

MATZIKAMA MUNICIPALITY

BY-LAW RELATING TO STREETS, PUBLIC PLACES AND THE PREVENTION AND SUPPRESSION OF NUISANCES

To control streets and public places and prevent and suppress nuisances in order to ensure a safe and healthy environment in the Matzikama municipal area; and to provide for matters related thereto.

Preamble

WHEREAS a Municipality has the executive authority, in terms of Section 156(1)(a) read with Part B of Schedule 5 of the Constitution of the Republic of South Africa, 1996, to control public nuisances, municipal roads and public places;

WHEREAS a Municipality may, in terms of Section 156(2) of the Constitution, make and administer by-laws for the effective administration of the matters which it has the right to administer;

WHEREAS a Municipality may, in terms of Section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), pass by-laws and take decisions;

AND NOW THEREFORE, BE IT ENACTED by the Council of the Matzikama Municipality, as follows:

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1. Definitions

- (1) In this By-law, unless the context indicates otherwise;

“Council” means the Municipal Council of the Municipality as elected or its delegated in terms of the Local Government: Municipal Systems Act, Act 32 of 2000;

“decently” means in a manner which is considered to be of an acceptable standard, respectable and morally behavior to any other person

“Matzikama Municipality” means the Matzikama Municipality established by the Establish Notice published in Provincial Notice No. 481 of 2000, as amended, and **“Municipality”** has a corresponding meaning;

“motor vehicle” means a vehicle designed or adapted for propulsion or haulage on a road by means of fuel, gas or electricity, including a trailer or an agricultural or other implement designed or adapted to be drawn by such vehicle and include vehicles designed or adapted to transport passengers;

“neighbourhood” means the area near to the action/place;

“official” means any person authorized by the Municipality to perform the function of an officer under this By-law and includes any member of the South African Police Services and any person appointed in terms of the applicable legislation (e.g. Peace Officer) and **“Officer”** has a corresponding meaning;

“occupier” means a person in actual occupation and legally entitled to occupy and/or in charge of or responsible for the management of any premises and includes the agent (authorize lawyer) of any such person.

“owner” means the person in whom the legal title to any immovable property is vested;

“person” means a natural person or a juristic person which may include –

- (a) any person in charge or managing the premises;
- (b) any body of persons corporate or unincorporated,
- (c) any company incorporated or registered as such under any law or any village management board, or like authority.

“premises” include any erf, plot, place, land (with or without building/s), building or conveyance or any part thereof;

“public place” means any parking area, recreational area, area of relaxation, sport grounds, beach, open place, unused or vacant municipal land, cemetery, places at any time been dedicated to the public or at any time been declared or rendered as such by the Municipality or other competent authority;

“street” means any road (public and private which included a footpath and pavement) or thoroughfare commonly use by the public, which is proclaimed according by the local authority and or indicated as such on a diagram ;

“unseemly” means behaviour which is not polite and/or not suitable for a particular place, occasion and or situation;

“zoned” means zoned and zoning as the case may be in terms of the applicable zoning scheme or any applicable law and **“zoning”** has a corresponding meaning;

“zoning scheme” means the zoning scheme applicable to the area in force with the area of jurisdiction of the Matzikama Municipality.

- (2) In this By-law, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the applicable legislation and can read together with the By-law on liquor trading days end hours of Matzikama Municipality.

2. Purpose of By-law

The Municipality, acting in terms of the powers granted to it in the Act, adopts this By-law with the aim of controlling of streets and public places and prevent and suppress nuisances.

3. Application of By-law

This By-law applies to the promulgated area situated within the area of jurisdiction of the Municipality.

4. Disturbance of the peace

- (1) No person shall disturb the public peace in any public place by making unseemly noises or by cursing, shouting, roaring, wrangling, or quarrelling, or by collecting a crowd, or by fighting or challenging to fight, or by striking with or brandishing or using in a threatening manner any stick or other weapon, or by any other riotous, violent or unseemly behavior or disrupt the public peace in the neighbourhood of such premises by making therein of thereon any unseemly noise, shouting, cursing, quarrelling, wrangling or singing at any time of the day or night.
- (2) No person shall, in any public place, use any abusive or threatening language or use a physical threatening and intimidating attitude or commit any act which is liable or calculated to cause a breach of the peace.

5. Subject to obtaining prior written approval of the Council

- (1) No person shall advertise any wares or services in any public place by means of any megaphone, loudspeakers or other similar device, or ringing of bells in such manner to constitute a public nuisance in the neighbourhood.
- (2) No person shall disturb the public peace in or on any private or public premises, or disrupt the public peace in the neighbourhood of such premises by the continuous playing of musical instruments, radios or the like or by the continuous or over-loud use of loudspeakers, or the like.
- (3) Any itinerant vocalist or musician performing in any public place shall, when so required by any officer or by any person residing in the neighbourhood where such vocalist or musician is performing, depart from such neighbourhood.
- (4) No person shall discharge fireworks and/or light any bonfire in any public space, without prior written permission of the Council.
- (5) No person shall, without lawful cause, discharge any firearm or air gun within the Municipality, provided that this By-law shall not apply to any persons engaged in authorized target practice in places set aside for that purpose or to any person to whom written permission to do so has been given by the Council.
- (6) No person shall carry any knife, dagger or other dangerous weapon or any other lethal weapon in any public place, provided that this By-law shall not apply to the following:

- (a) (i) any person in the Military, Traffic, Security or Police Service when on duty;
 - (ii) any security officer or police officer;
 - (iii) any person who shall have obtained from the police a written exemption from the operation of this By-law, which exemption the police are hereby authorized to grant.
 - (b) No person armed with lethal weapons shall be permitted to congregate in any part of the Municipality for any purpose or in any manner liable or calculated to cause a breach of the peace.
- (7) Any person shall without the prior permission of the Council, occupy for human habitation a caravan, tent or other similar shelter of any description/material except on an authorized camping or caravan site provided that a caravan, tent or shelter parked or erected on a building site on which building works is taking place with all the necessary ablution and toilet facilities, may be used for the temporary accommodation of the workers on a building site for a maximum period not exceeding 60 days.
- (8) No person shall hold any auction and/or sale in any street or in or from any doorway, window or other opening of any premises abutting on any street or public place without the prior written consent of the Council and then only subject to such conditions as may be imposed in such consent.
- (9) No person shall display any poster or banner on any lamp pole, road sign, garbage container or similar structure or trees abutting on any street or public place without the prior written consent of the Council and then only subject to such conditions as may be imposed in such consent.
- (10) No person shall collect or attempt to collect money/goods from door- to-door without original proof of the organization/project for which the money/goods are collected.
- (11) No person shall place or deposit any slops, trimmings of hedges, fences or trees or any garden or other refuse or waste material of any kind (motor vehicle wrecks, building material, goods, etc.) on any street or public places unless mentioned is placed in approved boxes receptacles for the purpose of removal by the Council's employers or contractors without the prior written consent of the Council and then only subject to such conditions as may be imposed in such consent.
- (12) No person other than a duly authorized Municipal Official shall plant a tree or a shrub in a street or in any way cut down or breaks or damage or mark or paint a tree or a shrub in a street or remove it there from, except with the prior permission of the Municipality.
- (13) (a) No person, other than a person appointed for the purpose by a registered welfare or church or non organization which has been authorized by the Council to cause a collection of money to be taken or to hold a sale on its behalf in any public place or street, shall collect or attempt to collect money or hold such sale in any public place and/or street.

- (b) Every welfare or church or non profitable organization desiring to obtain the authority of the Council for any such collection or sale on his behalf shall, make a written application to the Council therefore, and shall, if required by the Council, forward the following documents:
 - (i) the certificate of the relevant registration;
 - (ii) a copy of its balance sheet for the preceding financial year.
 - (c) The Council upon receipt of any such application, may either grant the application or refuse it. If granted, the authority shall be subject to such conditions as the Council may prescribe.
- (14) No person shall make or cause to be made an excavation or dig or cause to be dug a pit, trench or hole in a street or public place.
- (15) No person shall cleanse or wash any vehicle or any offensive article or utensil in any street of public place.

6. Offences against decency and morality

- (1) No person shall, in any public place or street, commit any indecent or immoral gesture or act or willfully and obscenely expose his person or wash or urinate or defecate, spit or perform any sexual act.
- (2) No person shall appear in any public place or on street nude except where or when designated by the Municipality if not, a person must be decently clothed at all times.
- (3) No person shall be or appear in any public place or street in a state of intoxication.
- (4) No person shall in any public place or street consume any liquor or carry opened liquor or consumes or abuse drugs or any intoxicating substance or engages in gambling.
- (5) No person shall write, print or draw any obscene or indecent words or figures in any public place, street or upon any wall, door, window or other part of premises in or within sight of any public place, nor use any foul, obscene or indecent language in any public place within the hearing of any person therein.
- (6) No person shall litter upon any public place or street, which might in any way endanger the safety of pedestrians, or pollute the environment.
- (7) No person shall be loitering outside on street or any public place.
- (8) No person shall be begging outside business, residents or any other premises or on street or any public place.
- (9) No person shall allow any goods or other article, whether they be his own property or in his charge or custody to be or remain in or on any street, so as to cause obstruction or inconvenience to the passage of any person for a longer time than may be necessary for loading and unloading, and in no case after receipt of a notice requiring him to remove mentioned (same) given by any security officer of authorized official.

- (10) No person shall, for trading or any other purpose, place any goods, wares or articles on any stand or support on or overhanging or protruding over any pavement or street, nor place such goods, wares or articles upon any pavement, nor place, fix or hang such goods, wares or articles upon any verandah post, stays or ceiling on or over any street.
- (11) No person shall carry on or take part in any trade or calling nor open, unpack or pack any cases, furniture, goods, materials or merchandise in any street or public place.
- (12) No driver or person in control of a heavy motor vehicle shall park or leave such motor vehicle parked overnight in a developed public place or in a public place in a residential area.
- (13) No driver or person in control of a motor vehicle or passenger in the motor vehicle shall permit any amplified noise to emanate from the motor vehicle such that it is audible at a distance of more than 50 metres.
- (14) No person shall place any flowerpot or box or other heavy article in any window or upon any window-sill in any building abutting on any street unless proper precaution are taken to prevent such object from being blown or falling into or on to such street.
- (15) No person shall allow any erf to be overgrown with trees, bush, weeds, grass, dirty, neglected or infested with rodents, snakes, mosquitoes, flies, ticks, bugs or other insects harmful to health, or allow any offensive odours or gases to emanate from such erf or that material of whatsoever nature has been accumulated, dumped, stored or deposited on any erf;
- (16) No person shall allow any building or structure (includes fencing) or any portion thereof on any erf to fall into a dilapidated, neglected or unsightly state, or fail to maintain the roof-water disposal system, pipes, sewers, drains, water fittings, waste water fittings, water closet fittings and all other appurtenances forming part of or attached to any building or structure in good and sound repair;
- (17) A person shall not allow on his/her premises any tree, bush, scrub and/or roots which creates a disturbance or a nuisance to the neighbours by impacting on structures, light, noise by scratching on roofs etc.
- (18) (a) No person, being the owner or occupier of any premises abutting on any street shall permit any tree, branch or scrub growing on such premises to overhang or extend onto such street in such manner as to cause an obstruction or discomfort to the public, or to come into contact with or to be likely to come into contact with any wire, pole or public work in or over such street, nor permit the roots of any such tree or shrub to grow to such an extent that they cause or are likely to cause, any damage to the surface of any street or to any drain, sewer, water main, underground cable or pipe laid in or under the surface of such street.

- (b) The owner or occupier of any such premises shall upon receipt of a notice signed by the Municipal Manager requiring him to cut down or back or remove any such tree or shrub or the roots thereof within a time specified, and if such owner or occupier shall fail to comply with such notice within such time specified therein the Council may cause such tree or shrub or the roots thereof to be cut down or back or removed, and may recover the cost of executing such work from such owner or occupier.
- (19) Every person engaged in building operations, road construction or construction work of any nature shall provide adequate sanitary accommodation for himself and his/her employees to the satisfaction of and in accordance with any requirements specified by the Council.
- (20) No person shall throw or deposit or permit to be thrown or deposit any plastic bottles, plastic bags, paper, cartons, broken glass or any fruit or vegetable peelings, or any refuse upon any street and/or public place.
- (21) No person shall befoul, misuse or damage any public infrastructure or any public building or public place or public entertainment.
- (22) No person shall solicit alms in any street or public place or endeavour by the exposure of wounds, sores, injuries or deformities or the production of begging letters to obtain alms.
- (23) No person shall dry or spread washing, bedding or other items in a public place or on a fence on the boundary of a street except where conditions in informal settlements are such that it is not possible to do otherwise.
- (24) No person shall sleep in a stationary motor vehicle except in dire emergency or where such person is the driver of a public transportation motor vehicle and not reside in a motor vehicle for longer than twenty-four hours.

7. Numbering of houses and display of street numbers

The Municipality may, by written notice –

- (1) (a) allow any number to any premises in any street and direct the owner of such premises to display the number allowed to the premises and may also, in exceptional circumstances, prescribe the position where it is to be displayed, and the owner or occupier of such premises shall, within 30 days of the date of such notice affix the allowed number on the premises in accordance with such notice provided that any such number displayed on the premises shall be clearly visible and legible from a height of 1,5m above the centre line of the adjacent road or carriageway; and
- (b) renumber any premises, in exceptional circumstances, direct the owner of such premises to display the number allowed to the premises within 60 days of the date of such notice affix.
- (c) direct any owner to replace or repaint any digit of such number which has become illegible, obliterated or defaced.

- (2) If the owner of any premises fails to comply with any directive in terms of a notice contemplated in subsection (1), the Municipality may cause such directive to be executed and the owner shall be liable for the cost incurred by the Municipality in having the directive executed and/or the tariff approved in the budget of the Municipality.
- (3) A statement signed by official of the Municipality stating that the owner failed to comply with a directive in terms of a notice contemplated in subsection (1) and specifying the cost incurred by the Municipality in executing such directive, shall be sufficient in proof of the facts stated therein for purposes of summary judgement.
- (4) The Municipality may at its discretion allocate a number to a portion of premises, other than a building, or to vacant land which borders on a street, and the provisions of subsections (1) and (2) shall apply *mutatis mutandis* in respect of such portion of premises or such vacant land.

8. Offences and Penalties

- (1) Any person who contravenes or fails to comply with any –
 - (a) provision of this By-law;
 - (b) condition or instruction served in connection with this By-law; or
 - (c) written notice from an authorised official,on conviction, and subject to penalties prescribed in terms of any other law, is guilty of a first, second and/or third category offence.
- (2) A person who is guilty of an offence may be sentenced up to a maximum of two (2) years imprisonment and/or a fine and/or community service.
- (3) A court which sentences any person to community service for an offence in terms of this By-law must impose a form of community service which benefits the environment and/or community if it is possible for the offender to serve such a sentence in the circumstances.

9. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of notification of the decision.

10. Repeal

The provisions of any By-laws previously promulgated by the Municipality or by any of the disestablished Municipalities now incorporated in the Municipality area hereby repealed as far as they relate to matters provided for in this By-law.

11. Short title and commencement

This By-law shall be called the By-law relating to Streets, Public Places and the Prevention and Suppression of Nuisances of Matzikama Municipality, and shall come into operation on the date of publication thereof in the Provincial Gazette.