

Knysna, South Africa

Recreational Use of Beaches and Bathing Areas

Legislation as at 8 May 2017

FRBR URI: /akn/za-wc048/act/by-law/2017/recreational-use-of-beaches-and-bathing-areas/eng@2017-05-08

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PDF created on 19 April 2024 at 09:20.

Collection last checked for updates: 12 April 2024.

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Knysna South Africa

Recreational Use of Beaches and Bathing Areas By-law, 2017

Published in Western Cape Provincial Gazette 7767 on 8 May 2017

Commenced on 8 May 2017

[This is the version of this document from 8 May 2017 and includes any amendments published up to 12 April 2024.]

WHEREAS to provide measures to manage, control and regulate public access and behaviour at beaches and beach areas, to provide for the repeal of laws and savings and to provide for matters incidental thereto.

WHEREAS there is a need to develop legislation to govern the access to and use of beaches and coastal areas within the jurisdiction of the Municipality.

NOW THEREFORE the Knysna Municipality in terms of and under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Knysna Municipality enacts as follows:

—

1. Definitions

In this by-law, except as otherwise expressly provided or unless the context otherwise requires—

"**Act**" means the Seashore Act, 1935 (Act 21 of 1935);

"**bathing area**" means that portion of a beach area habitually used by members of the public for bathing purposes and includes an area declared to be a bathing area in terms of section 20;

"**beach area**" means the sea, seashore and any land owned by the municipality above the high water mark and adjoining or abutting the seashore and used or capable of being used by the public for recreational purposes, including any facility, promenade, walkway, sand dune, car, park or lawn;

"**boat**" means any water-navigable craft of whatsoever nature, whether self-propelled or not;

"**camp**" includes the use of a vessel, vehicle, caravan or temporary structure for habitation or sleeping purposes, whether or not is intended, designed or adapted for such purpose;

"**facility**" includes a bathing enclosure, boat shed, bathing box, change room, pool, pavilion, playground, cubicle, shower or toilet;

"**fishing**" includes the laying or casting of nets and the setting of traps or other devices with the object of catching fish and "to fish" has a corresponding meaning;

"**litter**" means any object or matter discarded or left behind by a person in whose possession or control it was;

"**liquor**" shall bear the meaning as assigned thereto in paragraphs (a), (b), (c) and (d) of the definition of "liquor" contained in section 2 of the Liquor Act, 1989 (Act No. 27 of 1989);

"**motorised craft**" means any boat driven or propelled or capable of being driven or propelled directly or indirectly on or in water by mechanical or electrical power;

"**municipality**" means the Municipality of Knysna established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in

the Municipality and delegated or sub-delegated to such political structure, political office bearer, agent or employee;

"nuisance" means any act, omission or condition which is offensive, that constitutes or may constitute a source of danger, inconvenience or annoyance to or a material interference with the ordinary comfort or convenience, peace or quiet of other persons;

"official lifeguard" means a lifeguard in the employ of the Council and also includes any member of a voluntary lifesaving association or club, as authorised by the Municipality, whilst performing the duties and functions of a lifeguard on the Council's beaches;

"pool" means a bathing or swimming pool that is provided by, belongs to or is under the control of the Municipality;

"publish in the press" shall have the meaning assigned thereto in section 21 of the Local Government: Municipal Systems [Act, 32 of 2000](#);

"sign" means a written notice erected by the Municipality and includes a pictogram as approved by the Municipality;

"surf" means riding waves on a board or similar contrivance capable, when in motion, of sustaining a person and includes riding a sailboard propelled or driven by wind power or operating on a sail.

"surf-craft" means a device used for riding the surf which is designed for use by not more than two persons and which is propelled either by the movement of the surf or the actions of the surf-rider, without mechanical aid, or a combination of both, and includes a belly board, a body board and a paddle ski but excludes a device —

- (a) of an inflatable character, or
- (b) wholly constructed of a soft, pliable material, which does not exceed two metres in length.

"surf-riding" means the recreational activity involving the use of a surf-craft;

- (1) Subject to the provisions of subsection (1), any word or expression to which a meaning has been assigned in the Act shall bear that meaning in this by-law, unless the context otherwise requires.
- (2) In this by-law words used in the masculine gender include the feminine, the singular includes the plural and vice versa. The English text prevails in the event of an inconsistency between the different texts and unless the context otherwise indicates.

2. Purpose of by-law

The purpose of this by-law is —

- (a) to promote the achievement of a safe and healthy environment for the benefit of visitors and the residents in the area of jurisdiction of the Municipality; and
- (b) to provide for procedures, methods and practices to regulate the use and management of bathing and beach areas situated within the area of jurisdiction of the Municipality.

3. Entry to, use and closing of facilities and beach areas

- (1) The Municipality may —
 - (a) from time to time determine and indicate by means of a sign the times when and the hours during which a facility may be used or during which a facility shall be closed;
 - (b) regulate the number of persons using a beach area;
 - (c) require payment of a fee, fixed from time to time by the Municipality, for the use of any beach area or facility or property owned by or under the control of the Municipality and issue a permit or ticket to the user thereof;

- (d) notwithstanding anything to the contrary contained in this by-law, upon application to it, upon such terms and conditions as the Municipality deems fit, grant the exclusive use of a portion of the seashore and the sea and any other area to which this by-law applies, to any organisation, body, person or class of persons and invitees thereof for the purpose of any event or contest;
 - (e) any person who has been granted exclusive use in terms of subsection (d) and any agent, representative or person under the control of such person who knowingly breaches, causes or permits the breach of a term or condition imposed under subsection (d) shall be guilty of an offence.
 - (f) refuse any person causing a nuisance admission to any beach area or facility or order any person causing a nuisance to leave any beach area or facility without delay;
 - (g) remove from any beach area facility any person who fails to obey an order given in terms of subsection (1)(d).
- (2) The holder of a permit or ticket as contemplated in subsection (1)(c) shall retain such permit or ticket and produce it if required to do so by an employee of the Municipality.
- (3) No person shall—
- (a) while waiting for admission to any facility, remain in any part other than that part of any premises set aside as a waiting area;
 - (b) enter or attempt to enter any beach area after having been advised by an employee of the Municipality that it is occupied by the maximum number of persons authorised to be there;
 - (c) wilfully enter or make use of any facility other than that indicated on his/her permit or ticket of admission;
 - (d) enter or seek access to any cubicle or other accommodation occupied or in use by any other person without the consent of such other person, or open or attempt to open any cupboard or container unless authorised to do so by the Municipality or the person using it;
 - (e) after leaving any facility, loiter or remain in any passage leading to or from it; or,
 - (f) enter or remain in or use any facility outside the times when and the hours during which such facility may be used.

4. Segregation of sexes

No male or female over the age of seven (7) years shall enter any facility reserved by a sign for the exclusive use of the opposite sex.

5. Life-saving devices

- (a) Any person, other than a lifesaver or a member, employee or designated person of the Council who, save in time of emergency, touches, handles or in any way makes use of or damages any life-line, lifebuoy, or any other lifesaving appliance, installed or maintained upon the sea-shore or in the sea, shall be guilty of an offence.
- (b) Any person who impairs or impedes the operation of any life-saving appliance or device while it is in use on the sea-shore or in the sea shall be guilty of an offence.

6. Clothing

No person shall bathe or appear in any facility unless wearing a bathing costume or clothing complying with the requirements of decency.

7. Environmental conservation

- (1) The municipality has the right to indicate by means of notices erected at designated points or other suitable sites, those areas where certain or any activities shall be limited, allowed, controlled or prohibited.
- (2) No person shall break, damage, destroy or disturb any egg or nest or remove any egg from a nest, or disturb or attempt to disturb any bird or the nestling site of such bird on a dune or within the beach area, or allow such behaviour or action.
- (3) No person shall injure, disturb or feed or attempt to injure, disturb or feed any wild animal or bird on a dune or within the beach area, or allow such behaviour or action.
- (4) No person, except the Municipality or an authorised person, shall any time artificially open the mouth of a river where a sandbank has developed between the mouth of the river and the sea and is blocking tidal interchange.
- (5) No unauthorised person shall at any time pick, uproot, fell or damage or attempt to prick, uproot, fell or damage in any ways, any plant growing on a dune or the beach area.
- (6) No person may wilfully or negligently pollutes a dune, the beach area, coastal wetlands, salt marshes or surrounding grounds with any fuels, oils, garbage, offal, bilge, sewerage, refuse or rubble of any kind whatsoever.
- (7) No person may remove or deposit any vegetation, sand, shingle, rock or stone from or on the beach area.

8. Safety appliances

No person shall handle, interfere with, disturb or remove any safety rope or other appliance provided for the assistance of distressed bathers, except for the purpose of rendering assistance to any such bather.

9. Dangerous articles

No person shall—

- (a) bring onto or into any bathing area or into any pool or have in his possession in or on such bathing area or in such pool—
 - (i) any glass bottle or other container made of glass; or
 - (ii) any object or matter likely to be dangerous to health or likely to disturb the convenience or comfort of or likely to be a source of danger or injury to any person.
- (b) throw or deposit into any pool or into or onto a beach area—
 - (i) any glass bottle or other container made of glass; or
 - (ii) any object or matter likely to be dangerous to health or likely to disturb the convenience or comfort of or likely to be a source of danger or injury to any person.

10. Surf-riding or surfing

- (a) No person may without the authorisation of the Municipality engage in surf-riding or surfing within any part of the beach which is designated as a swimming area, unless it is an inboard rescue boat.
- (b) An authorised official may permanently or temporarily prohibit surf-riding or surfing on the grounds that it is unsafe or is likely to cause discomfort or injury to other users of the beach.

11. Littering

No person shall in or on any beach area discard, dump or leave or cause to be discarded, dumped or left any litter except in a container or at a place provided for that purpose.

12. Motor vehicles

- (a) No person may enter onto the beach using a motor-vehicle or bring or drive a motor vehicle on any part thereof in contravention of any legislation or regulations made in terms of any applicable legislation.
- (b) The provisions in (a) above do not apply to any —
 - (i) motor vehicle used by an authorised official in the course of his or her duties;
 - (ii) authorised emergency or rescue motor vehicle;
 - (iii) motor vehicle driven by a person authorised to implement the provisions of any legislation;
 - (iv) ordinary motor vehicle involved in a *bona fide* emergency situation;
 - (v) off-road vehicles used in terms of relevant legislation; or
 - (vi) motor vehicle authorised by the municipality or any other sphere of government in terms of this by-law.
- (c) No person may in any part of the beach area —
 - (i) drive a motor vehicle recklessly or dangerously or in such a manner as to endanger the safety of any person;
 - (ii) race a motor vehicle, or drive a motor vehicle at a speed in excess of the limit imposed by the municipality in any part of the beach except during a *bona fide* emergency situation or if authorised to do so in terms of any law; or
 - (iii) drive a motor vehicle whilst under the influence of alcohol, drugs or any dependence producing substance;

13. Undesirable conduct

No person shall —

- (a) behave in a disorderly or improper manner;
- (b) commit a nuisance;
- (c) hinder, interfere with, obstruct or use insulting or obscene language towards any employee of the Municipality in the execution of his duty;
- (d) refuse or fail to obey a lawful order given by an employee of the Municipality in the execution of his duty; or
- (e) introduce into, possess or consume on or in any bathing area any liquor after the Municipality has defined such bathing area as an area into which the introduction of liquor or in which the possession or consumption of liquor is prohibited and a notice has been published in the press of such prohibition and a sign erected on or at such bathing area indicating that the introduction into or the possession or consumption on or in such bathing area of liquor is prohibited.

14. Control of fires

No person may make a fire on the sea-shore within the area of jurisdiction of the Council unless in a designated area or with prior written permission by Council, which permission shall be subjected to such terms and conditions as prescribed by Council.

15. Dogs and animals

- (1) No person shall cause or permit any dog belonging to him or in his charge —
 - (a) while in an area in which dogs are not prohibited in terms of this by-law, to constitute a source of danger or to inconvenience, annoy or materially interfere with the ordinary comfort or convenience of other persons;
 - (b) to enter or remain in any facility;
 - (c) to be in or on any beach area after the Municipality has defined such beach area as an area in or on which no dogs are permitted and a notice has been published in the press of such prohibition, and a sign erected at such beach area specifying that dogs are prohibited; or
 - (d) to be in or on any beach area except on a leash after the Municipality has defined such beach area as an area in or on which dogs must be kept on a leash and a notice has been published in the press of such prohibition, and a sign erected at such beach area specifying that dogs must be on a leash therein or thereon.
- (2) Any sign contemplated by sub section 1(c) and (d) may specify the hours during which such prohibitions shall apply.
- (3) The Municipality may, if a dog is found under circumstances which constitute a contravention of sub section (1), seize such dog or cause it to be seized and deal with it in the manner prescribed by the by-law relating to the Keeping of dogs of the Municipality, whether or not such dog is in the charge of or accompanying its owner or any other person.
- (4) No person shall cause or allow any horse, pony or other beast belonging to him or in his charge to enter or remain in or on the bathing area after the Municipality has defined such beach area as an area in which no horses, ponies or other beasts are permitted and a notice has been published in the press of such prohibition and a sign erected at such beach area specifying that horses, ponies or other beasts are prohibited.
- (5) Any sign contemplated by subsection (4) may specify the hours during which such prohibition shall apply.
- (6) No person shall cause or permit an animal (other than a dog) belonging to him or in his charge or custody or under his control to enter or remain upon the seashore or in the sea or in any other place to which this by-law applies except with the permission of the Municipality.

Above-mentioned [section 15](#) provisions are applicable except where otherwise provided for in the Keeping of Dogs By-law.

16. Fishing

- (1) No person shall —
 - (a) fish from or throw or cast any net or fishing line in or into any bathing enclosure, pool or bathing area unless such person has, prior to the promulgation of this by-law and any of its predecessors, acquired the right to fish from any part of the seashore which is a bathing area;
 - (b) fish from or throw or cast any net or fishing line in or into any bathing enclosure, pool or bathing area where such fishing, throwing or casting is prohibited by a sign;
 - (c) launch any boat where launching is prohibited by a sign; or

- (d) place fishing bait, fish, fishing equipment or tackle on or immediately adjacent to any seat provided for the use of the public and every person shall clear away all bait and refuse before leaving the place where he/she had been for the purpose of fishing and he/she shall remove all such bait and refuse from the seashore or place it in a refuse receptacle.

17. Aquatic sports and games

No person shall —

- (a) in or on any beach area organise or compete in any swimming race or aquatic sport, or organise training in respect of such water or any other sport, except with the consent of the Municipality and at such time and place as the Municipality may have determined;
- (b) dive into the water in any bathing enclosure or pool except from the side thereof or from a diving platform provided for that purpose;
- (c) play any game or indulge in any pastime which is likely to cause nuisance, injury or discomfort to bathers, spectators or any persons in any area to which this by-law applies after he/she have been warned by a bailiff or an authorised employee not to play such games or indulge in such pastime.
- (d) bathe, surf, paddle ski, jet ski, kite ski or engage in any similar activity where bathing, surfing, paddle skiing, kite skiing or any similar activity has been prohibited by a sign; or
- (e) in or on any beach area play any game where the playing of games has been prohibited by a sign.

18. General prohibitions

No person shall —

- (a) use as a bathing cubicle any property of the Municipality not intended to be so used.
- (b) camp, light a fire, or cook any food other than in places set aside for that purpose; provided that the preparation and cooking of food in such a place shall be done in a clean and hygienic manner so as not to give rise to excessive smoke or other nuisances or entail any danger to health; provided further that no live animals, poultry or fish may be killed or skinned on, in or at a such a place;
- (c) without prior written consent of the Municipality, camp on the seashore or in any other area to which this by-law applies or use any part thereof for the purpose of sleeping or habitation;
- (d) disturb any vegetation or sand on foredunes where it is not an area designated for use or no formal path or walkway exists;
- (e) without the prior written consent of and subject to the conditions imposed by the Municipality in or on any beach area —
 - (i) erect any construction designed for amusement;
 - (ii) give any performance or provide any entertainment;
 - (iii) hawk or exhibit any goods or carry on any other business;
 - (iv) use any loudspeaker, amplifier or similar equipment; or
 - (v) construct, erect or fix any building or structure of whatsoever nature, or pitch any tent of the like;
- (f) remove any vegetation, sand, shingle, rock or stone unless he is an employee of the Municipality in the course of his duties;
- (g) use any facility set aside by the Municipality for the exclusive use of children under a particular age if such person is older than such age;

- (h) without the consent of the Municipality in any bathing enclosure or pool use any flippers, goggles or other underwater swimming or spear-fishing equipment;
- (i) wilfully or negligently damage, deface or defile in any way whatsoever any tree, shrub, building or structure including any bench, door, furniture or equipment, or any cubicle, water closet, shower, toilet or urinal;
- (j) cause any motorised craft to approach within 100 metres of any bather or within 100 metres from the low-water mark in any bathing area save for the purpose of rendering assistance in an emergency, in the lawful exercise of existing fishing rights, in the course of law enforcement or if written permission has been obtained from the Municipality;
- (k) sit, lie or cause any obstruction whatsoever on or at any walkway;
- (l) drive or ride any vehicle or animal in or on any beach area unless he is an employee of the Municipality acting in the course of his employment, a person authorised by the Municipality to do so or a law enforcement officer in the course of his duties;
- (m) park any vehicle or trailer on any ramp used for launching of boats;
- (n) cycle, roller-skate, skate or use any similar contrivance where such conduct is prohibited by a sign;
- (o) smoke in disregard of any sign prohibiting smoking; or
- (p) discharge any fireworks or fire arm except in or from an area defined in a notice published in the press as an area in which or from where fireworks or fire arms may be discharged.

19. Fees

The Municipality may from time to time and for the purposes of this by-law fix fees or tariffs of fees for the use of any facility or property owned by the Municipality.

20. Declaration of bathing areas

The Municipality may by notice published in the press and the erection of a sign at or on at beach area, declare such beach area to be a bathing area.

21. Signs

- (1) Except where expressly provided, any prohibition or instruction in terms of this by-law may be indicated by means of a sign.
- (2) The Municipality may in prohibiting any activity in terms of this by-law, specify on a sign referred to in subsection (1) the times and or hours during which such activity shall be prohibited.
- (3) The Municipality may display any such sign in such a position and manner as will indicate the restrictions or prohibitions and or the location or boundaries of the area concerned.
- (4) The signs erected in terms of this by-law or any other law shall serve as sufficient notice of the prohibitions or restrictions applicable in the area concerned.
- (5) The signs may be amended from time to time and displayed by the Municipality for the purpose of this by-law.
- (6) No person other than a person authorised thereto by the Municipality, shall move any sign or notice displayed or erected for the purpose of this by-law and no person shall deface, obscure or wilfully or negligently damage or otherwise interfere with any such sign or notice.

22. Prohibition of entertainment and trade

Any person who for reward or gain, conducts an entertainment, business or trade of any sort on the sea-shore or in the sea without the written permission given and on such terms and condition as in each case may be deemed fit by the Municipal Council, shall be guilty of an offence, except as otherwise provided for in another by-law.

23. Reservation of beaches

- (1) Notwithstanding any provision to the contrary contained in this by-law, the Municipality may, at the request of any Government department reserve —
 - (a) a beach within the area of jurisdiction of the Municipality; or
 - (b) any portion of such beach.
- (2) For the exclusive use of any such Government department and shall notify all interested parties in any manner or by any means it may deem most expedient accordingly. No person other than the Government department concerned shall make use of or enter upon the beach or any part thereof reserved in terms of subsection (1) for the exclusive use of any such Government department.

24. Prohibition of bathing within areas considered unsafe

- (1) Bathing within any part of the sea may be prohibited by the Municipality or its duly authorised representative for so long as the Municipality may consider the condition of the sea unsafe.
- (2) Any permanent prohibition under this section shall be indicated by notice on the spot and any temporary prohibition by any other recognisable and intelligible marker at both ends of the prohibited area.

25. Searching, seizure and disposal

An employee of the Municipality in the execution of his duties may in accordance with the provisions of the Criminal Procedure Act ([Act No. 51 of 1977](#)) search any person for and seize and dispose of anything —

- (1) which is concerned in or is on reasonable grounds believed to be concerned in a contravention of or failure to comply with any provision of this by-law;
- (2) which may afford evidence of such contravention or failure; or
- (3) which is intended to be used or is on reasonable grounds believed to be intended to be used in such contravention or failure.

26. Application

This by-law shall apply to the beach areas situated within or adjoining the area of jurisdiction the Municipality.

27. Penalties

- (1) Any person who continues to commit an offence after notice has been served on him or her to cease committing such offence or after he or she has been convicted of such offence is guilty of a continuing offence.
- (2) Any person who contravenes or fails to comply with any provision of this by-law, shall be guilty of an offence and liable upon conviction to a fine or imprisonment, or to such imprisonment without the option of a fine or to both such fine and such imprisonment, and in the case of a continuing offence, to an additional fine or an additional period of imprisonment or either such additional fine or such additional imprisonment or both such additional fine and imprisonment for each day on

which such offence is continued and a further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as result of such contravention.

28. Offences relating to officials

- (1) No person may –
 - (a) assault, resist, obstruct, hinder, delay or interfere with any official or police officer in the exercise of his or her powers or the performance of his or her duties or functions or in any other way attempt to prevent the exercise of such powers or the performance of such duties or functions;
 - (b) offer any inducement to any such official or police officer or make any threat, whether of violence or otherwise, in relation to such member or a member of his or her family or a person dependent on him or her or to his or her property in order to persuade or prevent such member from exercising any of his or her powers or performing any of his or her duties or functions;
 - (c) not being an official, by words, conduct or demeanour pretend that he or she is such a member; or
 - (d) not being an official, wears a uniform or part of a uniform or an insignia designed and intended for use by an official of the Knysna Municipality, or an imitation of such uniform or insignia.
- (2) A person who contravenes subsection (1) commits an offence.

29. Application of other by-laws

The provisions of this by-law are in addition to and not in substitution for any provision in any by-laws in which particular public amenities are regulated, and if a provision in this by-law is inconsistent with any provision of such other by-laws, the relevant provision of those other by-laws applies.

30. Repeal

By-laws on the Control of the seashore and the sea situated within or adjoining the area of the Knysna Municipality, previously made by the Council or its constituent predecessors in respect of any portion of the area of the Knysna Municipality are hereby repealed.

31. Short title and commencement

This by-law shall be known as the By-law for the Recreational use of Beaches and Bathing Areas and shall come into operation on the date of promulgation thereof in the Western Cape *Provincial Gazette*.