That Section 30-68 of the Land Development Regulations of the City of Titusville is hereby created to read as follows:

Sec. 30-68. Exemptions

(a) Alterations within the shoreline protection setback set forth in subsections (1)-(3) below shall be exempt from a surface water permit under this division, provided that the conditions set forth in subsection (4) below are met:

(1) The construction of up to 250 square feet of impervious surfaces including, but not limited, to decks, paver stones, and walkways. Impervious areas within the required shoreline setback area shall not exceed the percent set forth in Sec. 30-63(c) Table 30-1 in this Division. Impervious surfaces shall not convey drainage to the shoreline.

(2) The construction of elevated walkways, not to exceed five feet in width.

(3) The removal of non-native invasive plants.

(4) Alterations identified in subsections (1)-(3) of this section shall meet the following criteria:

a. Stormwater management is provided in accordance Sec. 30-64. Alterations in the Shoreline Protection Setbacks and Surface Water Protection Permit; and

b. The alteration does not necessitate the removal of protected native vegetation.

c. The alteration does not impact wetlands; and

d. Applicants shall be subject to and responsible for obtaining all additional necessary Federal, State, local, and building permits, as applicable.
SECTION 11. That Section 30-69 of the Land Development Regulations of the City of Titusville is hereby created to read as follows:

Sec. 30-69. Density/submerged lands

(a) Submerged lands, regardless of ownership, shall not be included in any calculations of allowable residential density within any zoning district adjacent to the shoreline.

(b) Vested rights/claims. Any property owner who claims to have vested rights of including submerged lands in computing density may submit to the City Manager, within one hundred twenty (120) days after the effective date of this section, a written request for recognition of said vested rights. The applicant shall submit such information as he deems appropriate to demonstrate his claim of vested rights including legal description of property, dates of any recent rezoning, preparation of any plans, approval of any plans, any action of the city upon which applicant has relied, facts showing substantial reliance or change in position. Within 90 days after receipt of said application, the City Council shall either recognize or reject the applicant's claim of vested rights. In reviewing the application, the City Council shall be guided by applicable Florida law in determining whether or not the applicant is entitled to vested rights. No suit shall be filed by the applicant unless prior thereto the applicant has made a request of the City prior to said litigation.

(c) This section shall supersede any conflicting provisions or ordinances of the City of Titusville and shall be controlling in the calculations of residential density for submerged lands.

(d) Any property owner that has an approved CUP and AIP as of February 8, 2005 shall be regulated by the Land Development Regulations in effect prior to the effective date of this section.

(e) Any substantially complete pending application on file with the City as of February 8, 2005 which requests a development order that utilizes submerged lands for its density calculations shall be reviewed by the City in accordance with the Land Development Regulations in effect prior to the effective date of this section.

SECTION 12. That Section 30-71 of the Land Development Regulations of the City of Titusville is hereby amended to read as follows:

Sec. 30-71. - Minimum building setback from the mean high water level of the Indian River.

(a) Land uses and/or structures prohibited within the shoreline setback area:

(1) Parking facilities.

(2) Artificial grass or turf.

(3) Garages or carports.

(4) Driveways.
(5) Other uses or structures which would cover more than the maximum impervious coverage of the required shoreline setback area established in Sec. 30-63 Shoreline protection setbacks.

SECTION 13. SEVERABILITY. If any provisions of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 14. REPEAL OF CONFLICTING ORDINANCES. All ordinances or parts of ordinances, and all resolutions and parts of resolutions, in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 15. EFFECTIVE DATE. This Ordinance shall become effective upon adoption by the City Council in accordance with the Charter of the City of Titusville, Florida.

SECTION 16. INCORPORATION INTO CODE. This Ordinance shall be incorporated into the City of Titusville Code of Ordinances and any section or paragraph, number or letter, and any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and like errors may be corrected and additions, alterations, and omissions, not affecting the construction or meaning of this ordinance and the Code may be made.

PASSED AND ADOPTED this ___ day of __________, 2017

____________________________
ATTEST:
Walt Johnson, Mayor

___________________________
Wanda F. Wells, City Clerk