



# Beaches Bylaw 2018

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Commencement: 01 July 2018

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# Part 1: Introduction

The Whakatāne District Council makes this bylaw pursuant to sections 145 and 146 of the Local Government Act 2002.

## **1 Short title and commencement**

This bylaw shall be known as the Whakatane District Council Beaches Bylaw 2018.  
This bylaw comes into force on 1 July 2018.

## **2 Revocation**

The Whakatane District Council Consolidated Bylaw Part 13: Beaches is hereby revoked from the day this bylaw comes into force.

## **3 Purpose**

The purpose of this Bylaw is to protect the beach environment from damage and to control activities that may impact adversely on public use and safety.

## **4 Interpretation**

In this bylaw, unless the context otherwise requires or where otherwise expressly provided:

ACT means the Local Government Act 2002.

AIRCRAFT means any man-made device capable of flight, including but not limited to aeroplanes, helicopters, gliders, hang-gliders, parachutes, seaplanes or hovercraft, unmanned aerial vehicles, (including model aircraft, and drones), and radio controlled aircraft.

APPROVED means approved by the Council or by any Authorised Officer.

AUTHORISED OFFICER means any person appointed or authorised in writing by the Chief Executive or by the Council to act on its behalf, and includes an Enforcement Officer.

BATHING includes swimming and sunbathing.

BEACH means any land in the Council's district adjacent to any seacoast or lakeside which is part of the foreshore, or is land contiguous to and used in connection with the foreshore, and to which the public has a right of access. For the purposes of this bylaw, the beach includes the foreshore which is the parts of the bed, shore or banks of tidal water between mean high water springs and mean low water springs.

CAMP means to reside in or sleep in a structure, tent or vehicle.

COUNCIL means the Whakatane District Council.

CRAFT includes any ship, boat or other machine or vessel, including a kontiki device, used or able to be used by any person on, or in, the sea.

LICENCE includes a permit or other authority from the Council.

MOTORCYCLE shall have the same meaning as defined in the Land Transport Act 1998 but shall include those vehicles commonly referred to as “quadbikes” for the purposes of this bylaw.

OWNER of any property, or as applied to any land, building, or premises, means any person for the time being entitled to receive the rent of such property, land, building, or premises, and where any such person is absent from New Zealand, shall include his attorney or agent, or any other person acting for him or on his behalf.

SIGN means a visual message or notice conveyed to the public and visible from a public place displayed to advertise, identify a product, business, or service, or to inform the public, together with any frame, supporting device and any associated ancillary equipment. It includes but is not limited to a banner, flag, poster, billboard, free standing sign, windsock and blimp. A bunting that has symbols or messages on it shall also be considered to be a sign.

STRUCTURE is any permanent or temporary works which are not part of the natural beach environment.

VEHICLE has the same meaning as defined in the Land Transport Act 1998 and is defined as any means of transport whatsoever which is equipped with wheels or revolving runners or tracks regardless of its means of motive power, and is not limited to cars, trucks, motorbikes, bicycles, segways, skateboards and land yachts. Vehicle does not include prams or wheelchairs (or other mobility scooters used by persons with a physical or neurological condition).

VESSEL is defined as any ship or boat and includes any motorised vessel, yacht, inflatable rubber boat, kayak, jet ski, and any fishing boats designed to be used in the sea or river, but does not include wakeboards, kitesurfing-boards, surfboards, or stand-up paddle boards.

WHARF is a permanent or floating waterfront structure which is purpose designed for the berthing of marine vessels and includes every wharf, quay, jetty, pier, pontoon or other structure under the control of the Council from which passengers or goods may be taken on board or landed from any vessel or boat.

## Part 2: Beaches

### 5 Waste

No person shall, on any part of the beach:

- (a) Leave waste matter of any form;
- (b) Break any bottle or deposit any matter likely to cause any nuisance, injury or danger to public health or safety;
- (c) Scale, clean or gut any fish or deposit any fish, or any portion of a fish or a carcass of any dead animal, or bird or any vegetable matter likely to cause a nuisance, injury or danger to public health or safety; and
- (d) Leave any offensive matter in the area of any beach (including in or on any vessel) exposed or stored so as to cause a nuisance, injury or danger to public health or safety.

### 6 Aircraft

Except with the written permission of the Council or an Authorised Officer and in accordance with any required conditions, and provided all other applicable statutory requirements are complied with, no person shall land or attempt to land on the beach or take off or attempt to take off from the beach any aircraft, except in the case of an emergency.

### 7 Vehicles and vessels

- (1) Except with the prior written permission of the Council or an Authorised Officer, and in accordance with any conditions that may be required, no person shall park or drive any vehicle (excluding bicycles), motorcycle, or land yacht on any part of the beach.
- (2) Clause (7)1 shall not apply to quadbikes provided they:
  - use designated / formed access ways and are ridden only between the medium high water springs and the medium low water springs;
  - are not ridden on any part of the beach at a speed in excess of 10km/hr and do not endanger public safety;
  - are registered and warranted, and the driver holds a licence, all in accordance with the New Zealand Transport Agency's requirements; and
  - are not ridden on any areas of the beach where endangered birds are nesting as shown in the District Plan's Vehicle Restriction Areas for Bird Nesting Areas.
  - are being used for the purposes of recreational fishing only;
  - stay off the dunes that form part of Council's administered public land at all times; and
  - are not ridden on Ōhope Beach between Maraetōtara Road and West End or on the Ōhope or Opihi Spits, as shown in the **First Schedule**.

- (3) Clause 7(1) shall not apply to:
- (a) Any vehicle driven along an authorised access way or parked in any authorised parking area; or
  - (b) Any vehicle used solely for the purpose of launching or retrieving any vessel; and
    - i. Provided that the vehicle uses an authorised access way to go onto and leave the beach; and
    - ii. Moves across the beach to and from the water using the shortest practicable route; and
    - iii. Leaves the beach immediately once the vehicle has finished launching or retrieving a vessel.
  - (c) Any land yacht being driven on the beach in areas which the Council may from time to time by publicly notified resolution designate for driving land yachts and which are identified by official Council signage.
- (4) Those vehicles referred to in clause 7(2) shall not be driven on any part of the beach at a speed in excess of 20 km/hr and should not endanger public safety.
- (5) Except with the prior permission of the Council or an Authorised Officer, and in accordance with any conditions that may be required, a person shall not on any part of the beach:
- (a) Leave a trailer other than in a portion of the beach designated by Council for the parking of vehicles or trailers;
  - (b) Navigate any vessel in water over the beach in a manner which is, or might be dangerous to the public, or which causes or is likely to cause a nuisance to any person using the beach;
  - (c) Except in an emergency leave or cause to be left for more than 24 hours any vessel of any description;
  - (d) Use any authorised vehicle on the beach where in the opinion of the Council or an Authorised Officer a nuisance or danger is or may be created for other users of the beach.
- (5) Any restrictions contained in the preceding clauses shall not apply to:
- (a) Law Enforcement Officers;
  - (b) Surf Patrol, Fire Rescue or Emergency Services Personnel;
  - (c) Council Officers (including Bay of Plenty Regional Officers);
  - (d) Honorary Rangers (appointed by Council)
  - (e) Department of Conservation Officers.

Provided they are in the course of carrying out their official duties.

## **8 Animals**

- (1) The Council may prohibit horses on areas of the beach for public health or safety reasons;
- (2) No person shall, on any part of the beach:

- (a) Ride, drive or lead a horse or any other animal in an area where horses are prohibited or in a way that endangers public health or safety; or
  - (b) Allow any animal to defecate unless the person in control of the animal removes the faeces immediately from that place and disposes of it in a sanitary manner.
- (3) Any person riding or leading a horse must:
- use designated / formed access ways and keep on the beach between the medium high water springs and the medium low water springs;
  - stay off the dunes that form part of Council’s administered public land at all times;
  - not enter any areas of the beach where endangered birds are nesting as shown in the District Plan’s Vehicle Restriction Areas for Bird Nesting Areas.
  - not enter the areas on Ōhope Beach between Maraetōtara Road and West End or on the Ōhope or Opihi Spits, as shown in the **First Schedule**.
- (4) Where any animal is found on any beach in contravention of Clauses 8 (1) and (2), it may be seized and impounded by any Authorised Officer person duly authorised by the Council.

## **9 Conduct**

No person shall, on any part or the beach:

- (a) Take part in any activity likely to cause injury to any person or likely to damage any property;
- (b) Intentionally obstruct, disturb or interfere with any other person in the enjoyment of the beach;
- (c) With intent to offend, use any indecent or offensive language or behave in any indecent, offensive, improper, disorderly or noisy manner;
- (d) Subject to any applicable Fire Control legislation or any Part of the Bylaw, light or leave any fire in a manner or condition which is or might be dangerous to any person or property or which causes or may cause a nuisance, injury or danger to any person.

## **10 Organised Events**

Without the prior written permission of the Council or an Authorised Officer, no person shall on any beach:

- (a) Hold, conduct or take part in any public meeting, or assembly of any kind that unduly restricts other people’s use of the beach; or
- (b) Hold, conduct or take part in any organised sporting event or games, or other organised event.



## **11 Protection of beach environment**

- (1) No person shall interfere or remove any portion of any protective works or other structures erected on the foreshore for the control of sand or shingle or for the prevention of erosion.
- (2) No person shall enter areas that have been closed off for dune protection or for the protection of breeding birds.
- (3) No person shall interfere with birds, nests or eggs on a beach.
- (4) No person shall set fire to any vegetation on a beach or dune, or allow any untended fire to remain alight on a beach.
- (5) No person shall remove any vegetation from the beach or dunes without written permission from the Council or an Authorised Officer.
- (6) No person shall cause damage to any part of the beach.

## **12 Camping**

- (1) No person shall build or place any structures of any kind, including but not limited to tents, stalls or amusement devices on any beach and allow those structures to remain overnight except with prior written permission of the Council or an Authorised Officer.
- (2) No person shall camp overnight on any part of any beach unless that person has obtained the prior written approval of the Council or an Authorised Officer.

## **13 Lifesaving**

- (1) The Council may authorise any Life Saving Club:
  - (a) To provide and use on any beach, life-saving equipment to the approved standards of Surf Life Saving New Zealand; and
  - (b) To erect, place or remove on any beach any danger notices, or signs requiring or prohibiting swimming within specified areas of the beach as is necessary.
- (2) No person shall interfere with, remove, destroy or damage any lifesaving apparatus erected, maintained, or otherwise authorised by the Council on any part of the beach to which this Bylaw applies.
- (3) No person shall obstruct or hinder or interfere with the carrying out of any life-saving operation or drill or with any persons engaged therein.

## **14 Hiring of craft**

- (1) The Council may authorise, subject to any required conditions and fees, the use of any defined part of the beach for the hiring, storing, launching and recovery of particular types of waterborne vessel made available for public hire, and may issue a licence to any person for the carrying out of one or more of those activities.
- (2) Any person commits an offence against this Bylaw who undertakes any of the activities referred to in clause 14 (1):
  - (a) outside of the area set apart from those purposes; or
  - (b) in any part of the area set apart for those purposes when he or she is not licensed to do so.

## Part 3: Other matters

### **15 Offences and penalties**

- (1) Any person who commits an offence under this Bylaw shall be liable to be prosecuted and liable to a fine not exceeding \$20,000.
- (2) If in the opinion of an Authorised Officer, the behaviour and actions of any person on a beach may endanger the public, animals or birds, or may cause damage to the beach, the Authorised Officer may request that the person desists from such behaviour. Any refusal to comply with the request is an offence against this Bylaw, and the Authorised Officer may require the person to leave the beach immediately.
- (3) Any vehicles, vessels or articles which are on a beach in breach of this Bylaw may be removed by any Authorised Officer or Police Officer and impounded at the expense of the driver or owner.
- (4) This Bylaw authorises any member of the New Zealand Police to assist an Authorised Officer in the performance of the enforcement measures provided for in this part of the Bylaw.