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LOCAL GOVERNMENT ACT 1995

TOWN OF COTTESLOE

**BEACHES AND BEACH
RESERVES LOCAL LAW No. 3**

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BEACHES AND BEACH RESERVES LOCAL LAW No. 3

In pursuance of the powers conferred upon it by the above-mentioned Act and of all powers enabling it, the Council of the Town of Cottesloe hereby revokes the Town of Cottesloe Beaches and Beach Reserves Local Law No. 3—gazetted on 11 December, 1998 and records having resolved on the 22 February, 1999, to make the following local law.

DIVISION 1—PRELIMINARY

1. Revocation

The local laws Relating to Beaches, Reserves, etc. published in the *Government Gazette* of 7th August, 1963, and incorporating the amendments published on the 1st September, 1965, 23rd December, 1971, 30th May, 1975, 9th December, 1977 and 7th November, 1980, are hereby revoked.

2. Definitions

In this local law, unless the context otherwise requires, the following terms shall have the meanings defined below—

“**Act**” means the Local Government Act 1995, as amended from time to time;

“**Animal**” without limiting the generality of such term, includes horses, camels, cattle, bullocks, asses, mules, sheep, goats, swine, reptiles and birds and but does not include dogs;

“**Authorised Person**” means an employee of the Town of Cottesloe, a member of the Western Australian Police Service or other person where such other person is authorised in writing by the Town to exercise any function provided under these local laws;

“**Bathing**” means the act of entering into the sea and emerging therefrom and includes the use of bathing appliances;

“**Bathing Appliances**” means a float of any material, including surf skis, surf boards, kickboards, malibu boards, paddle boards, body boards, boats or any other device whether motorised or not, used or capable of use for bathing or surf riding;

“**Bathing Area**” means that part of the defined area which, from time to time, is set aside pursuant to Clause 6.7 of this local law as a bathing area;

“**Boat**” means any structure or vessel whether propelled manually or by the wind or power or wave, used to float and travel upon or above the water;

“**Building**” means a structure erected or placed on land and without limiting the generality of the same includes all plumbing, electrical installations, fittings, fixtures and all furniture or other contents of a building and all structures in the open air including notices, signs, seats, fences, walls, drains, showers, roads, footpaths, memorials and the like erected by or with the consent of the Council;

“**Cottesloe Beach**” means the area of beach from the northern face of the Cottesloe Beach groyne to an imaginary line drawn west at right angles to the coast from the southern boundary of Napier Street road reserve;

“**Council**” means the Council of the Town of Cottesloe;

“**Defined Area**” means the places and the areas of the sea defined in paragraph 3 of this local law;

“**District**” means the district of the Town of Cottesloe;

“**Eric Street Pool**” means the area of beach between imaginary lines drawn west at right angles to the coast from—

(i) the northern border of the Eileen Street road reserve; and

(ii) the southern alignment of the Eric Street road reserve

“**Fence**” means any artificially created barrier whether temporary or permanent including post and rails, chain, metal, wire or pipe;

“**Fishing**” means to use any line, lure, rod, pot or other method for the purposes of catching marine life;

“**Foreshore**” means the beach from the low water mark as measured at ordinary spring tides to the commencement of the sand dune system;

“**Function**” without limiting the generality of such term, includes a carnival, show, fete, concert, exhibition, gymkhana, sporting event, a training or practice session in connection with a sport by a group or team of five or more persons, or a picnic for a gathering of more than 10 persons;

“**Life Saving Club**” means a Life Saving Club affiliated with Surf Life Saving Western Australia Inc;

“Life Saving Appliance” means any equipment or other appliance used in the provision of life saving services or for the training of Life Saving Club members in their duties;

“North Cottesloe Beach” means the area of beach between an imaginary line drawn west at right angles to the coast from the northern border of the Eileen Street road reserve and the northern border of the Grant Street road reserve;

“Nuisance” means—

- (a) any thing, condition, circumstance or state of affairs which is injurious or dangerous to the health of a reasonable person, or which has a disturbing effect on the state of reasonable physical, mental or social well-being of a person;
- (b) any thing a person does or permits or causes to be done which interferes with or is likely to interfere with the enjoyment or safe use by another person of any public place; and
- (c) any thing a person does on public or private land which detracts from or interferes with the enjoyment or value of land owned by another person;

“Public Place” includes every place to which the public ordinarily has access, whether by payment of fee or not;

“Reserves” means Land Reserve Numbers 6896A, 13718, 13719, 16187, 16188, 16189, 28199 and 30807;

“Sand Dune System” means sand dunes and all areas between sand dunes;

“Town” means the Town of Cottesloe;

“Vehicle” means a vehicle described in the First Schedule to the Road Traffic Act 1974;

“Vera View Beach” means the area of beach between imaginary lines drawn west at right angles to the coast from the southern boundary of Lot 22 (No. 204 Marine Parade) and the southern boundary of Lot 45 (No. 214 Marine Parade) of Swan Location Sub-lot, Plan 691;

“Watercraft” means any bathing appliance or boat as defined above.

3. Application

Unless the contrary is expressly provided, these local laws shall apply—

- 3.1 to the sea adjoining the District for a distance of 200 metres seaward from the low water mark as measured at ordinary spring tides;
- 3.2 to the area comprising the reserves to the extent the reserves are within the District;
- 3.3 to all land or any building vested in or under the care, control, or management of the Town where such land or building is located within the reserves.

DIVISION 2

4. Environmental Protection

Subject to the provisions of the Fish Resources Management Act 1994 and the Wildlife Conservation Act 1950, as amended, for the purpose of protecting and conserving the beach reserve environment, it is prohibited to—

- 4.1 destroy, damage, injure, cause harm to, catch, snare, or take any animal or marine life ordinarily found within the defined area provided that this clause 4.1 has no application to recreational line fishing which is not otherwise prohibited under or by these local laws;
- 4.2 climb over, under, or through any fence or gate designed or installed for the purpose of prohibiting or restricting the entry of persons or vehicles;
- 4.3 enter any place that has been fenced off or otherwise closed to the public;
- 4.4 use any board or other object to traverse or slide down the sand dune system;
- 4.5 climb, injure, cut, break, deface, pull up, pick, remove or destroy any tree, shrub, flower, grass or plant of any kind or description without the written consent of the council;
- 4.6 plant any tree, shrub, flower, grass or plant of any kind or description or sow or collect any seeds without the written consent of the council;
- 4.7 erect any tent, camp, hut or other structure other than a beach umbrella or other portable item used for the purposes of protection from the elements without the written consent of council;
- 4.8 cause or allow to be ridden or driven any bicycle or other vehicle whether motorised or not except upon a carriageway, thoroughfare, path or footpath designated for use by such vehicle except by an authorised person;
- 4.9 traverse the sand dune system except on designated accessways, unless given permission by an authorised person;
- 4.10 launch hang gliders or other like devices except from locations which are designated for such use by council;
- 4.11 cut, collect, or remove any timber, firewood, stone, sand, seaweed or other material without the written consent of council.

5. Quiet Amenity

In order to protect the quiet and amenity of the defined area, no person shall—

- 5.1 play sport or games in such a way as to cause inconvenience or annoyance to other persons except in areas which council may designate from time to time;

- 5.2 create, commit or take part in any nuisance or disturbance, behave in a disorderly or offensive manner, or use indecent language or commit any act of indecency;
- 5.3 loiter either inside or outside any toilet, changeroom or building or portion of a building;
- 5.4 being in the opinion of an authorised person, under the influence of alcohol or drugs, enter or remain in or fail to depart from any place upon being ordered to do so by an authorised person;
- 5.5 throw or release any stone, arrow or other object used as a missile, except in the course of a function being lawfully held pursuant to an approval pursuant to Local Law 11 herein;
- 5.6 carry or discharge any firearm, airgun, or other missile discharging device, or throw or discharge any explosive device, firework, spear or missile, except in the course of a Function or activities approved in writing by council;
- 5.7 operate any musical instrument, radio, record, cassette or compact disk player, radiogram, television, amplifying equipment or other sound producing, enhancing or amplifying electronic device at such volume as in the opinion of an authorised person, is likely to cause a nuisance or annoyance to other persons in or near the locality except in the course of a function or activities approved in writing by council;
- 5.8 save for emergency alarms operated for periodic testing or warning, use or operate any siren, starting gun or other device which causes a noise which in the opinion of an authorised person is likely to cause a nuisance or annoyance to any person in the vicinity, except in the course of a function or activities approved in writing by council;
- 5.9 fly any mechanically operated model aeroplane or like device except in locations which have been designated for such use from time to time by council;
- 5.10 hire, or offer for hire, any vehicle, bicycle, watercraft, kite or other item of equipment for sport, entertainment, or amusement except with the written permission of council;
- 5.11 sell or offer for sale any goods of any description other than from facilities approved in writing by council.

6. Safety

In order to preserve and provide for safety within the designated areas, the following prohibitions apply—

- 6.1 A person, other than an authorised person, shall not drive or ride a motorised vehicle (other than wheelchairs or other devices designed to assist the movement of people with disabilities) other than on those areas set aside as thoroughfares, driveways or vehicle parking areas.
- 6.2 A person, other than an authorised person, shall not park or stand any vehicle except on areas set aside as parking areas.
- 6.3 (1) Council may in special circumstances grant permission to allow a motorised vehicle to enter upon a public reserve for a specific reason and council may apply such conditions as it thinks fit to such permission.
(2) A person shall not park, drive or stand any vehicle in breach of any such condition.
- 6.4 An authorised person may seize any bathing appliance or boat where it is being used contrary to the provision of these local laws.
- 6.5 Any device of the kind referred to in clause 6.4 of these local laws may be impounded after seizure, in which event the provisions of section 3.42 of the Act shall apply.
- 6.6 The provisions of subdivision 4 of Part 3 of the Act shall apply generally to goods impounded under clause 6.5 of these local laws.
- 6.7 For the safety of persons in respect of bathing and other recreational conduct, an authorised person may set aside specific areas where all or any of the following things are prohibited—
 - (a) entry by persons;
 - (b) bathing;
 - (c) the use of any bathing appliances or any particular kind of bathing appliance;
 - (d) the entry and use of vehicles;
 - (e) the launching of boats and other watercraft;
 - (f) the playing of games; and
 - (g) the selling or displaying for sale or hiring of goods and merchandise.
 - (h) fishing.
- 6.8 The council may set aside such specified areas for the purpose of clauses 6.3 or 6.7 of these local laws for a particular period or until further notice by causing notices to that effect to be placed in the vicinity of the locality.
- 6.9 An authorised person may set aside specified areas in which bathing is prohibited by the placement of notices, flags or such indicators as are from time to time provided or required by the council.
- 6.10 Surfboarding is permitted south of the Cottesloe Beach Groyne at all times;
- 6.11 Surfboarding is not permitted north of the Cottesloe Beach Groyne except between 1 April and 30 September, each year, and is entirely prohibited at all times in the following areas—
 - (a) the area bounded by the north side of the Cottesloe Beach Groyne and an imaginary line between the western end of the groyne and a point on the shoreline one hundred metres north of the Cottesloe Beach Groyne;

(b) Eric Street Pool and Vera View Beach;

but these restrictions may be varied at the discretion of an authorised person.

7. Decency

In order to comply with community expectations and standards of decency, the following restrictions apply—

- 7.1 (1) Any person over the age of 5 years bathing in water exposed to the public view or using a beach for sunbathing or any other activity in public view shall, in order to secure the observance of decency, be properly and adequately clad.
- (2) A parent or other adult person who is responsible for the custody, care or control of a child between the age of 5 years and 15 years shall ensure that the child is properly and adequately clad in accordance with paragraph (1) of this clause.
- 7.2 Where in the opinion of an authorised person the costume or other clothing of any person on land or water to which these local laws apply is not proper and adequate to secure decency, the authorised person may order that person to put on adequate clothing and that person shall comply with such order forthwith.

8. Animals

In order to protect the environment and amenity and to provide for a variety of recreational users, the following restrictions apply—

- 8.1 Subject to Local Law 8.2 a person shall not ride, drive or bring an Animal onto any part of the defined area that has not been set aside for that purpose, except with the written permission of council.
- 8.2 The council may set aside portions of the defined area as areas upon which a person may ride or drive an animal, or onto which a person may bring an animal.
- 8.3 A person shall not ride, drive, exercise, train or race any animal on any part of the defined area in a manner which, in the opinion of an authorised person, creates or may become a nuisance.
- 8.4 This local law is in addition to the requirements of the Town of Cottesloe Local Law No. 34 Relating to Dogs.

9. Fishing, Netting And Spear Fishing

Subject to the provisions of the Fish Resources Management Act 1994 and the Wildlife Conservation Act 1950, as amended, in order to provide for a variety of recreational users and to provide safety, the following restrictions apply—

- 9.1 No person may fish for sharks by any means.
- 9.2 No person may use blood as a lure for the purpose of attracting marine life.
- 9.3 No person shall clean fish, or leave or deposit fish offal or bait and associated material, except in the bins provided for that purpose.
- 9.4 The council may set aside from time to time a portion or portions of the defined area where fishing is prohibited.
- 9.5 No person may use a spear gun, gidgee, hawaiian sling or other like device.
- 9.6 Any spear gun, gidgee, hawaiian sling or other like device must at all times be made safe.
- 9.7 An authorised person is empowered to seize any device referred to in Clauses 9.5 and 9.6 above if, in the opinion of the authorised person, it is being used or carried contrary to the provisions of this local law.
- 9.8 Any device of the kind referred to in clause 9.7 of these local laws may be impounded after seizure, in which event the provisions of section 3.42 of the Act shall apply.
- 9.9 The provisions of subdivision 4 of Part 3 of the Act shall apply generally to goods impounded under clause 9.6 of these local laws.

10. Watercraft

The following restrictions apply to the use of watercraft—

- 10.1 Surf life saving craft, used in their capacity as training and competition Boats of a Life Saving Club, are permitted at both Cottesloe Beach and North Cottesloe Beach within areas set by the council from time to time.
- 10.2 Motorised surf life saving boats being used for water rescue by a Surf Life Saving Club or authorised person are permitted in the defined Area.
- 10.3 Subject to Local Law 10.4 below surf skis may be used at all beaches.
- 10.4 Surf skis may only be used at Cottesloe Beach and North Cottesloe Beach within an area from time to time designated by the council and only for the purposes of entering and leaving the beach to a distance of one hundred metres seaward from the low water mark as measured at ordinary spring tides.
- 10.5 Sailing craft and sail boards are not permitted within two hundred metres from the low tide mark at any point between the Cottesloe Groyne and the northern boundary of the North Cottesloe Surf Life Saving Club building and may only be launched south of the Cottesloe groyne or north of the North Cottesloe Surf Life Saving Club building.
- 10.6 Other than as provided in Local Laws 10.1-10.5 inclusive, all sail and motor craft, including personal water craft, are not permitted within a distance of two hundred metres from the low tide mark as measured at ordinary spring tides, except with the written approval of Council.

11. Functions, Organised Sport And Other Activities

In order to manage the Defined Area, written permission from Council is required prior to holding any Function.

DIVISION 3**12. Permissions**

12.1 Every application for permission in these local laws shall be in writing and shall specify—

- (a) the name, address and contact details of the applicant seeking permission to undertake an activity or activities;
- (b) the location at, on or from which the applicant proposes to conduct the activities;
- (c) details of the activities the applicant proposes to conduct;
- (d) the day or days on which, and times during which, the applicant proposes to conduct the activities.

12.2 The council may at its discretion grant permission or refuse to grant permission under this clause or may grant permission subject to conditions as it thinks fit.

12.3 Where permission has been granted by the council under this clause the person to whom the permission has been granted shall ensure that any conditions are observed at all times. If any such condition is not observed, that person commits an offence against these local laws and the council may by written notice cancel the permission.

12.4 Fees applicable to the holding of any function or activity may be set from time to time by resolution of council.

13. Offences

13.1 Any person who contravenes or fails to comply with these local laws is guilty of an offence and is liable to a penalty not exceeding \$5,000 and not less than—

- (a) in the case of a first such offence \$50;
- (b) in the case of a second such offence \$75;
- (c) in the case of a third or subsequent such offence \$100; and
- (d) if that offence is a continuing offence, a daily penalty which is not more than \$500 and not less than \$50.

DIVISION 4**14. Infringement Notices**

14.1 An infringement notice in respect of an offence prescribed in these local laws—

- (a) may be given under S. 9.13 of the Act and shall be in or to the effect of Form 1 of Schedule 1;
- (b) may be given under S. 9.16 of the Act and shall be in or to the effect of Form 2 of Schedule 1;

14.2 A notice sent under S. 9.20 of the Act withdrawing an infringement notice shall be in or to the effect of Form 3 of Schedule 1.

Schedule 1**Form 1****Local Government Act 1995 (S9.13)****TOWN OF COTTESLOE****NOTICE TO OWNER OF VEHICLE INVOLVED IN OFFENCE**

Date / /

To: (1).....

of: (2).....

It is alleged that on (3).....at (4).....at (5).....

your vehicle (6).....was involved in the commission of the following offence—

.....

.....

.....

contrary to local law (7).....of the (8).....

You are required under S9.13 of the Local Government Act 1995 to identify the person who was the driver or person in charge of the vehicle at the time when the offence is alleged to have been committed.

If you do not prove otherwise, you will be deemed to have committed the offence unless—

- (a) within 28 days after being served with this notice—
 - (i) you inform the Chief Executive Officer or another authorised person of the Local Government as to the identity and address of the person who was the driver or person in charge of the vehicle at the time the offence is alleged to have been committed; or

- (ii) you satisfy the Chief Executive Officer that the vehicle had been stolen, or was being unlawfully used, at the time the offence is alleged to have been committed; or
- (b) you were given an infringement notice for the alleged offence and the modified penalty specified in it is paid within 28 working days after the notice was given or such further time as is allowed—

.....
Name and title of authorised person giving the notice

.....
Signature

- (1) name of owner of (vehicle identification)
- (2) Address of owner (not required if owner is not named)
- (3) Time at which offence allegedly committed
- (4) Place at which offence allegedly committed
- (5) Vehicle identification
- (6) name of the local law
- (7) number of specific section of local law.

Form 2

**Local Government Act 1995
INFRINGEMENT NOTICE**

Serial No.
Date / /

TOWN OF COTTESLOE

To: (1)of (2).....it is alleged that
on (3) / / at (4).....you committed the following offence—

(5).....
.....
.....
contrary to local law (6).....of the (7).....

The modified penalty for the offence is (8) \$.....

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty must be paid to an authorised person at Town of Cottesloe, 109 Broome Street, Cottesloe, WA, 6011 within a period of 28 days after the giving of this notice.

.....
Name and title of authorised person giving the notice

.....
Signature

- (1) name of alleged offender
- (2) Address of the alleged offender
- (3) date of alleged offence
- (4) time of alleged offence
- (5) alleged offence
- (5) number of local law
- (6) name of local law
- (7) modified penalty

Dated this twenty second day of February, 1999.

The Common Seal of the Town of Cottesloe is hereunto affixed by authority of a resolution of Council in the presence of—

JOHN CARPENTER HAMMOND, Mayor.
BARRY ALEXANDER AUSTIN, Chief Executive Officer

