

Cork County Council

(Regulation and Control of Certain Beaches) Bye-laws 2011



May 2011

Cork County Council (Regulation and Control of Certain Beaches) Bye-laws 2011.

The County Council of the County of Cork, as local authority for its functional area (being the entire County excluding the towns of Youghal, Cobh, Midleton, Kinsale, Macroom, Skibbereen, Clonakilty, Mallow and Fermoy therein) (hereinafter called “the Council”) in exercise of the powers conferred on it by Part 19 - Section 199 (1) of the Local Government Act 2001 hereby makes the following bye-laws for the regulation and control of certain beaches hereinafter described which are situated within its functional area.

1. Title

These bye-laws shall be known as the Cork County Council (Regulation and Control of Certain Beaches) Bye-laws 2011.

2. Scope of applicability

These Bye-laws shall apply to the beaches specified in Schedule 1 and shall only apply during the Summer Season as defined in Section 5.

3. Commencement

These bye-laws shall come into operation on the 15th May 2011.

4. Previous Bye-laws

Any and all previous bye-laws applying to the beaches of Cork County Council are hereby revoked.

5. Interpretation

In these bye-laws unless the context otherwise requires, the following words and expressions have the meaning hereafter respectively assigned to them, that is to say:-

“**Act**” means the Local Government Act 2001. Words and phrases defined in the Act shall have the same meaning in these bye-laws unless otherwise specified.

“**Authorised person**” has the same meaning as in Section 204 of the Act - any employee of the Council or any person designated by the Council for the purposes of these bye-laws.

“**Beach**” means the foreshore and every beach, bank, cliff, sands, sand dune and every area contiguous thereto together with the foreshore waters for a distance of 300 metres seaward from the low water mark and refers to any one of the beaches so specified where the context admits or requires.

“**Beaches**” means collectively those specified in Schedule 1.

“**Consent of the Council**” means the permission in writing of the Council.

“**Council**” means Cork County Council.

“**Craft**” means personal watercraft or recreational craft when operated by a mechanical means of propulsion.

“**Designated Swimming Area**” means an area on a beach where the Local Authority has clearly marked an area for bathing but not necessarily supervised.

“**Foreshore**” means the bed and shore, below the line of high water of ordinary or medium tides, of the sea and of every tidal river and tidal estuary and of every channel, creek, and bay of the sea or of any such river or estuary.

“**Horse**” includes donkey, mule and hinny.

“**Kite Board**” means a board used for surfing with the assistance of a kite allowing the operator to sail along waves as well as down them.

“**Mean High Water Mark**” is the line indicating on the most recent Ordnance Survey Map, drawn up by Ordnance Survey Ireland, the Mean High Water Mark.

“**Mechanically propelled vehicle**” has the same meaning as in the Road Traffic Act 1961 (as amended) but excluding such vehicles as are used in the course of duty by the Council, An Garda Síochána, the Defence Forces, the Revenue Commissioners, the Central Fisheries Board, Inland Fisheries Ireland, the Irish Lights Commission, the Irish Coastguard, the Royal National Lifeboat Institution and any other such vehicles involved in *bona fide* law enforcement, emergency or rescue missions.

“**Nuisance**” means unreasonable interference with or disturbance or annoyance to a person in the exercise of his/her rights.

“**Off-Road Vehicle**” means any mechanically propelled vehicle or pedal cycle designed, adapted or used exclusively or predominantly for off-road travel, including beach buggies and mechanical quad bikes.

“**Permit**” has the same meaning as “Consent of the Council”.

“**Personal Watercraft**” means a craft (other than a recreational craft) of less than 4 metres in length which uses an internal combustion engine having a water jet pump as its primary source of propulsion, and which is designed to be operated by a person or persons sitting, standing or kneeling on, rather than within the confines of, a hull.

“**Recreational Craft**” means a mechanically powered craft of not more than 24 metres in length (measured in accordance with the ISO standard EN ISO 8666:2002 – small craft-principal data) intended for sports and leisure purposes.

“**Sail Board**” means a board with a sail attached allowing the operator to sail along waves as well as down them.

“**Summer Season**” is defined by the dates 15th May until 31st August inclusive.

“**Surf Board**” means a board used to surf using wave energy as a means of propulsion.

“**Swimming**” includes floating, paddling, fishing or otherwise being in the sea for leisure purposes.

“**Temporary dwelling**” means a caravan, camper van, tent or other object used for the purpose of caravanning, camping or habitation.

6. Authorised Persons

A person shall comply with any and all directions given to him/her by an authorised person.

7. Prohibited Acts - General

A person shall not:

- (a) Disobey an instruction of an authorised person, a member of An Garda Síochána or a Council employed lifeguard.
- (b) Obstruct, hinder or interfere with an authorised person in implementing the provisions of these bye-laws.
- (c) Interfere with, disturb or damage any sand dune, vegetation or any equipment, structure, facility, information plate, board, sign, or anything provided there by the Council or any authorised person or body. In this regard, persons should take due care when walking in the dune areas.
- (d) Cause a nuisance, undue interference or cause a danger to the public safety of other beach users or local residents while partaking or engaging in behaviour or activity (sporting or otherwise) on the beach.
- (e) Take part in archery, golf, paint balling or any other game/sport involving high speed projectiles on a beach that may cause a nuisance or cause a danger to the public.
- (f) Use or cause damage to dune systems through activities such as running, jogging or similar activities termed as sport related training.
- (g) Use quad bikes or other mechanically propelled vehicles in the dune area.
- (h) Wilfully or carelessly manage, place or leave any vehicle (mechanically propelled or otherwise) or any pedal cycle so as to cause obstruction, injury, danger, annoyance or inconvenience to any person or damage to the beach or to any property on the beach.
- (i) Sell, hire, expose, offer for sale any article, commodity or thing whatsoever save with the prior Consent of the Council or of any other statutory body authorised to permit such activities, and in compliance with that consent.

This section of the Bye-law shall not apply to any lands specified in the Schedule of the County of Cork (Casual Trading) Bye-laws, or any subsequent or amending bye-laws.

- (j) Offer for monetary reward, tuition in surfing or any other water-sports activity from a beach unless a valid permit has been obtained in advance from the

Council and the activity is conducted in accordance with the conditions of such permit and in accordance with the standards issued by Irish Water Safety, Irish Surfing Association and /or other body recognised by the Council to issue such standards.

8. Prohibited Acts - Damage

A person shall not:

- (a) Light an open fire (other than in a contained unit, such as a barbecue) or do anything which may cause damage by fire.
- (b) Damage any grass, sand dunes, plants, shrubs or any plant on or along the beach.
- (c) Paint, write, cut or carve or in any manner inscribe letters, figures or marks upon any rock, wall or structure
- (d) Deposit any rubbish or any item of litter as defined in the Litter Pollution Act, 1997 as amended.
- (e) Remove any sand, stones, seaweed or soil from the beach, except in accordance with legislation and except with the Consent of the Council.
- (f) Interfere with or damage any life buoy, lifesaving equipment, rope marker, hut, cabin, litter receptacle, sign or flagpole, flag or information board, wall, railing or fence or any other thing placed on the beach by Cork County Council.

9. Prohibited Acts – Campers and Caravans

A person shall not:

- (a) Bring onto, place, erect or keep any caravan, doormobile, tent or other temporary dwelling on any part of the beaches listed in Schedule 1 of these bye-laws without the consent of the Council and subject to the terms and conditions of such permission.

10. Prohibited Acts – Motor Vehicles

A person shall not:

- (a) Drive or attempt to drive, propel, push, park or leave any motor car or other mechanically propelled vehicle on the beach (other than in an area designated by the Council or other statutory body for such purposes) save with the consent of the Council or any other statutory body authorised to permit such activities and subject to the terms and conditions of such permission.

This provision shall not restrict the exercise by owners or occupiers of properties abutting the beach of long established rights of access thereon and shall not restrict the exercise by any Agency of the State of its statutory powers.

Exempt from this bye-law are vehicles operated by the Council or its agents, The Commissioners of Public Works, An Garda Síochána, Defence Forces or recognised rescue services.

11. Control of Dogs

- (i) Between the hours of 12pm and 6pm persons in charge of a dog on a beach are required to keep such dog on a leash.
- (ii) Without prejudice to (i) above persons in charge of a dog on any beach shall ensure the following:
 - (a) It is under effective, adequate control at all times, including times outside those in (i) above.
 - (b) It is not causing annoyance, danger or nuisance to any person using the beach.
 - (c) Its faeces is removed by the person in charge of the dog immediately after the occurrence and disposed of in an appropriate manner.
 - (d) Persons bringing any dog/animal onto the beach shall be responsible and liable for any damage to property or persons which may be caused by it.
 - (e) Persons in charge of specified classes of dogs must ensure that comply with the Control of Dogs Act 1986 and the 1992 Control of Dogs (Amendment) Act and the Statutory Instruments S.I. No 442 of 1998 Control of Dogs regulations.

Exempt from this bye-law are guide dogs for the blind, dogs kept by An Garda Síochána and under the control of a member of An Garda Síochána in the execution of his/her duties and dogs kept by the Customs and Excise Service and under the control of a member of the Customs and Excise Service in the execution of his/her duties.

12. Control of Horses

- (i.) A person shall not ride or bring a horse/pony into the designated swimming area or the beach guard controlled area of the beach during the hours of 11am and 7pm.
- (ii.) Persons in charge of a horse shall ensure the following:
 - (a) It is under control at all times.
 - (b) It is not causing danger or nuisance to any person using the beach.
 - (c) It is not allowed on any part of the beach which comprises of sand dunes, except with the Consent of the Council or any other statutory body authorised to permit such activity, and subject to the terms and conditions of such permission.

- (d) That horse riding must take place below the mean high water mark, except for the purposes of obtaining access to or egress from the beach / foreshore.
- (e) Its faeces are removed from sand above the mean high water mark (dry sand) and from access routes to the beach by the person in charge of horse and disposed of in an appropriate manner as soon as possible after the occurrence.

Exempt from this bye-law are horses kept by An Garda Síochána and under the control of a member of An Garda Síochána in the execution of his/her duties, ponies or other such animals of the equine species, brought onto the beach for the purpose of hiring the animal for children's pony rides, operated in accordance with a permit granted under Section 15 of these bye-laws.

Also exempt from this bye-law are horse racing events licensed by the Department of Communications, Marine and Natural Resources.

13. Recreational Craft and Personal Watercraft

- (i.) The Council may designate areas of the beach where access to or egress from the sea may be obtained by persons using recreational craft and personal watercraft.
- (ii.) The Council may designate areas of any inland waterway where access to or egress from the waterway may be obtained by persons using recreational craft and personal watercraft.
- (iii.) The launching of recreational craft and personal watercraft is prohibited on all beaches listed in **Schedule One** of these bye-laws, save at areas which may be designated by the Council for this purpose.
- (iv.) The use of recreational craft and personal watercraft within 300 metres seaward of the waters edge of the beaches listed in **Schedule One** is prohibited, except for the purpose of rescue or while obtaining access to or egress from the sea at a designated area as referred to at (i) above.
- (v.) The launching of recreational craft and personal watercraft is prohibited on all inland waterways listed in **Schedule Two** of these bye-laws, save at areas which may be designated by the Council for this purpose.
- (vi.) Every person in charge of a recreational craft or personal watercraft shall act in such a manner as not to cause annoyance or injury to any person using a beach or inland waterway or swimming in the sea or to disturb naturally occurring flora and fauna.
- (vii.) Every person bringing a recreation craft or personal watercraft onto the beach area or an inland waterway shall be responsible and liable for any damage or injury to property or persons which may be caused by it.

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- (viii.) Every person bringing a recreational craft or personal watercraft onto the beach area or an inland waterway must remove it from the beach area or waterway if so directed by an authorised person.
 - (ix.) Operators of recreational craft and personal watercraft shall observe a speed restriction of 5 Knots in the area from the water line to 300m to seaward from all beaches and should not operate in proximity to bathers, except in the event of an emergency. This provision shall not restrict the exercise by any Agency of the State of its statutory powers.

Exempt from this bye-law are craft operated in the course of duty of the Council, An Garda Síochána, the Defence Forces, the Revenue Commissioners, the Central Fisheries Board or a Regional Fisheries Board, the Irish Coast Guard, the Commissioners of Irish Lights or the Royal National Lifeboat Institute or any craft involved in bona fide law enforcement, emergency or rescue missions.

14. Surf Boards, Kite Boards, Sail Boards, Canoes, Kayaks, Sailing Boats

- (i.) No person shall wind-surf on sail boards or kite-surf on kite boards or surf on a surf board in close proximity to bathers.
- (ii.) No person shall moor a boat or other craft in or on the water/beach in a manner that would endanger the safety of swimmers or those engaged in other water activities.

15. Permits for selling/hiring etc

- (i.) The Council may at its sole discretion grant a permit, subject to the conditions as the Council deem appropriate, for the use of a part or parts of a beach for the purpose of placing thereon for sale or hire any object or item including any booth, stand, stall, pony ride, paddle boat, boat, kayak, canoe, surf-board, surf-ski, sail-board, sails, lilo, dinghy or equipment or for the organising, staging or holding of a public, sporting or commercial event subject to the applicant producing a valid policy of public liability insurance
 - (ii.) A permit may be granted for such period as the Council may determine.
 - (iii.) The Council may, by notice in writing, revoke, alter, amend or limit the terms and conditions of such a permit.
 - (iv.) A permit granted by the Council shall not relieve from personal responsibility or liability any person(s) to whom such permission was granted in respect of any criminal, unlawful, illegal or negligent act or omission for which such person(s) may at any time be sued or charged.
 - (v.) A permit granted by the Council shall in no way be deemed to implicate or involve the Council, its officers or employees in any liability or responsibility in respect of any criminal, unlawful, illegal, wrongful or negligent act or omission done by any person(s) to whom such permission was granted or by their servants or agents.
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- (vi.) An application for a permit shall be made to the Council not less than 15 days before the first day on which it is intended to engage in the activity to which the application relates.
- (vii.) A person who applies to the Council for a permit shall furnish to the Council the information requested in the application form together with such other information as the Council may request for the purpose of the exercise of its powers and functions under these bye-laws.
- (viii.) On the granting of a permit the applicant shall pay a permit fee of €50 per annum.
- (ix.) The Council reserves the right to refuse any application for a permit.

16. Refusal of Permission

The Council may refuse to grant permission for any of the purposes mentioned in these bye-laws if, having regard to the character of the applicant, the nature of the activity in question, the number of persons already holding permits of the class applied for, and/or the general comfort and convenience of visitors to the beach, they consider that a permit should not be granted.

17. Offences

- (i.) An Authorised Person or a member of An Garda Síochána may take appropriate action to enforce these bye-laws.
- (ii.) Any person who contravenes a provision of these bye-laws or who obstructs or impedes or refuses to comply with a request of an authorised person or member of An Garda Síochána made in the course of enforcing compliance with the provisions of these bye-laws shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €1500.
- (iii.) Where an authorised person or member of An Garda Síochána has reasonable grounds for believing that a person is or has contravened a provision of these bye-laws, or is acting in breach of the terms of a permit granted under these bye-laws, he/she may serve a Notice on such person stating that prosecution of such contravention shall not be instituted if payment of €75 is made to the Council within twenty-one days of the date of service of the Notice.
- (iv.) If the contravention of a provision of a bye-law is continued after conviction, the person causing the contravention is guilty of an offence on each day on which that contravention continues and is liable on summary conviction for each such offence to a fine not exceeding €100 or such lesser amount as may be specified in the bye-law in respect of such contravention
- (v.) An authorised person or member of An Garda Síochána may request any person who appears to be contravening or to have contravened a provision of these bye-laws to refrain from such activity and may remove any person failing to comply with such request.

- (vi.) Where an authorised person or a member of An Garda Síochána is of the opinion that a person is committing or has committed an offence to which these bye-laws relate, he/she may demand the name and address of such person and if that demand is refused or the person gives a name and address which is faulty or misleading that person shall be guilty of an offence.
- (vii.) An authorised person or member of An Garda Síochána may issue on-the-spot fines for breach of the bye-laws or for breach of any permit or condition(s) of any permit granted under these bye-laws.
- (viii.) Nothing contained in or done under any of the provisions of these bye-laws shall in any respect prejudice or injuriously affect the rights and interests of the State in the foreshore, or prevent the exercise thereon of any public rights, or prejudice or injuriously affect any right, power, or privilege legally exercisable by any person in, over or in respect of the foreshore.

18. Fixed Payment Notices

- (i.) The Council may, as an alternative to prosecution, serve on a person alleged to have contravened any of these bye-laws, a notice specifying a fixed payment to be made in respect of such contravention.
- (ii.) The amount of the fixed payment will be €75 being the amount currently prescribed by the Minister for the purposes of Section 206 (1) of the Act or such different amount as may be so prescribed at the date of the alleged contravention.
- (iii.) The said amount shall be paid within a period of four weeks from the date of service of the said notice.
- (iv.) If the contravention of a provision of a bye-law is continued after conviction, the person causing the contravention is guilty of an offence on each day on which that contravention continues and is liable on summary conviction for each such offence to a fine not exceeding €100 or such lesser amount as may be specified in the bye-law in respect of such contravention

19. Review

The operation of these bye-laws shall be reviewed after the summer season of 2012 and will be revised by the Council as considered appropriate at that time.

SCHEDULE 1

List of beaches to which the bye-laws shall apply.

1. Harbour View, Kilbrittan
2. Coolmain, Kinsale
3. Sandycove, Kinsale
4. Castlepark, Kinsale
5. Garrettstown, Kinsale
6. Garrylucas Beach, Kinsale
7. Fountainstown, Carrigaline
8. Inch, Whitegate
9. Garryvoe, Shanagarry
10. Claycastle, Youghal
11. Pilmore, Youghal
12. Redbarn, Youghal
13. Courtmacsherry, Courtmacsherry
14. Broad Strand, Courtmacsherry
15. Coolbaun, Courtmacsherry
16. Dunworley, Timoleague
17. Moloney's, Timoleague
18. Simon's Cove, Ring
19. Inchydoney, Clonakilty
20. Duneen, Clonakilty
21. Red Strand, Ardfield
22. Long Strand, Rathbarry
23. Ownahincha, Rosscarbery
24. Warren (Cregane Strand), Rosscarbery
25. Sandy Cove, Skibbereen
26. Tragumna, Skibbereen
27. Traisplean, Skibbereen
28. Cadogans Strand, Schull
29. Ballyrisode Beach, Toormore
30. Cockle Strand, Crookhaven
31. Galley Cove, Crookhaven

32. Stoney Beach, Crookhaven
33. Barley Cove, Crookhaven
34. Snave, Bantry
35. Garinish Strand, Allihies
36. Ballydonegan, Allihies
37. Cuskinny Bay
38. Rocky Bay
39. Grab-all
40. Myrtleville
41. Robert's Cove
42. Oyster Haven
43. Fennells Bay, Crosshaven
44. Poulagorm, Crosshaven
45. Church Bay, Crosshaven

SCHEDULE 2

List of inland waters in which launching of recreational craft and personal watercraft is prohibited [Article 13(e)].

1. Clonakilty Bay, Clonakilty. – Inner Clonakilty Bay

SCHEDULE 3

List of relevant legislation:

Local Government Act, 2001

Control of Dogs Act, 1986

Control of Dogs (Amendment) Act, 1992

S.I. No 442 of 1998 Control of Dogs Regulations

Control of Horses Act, 1996

Casual Trading Act, 1995

Waste Management Act, 1996

Maritime Safety Act, 2005

Protection of the Environment Act, 2003

Foreshore Act, 1933

Bye-law Making and Adoption

These Bye-laws

(Regulation and Control of Certain Beaches) Bye-laws 2011

are hereby made and adopted under the Common Seal of Cork County Council this 11 day of April, 2011.

Present when the Common Seal of the Council was affixed hereto:



Mayor



Senior Executive Officer


CLERICAL OFFICER
CORK COUNTY COUNCIL


CLERICAL OFFICER
CORK COUNTY COUNCIL