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## Matzikama Municipality: Traffic By-law, 2010

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**Commences on 15 April 2011 unless otherwise noted**

To provide for the regulation of public transportation and traffic within the area of jurisdiction of the Matzikama Municipality; and to provide for matters connected therewith.

WHEREAS section 156(2) of the Constitution provides that a Municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer;

AND WHEREAS the Municipality has powers to make by-laws in respect of municipal public transport, and traffic and parking in accordance with Part B of Schedule 4 and Schedule 5 to the Constitution, respectively;

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

### 1. Definitions

In this By-law, unless the context indicates otherwise—

**"Act"** means the National Road Traffic Act, 1996 ([Act No. 93 of 1996](#));

**"authorised officer"** includes—

- (a) a person in the service of the Municipality whose duty is to inspect licences, examine vehicles, examine driving licenses, or who is a traffic officer or a road traffic law enforcement officer, and also any other person declared by the Minister of Transport by regulation made in terms of the National Road Traffic Act to be an authorised officer; and
- (b) a person appointed as an inspector by the Municipality as contemplated in section 86 of the National Land Transport Act, 2009 ([Act No. 5 of 2009](#));

**"authorised official"** means an employee of the Municipality responsible for carrying out any duty or function, or delegated to carry out any duty or function, in terms of this By-law;

**"bus"** means a motor vehicle designed or modified to carry more than 35 persons including the driver;

**"Municipality"** means the Matzikama Municipality established by Provincial notice 479 of 2000 in terms of section 12 of the Local Government: Municipal structures Act, 1998 ([Act No. 117 of 1998](#));

**"Council"** means the council of the Municipality;

**"driver"** means any person who drives or attempts to drive any vehicle or who rides or attempts to ride any pedal cycle or who leads any draught, pack or saddle animal or herd or flock of animals, and "drive" or any like word has a corresponding meaning;

**"holding area"** in relation to a taxi, means a place, other than a rank, where a taxi remains until space for it is available at a rank or stopping place;

**"holder"**, in relation to a rank token, means the owner to whom a rank token has been issued in terms of section 3(2);

**"kerb line"** means the boundary between the shoulder and the verge or, in the absence of a shoulder, the part between the edge of the roadway and the verge;

**"motor vehicle"** means any self-propelled vehicle and includes—

- (a) a trailer; and
- (b) a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine or motor, but does not include—

- (i) any vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or
- (ii) any vehicle with a mass not exceeding 230 kilograms and specially designed and constructed, and not merely adapted, for the use of any person suffering from some physical defect or disability and used solely by such person;

**"non-motorised vehicle"** means a vehicle or device utilised for land road based transport for the conveyance of goods or passengers, which is propelled either, solely by animal power or by human power or a combination of human power, assisted by an alternative source of power or provided by any form of fossil fuel;

**"operating licence"** means an "operating licence" as defined in section 1 of the National Land Transport Act, 2009 ([Act No. 5 of 2009](#));

**"owner"**, in relation to a vehicle, means—

- (a) the person who has the right to the use and enjoyment of a vehicle in terms of the common law or a contractual agreement with the title holder of such vehicle;
- (b) any person referred to in paragraph (a), for any period during which such person has failed to return that vehicle to the title holder in accordance with the contractual agreement referred to in paragraph (a); or
- (c) a motor dealer who is in possession of a vehicle for the purpose of sale, and who is registered as such in accordance with the regulations under section 4 of the Act, and "owned" or any like word has a corresponding meaning;

**"park"** means to keep a vehicle, whether occupied or not, stationary for a period of time longer than is reasonably necessary for the actual loading or unloading of persons or goods, but does not include any such keeping of a vehicle by reason of a cause beyond the control of the person in charge of such vehicle;

**"ply for hire"** means use of a vehicle for conveying passengers for hire or reward;

**"permit"** means a permit as defined in section 1 of the National Land Transportation Act, 2009 ([Act No. 5 of 2009](#));

**"public transport vehicle"** means a public motor vehicle used for the conveyance of passengers or of passengers and goods for hire or reward, including buses and taxis;

**"public transport service"** means a scheduled or unscheduled service for the carriage of passengers by road whether subject to a contract or not, and where the service is provided for a fare or any other consideration or reward, including cabotage in respect of passenger transport as defined in the Cross-Border Road Transport Act, 1998 ([Act No. 4 of 1998](#)) and except where clearly inappropriate, the term "public transport" must be interpreted accordingly;

**"rank"** in relation to a taxi, includes—

- (a) a public transport interchange or a place upon a public road from which a taxi may ply for hire or convey and drop off passengers for reward; and
- (b) any place designated or demarcated as a taxi rank or for the exclusive parking of taxis by a road traffic sign, and "ranking" has a corresponding meaning;

**"rank token"** means a rank token issued in terms of section 3;

**"roadway"** means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic which is between the edges of the roadway;

**"shoulder"** means that portion of a road, street or thoroughfare between the edge of the roadway and the kerb line;

**"stopping place"** in relation to—

- (a) a taxi, means a place designated by the Municipality where a taxi may stop to pick up or drop off passengers; a
- (b) a bus, means a demarcated stop where a bus may stop to pick up or drop off passengers;

**"taxi"** means a public motor vehicle other than a public bus used for the conveyance of passengers or of passengers and goods for hire or reward such as a minibus or a midibus, and includes metered taxis;

**"taxi facility"** means a holding area, special parking place, stopping place, rank, terminal and any other facility that is specifically identified and designated by the Municipality for the exclusive use of taxis;

**"taxi guard"** means a person who, in a public place or on a public road, renders a parking attendant service totaxi drivers, including—

- (a) providing direction or guidance on available parking space; or
- (b) watching of vehicles;

**"taxi rank"** means any place designated or demarcated as a taxi rank or for the exclusive parking of taxis by a road traffic sign;

**"touting"** means soliciting passengers for a taxi by shouting, hooting, whistling or any other conduct, and "tout" has a corresponding meaning;

**"vehicle"** means a device designed or adapted mainly to travel on wheels or crawler tracks and includes such a device which is connected with a draw-bar to a breakdown vehicle and is used as part of the towing equipment of a breakdown vehicle to support any axle or all the axles of a motor vehicle which is being salvaged other than such a device which moves solely on rails.

## **Chapter 2 Parking**

### **2. Parking and plying for hire**

- (1) Subject to subsection (2), a taxi driver who plies for hire, or picks up or drops off passengers may park a taxi only at a taxi rank or any parking place demarcated for taxis.
- (2) Despite subsection (1), the Municipality may, in emergencies or at recreational and other similar functions, set aside temporary taxi facilities identified by the authorised officer as suitable for the parking and stopping of taxis.
- (3) No taxi driver may park a taxi at a stopping place or any other place not demarcated for taxis.
- (4) No taxi driver may, except with the written authorisation of the relevant operating licensing authority, go off the allocated route and take short cuts through short community roads for the purpose of plying for hire or driving to pick up or drop off passengers.

### **3. Rank tokens**

- (1) No person shall rank with a taxi at a taxi rank unless a rank token in respect of such taxi has been issued to him or her in terms of subsection (5).
- (2) No person must be issued with a rank token, unless he or she provides—
  - (a) a certified copy of the operating licence or public permit;
  - (b) a certified copy of certificate of roadworthiness;
  - (c) an identification document or driving licence;
  - (d) registration papers of the vehicle; and
  - (e) letter of support from the relevant association.
- (3) No person may be issued with a rank token if he or she has outstanding warrants for the payment of traffic fines.
- (4) The rank token referred to in subsection (1) is valid for a period of 12 months from the date it was issued.
- (5) The authorised official shall, subject to subsections (2) and (3), issue in respect of a ranking taxi, a rank token specifying—

- (a) the taxi rank at which the rank token applies;
  - (b) the period for which such rank token is granted;
  - (c) the registration number allotted to the vehicle concerned;
  - (d) the make of such vehicle;
  - (e) in respect of metered taxis, the number of the taxi-meter approved for use in such vehicle;
  - (f) the operating license number of the vehicle; and
  - (g) in respect of taxis, the routes for which such vehicle has authority to ply for hire.
- (6) An application for approval for a rank token must be submitted to the authorised official—
- (a) by the owner; and
  - (b) in a form similar to the form as contained in the Schedule.
- (7) The authorised official may issue one rank token for each taxi.
- (8) Subject to section 77 of the National Land Transport Act, 2009 ([Act No. 5 of 2009](#)), the owner in respect of which a rank token has been issued shall, in writing, advise the authorised official of—
- (a) any change in his or her address during the operating period in which such rank token was issued;
  - (b) his disposing of or otherwise ceasing to be the owner of such taxi during such period;
  - (c) the name and address of the person to whom it was disposed of; and
  - (d) the cause of his or her ceasing to be the owner, within 7 days of such event.
- (9) The owner shall pay to the Municipality a charge which shall be fixed by the Council from time to time for the use of each rank token issued in terms of this section.
- (10) No person may forge, imitate, deface, mutilate, alter or make a mark upon a rank token.

#### **4. Place of validity of rank token**

- (1) No person shall, except with the written consent of an authorised officer, ply for hire with a taxi from any place other than the route, taxi rank or other place specified on the rank token issued in terms of section 3(5) in respect of such taxi.
- (2) No person shall—
- (a) affix a rank token to any vehicle other than the taxi in respect of which it was issued; or
  - (b) ply for hire with a taxi—
    - (i) unless the rank token issued in respect of such taxi for the current year is affixed to the left hand side of the windscreen thereof so that its face is clearly visible from outside;
    - (ii) whilst any rank token other than the rank token issued in respect of such taxi for the current year is affixed thereto; or
    - (iii) whilst any rank token which has ceased to be valid is affixed to such taxi.

#### **5. Rank token to be produced on demand**

- (1) The holder of a rank token in terms of this By-law must—
- (a) maintain such rank token in a good and legible condition; and
  - (b) keep and display it in the motor vehicle to which it relates at all relevant times when such vehicle is being operated as a taxi.

- (2) Any authorised officer of the Municipality may call upon the driver of any taxi to stop and may demand from him or her—
  - (a) to produce the rank token required under the provisions of this By-law; and
  - (b) to supply his or her full name and address and also the name and address of the owner or operator of the taxi.
- (3) No driver referred to in subsection (2) may, when called upon to do so by any authorised officer—
  - (a) refuse to stop;
  - (b) refuse to supply his or her full name and address;
  - (c) refuse to supply the correct name and address of the owner or operator of the vehicle in his or her charge;
  - (d) refuse to produce a rank token; or
  - (e) give a false name or address.

## **6. Suspension or withdrawal of a rank token**

- (1) Where the holder of a rank token has been found guilty of contravening this By-law, and irrespective of whether any other penalty by a court of law has been imposed, the Municipality may, subject to section 7, after all the circumstances of the case have been taken into consideration, act in terms of subsection (2).
- (2) The Municipality may, after taking all the circumstances of the case into consideration, suspend a rank token for a period determined by the authorised officer or withdraw the rank token if—
  - (a) the owner of the taxi—
    - (i) does not comply with an instruction issued in terms of this By-law; or
    - (ii) does not maintain the taxi at all times in a clean state and in a roadworthy condition; and
    - (iii) has outstanding arrest warrants for the payment of traffic fines.
  - (b) an authorised officer inspects the taxi and finds that the taxi—
    - (i) is constructed in such a way or is in such a condition that the taxi is unsafe for the number of passengers that it is authorised to carry; or
    - (ii) does not comply with the conditions specified in this By-law or the Act.
- (3) No person may use a vehicle as a taxi at a taxi facility or allow one to be used as a taxi at a taxi facility if the vehicle's rank token has been suspended or withdrawn, or has expired.
- (4) If an operating licence has been suspended, cancelled or withdrawn by the relevant licencing authority, the rank token issued by the Municipality is automatically suspended, cancelled or withdrawn, as the case may be.
- (5) Where on appeal by the holder of an operating licence to the relevant authority the suspension, cancellation or withdrawal of an operating licence is reversed, the Municipality may re-issue a rank token subject to certain specified conditions.

## **7. Procedure for suspension or withdrawal of a rank token**

- (1) A rank token may not be suspended or withdrawn unless—
  - (a) the authorised official has given the holder of a rank token and any taxi association of which the holder is a member, at least 14 days written notice by certified mail of his or her intention to suspend or withdraw the rank token, and such a notice must give—
    - (i) the reasons for the proposed action and an adequate statement setting out the nature of the action;
    - (ii) an invitation to the holder of the rank token to make representations on the matter;

- (iii) an address for the submission of representations as contemplated in sub-paragraph (ii); and
  - (iv) the date, time and place of a hearing, which may not be less than 28 days from the date of the notice, to consider the suspension or withdrawal, and an indication that the holder may submit representations and appear at the hearing;
- (b) the holder of a suspended or withdrawn rank token is given an opportunity, to either personally or through his or her duly authorised representative, appear at a hearing and to make representations to the Municipality.
- (2) If a holder of a rank token who has received a notice referred to in subsection (1) wishes to appear and to oppose the proposed action, he or she must, within 14 days of receiving the notice or within a further period that the Municipality may allow, submit representations in writing by hand or by certified mail to the address indicated in the notice.
- (3) After the hearing referred to in subsection (1), the Municipality must give a ruling on whether or not to suspend or withdraw the rank token and the authorised official must give the holder of such rank token its reasons for the ruling in writing not later than 14 days after the date of the conclusion of the hearing.
- (4) A record of the proceedings at the hearing referred to in subsection (1) must include—
  - (a) the evidence given, if any;
  - (b) any objection made to any evidence received or submitted; and
  - (c) the ruling given at the hearing.

## **8. Change of address**

The holder of a rank token must give notice to the Municipality in writing of any change of address within 14 working days thereof by pre-paid registered post, telefax or hand delivery.

## **9. Amendment and replacement of a rank token**

- (1) Subject to section 3, if the particulars reflected on a rank token are incorrect by virtue of a change in such particulars or for any other reason, the holder of such rank token must submit such rank token to the Municipality for the amendment thereof.
- (2) If a rank token is damaged in a manner that the particulars thereon cannot reasonably be ascertained, the holder of a damaged rank token must submit it to the Municipality and the authorised official may replace such damaged rank token at the cost of the holder of the rank token.

## **Chapter 3 Prohibited conduct**

### **10. Parking at a bus stop**

No person may park or allow a vehicle to park in a bus stop.

### **11. Duties of pedestrians**

- (1) A pedestrian may cross a public road only at a pedestrian crossing or an intersection or at a distance further than 50 metres from such pedestrian crossing or intersection.
- (2) Where a marked pedestrian crossing exists at an intersection, a pedestrian may only cross the intersection within the marked pedestrian crossing.
- (3) Where a traffic-control light signal ("robot"), which embodies pedestrian signals, operates at an intersection, a pedestrian may not commence to cross the roadway in a pedestrian crossing at the intersection while the red light of a pedestrian signal is displayed in the direction opposite to that in which he or she is proceeding.



- (4) Where no pedestrian signals are operating at an intersection, but such intersection is controlled by a traffic-control light signal, a pedestrian may not commence to cross the roadway in a pedestrian crossing at the intersection while the red light of the traffic-control light signal is displayed in the direction opposite to that in which he or she is proceeding.
- (5) Where a traffic-control light signal, which embodies pedestrian signals, are operating at a pedestrian crossing elsewhere than at an intersection, a pedestrian may only commence to cross the roadway in the pedestrian crossing when the green light of the pedestrian signal is displayed in the direction opposite to that in which he or she is proceeding.
- (6) No pedestrian may carelessly, negligently or recklessly disregard, or endanger his or her own safety, or the safety of a person or vehicle using a public road.

## **12. Use of hooter**

No person shall on a public road use the sounding device or hooter of a vehicle except when such use is necessary in order to comply with the provisions of this By-law or any other law or on the grounds of safety.

## **13. Duty to indicate when changing lanes**

- (1) The driver of a vehicle on a public road divided into traffic lanes by appropriate road traffic signs shall not turn from one lane into or across another lane unless he or she can do so without obstructing or endangering other traffic.
- (2) A driver may not turn from one lane into or across another lane without giving a conspicuous signal visible to any person approaching him or her from the front or from the rear or from the side, and of a duration sufficient to warn any such person of his or her intention.

## **14. Driving on shoulders**

- (1) Subject to subsection (2), no person shall drive a motor vehicle on the shoulder of a public road.
- (2) Notwithstanding subsection (1), the driver of a motor vehicle may, during the period between sunrise and sunset, drive such motor vehicle on the shoulder of a public road which is designated for one lane of traffic in each direction—
  - (a) while such motor vehicle is being overtaken by another vehicle;
  - (b) if he or she can do so without endangering himself or herself, other traffic, pedestrians or property on such public road;
  - (c) if persons and vehicles upon a public road are clearly discernible at a distance of at least 150 metres.

## **15. Driver of motor vehicle to be licensed**

No person shall drive a motor vehicle on a public road—

- (a) except under the authority and in accordance with the conditions of a licence issued to him or her in terms of the Act or of any document deemed to be a licence for the purposes of the Act; and
- (b) unless he or she keeps such licence or document or any other prescribed authorisation with him or her in the motor vehicle.

## **16. Motor vehicle to be licensed**

Subject to the provisions of the Act, every motor vehicle in the Municipality shall, whether or not it is operated on a public road, be licensed by the owner of such motor vehicle, in accordance with the provisions of the Act, with the relevant licensing authority.

## **17. Driver to have operating licence or permit**

Subject to the provisions of section 32 of the Act, no person shall drive a motor vehicle of a class prescribed in terms of the Act on a public road except—

- (a) in accordance with the conditions of a permit issued to him or her in accordance with the provisions of the Act; and
- (b) if he or she keeps such permit with him or her in the motor vehicle,

provided that this subsection shall not apply to the holder of a learner's licence who drives such motor vehicle whilst he or she is accompanied by a person registered as a driver in respect of that class of vehicle.

## **18. Garments and identification of taxi guards**

- (1) Every taxi guard must, while on duty and presenting himself or herself as available for service, be dressed in a retro-reflective bib or jacket, and must ensure that an identification card issued to him or her in terms of any other law is visibly displayed.
- (2) No taxi guard or any other person may engage in touting.

## **Chapter 4 Taxi ranks**

### **19. Use of taxi ranks**

- (1) The driver of taxi must, when plying for hire at a taxi rank, do so in a queue and must—
  - (a) position his or her taxi in the first vacant place available in the queue immediately behind any other taxi already in front in the lane for which he or she has the route authority; and
  - (b) move his or her taxi forward as the queue moves forward.
- (2) When plying for hire at a taxi rank, a driver—
  - (a) of any taxi which occupies the first, second or third position from the front of any queue at a rank must be close and constant attendance of his or her taxi so long as it remains in such a position;
  - (b) may not position his or her taxi ahead of any taxi that arrived and took up a position in the queue before or she did; and
  - (c) may, if his or her taxi is the first taxi in the queue, and any person calls for a taxi, respond to the call, unless the person clearly indicates his or her preference for a taxi not in front of the queue.
- (3) No person may park or stop a taxi which is not in good working order as required by the Act, in a taxi rank, or cause or permit the taxi to remain in a rank.
- (4) No person may park or stop any vehicle in a taxi rank except a taxi for which a rank token, specifying the rank, have been issued for the period in question, in terms of section 3.
- (5) No person may wash any motor vehicle at a taxi rank, except at a wash bay at the facility that has been specially constructed for this purpose.

### **20. Preventing engagement of a taxi**

No person may, by using force, intimidation, threats or by any other means, prevent or try to prevent—

- (a) any person from obtaining or engaging a taxi; or
- (b) the driver of a taxi from taking on passengers.

### **21. Conveying dangerous or offensive articles in taxis**

A person who is in charge of a taxi may not knowingly convey a person or thing or allow that person or thing to be conveyed in a taxi, whether or not the taxi has been engaged, if that person or thing—

- (a) is not permitted to be conveyed in terms of an existing law; or
- (b) has obviously been exposed to or contaminated by an infectious or contagious disease as contemplated in the Act.

## **22. Disinfecting a taxi after conveying passengers with infectious or contagious diseases**

- (1) The owner, driver or person in charge of a taxi must take immediate steps to have the taxi disinfected as soon as it has come to his or her knowledge that there has been conveyance in the taxi—
  - (a) a passenger suffering from an obvious infectious or contagious disease;
  - (b) the body of a person who has died of an obvious infectious or contagious disease; or
  - (c) anything that has been exposed to or contaminated with the infection of an obvious infectious or contagious disease.
- (2) The owner, driver or other person in charge of the taxi may not convey any passengers in the taxi until the taxi has been disinfected.
- (3) The owner, driver or other person in charge of a taxi must notify and carry out all instructions of an authorised official with regard to the disinfection of a taxi referred to in subsection (1).
- (4) Subject to any other law, no person suffering from a contagious disease may enter any taxi.

## **23. Boarding and alighting of taxis**

- (1) No person may board a taxi until all persons desiring to alight from the taxi have done so.
- (2) No person may insist on boarding a taxi where the number of passengers would be in excess of the total number of passengers which it is authorised to carry.
- (3) No person may board or alight or attempt to board or alight from any taxi whilst the taxi is in motion.

## **24. Queues at taxi ranks or taxi facilities**

- (1) At any established taxi rank facility, the Municipality may erect or cause to be erected a queue sign that consists of a notice board indicating the location and the manner in which persons waiting to enter a taxi will stop and form a queue, and such a sign may be supplemented by queuing barriers in the form of rails or lines marked on the surface of the area to be demarcated for the purpose of queuing.
- (2) All passengers intending to enter any taxi at an established ranking facility or stopping place must queue from the point at which it is indicated that such taxi will leave.
- (3) Where no queue sign has been erected, passengers waiting to enter a taxi must form themselves into a queue not exceeding two abreast or in a single file when required to do so by an approved taxi guard or authorised official of the Municipality.
- (4) A passenger may only enter a taxi when he or she gets to the front of the queue.
- (5) Every passenger queuing must comply with all the instructions given by an approved taxi marshal, authorised officer or authorised official when on duty.

## **25. Payment of fares**

A passenger must pay the determined fare for the journey on request.

## **26. Rights and duties of passengers when a taxi becomes defective**

- (1) If a taxi becomes defective or, for any reason whatsoever, is unable to proceed, the passengers must, at the request of the driver, alight from the defective taxi and should the passengers have already paid their fares, they are entitled to a refund to the amount of their fares so paid.

- (2) Upon agreement with the driver of the defective taxi, passengers are allowed to travel with the next available taxi for the remainder of the distance in respect of the paid fares, at the cost of the defective taxi's owner.
- (3) A driver who refuses to refund a passenger, as contemplated in subsection (1), or who refuses to allow a passenger to travel in the manner as contemplated in subsection (2) commits an offence.

## **27. Animals**

No passenger may enter a taxi with any animals other than a guide dog assisting a blind person.

## **28. Actions prohibited on a taxi**

The following actions are prohibited on a taxi:

- (a) smoking;
- (b) playing offensive or excessively loud music;
- (c) using obscene or offensive language;
- (d) committing an offensive act;
- (e) interfering with the comfort of any passenger;
- (f) damaging any taxi or the fittings thereof;
- (g) interfering with the equipment of the taxi in any way;
- (h) forcibly causing the driver to deviate from his route;
- (i) endangering the life of another person; and
- (j) interfering with the actions of the driver.

## **29. Behaviour prohibited at a taxi rank**

A person who causes a disturbance or behaves in a riotous or indecent manner commits an offence in terms of this By-law and may be removed from a queue, taxi rank or the vicinity of a taxi facility by any authorised officer of the Municipality.

## **30. Operating licence to be produced on demand**

- (1) The holder of an operating licence must—
  - (a) maintain the operating licence in a good and legible condition; and
  - (b) keep the operating licence in the motor vehicle to which it relates at all relevant times when the vehicle is being operated as a taxi or bus.
- (2) A traffic officer may call on the driver of a taxi or bus to stop and may demand that he or she—
  - (a) produce the operating licence; and
  - (b) give his or her full name and address and also the name and address of the owner of the taxi or bus.
- (3) A driver referred to in subsection (2) may not—
  - (a) operate a public transport service without a valid operating licence; or
  - (b) allow the operating licence to be used for a vehicle other than that specified in such operating licence.

## **31. Unauthorised handing over or abandonment of bus or taxi**

No driver of a taxi or bus may—

- (a) abandon his or her vehicle; or
- (b) allow any other person to drive the taxi or bus under his or her control without the consent of the holder of the public permit concerned.

### **32. Enforcement of right of entry**

An authorised officer may, in enforcing the provisions of this By-law, at any reasonable time and without prior notice—

- (a) enter a public transport service facility to inspect the facility; and
- (b) make enquiries from a person connected with the facility.

### **33. Property left in passenger-carrying vehicles**

The driver of a passenger-carrying vehicle must carefully examine the vehicle after a trip, and if a passenger has left behind any property in the vehicle, the driver must—

- (a) deliver that property to the person who left it behind; or
- (b) if he or she is unable to deliver that property to the person who left it behind, take the property, as soon as possible, to the lost property office of his or her employer or to the nearest police station and de-posit it with the officer on duty and obtain a receipt for it.

### **34. Overloading**

No driver of a public transport vehicle may allow more than the specified number of passengers as indicated in the public permit.

### **35. Preventing engagement of a taxi**

No person may, by using force, intimidation, threats or by any other means, prevent or try to prevent—

- (a) any person from obtaining or engaging a taxi; or
- (b) the driver of a taxi from taking on passengers.

### **36. Prohibition on use of communication device while driving**

- (1) Subject to any other law, no person shall drive a vehicle on a public road—
  - (a) while holding a cellular or mobile telephone or any other communication device in one or both hands or any other part of the body;
  - (b) while using or operating a cellular or mobile telephone or other communication device unless such a cellular or mobile telephone or other communication device is affixed to the vehicle or is part of the fixture in the vehicle and remains so affixed while being used or operated, or is specially adapted or designed to be affixed to the person of the driver as headgear, and is so used, to enable such driver to use or operate such telephone or communication device without holding it in the manner contemplated in paragraph (a), and remains so affixed while being used or operated.
- (2) For the purposes of this section—
  - (a) the word "headgear" includes a device which is specially designed or adapted to allow the driver to use a cellular or mobile telephone or other communication device in such a manner that he or she does not hold it in one or both hands or with any other part of the body, and which is connected to the cellular or mobile telephone or other communication device concerned, directly or indirectly, while being fitted to or attached to one or both ears of the driver; and
  - (b) the phrases "cellular or mobile telephone or any other communication device" and "cellular or mobile

telephone or other communication device", excludes land mobile radio transmission and reception equipment operating in the frequency band 2 megahertz to 500 megahertz that is affixed to the vehicle or is part of the fixture in the vehicle.

### **37. Offences and Penalties**

- (1) A person who contravenes a provision of this By-law commits an offence.
- (2) A person who commits an offence referred to in subsection (1) is, on conviction, liable for a fine or a term of imprisonment not exceeding three years, or both such fine or such imprisonment.

### **38. Short title**

This By-law is called the Matzikama Municipality: Traffic By-law, 2010.