

**ORDINANCE NO. 2025-\_\_\_**

**AN ORDINANCE OF THE POLK COUNTY BOARD OF COUNTY COMMISSIONERS ESTABLISHING VESSEL EXCLUSION ZONES AND DESIGNATED SWIM AREAS ON LAKE WINTERSET, LAKE CLINCH, AND LAKE ARIANA; CLARIFYING THE REPEAL OF POLK COUNTY ORDINANCE NO. 91-13; PROVIDING FOR DEFINITIONS, REGULATIONS, ENFORCEMENT, AND PENALTIES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Polk County has approximately five hundred fifty (550) lakes covering over ninety-three thousand (93,000) acres and hundreds of miles of streams and rivers, which are a major asset to the County; and

**WHEREAS**, the Board of County Commissioners desires to promote the safety and enjoyment of its waterways for all users; and

**WHEREAS**, pursuant to Chapter 327, Florida Statutes, particularly Sections 327.46 and 327.60, local governments are authorized to regulate vessels and establish boating-restricted areas, including vessel exclusion zones, upon local waterways for the safety and welfare of their citizens; and

**WHEREAS**, boats have been declared dangerous instrumentalities pursuant to Section 327.32, Florida Statutes; and

**WHEREAS**, the mixing of motorized vessel traffic with swimmers, waders, and users of non-motorized flotation devices presents a significant risk of serious injury or death, and the Board finds that vessel exclusion zones are a critical tool to physically separate incompatible waterway uses, thereby mitigating risks to vulnerable users; and

**WHEREAS**, staff has received a letter from the Polk County Sheriff's Office (Exhibit "D") citing congestion between vessels and swimmers on Lake Winterset, Lake Clinch, and Lake Ariana, which has led to dangerous situations including near-miss collisions, vessels operating at unsafe speeds, and interference with non-motorized recreational users; and

**WHEREAS**, due to high levels of recreational use on Lake Winterset, Lake Clinch, and Lake Ariana, the Board of County Commissioners of Polk County, Florida, finds it necessary and in the public interest to establish vessel exclusion zones and designated swim areas in specific locations on said lakes to protect the health, safety, and general welfare of the public.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY, FLORIDA THAT:**

**SECTION 1: SHORT TITLE**

This Ordinance shall be known and may be cited as the "Lake Winterset, Lake Clinch, and Lake Ariana Designated Swim Area Ordinance."

## **SECTION 2: APPLICABILITY**

The regulations herein shall apply only to the specifically designated areas of Lake Winterset, Lake Clinch, and Lake Ariana as described in Ordinance.

## **SECTION 3: DEFINITIONS**

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. If any definition is inconsistent with the definition in Florida Statutes, the definition in Florida Statutes shall take precedence.

*Bather* shall mean any person who is in the water, whether said person is swimming, wading, floating on any device, or engaged in other activity in the water.

*Board* shall mean the Board of County Commissioners of Polk County, Florida.

*Designated Swim Area* means an area established for the primary purpose of protecting bathers from vessel traffic and is designated by the Board, through this Ordinance, for swimming and related activities, automatically created within the boundaries of any vessel exclusion zone established pursuant to Florida Statutes 327.46.

*Idle speed/no wake* means that a vessel cannot proceed at a speed greater than that speed which is necessary to maintain steerageway. At no time is any vessel required to proceed so slowly that the operator is unable to maintain control over the vessel or any other vessel or object that it has under tow.

*Operate* shall mean to be in the actual physical control of a vessel.

*Operator* means any person in charge of, in command of, or in actual physical control of a vessel on the waters of this county, exercising control over or having responsibility for a vessel's navigation or safety while the vessel is underway on the waters of this county, or controlling or steering a vessel being towed by another vessel on the waters of this county.

*Person* shall mean an individual, partnership, firm, corporation, association, or other entity.

*Vessel* is synonymous with boat as referenced in section 1(b), Art. VII of the State Constitution and includes every description of watercraft, barge, and air boat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

*Vessel exclusion zone* means an area designated by the Board, through this Ordinance, from which all vessels are excluded to enhance safety, prevent user conflicts, and/or protect environmental resources.

#### SECTION 4: EXEMPTIONS

The prohibitions contained within this Ordinance shall not apply to the following:

1. Vessels operated by authorized law enforcement, firefighting, or rescue personnel.
2. Vessels operated related to environmental management activities.
3. Vessels operating under emergency conditions during an emergency.
4. Vessels operated by an employee, officer, or authorized agent of local, state, or federal government for ensuring compliance with the law or for performing other official duties, such as environmental management activities.
5. Vessels operating within a designated swim area/vessel exclusion zone for the sole purpose of accessing and departing from a dock located on property owned or operated by the vessel's owner or operator, provided that such vessels:
  - a. Operate at idle speed/no wake at all times within the designated swim area/vessel exclusion zone.
  - b. Take the most direct route to and from the dock.
  - c. Do not engage in any other activities within the Designated Swim Area/Vessel Exclusion Zone beyond what is minimally necessary to access and depart from the dock.

#### SECTION 5: ESTABLISHMENT, REGULATION, AND MARKERING OF ZONES

1. *Establishment of Zones:* The Board of County Commissioners hereby establishes the following Vessel Exclusion Zones, within which Designated Swim Areas are created:
  - a. **Lake Winterset:** The area designated as a Vessel Exclusion Zone on Lake Winterset is depicted on the map attached hereto as Exhibit 'A' and incorporated herein by reference.
  - b. **Lake Clinch:** The area designated as a Vessel Exclusion Zone on Lake Clinch is depicted on the map attached hereto as Exhibit 'B' and incorporated herein by reference.
  - c. **Lake Ariana:** The area designated as a Vessel Exclusion Zone on Lake Ariana is depicted on the map attached hereto as Exhibit 'C' and incorporated herein by reference.
2. *Permitted Activities:* Within such designated swim areas, the following activities are permitted:
  - a. Swimming and wading;
  - b. Floating and the use of non-motorized flotation devices;
  - c. Snorkeling and other recreational activities that do not involve the use of a vessel.
3. *Prohibited Activities:* Within such designated swim areas, the following activities are prohibited:
  - a. Operation of any motorized vessel, including but not limited to motorboats, personal watercraft, and airboats, except for law enforcement, emergency response, or other official purposes as authorized by this county;
  - b. Anchoring or mooring of any vessel;
  - c. Any activity that endangers or interferes with the safety of swimmers.
4. *Marking and Signage:* The Polk County Sheriff's Office shall be responsible for posting and maintaining all required buoys, signs, or other appropriate markers identifying the

boundaries of the swim area(s), in accordance with the Uniform State Waterway Marking System.

#### **SECTION 6: ENFORCEMENT AND PENALTIES**

The County's code enforcement officers, the Polk County Sheriff's Office and any other person authorized to enforce county ordinances may enforce the provisions of this Ordinance. Any enforcement action or legal remedy available under controlling state law, including, but not limited to, prosecution as a misdemeanor with a fine not exceeding five hundred dollars (\$500.00) or by imprisonment for a term not exceeding sixty (60) days or by both fine and imprisonment, may be imposed as a penalty. When enforced by a code enforcement officer, the enforcement provisions and procedures contained in the Polk County Code Enforcement Special Magistrate Ordinance, as may be amended, are incorporated herein by reference and will apply. Nothing contained herein shall prevent the County from taking such other lawful action in law and equity as may be necessary to remedy any violation of any part of this Ordinance, including without limitations:

1. Pursuit of injunctive and/or declaratory relief in a court of competent jurisdiction; and
2. Utilizing any other action or enforcement method permitted by law.

#### **SECTION 7: NO WARRANTIES OR ASSURANCES**

The establishment of a Vessel Exclusion Zone or Designated Swim Area by the Board does not imply any warranty or assurance of safety within that area. Users of these areas assume all risks associated with their use.

#### **SECTION 8: REPEAL AND SEVERABILITY.**

Polk County Ordinance No. 91-13, together with all ordinances or portions of ordinances amending it, is hereby repealed. This repeal shall be deemed effective on the date that Ordinance No. 2025-032 became effective. If any provision of this Ordinance or if this Ordinance as applied is determined to be invalid or unconstitutional by a court of competent jurisdiction, such provision 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 9: EFFECTIVE DATE**

This Ordinance shall take effect immediately upon its filing with the Office of the Florida Secretary of State.



Lake Winterset


 Designated Swim Area and Vessel Exclusion Zone






Exhibit "A"



Lake Winterset

 Designated Swim Area and Vessel Exclusion Zone





# Lake Winterset



 Designated Swim Area and Vessel Exclusion Zone



Exhibit "B"



Lake Clinch



Swimming Area





Lake Ariana



Swimming Area





# *Sheriff Grady Judd*

## *Polk County*

1891 Jim Keene Blvd. • Winter Haven, FL 33880-8010 • Phone: 863.298.6200 • [www.polksheriff.org](http://www.polksheriff.org)

March 19, 2025

Exhibit "D"

Polk County Board of County Commissioners  
330 West Church Street  
Bartow, Florida 33830

RE: Request for Adoption of Boating-Restricted Areas per Florida Statute 327.46(1)(c)(3)b

To the Honorable Members of the Polk County Board of County Commissioners:

Pursuant to Florida Statute 327.46(1)(c)(3)b, I respectfully submit for consideration the proposed ordinance titled "Polk County Waterway Protection Code" (Ordinance No. 2024-), ***as well as the accompanying Resolution No. 2025-***, which establish designated swim areas and vessel exclusion zones in certain portions of Lake Winterset, Lake Clinch, and Lake Ariana.

The need for these boating-restricted areas has arisen due to significant public safety concerns identified on these bodies of water. With over 550 lakes and more than 93,000 acres of navigable waterways in Polk County, congestion between vessels and swimmers has led to dangerous situations that threaten the health, safety, and general welfare of both residents and visitors.

Specifically, these areas have seen increased incidents of near-miss collisions, excessive wake damage to docks and shoreline property, and interference with non-motorized recreational users. Our deputies have reported a growing number of complaints from residents and documented situations where vessel operation at unsafe speeds and proximity to swimmers created hazardous conditions.

The proposed ordinance and resolution are designed to:

- Minimize conflicts between vessels and swimmers;
- Reduce the risk of accidents and injuries;
- Promote safe and responsible boating;
- Ensure that waterways are enjoyed by all users in a safe environment.

The proposed ordinance and resolution meet the requirements set forth in Chapter 327, Florida Statutes. I respectfully request the Board's adoption of these boating-restricted areas to enhance public safety and support the responsible use of Polk County's waterways.

Please feel free to contact me if you have any questions or need additional information.

Thank you for your attention and consideration.

Sincerely,

Mario J. Cabrera  
General Counsel