

# Draft Beaches Bylaw 2018



Tauranga City

<b>First adopted</b>	<i>2004 <del>date</del></i>	<b>Minute reference</b>	
<b>Revisions/amendments</b>	<i>2008 <a href="#">16 December 2007</a> <a href="#">91 December 2008</a> <a href="#">17 August 2010</a></i>	<b>Minute references</b>	<a href="#">M07/101.4</a> <a href="#">M08/137.01</a> <a href="#">M10/61.12</a>
<b>Review date</b>	<i>This bylaw to be reviewed ten years after date of adoption.:-</i>		
<b>Engagement required</b>	<i>Special Consultative Procedure</i>		
<b>Associated documents</b>	<a href="#">Street Use and Public Places Bylaw</a> <a href="#">Dog Control Bylaw 2008</a> <a href="#">Speed Limit Bylaw 2009</a>		
<b>Relevant legislation</b>	<i>This bylaw was made under Local Government Act 2002.</i>		

## 1. TITLE

1.1 This bylaw is the Beaches Bylaw 2018.

## 2. COMMENCEMENT

2.1 This bylaw comes into force on [insert date].

## 3. APPLICATION

3.1 This bylaw applies to Tauranga City.

## 4. PURPOSE

4.1 The purpose of this Bylaw is to enable the safe, recreational use of Tauranga beaches by controlling activities that are likely to affect public safety, and to minimise nuisance control activities that are likely to affect public safety, minimise nuisance on the beach, and ensure the uses of the beach are primarily for recreational purposes.

4.2 Every Schedule to this Bylaw and to the several Parts thereof shall be deemed to form part of this Bylaw.

4.3 Except as herein expressly provided this Bylaw shall apply to the whole of the City.

4.4 Words which refer to the singular include the plural and the plural includes the singular.

## 5. DEFINITIONS

5.1 For the purposes of this Bylaw the following definitions shall apply:

Term	Definition
Act	Refers to the Local Government Act 2002.
<u>All-terrain Vehicles (ATVs)</u>	<u>For the purposes of this bylaw shall include a three or four wheeled motorcycle and any trailer specifically designed to be towed by such a vehicle.</u>
Approved	Approved in writing by the Council, either by resolution of the Council or by any authorised officer of the Council.
Authorised Officer	Refers to any officer of the Council or any other person authorised under the Local Government Act 2002 and authorised by the Council to administer and enforce its Bylaws.
Bathing	Refers to swimming and sunbathing.
Beach	Refers to any land in the Council's district adjacent to any seacoast or lakeside which is part of the foreshore, or is land contiguous to and used in connection with the foreshore, and to which the public has a right of access. For the purposes of this bylaw, the beach includes the foreshore which is the parts of the bed, shore or banks of tidal water between mean high water springs and mean low water springs.
Bylaw	<u>Refers to the Tauranga City Council Beaches Bylaw.</u>
Coastal beach	Refers to any beach from, and including, Mauao, Mt Maunganui Main Beach to the Kaituna River.
Council	<u>Refers to Tauranga City Council — the elected member body representing Tauranga City.</u>
Craft	<del>includes</del> <u>Refers to</u> any ship, boat or other machine or vessel, <del>including a kontiki device,</del> used or able to be used by any person on, or in, the sea.
<u>Fishing Apparatus</u>	<u>Refers to any instrument used for recreational fishing purposes, including kontiki devices and longlines.</u>
License	Refers to a permit or other authority from the Council.
Marae community zone	<del>(Either rural or urban) is as contained in the Operative Tauranga District City Plan.</del>
Motorcycle	Shall have the same meaning as defined in the <del>Transport Act 1962</del> <u>and Transport Act 1998</u> but shall include those vehicles commonly referred to as <u>"quadbikeall-terrain vehicles"</u> for the purposes of this bylaw.
Offence	Includes any act or omission in relation to this Bylaw or any Part thereof for which any person is liable to prosecution.

Owner	Of any property, or as applied to any land, building, or premises, means any person for the time being entitled to receive the rent of such property, land, building, or premises, and where any such person is absent from New Zealand, shall include his attorney or agent, or any other person acting for him or on his behalf.
Person	Includes a corporation sole and also a body of persons, whether corporate or unincorporated.
Quadbike	<del>for the purposes of this bylaw shall include a three or four wheeled motorcycle and any trailer specifically designed to be towed by such a vehicle.</del>
Sign	Means a visual message or notice conveyed to the public and visible from a public place displayed to advertise, identify a product, business, or service, or to inform the public, together with any frame, supporting device and any associated ancillary equipment. It includes but is not limited to a banner, flag, poster, billboard, free standing sign, windsock and blimp. A bunting that has symbols or messages on it shall also be considered to be a sign.
Structure	Is any permanent or temporary works which are not part of the natural beach environment.
Vehicle	Shall have the same meaning as defined in <a href="#">the Land Transport Act 1998 Section 2 of the Transport Act 1962</a> or subsequent amendments.
Wharf	Is a permanent or floating waterfront structure which is purpose designed for the berthing of marine vessels and includes every wharf, quay, jetty, pier, pontoon or other structure under the control of the Council from which passengers or goods may be taken on board or landed from any vessel or boat.
Writing, Written	<p><b>Or any term of like import</b> means and includes words printed, painted, engraved, lithographed, or otherwise traced or copied, and where anything is required to be written it may be partly in writing and partly in printing.</p> <p>Any word, phrase or expression which have meanings assigned to them by the <del>Transport Act 1962</del> Land Transport Act <a href="#">1998</a>, or any amendments thereof, shall have such meanings as are respectively assigned thereby, unless such meanings shall be repugnant to, or inconsistent with, the context in which such words, phrases or expressions, occur.</p>

## 6. VEHICLES

6.1 No person shall on any part of the beach, except as allowed in Sections [63.2](#), [63.3](#) or [63.4](#):

- (1) Drive any land yacht, [quadbike all-terrain vehicle](#) or other vehicle at a speed or in a manner which is or might be dangerous, or which causes or might cause inconvenience to any person on the area.
- (2) Bring or ride any motorcycle thereon.

(3) Bring or drive any vehicle thereon except to launch a craft or remove it from the water ~~50 100 meters~~metres either side of a designated boat ramp. Dispensation may be granted under Clause 19 of this bylaw.

(4) Leave any trailer thereon other than boat trailers during launching or retrieving of boats only.

~~6.2~~ ~~Craft may be moored, secured, anchored or left on the beach but Council may require them to be removed if they are deemed to be causing a safety or nuisance issue, or impacting on the wider public enjoyment of the beach.~~

~~6.23-3~~ ~~Quadbikes~~All-terrain vehicles may be driven on the beach with the permission of Council, ~~solely for the purposes of recreational fishing,~~ and provided they use the vehicle access point between 105 and 107 Karewa Parade. ~~Quadbikes~~All-terrain vehicles ~~may~~shall only be ridden on the beach from the Karewa Parade vehicle access point to the river mouth of the Kaituna River. ~~Quadbikes~~All-terrain vehicles must be driven ~~in accordance with the Speed Limit Bylaw 2009,~~ and to ensure the safety and consideration of others in the area and may not be driven on the sand dunes.

~~6.33-4~~ Vehicles may be driven on the beach for the purposes of setting up and running of events on the beach, but only if permitted by the Council and in accordance with that permission. Vehicles must be driven to ensure the safety of others in the area.

~~6.43-5~~ Nothing in this paragraph shall apply to any Police vehicle, fire appliance, ambulance, Government Service, Surf Life Saving or Council vehicles or other vehicle authorised by Council to drive on the beach.

## **7. CRAFT AND FISHING APPARATUS**

~~7.4-1~~ ~~Craft may be moored, secured, anchored or left on the beach but Council may require them to be removed if they are deemed to be causing a safety or nuisance issue, or impacting on the wider public enjoyment of the beach.~~

~~7.24-2~~ ~~The Council may by resolution make controls to prohibit or restrict fishing apparatus on the whole or part of the beach, during such times and/or seasons as are considered necessary to ensure public safety and prevent nuisance.~~

~~7.34-3~~ ~~No person may use a fishing apparatus, including a longline or kontiki device, within 300 metres of any flagged lifeguard area.~~

## **8. HORSES ON BEACHES**

8.1 No person may ride, drive or lead a horse on the following beaches as shown on the map in Schedule 1:

- Any beach at Mauao
- The main Mt Maunganui beach from Moturiki (Leisure Island) to, and including, the base of Mauao
- Any beach at Moturiki (Leisure Island)
- Pilot Bay beach from the base of Mauao to Salisbury Wharf
- Any beach within 100 ~~meters~~metres directly in front of and adjoining any land at mean high water springs classified as Marae Community Zone (as identified in the Tauranga City Plan and shown on the maps in Schedule 2), unless the horse is at a walking pace.

- 8.2 Council may, by resolution, define further beaches where horses are prohibited.
- 8.3 Access by horses and their riders to those coastal beaches where horses are permitted, must be via a Council-controlled vehicle access or any other access designated for that purpose.
- 8.4 Any person in control of a horse on the beach must remove any faeces deposited by their horse and dispose of it in a hygienic manner.

## 9. HIRING OF CRAFT

- 9.1 The Council may permit the use of any defined part of the beach for the hiring, storing, launching and recovery of particular types of waterborne craft made available for public hire.

~~9.2~~ ~~, and may issue a licence to any~~ ~~All person or persons for the~~ carrying out ~~of~~ one or more of ~~the hose~~ activities ~~outlined in section 9.1, or using the beach for any commercial activity, must have a license to do so.~~

- ~~9.3~~ Any such permission may include an administration fee and such conditions as may be desirable in the interests of the safety and convenience of the public, including that of bathers in particular.

## 10. REMOVAL OF MATERIAL

- 10.1 No person shall remove, for commercial, landscaping or building purposes, any stone, shingle, sand, boulders, silt, mud, shell or other material from any part of the beach or foreshore except pursuant to a licence issued by the Council or if otherwise authorised by law.

## 11. PROTECTIVE WORKS

- 11.1 No person shall interfere with or remove any portion of any protective works, groynes or other structures erected on the beach or foreshore for the control of sand or shingle or for the prevention of erosion.

## 12. LIFESAVING EQUIPMENT

- 12.1 No person shall interfere with or remove, destroy or damage any sign, navigation structure or aid, or any lifebuoy or lifesaving apparatus erected or maintained on the beach or on any wharf, jetty or landing place thereon.

~~12.2~~ ~~No person may use a longline within 300 meters of any flagged, patrolled lifeguard area.~~

## 13. STRUCTURES

- 13.1 ~~13.2~~ No person shall commence, make or construct any work, or place any pile or other ~~permanet~~ structure whatsoever in, on, over, through or across the beach without first having obtained from the Council a licence, ~~and the appropriate consent from Environment Bay of Plenty Bay of Plenty Regional Council to do so. Nothing in this clause shall apply to structures made from natural materials found on the beach.~~

- 13.2 No person shall maintain or continue to use, or permit to remain on any part of the beach any structure without being the holder of a current licence.
- 13.3 Every applicant for a licence to erect a structure or to maintain an existing structure on the beach or to renew a previous licence shall with the application pay the processing fee and provide the information required.
- 13.4 Any licence may be cancelled for any breach of any relevant clause of this Bylaw.
- 13.5 The licence holder shall at all times keep the structure in good repair, appearance and condition and if necessary the Council may order the licence holder to undertake remedial works to its satisfaction.
- 13.6 No licence holder shall make charges for the use of a structure unless they are first approved by the Council or unless the licence is granted for commercial use.

#### **14. PROHIBITION OF BATHING**

- 14.1 The Council may, for the purposes of public health and safety, prohibit bathing on any beach or any portion of the beach under its control.
- 14.2 The Council may, for this purpose, erect signs defining the limits within which bathing shall be confined.

#### **15. BERTHS**

- 15.1 No owner or person in charge of any vessel or boat shall, except in case of emergency, cause, or allow such vessel or boat to occupy a berth alongside any wharf or to lie off a wharf with a line or mooring attached thereto, unless such vessel or boat shall first have been licensed by the Council to occupy such berth. This section shall not apply to any wharf determined by Council to be a public wharf in accordance with section 11.2.
- 15.2 [Person in charge of any vessel or boat occupying a berth must adhere to all stated safety signage.](#)
- 15.2 Council may, by resolution, determine any wharf, or part thereof to be a public wharf for the specific purpose of casual picking up and setting down of passengers from private vessels or boats. Permission is not specifically required to use these berths for these purposes.
- 15.3 Nothing in clause 15.2 and 15.3 shall override conditions relating to public access set under a resource consent.

#### **16. AIRCRAFT**

- 16.1 No person shall (except in case of emergency) land or attempt to land on the beach, or become airborne or waterborne from the beach, or ride along the beach, any motorised aircraft ([excluding drones](#)), without the permission of Council. In all cases, the person must ensure that all other statutory requirements are also complied with.
- 16.2 Recreational non-motorised aircraft may land on, take off from and ride along the beach except when it is dangerous or might cause inconvenience to any person in the area. In all cases, the person must ensure that all other statutory requirements are also complied with

#### **17. FIRES (clause 13.2 effective from 1 September 2010)**

- 17.1 Fires may be lit between 5am and 11pm. All fires must be below the high tide mark, be less than 1 ~~meter~~~~metre~~ in diameter and must be under supervision at all times. The person lighting the fire must ensure that the materials being burnt are wholly combustible, that there is some form of extinguishment available and the fire must be extinguished with water before leaving it. All litter and dangerous debris must be removed.
- 17.2 Fires on the beach are not permitted during any period where fires are prohibited under Clause 3.1 of the ~~Fire Prevention (Urban Fire District) Bylaw 2010~~Outdoor Fires Safety Bylaw 2015 or subsequent amendments.

## 18. OFFENCES AND PENALTIES

- 18.1 Every person who breaches the terms of this Bylaw commits an offence. And further, every person commits a breach under this Bylaw who:
- i. Fails, refuses or neglects to comply with any notice duly given to that person under this Bylaw;
  - ii. Obstructs or hinders any Authorised Officer of the Council or other Council appointed person in performing any duty or in exercising any power under this Bylaw.
- 18.2 Any breach of section 6 is subject to a penalty of \$150.00.
- 18.3 Subject to any provision to the contrary, any person guilty of an offence against this Bylaw shall be subject to the penalties set out in Section 242(4) of the Local Government Act 2002, and is liable on summary conviction to a fine not exceeding \$20,000.

## 19. LICENCES

- 19.1 The form of any application for and grant of any permission, licence or approval required under this Bylaw will be determined by the Council.
- 19.2 The Council may attach to any permission, approval or licence any terms or conditions as it thinks fit.
- 19.3 No application for a licence from the Council, and no payment of or receipt for any fee paid in connection with such application or licence, shall confer any right, authority or immunity on the person making such application or payment.
- 19.4 Suspending or Revoking Licences
- (a) The Council may revoke or suspend a licence granted under this Bylaw if it reasonably believes the licence holder:
    - i. has acted or is acting in breach of the licence; or
    - ii. is unfit in any way to hold such a licence.
  - (b) The Council may require the licence holder to attend a hearing to explain why the licence should not be revoked or suspended. The Council may revoke or suspend the licence at its discretion. If either;
    - i. the licence holder does not attend the hearing; or
    - ii. if after the hearing the Council is satisfied the licence holder has been in breach of the licence or is unfit to hold the licence.



- (c) The Council may suspend any licence granted under this Bylaw for a period not exceeding 72 hours during the staging of any special event, by giving the licence holder 10 days' notice in writing. The Council may suspend any such licence for the purposes of protecting the public from nuisance or for protecting, promoting or maintaining public health and safety.

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