

KAIKOURA DISTRICT SOUTH BAY CONTROL BYLAWS 1996

INTRODUCTION

Bylaws of the Kaikoura District Council to make provision for the management and control of the South Bay Marine Facility area at Kaikoura.

The Kaikoura District Council hereby resolves by way of special order the following Bylaws, pursuant to the Local Government Act 1974, the Reserves Act 1977, and all other Acts, powers and authorities enabling the Council in that behalf.

1.1 Short Title

1.1.1 The short title of these Bylaws shall be the Kaikoura District (South Bay Control) Bylaws 1996.

1.2 Commencement

1.2.1 These Bylaws shall come into force on the 24 April 1996

1.3 Application of Bylaw

1.3.1 The provisions of these Bylaws shall have effect in the area **defined** in paragraph 1.5.1 of these Bylaws as the South Bay Marine Facility area.

1.3.2 In the application of these Bylaws to any matter which is subject to express statutory enactment, these Bylaws shall not be deemed to require any matter or thing contrary to such enactment or any regulations made thereunder or any requirement lawfully made thereunder, but except as aforesaid compliance with any such enactment, regulations or requirements shall not relieve any persons from liability to comply with the requirements of these Bylaws.

1.4 Principles of Interpretation

1.4.1 Every provision in these Bylaws shall be deemed to have been adopted for the control and management of the South Bay Marine Facility. This shall be taken into account in interpreting these Bylaws, which shall receive such fair, large and liberal construction or interpretation as will best ensure the attainment of the public good and the achievement of the foregoing purposes and objects according to their true intent, meaning and spirit.

1.5 Interpretation

In these Bylaws, unless the context otherwise requires:

"berth" means any authorised berth space created from time to time by the construction of a floating jetty to, from or adjacent to the sea wall, and the process of berthing into that space.

"commercial user" means those persons or groups of people who use the facilities provided principally for commercial and related activities including (but not limited to) those persons carrying out fishing and tourist activities for profit or reward.

"authorised officer" means any officer of the Council authorised to administer these Bylaws.

"licensee" means the person or persons or corporate body or bodies to whom any licence is granted by the Council, for the use of the whole or any part of the sea wall.

"private recreational user" means those persons or groups of persons who use the facilities provided principally for private recreational activities.

"public notice" and "publicly notified" mean a notice published in a newspaper circulating in the Kaikoura area.

"sea wall" means the reinforced concrete sea wall to be constructed at South Bay and includes the reinforced concrete cover slab and walkway, together with all refueling, sewage pumping equipment and facilities attached to or forming part of the sea wall.

"structure" includes building, enclosures, fences, sheds, landing places, wharves, jetties, conveniences, slipways, launching ramps and any other work.

"South Bay Marine Facility & CO" is comprised of the South Bay recreation reserve, and the South Bay Local Purpose (community purpose) reserve, and includes the sea wall.

"vessel" includes a ship, boat, hovercraft, or any other description of vessel used or designed to be used in navigation and includes:

(a) Any sailing, powered or rowing boat;

(b) Any canoe, kayak, waka, catamaran, sailing or powered dinghy, sailing or powered novelty craft, runabout, launch;

(c) Any aircraft which can take off from or land on water while such aircraft is manoeuvring on any waters to which this bylaw relates;

(d) Any jet ski, wetbike or other personal watercraft;

(e) Any barge, lighter or other like vessel;

(f) Any hovercraft;

(g) Any submarine or other submersible; but does not include a water ski, toboggan, surfboard, windsurfer or sailboard.

1.5.2 Words importing the singular include the plural and vice versa. Words importing the masculine include the feminine and vice versa.

1.5.3 The headings to the clauses are intended solely for the convenience of reference and shall not effect the construction or interpretation thereof.

1.6 Bylaws Revoked

1.6.1 All Bylaws made by the Kaikoura District Council or its predecessors in force in the district at the time of the coming into force of these Bylaws, which relate to any matter or thing to which these Bylaws relate, or any Bylaws inconsistent with these Bylaws are hereby revoked as from the date of the coming into force of these Bylaws, save that any bylaw revoked by these Bylaws shall remain in force so far as it relates to anything done or any offence committed, prosecution or proceeding commenced, right or liability accrued, licence issued, notice given or order made under or against any of the provisions thereof, before the coming into force of these Bylaws. All licences issued under any revoked bylaw shall, after the coming into operation of these Bylaws, be deemed to have been issued under these Bylaws and be subject to the provisions hereof.

1.7 Serving of Orders and Notices

1.7.1 Except where otherwise expressly provided for in any Act, in any case in which it is provided by these Bylaws, that an order may be made on any person or that a notice be given to any person requiring that person to do or abstain from doing anything, or any notices are required by these Bylaws to be given or sent to any person, such order or notice may be delivered to that person either personally or by sending the same, by messenger or by registered post, the last known place of abode or business of that person.

1.8 Offences

1.8.1 Every person commits an offence against these Bylaws who:

- (a) Does, or causes to be done, or knowingly permits or suffers to be done, or is concerned in doing, anything whatsoever contrary to or otherwise than as provided for by these Bylaws; or
- (b) Omits or neglects to do, or knowingly permits, or suffers to remain undone, anything which under these Bylaws, ought to be done by that person at the time and in the manner therein provided; or
- (c) Does not refrain from doing anything which under these Bylaws that person is required to abstain from doing; or
- (d) Knowingly permits or suffers any condition of things to exist contrary to any provision contained in these Bylaws; or
- (e) Refuses or neglects to comply with any notice duly given to that person under these Bylaws; or
- (f) Obstructs or hinders any officer or employee of the Council in performance of any duty to be discharged by that officer or employee under or in the exercise of any power conferred upon that officer or employee by these Bylaws; or
- (g) Fails to comply with any prohibition, or restriction, or direction, or requirement indicated by lines, markings, parking meters, traffic signs or other signs and notices placed or erected on any road or other area controlled by the Council pursuant to these Bylaws or any resolutions made thereunder; or
- (h) Fails to comply with any notice or direction given under these Bylaws.

1.9 Offenders to Give Names

1.9.1 For the purposes of these Bylaws where a vessel and/or a vehicle is the subject of an offence, the responsibility for complying with these Bylaws shall be upon the owner or person in charge of the vessel or vehicle.

1.9.2 Any person who, in the opinion of any authorised officer is committing or has committed a breach of any of the provisions of these Bylaws, shall if so requested by the authorised officer, supply his or her full name and address.

1.10 Penalties

1.10.1 Every person who commits an offence against these Bylaws shall be liable on summary conviction (pursuant to section 20A of the Summary Proceedings Act 1957) to a fine not exceeding \$500 and where the offence is a continuing one, to a further fine not exceeding \$50 for every day or part of the day during which the offence continues.

1.11 Suspensions and Exemptions From These Bylaws

1.11.1 The Council may, of its own accord or on application by any person, suspend any provisions of these Bylaws or exempt any activity from any provisions of these Bylaws. The suspension or exemption may be subject to conditions and have effect for the period the Council considers appropriate.

1.11.2 The suspension or exemption shall be publicly notified by the Council at least seven days before the commencement of the period within which it is to have effect.

1.11.3 The Council must be satisfied that the suspension or exemption will not endanger the safety of the public.

2. ACCESS TO SOUTH BAY MARINE FACILITY

2.1 Reserves Open to the Public

2.1.1 Subject to the provisions of these Bylaws, the Reserves Act 1977 and any other Act or regulation, the reserves forming part of the South Bay Marine Facility area shall be open to the public for pedestrian access and where provided for, vehicular access, except during such times and subject to such conditions as the Council, by resolution, may prescribe or vary from time to time.

2.2 General Restrictions on Use of Reserves

2.2.1 No person shall enter or leave any reserve except through the openings, gateways, entrance or exits provided for the purpose.

2.2.2 No person shall willfully obstruct any of the approaches, entrances, exits, thoroughfares or walkways of any reserve, and where gates are provided, no person shall enter any reserve except where the same are open for the admission of public.

2.2.3 Within the reserves, no person shall willfully obstruct, disturb, or interfere with **any** other person in the use or enjoyment of the reserves or use foul, abusive, indecent or obscene language, or be intoxicated, noisy or riotous, or in any way misbehave. Where any person commits an offence against the foregoing, he or she shall commit a further offence if he or she does not leave the reserve when so requested by an Authorised Officer.

2.2.4 No person, being the owner of or in the control or care of any dog shall take the same into, or permit the same to enter or remain in any reserve, unless the dog is kept under continuous control while therein by an effectual leash or chain held by a person and securely attached to a collar on such dog, and then only subject to any restrictions imposed by the Council.

2.2.5 Every person who, having in their care or control any dog which fouls any reserve with faecal matter or vomit shall forthwith remove such faecal matter or vomit or otherwise satisfactorily abate such nuisance.

2.2.6 No person shall, without the permission of the Council having first been obtained, erect any noticeboard or hoarding, or display or exhibit any placard, notice or advertisement in any reserve or on or around the sea wall.

2.2.7 No person shall, without the permission of the Council having first been obtained, erect any structure on or about the sea wall.

2.3 Pollution Control

2.3.1 No person shall, on any reserve to which these Bylaws apply, place, throw, break or cause to be broken, deposit, cast or leave any refuse (of organic or inorganic composition) including any bottle, tin, plastic, glass, metal object, crockery, paper, food or remnant of food, fuel or oil discharges, sewage, offal of any kind, or any other form of litter material or things likely to cause any nuisance or danger to public health and safety, otherwise than in Council receptacles provided for that purpose.

2.3.2 No person shall cast, throw, deposit, discharge or suffer to fall into any harbour waters, any ballast, rock, stone, shingle, earth, cinders, rubbish, fuel or oil discharges, dunnage, offal of any kind, sewage or other offensive matter unless authorised by a resource consent granted under the Resource Management Act 1991 or undertaken as part of a structure, vessel or sea wall maintenance activity authorised by Council.

2.4 Removal of Offenders from Reserve

2.4.1 Any authorised officer or police officer requested by an authorised officer may exclude or remove from any reserve, any person:

- (a) Who has acted in an unlawful manner in or near any reserve; or
- (b) Who is not bona fide using the reserve for its normal intended purposes, or
- (c) Who has contravened any of the provisions of these Bylaws, or
- (d) For any good and sufficient reason relating to the efficient, reasonable, and fair management of the reserve.

2.5 Removal of Offending Vehicles and Vessels

2.5.1 Any authorised officer or police officer - requested by an authorised officer may remove, from any reserve to which these Bylaws apply, into safe custody, any vehicle or vessel:

- (a) Which has been abandoned in or near the area; or
- (b) Which is contravening any of the provisions of these Bylaws, where the owner or person of the vehicle or vessel refuses to move it or cannot be located;
- (c) For any good and sufficient reason relating to the efficient, reasonable and fair management of the area.

2.5.2 Vehicles or vessels removed pursuant to 2.5.1 shall be released by an authorised officer to the owner on payment to the Council of the reasonable costs of such removal.

2.6 Traffic and Parking Control

2.6.1 For the purpose of controlling the flow of traffic and the parking of vehicles and trailers within the reserves, the provisions of the Kaikoura District (Traffic Control) Bylaws 1996, as they relate to reserves shall apply.

3. BOAT CONTROL

3.1 Obstructing Sea Wall and Boat Launching Ramp

3.1.1 No person (excluding licensees) shall berth any vessel at the sea wall, make fast any vessel to the sea wall, or allow any vessel to lie alongside the sea wall, or any floating jetty adjacent thereto, except alongside that part of the sea wall as is designated from time to time to be available for public use, and then may only do so subject to conditions and charges imposed by the Council.

3.1.2 No person shall berth any vessel alongside the public use section of the sea wall, make any vessel fast to the public use section of the sea wall, or allow any vessel to be so near thereto as to obstruct the approach of other vessels, nor shall persons allow any vessel to lie alongside such public use section of the sea wall for longer than is required for landing or embarking passengers, except as otherwise provided herein, or in accordance with any express exemption hereto granted by the Council.

3.1.3 No person or persons shall loiter on or near the boat launching ramp whilst loading or unloading trailers, nor shall any person leave on or near the launching ramp any vessel, trailer or motor vehicle so as to obstruct the reasonable use of such ramp by other people desiring to use the same.

3.1.4 No person or persons shall loiter on or near the land adjacent to the sea wall so as to impede or interfere with or obstruct access to and reasonable use of, the sea wall by any licensee and its invitees or any member of the public using the public use section n of the sea wall.

3.2 Fueling Facility

3.2.1 No person shall leave on or near the fueling facility located on the sea wall, any vessel so as to obstruct the reasonable use of such fueling facility by other people desiring to use the same.

3.2.2 No person shall bring onto the South Bay Marine Facility area or near the sea wall any container containing fuel, except where the permission of the Council has been first obtained.

4. FEES AND CHARGES

4.1 Licence Fees

4.1.1 An annual sea wall licence fee as prescribed in the licence agreement, shall be due and payable to the Council by any licensee of any part of the sea wall at the times and in the manner prescribed in the licence agreement.

4.2 Sea Wall Fees

4.2.1 Every person who berths at that part of the sea wall as is designated from time to time to be available for public use, shall be liable to pay to the Council a sea wall fee as prescribed in the first schedule to these Bylaws.

4.2.2 The Council has the power to review and amend by Public Notice the fees prescribed in the first schedule as it thinks fit from time to time.

4.3 Boat Ramp Fee

4.3.1 Every person who uses the boat launching ramp to assist in the loading or unloading of any vessel from any vehicle to or from the water shall be liable to pay to the Council a boat ramp fee as prescribed in the second schedule to this bylaw.

4.3.2 The Council has the power to review and amend by Public Notice the fees prescribed in the second schedule as it thinks fit from time to time.

4.4 Fueling Facility Fees

4.4.1 Every person who uses the fueling facility located on the sea wall shall be liable to pay to the Council the associated charges for that service, as indicated by the meter incorporated in the fueling facility or as otherwise agreed by the Council.

4.5 Parking Fees

4.5.1 Parking fees for Commercial Tourist Operators and commercial fishers, not party to the South Bay sea wall licence, will be set by market valuation.

4.5.2 Parking fees for recreational users may be set by Council by resolution from time to time.

4.6 Miscellaneous Fees and Charges

4.6.1 Every person who enters and makes use of the facilities located in the South Bay Marine Facility area shall be liable to pay for the provision and maintenance of the Facilities provided and maintained by the Council in accordance with the fees and charges determined or altered from time to time by the Council:

(a) By resolution or special order (as applicable) pursuant to the Reserves Act 1977, the Harbours Act 1950, the Resource Management Act 1991, the Local Government Act 1974 and any other enabling Act, Regulation power or authority; or

(b) By resolution publicly notified pursuant to section 690A of the Local Government Act 1974.

SECOND SCHEDULE

Boat Ramp Fees	Per Visit	Per Annum
Licensees	Nil	Nil
Commercial Users (excluding Licensees)	\$2.00	\$250
Private Recreation Users	\$2.00	\$100

SOUTH BAY CONTROL

BYLAWS 1996: Seddon/Priddle

RESOLVED that the South Bay Control Bylaws 1996 be adopted by Council with the following amendments:

a) Clause 2.3.2 be amended by adding the following words cc unless authorised by a resource consent granted under the Resource Management Act 1991 or undertaken as part of a structure, vessel or sea wall maintenance activity authorised by the Council.

b) by adding a new clause 4.6

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b) By resolution publicly notified pursuant to 690A of the Local Government Act 1974.

Councillor Arthur voted against the motion and asked that it be recorded.

CANTERBURY HARBOUR BYLAWS:

Councillors Arthur/Seddon

SOUTH BAY HARBOUR BYLAWS PROPOSED NEW CLAUSE

Miscellaneous Fees and Charges

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(b) By resolution publicly notified pursuant to section 690A of the Local Government Act 1974.