

Kerry County Council Beach Bye-laws 2013

The County Council of the County of Kerry (hereinafter called “the Council”) in exercise of its powers under Part 19 of the Local Government Act, 2001 and every other power in that behalf it enabling hereby makes the following Bye-Laws.

1. These Bye-Laws shall be known as Kerry County Council Beach Bye-Laws 2013.
2. These Bye-Laws shall apply to the beaches specified in the Schedules and Maps to these Bye-Laws excluding public roadways and public car parks at these locations.
3. These Bye-Laws shall come into force on the Friday 21st June 2013.
4. Kerry County Council Amended Beach Bye-Laws, 2007 made on the 21st day of May 2007 be revoked with effect from 21/06/2013.

5. Interpretation

Throughout the Bye-Laws, unless the context otherwise requires, the following words and expressions have the meaning hereafter respectively assigned to them, that is to say:

- (a) “Authorised Person” means any employee of the Council or any person designated by the Council for the purposes of these Bye-laws.
- (b) “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.
- (c) “Consent of the Council” means the permission in writing of the Council.
- (d) “Council” means the Council of the County of Kerry.
- (e) “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.
- (f) “Horse” includes donkey and mule.

- (g) "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.
- (h) "Nuisance" means unreasonable interference with or disturbance or annoyance to any person in the exercise of his/her rights.
- (i) "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.
- (j) "Permit" has the same meaning as "Consent of the Council" at (c) above.
- (k) "Sail Board" means a board with a sail attached allowing the operator to sail along waves as well as down them.
- (l) "Summer Season" means the months of May, June, July, August and September.
- (m) "Surf Board" means a board used to surf using wave energy as a means of propulsion.
- (n) "Swimming" includes floating, paddling, fishing or otherwise being in the sea for leisure purposes.

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

7. **Prohibited Acts**

A person shall not at any of the beaches specified in **Schedule One** of these Bye-laws:

- (a) Cause a nuisance or engage in behaviour or activity likely to cause a nuisance;
- (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;
- (d) 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.

- (e) Save with the prior Consent of the Council or of any other statutory body authorised to permit such activities :-
- (i) Sell, hire, offer or expose for sale or hire any article, commodity, thing or service (including tuition) whatsoever for monetary reward or otherwise,
 - (ii) Supply or deliver any article commodity, thing or service (including tuition), including circumstances where the transaction for the sale, hire or offer for sale or hire of such article, commodity, thing or service was initiated at a location other than the beach by means of electronic communication within the meaning of the Electronic Commerce Act 2000 (including any subsequent amendment, repeal and re-enactment or otherwise thereof) or otherwise, and such transaction is continued or completed on the beach through the supply or delivery there of the article, commodity, thing or service.
- (f) Sell, supply or otherwise offer for sale or supply for monetary reward or otherwise tuition in surfing or other water-sports activities from a beach, or contiguous area, 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, and the necessary accreditation by the Irish Surfing Association and/or other body recognised by the Council to issue such standards. In this regard it shall be a requirement that any accrediting organisation shall be a member of the International Surfing Association.

It shall also be a requirement that the accrediting organisation shall have appropriate child protection policies and Garda vetting practises in place which comply with Irish legislative requirements.

8. Control of Horses

Persons in charge of a horse on any beach listed in **Schedule One** shall ensure the following:-

- (i) It is at all times under control;
- (ii) It is not causing annoyance, danger or nuisance to any person using the beach;
- (iii) It is not allowed on any part of the beach which comprises of sand dunes, except with the permission in writing of the Council or any other statutory body authorised to permit such activity, and subject to the terms and conditions of such permission.

(This Bye-law does not apply to horses kept by An Garda Síochána and wholly used by an employee or member of An Garda Síochána while on duty).

9. Caravans, Camping etc.

No person shall place or keep any caravan, motor caravan, tent or other temporary dwelling on any part of the beaches listed in **Schedule Two** of these Bye-laws without the consent of the Council and subject to the terms and conditions of such permission.

10. Vehicles (Restrictions)

No person shall drive, propel, push, park or leave any motor car or other mechanically propelled vehicle on the beaches listed in **Schedule Three** of these Bye-laws (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.

(This Bye-law shall not apply to a vehicle operated by the Council or its agents, The Commissioners of Public Works, an Garda Síochána, Defence Forces or recognised rescue services.)

11. Off-Road Vehicles

No person shall drive, propel, push, park or leave any off-road vehicle on the beaches listed in **Schedule Four** save with the permission in writing of the Council, or any other statutory body authorised to permit such activity, 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.

(This Bye-law shall not apply to a vehicle operated by the Council or its agents, The Commissioners of Public Works, an Garda Síochána, Defence Forces, The Coast Guard or recognised rescue services)

12. Surf Boards, Kite Boards and Sail Boards

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.

13. 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 standards of the goods or services being provided, the necessary accreditations, 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.

14. Permits

- (a) The Council may at its sole discretion grant a permit, subject to such conditions as the Council shall deem appropriate, for the use of part or parts of the beach for the purpose of selling, hiring or offering for sale any article, commodity or thing whatsoever.
- (b) A permit may be granted for such period as the Council may determine.
- (c) The Council may, by notice in writing, revoke, alter, amend or limit the terms and conditions of such a permit.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) 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.

- (h) Applicants shall pay a permit application fee as follows for each location at which the service may be provided:-
- | | |
|----------------------------|--|
| i. Water sports Activities | €250 per annum and €150per additional permit |
| ii. All other Activities | €100 per annum |

On the granting of a permit, the applicant may be obliged to pay €250 to the Council prior to the issuing of the permit to defray such costs as may be incurred by the Council in inspecting, monitoring and/or enforcing the permit

- (i) The Council reserves the right to refuse any application.

15. Offences

- (a) An Authorised Person or a member of the Garda Síochána may take appropriate action to enforce these Bye-laws.
- (b) 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 the 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 fine not exceeding **€1500**.
- (c) 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 €50.00 is made to the Council within twenty-one days of the date of service of the Notice.
- (d) 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.
- (e) Where an authorised person or a member of the 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. Where a Member of the Garda Síochána is of the opinion that a person is committing or has committed an offence to which this section relates, that member may arrest the person without warrant.

- (f) 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.
- (g) 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.

16 Schedules

Reference to the beaches listed in the attached schedules is deemed to include the areas identified in the attached maps to these Bye-laws.

SCHEDULE ONE

An Mhuirioch/Gallarus	Derrynane
Aughacasla	Doonsheane
Baile na nGall	Fenit
Ballinskelligs	Fermoyle
Ballybunnion North	Ferriters Cove
Ballybunnion South	Gowlane
Ballyheigue	Inch
Ballyquin / Brandon	Inny Strand
Banna	Kells
Barrow	Kilcummin
Beal Ban	Killshannig
Beal / Letter	Kilmore
Beenbane	Kinard / Trabeg
Cappaclogh	Long Beach (Ballybunnion)
Cappagh	Maharabeg
Carrigaha	Minard West
Castlegregory / Trench Bridge	Reenroe
Cill Mhuire	Rossbeigh
Cloghadhu / Back Beach (Maharees)	Stradbally
Clogher	The Glen
Coomeenoule	Traigh an Fhiona (Wine strand)
Coonanna	Tranasassanach
Cooncrome	Ventry
Corralougha / Fahamore	Waterville
Cromane	White Strand (Caherciveen)
Derrymore	White Strand (Castlecove)

SCHEDULE TWO (Caravans / Camping)

Ballinskelligs	Fenit
Ballybunion North	Inch
Ballybunion South	Kells
Ballyheigue	Kilshannig
Banna	Maharabeg
Castlegregory / Trench Bridge	Rossbeigh
Cloghadhu / Back Beach (Maharees)	Ventry
Corralougha / Fahamore	White Strand (Caherciveen)
Derrynane	

SCHEDULE THREE (Vehicles - General)

An Mhuirioch / Gallarus	Coomeenoule
Aughacasla	Derrymore
Baile na nGall	Derrynane
Ballinskelligs	Fenit
Ballybunion North	Inch
Ballybunion South	Inny Strand
Ballyheigue	Kells
Banna	Maharabeg
Beal Ban	Rossbeigh
Cappaclogh	Traigh an Fhiona (Wine Strand)
Carrigaha	Ventry
Castlegregory/ Trench Bridge	White Strand (Caherciveen)
Clogher	White Strand (Castlecove)

SCHEDULE FOUR (Vehicles - Off Road)

An Mhuirioch	Corralougha / Fahamore
Aughacasla	Derrymore
Baile na nGall	Derrynane
Ballinskelligs	Fenit
Ballybunion North	Inch
Ballybunion South	Inny Strand
Ballyheigue	Kells
Banna	Kilshannig
Beal Ban	Long Beach (Ballybunion)
Beal / Letter	Maharabeg
Cappaclogh	Rossbeigh
Carrigaha	Stradbally
Castlegregory / Trench Bridge	Traigh an Fhiona (Wine Strand)
Cloghadhu / Back Beach (Maharees)	Ventry
Clogher	White Strand (Caherciveen)
Coomeenoule	White Strand (Castlecove)

Made under the Official Seal of Kerry County Council

DATED THIS _____ **DAY OF** _____, **2013**

PRESENT when the Official Seal of the Kerry County Council was affixed.

MAYOR OR NOMINATED EMPLOYEE _____