

Local Government Act 1995

TOWN OF COTTESLOE



BEACHES AND BEACH RESERVES LOCAL LAW 2012

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LOCAL GOVERNMENT ACT 1995

TOWN OF COTTESLOE

BEACHES AND BEACH RESERVES LOCAL LAW 2012

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Town of Cottesloe resolved on 28 May 2012 to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *Town of Cottesloe Beaches and Beach Reserves Local Law 2012*.

1.2 Commencement

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

1.3 Repeal

The *Beaches and Beach Reserves Local Law No. 3* as published in the *Government Gazette* on 14 April 1999 is repealed.

1.4 Definitions

In this local law, unless the context otherwise requires, the following terms shall have the meanings defined below.

Act means the *Local Government Act 1995*;

animal without limiting the generality of such term, includes horses, camels, cats, cattle, sheep, goats, swine, reptiles and birds but does not include dogs;

Authorised Person means an employee of the Town of Cottesloe, a member of the Western Australian Police Service or other person where such other person is authorised in writing by the Town to exercise any function provided under these laws;

Bathing means the act of entering into the sea and emerging there from and includes the use of bathing appliances;

Bathing Appliances means a float of any material, including surf skis, surf boards, kickboards, malibu boards, paddle boards, body boards, boats or any other device whether motorised or not, used or capable of use for bathing or surf riding;

Bathing Area means that part of the defined area which, from time to time, is set aside pursuant to clause 4.2(1) of this local law as a bathing area;

Boat means any structure or vessel whether propelled manually or by wind or power or wave, used to float and travel upon or above the water;

Building means a structure erected or placed on land and without limiting the generality of the same includes all plumbing, electrical installations, fittings, fixtures and all furniture or other contents of a building and all structures in the open air including notices, signs, seats, fences, walls, drains, showers, roads, footpaths, memorials and the like erected by or with the consent of Council;

Cottesloe Beach means the area of beach from the northern face of the Cottesloe Beach Groyne to an imaginary line drawn west at right angles to the coast from the southern boundary of Napier Street road reserve;

Council means the Council of the Town of Cottesloe;

Defined Area means the places and the areas of the sea defined in clause 1.5 of this local law;

District means the district of the Town of Cottesloe;

Eric Street Pool means the area of beach between the imaginary lines drawn west at right angles to the coast from:

- (i) the northern border of the Eileen Street road reserve; and
- (ii) the southern alignment of the Eric Street road reserve;

Fence means and artificially created barrier whether temporary or permanent including post and rails, chain, metal, wire or pipe;

Fishing means to use any line, lure, rod, pot or other method for the purposes of catching marine life;

Foreshore means the beach from the low water mark as measured at the ordinary spring tides to the commencement of the sand dune system;

function without limiting the generality of such term, includes a carnival, show, fete, concert, exhibition, gymkhana, sporting event, or a training or practice session in connection with a sport;

Indecent exposure means the revealing to view of those parts of the body, especially the genitals, which by law and convention should be covered by clothing under the given circumstances;

Life Saving Club means a Life Saving Club affiliated with Surf Life Saving Western Australia Inc;

Life Saving Appliance means any equipment or other appliance used in the provision of life saving services or for the training of Life Saving Club members or their duties;

Local Government means the Town of Cottesloe;

North Cottesloe Beach means the area of beach between an imaginary line drawn west at right angles to the coast from the northern border of the Eileen Street road reserve and the northern border of the Grant Street road reserve;

Nuisance means

- (a) any thing, condition, circumstance or state of affairs which is injurious or dangerous to the health of a reasonable person, or which has a disturbing effect on the state of reasonable physical, mental or social well-being of a person;
- (b) any thing a person does or permits or causes to be done which interferes with or is likely to interfere with the enjoyment or safe use by another person of any public place; and
- (c) any thing a person does on public or private land which detracts from or interferes with the enjoyment or value of land owned by another person;

Public Place includes every place to which the public ordinarily has access, whether by payment of fee or not;

Regulations mean Local Government (Functions and General) Regulations 1996;

Reserves means Land Reserve Numbers 6896A, 13718, 13719, 16187, 16188, 16189, 28199 and 30807;

Sand Dune System means sand dunes and all areas between sand dunes;

Surfing means the use of any flotation device that is propelled by the motion of ocean waves at any point during its use, but does not include any device being used in surf lifesaving operations, training or competition;

Vehicle includes;

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
- (b) an animal being ridden or driven;

Vera View Beach means the area of beach between imaginary lines drawn west at right angles to the coast from the southern boundary of Lot 22 (No. 204 Marine Parade) and the southern boundary of Lot 45 (No 214 Marine Parade of Swan Location Sub-lot, Plan 691; and

Watercraft means any bathing appliance or boat as defined above.

1.5 Application

Unless the contrary is expressly provided, these local laws shall apply -

- (a) to the sea adjoining the District for a distance of 200 metres seaward from the low water mark as measured at ordinary spring tides;
- (b) to the area comprising the reserves to the extent the reserves are within the District; and
- (c) to all land or any building vested in or under the care, control and management of the Town where such land or building is located within the reserves.

PART 2 – ENVIRONMENTAL PROTECTION

2.1 Activities prohibited to preserve the environment

- (1) Subject to the provisions of the Fish Resources Management Act 1994 and the Wildlife Conservation Act 1950, a person must not destroy, damage, injure, cause harm to, catch, snare, or take any animal or marine life ordinarily found within the defined area.
- (2) This clause does not apply to recreational line fishing which is not otherwise prohibited under or by these local laws.
- (3) A person shall not, without the permission of the local government -
 - (a) climb over, under, or through any fence or gate designed or installed for the purpose of prohibiting or restricting the entry of persons or vehicles;
 - (b) enter any place that has been fenced off or otherwise closed to the public;
 - (c) use any board or other object to traverse or slide down the sand dune system;
 - (d) climb, injure, cut, break, deface, pull up, pick, remove or destroy any tree, shrub, flower, grass or plant of any kind or description;

- (e) plant any tree, shrub, flower, grass or plant of any kind or description or sow or collect any;
- (f) erect any tent, camp, hut or other structure other than a beach umbrella or other portable item used for the purposes of protection from the elements;
- (g) cause or allow to be ridden or driven any vehicle except on a carriageway, thoroughfare, path or footpath designated for use by such vehicle;
- (h) traverse the sand dune system except on designated access ways; or
- (i) cut, collect, or remove any timber, firewood, stone, sand, seaweed or other material.

PART 3 – BEHAVIOUR ON BEACHES AND BEACH RESERVES

3.1 Quiet amenity

A person shall not, without the permission of the local government -

- (a) play sport or games in such a way as to cause inconvenience or annoyance to other persons;
- (b) create or take part in any nuisance or disturbance or behave in a disorderly or offensive manner;
- (c) enter or remain on a Beach or Beach Reserve while under the influence of alcohol or a prohibited drug;
- (d) throw or release any stone, arrow or other object used as a missile;
- (e) carry or discharge any firearm, air-gun, or other missile discharging device, or throw or discharge any explosive device, firework, spear or missile;
- (f) operate any device to produce a noise in such a manner as is, in the opinion of an authorised person, likely to cause a nuisance or annoyance to other people in the area;
- (g) use or operate any siren, starting gun or other device which causes noise which in the opinion of an authorised person is likely to cause a nuisance or annoyance to any person in the vicinity;
- (h) fly any mechanically operated model aeroplane or similar device;
- (i) launch hang gliders or similar devices;

- (j) hire, or offer for hire, any vehicle, bicycle, watercraft, kite, or other item of equipment for sport, entertainment, or amusement;
- (k) sell or offer for sale any goods of any description; or
- (l) set aside, to the exclusion of others, an area for a function or event.

PART 4 – PUBLIC SAFETY

4.1 Vehicles on beaches and beach reserves

- (1) A person, other than an authorised person, shall not without the prior written permission of the local government -
 - (a) drive or ride a vehicle other than on those areas set aside as thoroughfares, driveways or vehicle parking areas; or
 - (b) park or stand any vehicle except on areas set aside as parking areas.
- (2) The local government may grant permission to allow a vehicle to enter upon a public reserve for a specific reason and -
 - (a) may apply such conditions as it thinks fit to such permission; and
 - (b) a person shall not park, drive or stand that vehicle in breach of any such condition.
- (3) For the purposes of this clause, a **vehicle** does not include -
 - (a) a wheel-chair or any device designed for use, by a physically impaired person, to allow access to and use of the reserve; or
 - (b) a pram, stroller or similar device.

4.2 Beach safety

- (1) The local government may set aside specific areas where all or any of the following things are prohibited -
 - (a) entry by persons;
 - (b) bathing;
 - (c) the use of bathing appliances or any particular kind of bathing appliance;
 - (d) the entry and use of vehicles;
 - (e) the launching of boats and other watercraft;
 - (f) the playing of games;

- (g) the selling or displaying for sale or hiring of goods and merchandise;
 - (h) fishing; or
 - (i) surfing.
- (2) The local government may set aside specified areas for the purpose of subclause (1) for a particular period or until further notice by causing notices to that effect to be placed in the vicinity of the specified area;
 - (3) In an emergency, or if conditions warrant, an authorised person may set aside a specified area for the purposes of subclause (1) -
 - (a) with immediate effect;
 - (b) where any number or combination of the things listed in subclause (1) are prohibited; and
 - (c) which is noted by way of signs, flags and other markings, or by instruction by an authorised person.

4.3 Surfing

- (1) In addition to clause 4.2, Surfing is not permitted at any time in the area -
 - (a) bounded by the north side of the Cottesloe Beach Groyne and an imaginary line between the western end of the groyne and a point on the shoreline one hundred metres north of the Cottesloe Beach Groyne; or
 - (b) Eric Street Pool and Vera View Beach.
- (2) Subject to clause 4.2 and subclause (2) above, surfing is not permitted north of the Cottesloe Beach Groyne, except between 1 April and 30 September each year.

PART 5 - APPROPRIATE BEHAVIOURS

5.1 All persons to remain clothed

- (1) Any person using a beach for any activity in public view shall, in order to prevent indecent exposure, be properly and adequately clothed.
- (2) A parent or other adult person who is responsible for the custody, care or control of a child shall ensure that the child is properly and adequately clothed in accordance with subclause (1).
- (3) Where in the opinion of an authorised person, a person is in contravention of this clause, the authorised person may direct that person to comply with this clause and the person will comply with that direction immediately.

5.2 Use of change rooms and ablution facilities

- (1) No person shall -
 - (a) loiter either inside or outside any toilet, change-room or building or portion of a building;
 - (b) enter or attempt to enter any toilet block or change-room facility intended for use by the opposite gender; or
 - (c) without the consent of the occupier, enter or attempt to enter any toilet or compartment that is already occupied.
- (2) Any person, who acts in a way that causes an authorised officer to reasonably believe they are contravening clause 5.3(1) may be directed by the authorised officer to leave the area and that person shall comply with that direction immediately.
- (3) Paragraph (b) of subclause (1) does not apply to a child when accompanied by a parent, guardian or caregiver, where the child is –
 - (a) under the age of 8 years; or
 - (b) otherwise permitted by an authorized person to use the relevant entry.

PART 6 - ANIMALS

6.1 Animals prohibited on beach

- (1) No person shall ride, drive or bring an animal onto any part of the defined area that has not been set aside for that purpose, except with the written permission of the local government -
- (2) The local government may set aside portions of the defined area as areas upon which a person may ride or drive an animal, or onto which a person may bring an animal.

PART 7 - FISHING

7.1 Certain fishing activities prohibited

Within the defined area no person shall at any time -

- (a) fish for sharks by any means;

- (b) use blood as a lure for the purpose of attracting marine life;
- (c) clean fish, or leave or deposit fish offal or bait and associated material, except in the bins provided for that purpose; or
- (d) use or be in possession of a device such as a spear gun, gidgee, hawaiian sling or other like device.

PART 8 - WATERCRAFT

8.1 Restrictions on the use of watercraft

Watercraft are prohibited within defined area with the following exceptions -

- (a) surf life saving craft, used in their capacity as training and competition boats of a Life Saving Club, at both Cottesloe Beach and North Cottesloe Beach;
- (b) surf life saving boats being used for water rescue by a Surf Life Saving Club or authorised person;
- (c) subject to clause 4.2 surf skis may be used -
 - (i) at Cottesloe Beach and North Cottesloe Beach only for the purposes of entering and leaving the beach to a distance of one hundred metres seaward from the low water mark as measured at ordinary spring tides; and
 - (ii) At other beaches where safe to do so;
- (d) sailing craft and sail boards south of the Cottesloe Groyne and north of the northern boundary of the North Cottesloe Surf Saving Club building; and
- (e) any watercraft taking part in an event authorised by the local government in accordance with these local laws.

PART 9 – APPLICATIONS FOR EVENTS AND ACTIVITIES

9.1 All applications shall be in writing

- (1) Every application for permission in these local laws shall be in writing and shall specify -
 - (a) the name, address and contact details of the applicant seeking permission to undertake an activity or activities;

- (b) the location at, on or from which the applicant proposes to conduct the activities;
 - (c) details of the activities the applicant proposes to conduct;
 - (d) the day or days on which, and times during which, the applicant proposes to conduct the activities.
- (2) Clause 11.1 does not apply to a contravention of this clause.

9.2 Application approvals

- (1) Where an application for permission is made to the local government under this local law, the local government may -
- (a) refuse the application; or
 - (b) approve the application subject to any conditions as the local government sees fit.
- (2) Where an application for permission is approved, the local government will convey this approval to the applicant by written notice and this notice shall specify any conditions to which the approval is subject.
- (3) An applicant must comply with any conditions imposed under subclause (1).
- (4) If an applicant breaches any condition imposed under this clause, the local government may by written notice revoke the approval to which the condition relates.
- (5) Without limiting the generality of subclause (1), the local government may set fees as a condition for the granting of an approval under this clause.

PART 10 – IMPOUNDING OF GOODS

10.1 Goods involved in the committing of an offence may be seized

The seizure of goods involved in an offence is covered by the Act and Regulations.

PART 11 – OFFENCES AND PENALTIES

11.1 Offences and penalties

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (3) Any person who commits an offence under this local law shall be liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty of not exceeding \$500 for each day or part of a day during which the offence has continued.
- (4) The amount appearing in the final column of Schedule 1 directly opposite a clause specified in that Schedule is the modified penalty for an offence against this clause.

11.2 Infringement notices

- (1) An infringement notice in respect of an offence prescribed in these local laws -
 - (a) may be given under s.9.13 of the Act and shall be in or to the effect of Form 1 Schedule 2; or
 - (b) may be given under s.9.16 of the Act and shall be in or to the effect of Form 2 of Schedule 2.
- (2) A notice sent under s.9.20 of the Act withdrawing an infringement notice shall be in or the effect of Form 3 of Schedule 2.

Dated this _____ day of _____, 2012.

THE COMMON SEAL of)
the Town of Cottesloe is)
hereunto affixed by)
authority of a resolution)
of council in the presence of)

KEVEN JOSEPH MORGAN
MAYOR

CARL ASKEW
CHIEF EXECUTIVE OFFICER

SCHEDULE 1 - MODIFIED PENALTIES

Item	Clause	Nature of Offence	Modified Penalty
1	2.1(1)	Destroying or damaging animal or marine life	\$50
2	2.1(2)	Undertaking a prohibited activity without permission	\$50
3	3.1(a)	Playing sport which creates inconvenience	\$50
4	3.1(b)	Creating a nuisance	\$50
5	3.1(c)	Under the influence of alcohol or other drugs	\$50
6	3.1(d)	Throw or release any missile	\$50
7	3.1(e)	Carry or discharge any firearm	\$100
8	3.1(f)	Operating musical instrument or electronic amplifying equipment so as to create a nuisance	\$50
9	3.1(g)	Unauthorised use of an alarm	\$100
10	3.1(h)	Unauthorised use of prohibited device	\$50
11	3.1(i)	Unauthorised launching of hang-gliders	\$50
12	3.1(j)	Hire or offering to hire equipment	\$50
13	3.1(k)	Sale or offering for sale any goods	\$50
14	4.1	Unauthorised use of vehicle on reserve	\$200
15	4.2	Undertaking an activity prohibited in that area	\$50
16	4.3	Surfing in a prohibited area	\$100
17	5.1	Failing to remain properly and adequately clothed	\$50
18	5.3(1)	Loitering either inside or outside toilet or ablution facility	\$100
19	5.3(2)	Failing to move on when directed to do so	\$100
20	6.1	Bringing an animal onto the beach where they are not authorised to do so	\$50
21	7.1	Undertaking prohibited fishing activities	\$100
22	8.1	Use of a watercraft in a prohibited area	\$100
23	9.1(2)	Failure to abide by condition of use	\$50

SCHEDULE 2 - FORMS

FORM 1

Town of Cottesloe Beaches and Beach Reserves Local Law 2012
Local Government Act 1995 S9.13

TOWN OF COTTELSON

NOTICE TO OWNER OF VEHICLE INVOLVED IN OFFENCE

Date: ___ / ___ / _____

To: (1) _____

of: (2) _____

It is alleged that on (3) _____ at (4) _____
at (5) _____ your vehicle (6) _____
was involved in the commission of the following offence:

contrary to local law (7) _____ of the Town of Cottesloe Beaches and Beach Reserve Local Law 2012.

You are required under S9.13 of the Local Government Act 1995 to identify the person who was the driver or person in charge of the vehicle at the time when the offence is alleged to have been committed.

If you do not prove otherwise, you will be deemed to have committed the offence unless;

- (a) within 28 days after being served with this notice –
 - (i) you inform the Chief Executive Officer or another authorised person of the local Government as to the identity and address of the person who was the driver or person in charge of the vehicle at the time the offence is alleged to have been committed; or
 - (ii) you satisfy the Chief Executive Officer that the vehicle had been stolen, or was unlawfully used, at the time the offence is alleged to have been committed; or
- (b) you were given an infringement notice for the alleged offence and the modified penalty specified in it is paid within 28 working days after the notice was given or such further time as is allowed:

Name and title of person giving notice

Signature

- (1) Name of the owner of (vehicle identification)
- (2) Address of the owner
- (3) Time at which the offence is allegedly committed
- (4) Date on which the offence allegedly committed
- (5) Place at which offence is allegedly committed
- (6) Vehicle identification
- (7) Specific clause of the local law

FORM 2

Town of Cottesloe Beaches and Beach Reserve Local Law 2012
Local Government Act 1995 S9.16

INFRINGEMENT NOTICE

Serial No. _____

Date: ___ / ___ / ___

TOWN OF COTTESLOE

To: (1) _____ of (2) _____ it is alleged that

on (3) ___ / ___ / ___ at (4) _____ you committed the following offence:

(5) _____

contrary to local law (6) _____ of the Town of Cottesloe Beaches and Beach Reserve Local Law 2012.

The modified penalty for the offence is (7) \$ _____

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty must be paid either to an authorised person at the Town of Cottesloe, 109 Broome Street, Cottesloe, WA, 6011 or online at www.cottesloe.wa.gov.au within a period of 28 days after the giving of this notice.

Name and title of authorised person giving this notice

Signature

- (1) name of the alleged offender
- (2) address of the alleged offender
- (3) date of the alleged offence
- (4) time of alleged offence
- (5) alleged offence
- (6) name of local law (clause)
- (7) modified penalty

FORM 3

Town of Cottesloe Beaches and Beach Reserve Local Law 2012
Local Government Act 1995 S9.20

WITHDRAWAL OF INFRINGEMENT NOTICE

Serial No. _____

Date: ___ / ___ / ____

To (1): _____

of (2): _____

Infringement Notice (3) _____ dated (4) ___ / ___ / ____

has been withdrawn due to: (5) _____

The modified penalty of (6) \$ _____

* has been paid and a refund is enclosed

* has not been paid and should not be paid

* delete as appropriate

Name of authorised person giving this notice

Signature

- (1) Name of the alleged offender to whom infringement notice was given
- (2) Address of alleged offender
- (3) Infringement notice number
- (4) Date appearing on infringement notice
- (5) Reason infringement notice has been withdrawn
- (6) Modified penalty appearing on infringement notice