

Cape Agulhas, South Africa

## Beaches

Legislation as at 3 October 2005

FRBR URI: /akn/za-wc033/act/by-law/2005/beaches/eng@2005-10-03

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PDF created on 31 March 2023 at 06:17.

*Collection last checked for updates: 23 March 2023.*

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Beaches

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# Cape Agulhas South Africa

## Beaches By-law, 2005

Published in [Western Cape Provincial Gazette no. 6303](#) on 3 October 2005

Commenced on 3 October 2005

*[This is the version of this document from 3 October 2005 and includes any amendments published up to 23 March 2023.]*

To control and order activities on beaches and public land adjoining beaches.

### 1. Definitions

In this by-law, unless inconsistent with the context:—

"**authorised official**" means an employee of the municipality, appointed by the municipal manager to exercise the powers of an authorised official in terms of this by-law, or a life-saver;

"**beach**" means the water and the land between the low-water mark and the high-water mark and any adjoining land which belongs to the municipality which is open to the public, but excludes purpose-built formal public amenities as defined in the Council's By-law Relating to Public Amenities;

"**Council**" means the municipal council of the municipality;

"**craft**" means a boat, jet-ski or other vessel;

"**life-saver**" means a person employed or appointed in that capacity by the municipal manager, and includes a person registered as a life-saver;

"**municipality**" means the Municipality of Cape Agulhas;

"**municipal manager**" means the person appointed by the council in terms of the Local Government: Municipal Structures Act, 1998 ([Act 117 of 1998](#));

"**notice**" means a notice erected or posted by the Council, municipal manager or an authorised official;

"**sea**" means that part of the sea normally used for bathing, and includes the water and the bed of a tidal river or lagoon, and

"**tidal pool**" means a pool constructed on the beach or in the sea designed exclusively for bathing purposes;

"**vehicle**" includes a trailer, a caravan and an implement.

### 2. Application of this by-law

- (1) This by-law binds an organ of state.
- (2) The provisions of this by-law does not derogate from the provisions of any other legislation.

### 3. Prohibited activities

No one may—

- (a) deposit, discharge or bury upon the beach or in the sea any offal, rubbish, bottles or anything liable to be a nuisance or a danger to health; or

- (b) whilst suffering from any infectious or contagious disease enter or remain on the beach or in the sea;
- (c) whilst upon the beach or in the sea—
  - (i) use any obscene, offensive or indecent language; or
  - (ii) behave in an offensive, improper or disorderly manner; or
  - (iii) wilfully or negligently commit any act which endangers or causes discomfort to other users of the beach or the sea, or is likely to cause a breach of the peace;
- (d) without the written permission of the municipal manager, and then only in accordance with any conditions which may be imposed by the municipal manager, irrespective whether for reward or gain, conduct an entertainment, sport event, recreational activity or business or trade of any sort on the beach or in the sea;
- (e) without the written permission of the municipal manager, and then only in accordance with the conditions which may be imposed by the municipal manager, use a loudspeaker, public address amplifying system or some similar device on the beach or in the sea;
- (f) without the written permission of the municipal manager, and then only in accordance with the conditions which may be imposed by the municipal manager, display an advertisement or permit it to be displayed on the beach or in the sea;
- (g) fly a model airplane, kite, or similar device or play a game likely to cause injury or discomfort to spectators or other persons on the beach or in the sea;
- (h) play a game with a hard ball in an area where such games are prohibited by a notice, or
- (i) use intoxicating liquor in an area where such use is prohibited by a notice.

#### **4. Bathing**

- (1) The Council may prohibit bathing within any part of the sea or in any tidal pool, either permanently or as a temporary measure.
- (2) An authorised official may prohibit bathing within any part of the sea or in any tidal pool, for so long as the condition of the sea or tidal pool is considered unsafe.
- (3) Any permanent prohibition under this section shall be indicated by a notice and any temporary prohibition by any other recognizable and intelligible marker at both ends of the prohibited area.

#### **5. Damage to property**

No one may—

- (a) move, deface or otherwise interfere with any notice board, notice or marker erected, posted or placed on the beach by the Council, the municipal manager or an authorised official, in terms of this by-law, or
- (b) interfere with, misuse or damage any building, closet, shelter, changing booth, or other amenity provided for the use of the public on the beach.

#### **6. Animals on the beach**

- (1) No one may—

- (a) cause or allow a dog in his or her charge to enter or remain upon the beach or in the sea or in any tidal pool in contravention of a notice;
  - (b) cause or allow a dog in his or her charge to enter or remain upon the beach or in the sea, where the presence of dogs is not prohibited by a notice, unless such dog is effectively restrained from causing annoyance to any other person or persons;
  - (c) cause or allow a dog in his or her charge to enter upon any area adjoining the beach, where the presence of dogs is not prohibited by a notice, unless the dog is on a leash;
  - (d) cause or allow a horse, or other animal in his or her charge to enter or remain upon the beach or in the sea except with permission given in writing and subject to such terms and conditions as imposed by the municipal manager.
- (2) An authorised official may impound any dog or other animal not under control or apparently not under control of a person.

## 7. Life-saving devices

No one—

- (a) other than an authorised official may, save in time of emergency, touch, handle or in any way make use of or damage any life-line, life-buoy, or any other life-saving appliance, installed or maintained upon the beach or in the sea, or
- (b) may impair or impede the operation of any life-saving appliance or device while it is in use on the beach or in the sea.

## 8. Vehicles and aircraft

No one may—

- (a) drive or park a vehicle on the beach, except where permitted by a notice;
- (b) introduce into or ride or drive an animal drawn vehicle, bicycle or wind-propelled vehicle on the part of the beach between the high and low-water marks, in contravention with a notice;
- (c) except in an emergency or with the written permission of the municipal manager, and then only subject to the conditions which may be imposed by the municipal manager, introduce into or land on a beach an aircraft, including a microlight, or any device that operates in the manner of a kite or parachute.

## 9. Control of craft

(1) The Council may—

- (a) set aside by notice, a place or places on the beach for the launching, landing, beaching, keeping, letting or hiring of craft;
  - (b) set aside by notice, a place or places for the exclusive use of different types of craft or for the use only of craft belonging to members of boat clubs;
  - (c) prohibit the use or operation of any craft, or type thereof, from certain parts of the beach, and may differentiate between craft belonging to or used by members of boat clubs and those belonging to or used by non-members of such clubs.
- (2) No one may launch, land, beach, keep, let or hire any craft contrary to subsection (1) of this by-law unless such act is done in an emergency or in order to save life.

- (3) No one may keep or leave a craft unattended on the beach for more than 24 hours unless permitted by a notice.
- (4) A craft kept or left unattended on the sea-shore in contravention of subsection (3) may be impounded by an authorised official.
- (5) No one may—
  - (a) use or operate a craft, paddle-ski or surf-ski in a manner dangerous to or causing annoyance to any person on the beach or in the sea, and
  - (b) use or operate a craft, paddle-ski or surf-ski in the sea where prohibited by a notice.

## 10. Control of surf-riding and boardsailing

- (1) The Council may prohibit surf-riding or boardsailing in any part of the sea, either permanently or as a temporary measure.
- (2) An authorised official may prohibit surf-riding or boardsailing on the grounds that it is unsafe or is likely to cause discomfort or injury to other users of the beach or the sea or a breach of the peace.
- (3) Any permanent prohibition shall be indicated by notice at both ends of the prohibited area and any temporary prohibition by any other recognisable and intelligible marker at both ends of the prohibited area.
- (4) No one may surf-ride or boardsail in contravention of any prohibition contemplated by subsections (1) and (2).

## 11. Control of camping on the beach

No one may erect a tent or other fixed structure or camp on any part of the beach except in a facility provided by the Council or otherwise without written permission of the municipal manager.

## 12. Control of anglers

No one may—

- (a) fish or angle from any part of the beach in contravention with a notice;
- (b) where fishing or angling is not prohibited, throw, cast or swing any line or gear in such a manner as to cause danger or annoyance to any other person, or
- (c) leave any bait, angling equipment or refuse on the beach.

## 13. Control of fires

No one may kindle a fire on the beach, whether by gas operated equipment or otherwise, except at such places set aside for the purpose by the Council by means of a notice.

## 14. Bathing area

The Council may by means of a notice set aside and reserve any area of the beach or the sea including a tidal pool exclusively for bathing or sunbathing.

**15. Delegation**

The municipal manager may in writing delegate any power or duty conferred on the municipal manager in terms of this by-law, to an official of the municipality.

**16. Offences and penalties**

A person who—

- (a) contravenes a provision of this by-law;
  - (b) fails to comply to a notice;
  - (c) fails to comply with an instruction by an authorised official, or
  - (d) obstructs or interferes with an authorised official in the execution of his or her duties,
- shall be guilty of an offence and on conviction liable to the payment of a fine.