

## **ORDINANCE 2022-08**

**AN ORDINANCE OF THE TOWN OF LONGBOAT KEY, FLORIDA, AMENDING TITLE 9, GENERAL REGULATIONS OF THE TOWN OF LONGBOAT KEY CODE OF ORDINANCES; CREATING A NEW CHAPTER 89 ENTITLED PUBLIC BATHING PROTECTION; ESTABLISHING SECTION 89.01, PURPOSE; ESTABLISHING SECTION 89.02, DEFINITIONS; ESTABLISHING SECTION 89.03, DESIGNATION OF AREAS OF RESTRICTED WATER ACTIVITIES; ESTABLISHING SECTION 89.04, REGULATIONS IN AREAS OF RESTRICTED WATER ACTIVITIES; ESTABLISHING SECTION 89.05, MOTOR BOATS PROHIBITED AREA DESCRIPTION AND MAP; ESTABLISHING SECTION 89.06; ENFORCEMENT AND PENALTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, The Town of Longboat Key (Town) is a barrier island with unique natural attributes; and

**WHEREAS**, Section 327.46, Florida Statutes, grants authority to local governments to establish ordinances for “any purpose necessary to protect the safety of the public if such restrictions are necessary based on boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion or other navigational hazards, or to protect seagrasses on privately owned submerged lands;” and

**WHEREAS**, Section 327.46, Florida Statutes, further grants authority to designate areas adjacent to public bathing beaches, swim areas, and areas reserved exclusively for the safety of those participating in non-motorized recreational activities as motorized vessel exclusion zones; and

**WHEREAS**, the southeastern area of Greer Island has historically been used by the public as a public bathing area where the public gathers on the shallow shoreline to recreationally bathe, wade and lounge in and along the Town’s coastal waters; and

**WHEREAS**, Greer Island has also been an area that has historically been frequented by motorized vessels that navigate in and around the Greer Island for purposes of congregating and anchoring along the shallow shoreline; and

**WHEREAS**, the Town desires to prohibit the usage of motorized vessels and designate the southeastern area of the Greer Island County-owned park, within the corporate boundaries of the Town, as a public bathing beach and non-motorized vessels area to protect those bathing and recreating in this shallow area from boating accidents; and

**WHEREAS**, it is the intent of this Ordinance to ensure that the operation of motorized vessels shall not adversely affect navigation, natural resources, and the public's health, safety, and welfare; and

**WHEREAS**, the Town staff have coordinated with Florida Fish and Wildlife Conservation Commission (“FWCC”) and have organized Chapter 89 in a manner to establish a Public Bathing Beach with an area delineated as a Motor Boats Prohibited Area consistent with feedback received from FWCC and Section 327.46(b)(3)(a) Florida Statutes; and

**WHEREAS**, it is the intent of this Ordinance to protect the rights of boaters recreationally utilizing the local area waterways for the operation of vessels while also designating an area for public bather usage; and

**WHEREAS**, the Town Commission, after careful consideration of the issues, finds that the proposed amendments are in the best interest of the health, safety, and welfare of the citizens of the Town; and

**WHEREAS**, after due public notice, the Town Commission conducted first reading of the Ordinance on June 6, 2022, and a duly noticed second reading and public hearing on June 20, 2022, and finds that the proposed amendments are in the best interest of the health, safety, and welfare of the citizens of Longboat Key.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF LONGBOAT KEY, FLORIDA, THAT:**

Section 1. The above recitals are true and correct and are hereby incorporated fully by reference.

Section 2. Title 9 – General Regulations is hereby amended to create a new Chapter 89, to read as follows:

**Chapter 89 – Public Bathing Protection.**

**89.01 - Purpose**

Chapter 89 is hereby enacted for the purpose of protecting the public bathers from dangers caused by increased vessel operations along the beaches and shorelines of the Town of Longboat Key. The purpose of this Chapter is to protect public bathers that bathe, wade, lounge and congregate in and on the shallow waters of the Town of Longboat Key and ensure that such activities are conducted in a manner that is safe for those residents and visitors that engage in such activities. This Chapter seeks to ensure that public bathers are able to safely and reasonably enjoy the Town's beaches and waters in a manner that protects bathers from boating accidents, hazardous currents and water levels, vessel congestion, and other navigational hazards. The Town seeks to create one or more public bathing areas that restrict the operation of vessels in designated bathing and motor boats prohibited areas to avoid conflicts between the recreating public and vessels. This Chapter shall be referred to as the Town of Longboat Key's Public Bathing Protection Chapter.

Section 3. Section 89.02, is hereby added as follows:

**89.02 - Definitions.**

For purposes of Chapter 89, the following terms, phrases, words, and derivations shall have the meaning given herein. When not inconsistent with the context, the words used in the present tense include the future, words in the plural number include singular number, and the words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

"Motor Boats Prohibited Area." A surface water area where all vessels equipped with any mechanical means of propulsion are prohibited from entering the marked area, even if the mechanical means of propulsion is not in use. Within this area, watercraft use is limited to canoes, kayaks, sailboats, or other non-motorized vessels.

Section 4. Section 89.03, is hereby added as follows:

**89.03 - Designation of "Areas of Restricted Water Activities."**

The following areas are hereby designated as areas of restricted water activities:

- (A) Any area designated as a "Motor Boats Prohibited Area," which is posted in such a manner and placed that it may be expected to be seen and be read by a person in operation of a vessel within the area; and
- (B) Any other areas that may be so designated by the Town Commission pursuant to applicable law.

Section 5. Section 89.04, is hereby added as follows:

**89.04 - Regulations in Areas of Restricted Water Activities.**

- (A) No owner, operator, or person in command of any motorized vessel shall permit said vessel to be operated or beached in areas of restricted water activities designated as a "Motor Boats Prohibited Area" as referenced in Subsection 89.03 of this Chapter.
- (B) The area designated as "Motor Boats Prohibited Area" is depicted in the map as set forth in this Chapter. The "Motor Boats Prohibited Area" shall be posted with one or more signs.

Section 6. Section 89.05, is hereby added as follows:

**89.05 - Public Bathing and Motor Boats Prohibited Area Description and Map.**

"Motor Boats Prohibited Areas" more particularly described and depicted below are hereby established as follows:

- (A) The water area fifty (50) feet seaward of the mean high water line, of the southeastern portion of the Greer Island County-owned park, east of the Longboat Pass bridge, and beginning at a point fifty (50) feet north of the dock extending from Manatee County Parcel ID # 7772900109, and proceeding northward along the accreting or eroding beach frontage waterward of the mean high water mark line, a distance of approximately one hundred and eighty (180) feet (encompassing an area, which is subject to change via natural accretions or eroding beach frontage); and
- (B) The water area fifty (50) feet seaward of the mean high water line, of the southeasternmost portion of the Greer Island County-owned park, beginning at a location on the western side of the Longboat Pass bridge, and north of the navigable channel of Canal 1A, and extending east of the Longboat Pass bridge a distance of one hundred and forty (140) feet (encompassing an area, which is subject to change via natural accretions or eroding beach frontage all as more particularly described in the map incorporated herein as Exhibit "A").

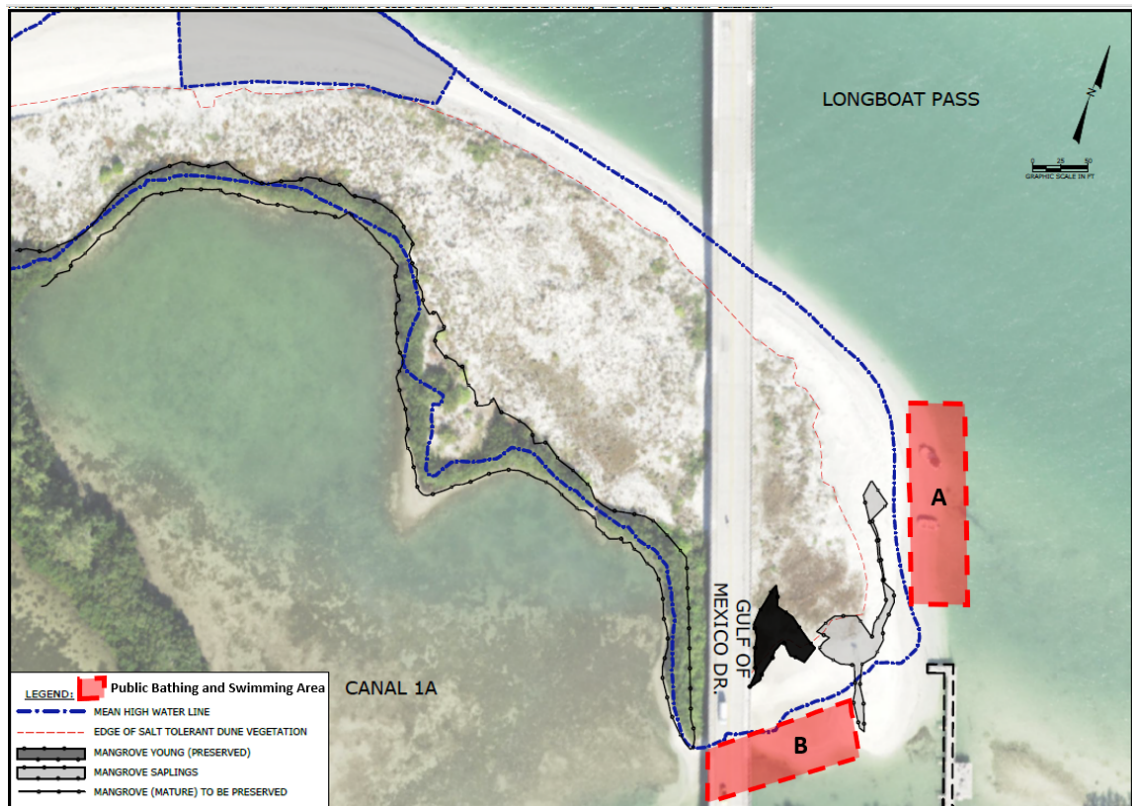


Exhibit "A"

Section 7. Section 89.06, is hereby added as follows:

**89.06 – Enforcement and Penalty**

Enforcement of this Chapter shall be by law enforcement officers from the Florida Fish and Wildlife Conservation Commission, County Sheriff Department, or the Longboat Key Police Department, using the Uniform Boating Citation as provided for by applicable Florida law. The penalty for a violation of this Chapter is:

- (A) For a first offense, a maximum of \$250.
- (B) For a second or subsequent offense, a maximum of \$500.

Section 8. Severability. If any section, subsection, paragraph, sentence, clause, or phrase in this Ordinance is held invalid by a court of competent jurisdiction, then such invalidity shall not affect the remaining portions of this Ordinance.

Section 9. Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Longboat Key upon adoption.

Section 10. Effective Date. This Ordinance shall take effect immediately upon its adoption, as provided by law.

Passed on first reading the 6th day of June, 2022.

Adopted on second reading and public hearing the 20<sup>th</sup> day of June, 2022.

ATTEST:

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Kenneth Schneier, Mayor

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Trish Shinkle, Town Clerk