

Matzikama, South Africa

## Coastal Management

Legislation as at 15 November 2019

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# Matzikama South Africa

## Coastal Management By-law, 2019

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### **Definitions**

In this By-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa, the English text prevails in the event of an inconsistency between the different texts and unless the context otherwise indicates :

"admiralty reserve" means any strip of land adjoining the inland side of the high-water mark which, when this Act took effect, was state land reserved or designated on an official plan, deed of grant, title deed or other document evidencing title or land-use rights as "admiralty reserve", "government reserve", "beach reserve", "coastal forest reserve" or other similar reserve;

"bathing area" means the seashore and that part of the sea situated within or adjoining the area over which the Municipality has jurisdiction, and also that portion of the adjoining dune and the beach habitually used by members of the public for bathing and recreational purposes;

"beach area" means the sea, seashore, bathing area, sand dune and any land owned by the Municipality above the high water mark and adjoining the seashore and used or capable of being used by the public for recreational purposes, including any adjoining facility, promenade, walkway, car park, lawn or structures;

"boat" means any water navigable craft, whether self-propelled or not, and whether it is used to carry persons or goods or to tow something, or for any other reason, whether for sport, recreation or not;

"coastal access land" means land designated as coastal access land in terms of section 18(1), read with section 26 of the National Environmental Management: Integrated Coastal Management Act;

"coastal protected area" means a protected area that is situated wholly or partially within the coastal zone and that is managed by, or on behalf of an organ of state, but excludes any part of such a protected area that has been excised from the coastal zone in terms of section 22 of the National Environmental Management: Integrated Coastal Management Act;

"coastal protection zone" means the coastal protection zone contemplated in section 17 of the National Environmental Management: Integrated Coastal Management Act;

"coastal public property" means coastal public property referred to in section 7 of the National Environmental Management: Integrated Coastal Management Act;

"coastal waters" means -

- (a) marine waters that form part of the internal waters or territorial waters of the Republic referred to in sections 3 and 4 of the Maritime Zones Act, 1994 ([Act No. 15 of 1994](#)), respectively; and
- (b) subject to section 26 of the National Environmental Management: Integrated Coastal Management Act, any estuary.

"coastal wetland" means -

- (a) any wetland in the coastal zone; and

(b) includes -

- (i) land adjacent to coastal waters that is regularly or periodically inundated by water, salt marshes, mangrove areas, inter-tidal sand and mud flats, marshes, and minor coastal streams regardless of whether they are of a saline, freshwater or brackish nature; and
- (ii) the water, the subsoil and substrata beneath, and bed and banks of, any such wetland;

"coastal zone" means the area comprising coastal public property, the coastal protection zone, coastal access land and coastal protected areas, the seashore, coastal waters and the exclusive economic zone and includes any aspect of the environment on, in, under and above such area;

"drunk" means a person who, by reason of the alcohol or drugs which he or she has consumed, has lost control of his or her mental or physical faculties, or both, to such an extent as to render him or her incapable of comporting him- or herself, or of performing any act in which he or she is engaged, with safety to him- or herself or with that regard to the rights of others which the law demands;

"dune" means any build-up or accumulation of sand along the coastal area, situated within an area over which the Municipality has jurisdiction irrespective whether bare and mobile or vegetated and stable;

"environment" means "environment" as defined in the National Environmental Management Act;

"estuary" means a body of surface water -

- (a) that is part of a water course that is permanently or periodically open to the sea;
- (b) in which a rise and fall of the water level as a result of the tides is measurable at spring tides when the water course is open to the sea; or
- (c) in respect of which the salinity is measurably higher as a result of the influence of the sea.

"exclusive economic zone" means the exclusive economic zone of the Republic, referred to in section 7 of the Maritime Zones Act, 1994 ([Act No. 15 of 1994](#));

"facility" includes a bathing enclosure, boat shed, bathing box, change room, pool pavilion, playground, parking ground, cubicle, shower, bathroom or toilet;

"goods and property" means movable as well as immovable goods or real estate;

"healthy" means not detrimental or possibly detrimental to the health of the public;

"high-water mark" means the highest line reached by coastal waters, but excluding any line reached as a result of -

- (a) exceptional or abnormal floods or storms that occur no more than once in ten years; or
- (b) an estuary being closed to the sea.

"liquor" means liquor as defined in Section I of the Western Cape Liquor Act Amended Act, 2105 ([Act 3 of 2015](#)) "litter" waste, refuse or any object or matter dumped, deposited, discarded or left behind by a person in whose possession or control it was;

"littoral active zone" means any land forming part of, or adjacent to, the seashore that is -

- (a) unstable and dynamic as a result of natural processes; and
- (b) characterised by dunes, beaches, sand bars and other landforms composed of unconsolidated sand, pebbles or other such material which is either non-vegetated or only partially vegetated.

"low-water mark" means the lowest line to which coastal waters recede during spring tides;

"Municipality" means the Matzikama Local Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes duly authorised agent, service provider or any employee thereof acting in connection with this by-law by virtue of a power vested in the Municipality and delegated or sub-delegated to such agent, service provider or employee;

"notice" (notice board or sign) means an adequate official notice erected or displayed at the entrance to or at a conspicuous place or prominent position and maintained in a legible state, and may include a pictogram as approved by the Municipality;

"nuisance" means any noise, sound, conduct or behaviour which constitutes or may constitute a source of danger, disadvantage, inconvenience or annoyance to or a material interference or disturbance with the ordinary comfort, peace or convenience of other persons;

"person" includes an association or organisation;

"pollution" has the meaning assigned to it in section 1 of the National Environmental Management Act;

"protected area" means a protected area referred to in section 9 of the Protected Areas Act;

"Protected Areas Act" means the National Environmental Management: Protected Areas Act, 2003 ([Act No. 57 of 2003](#));

"public amenity" means –

- (a) any land, commonage, square, camping area, caravan park, beach, swimming pool, public open space, public resort, recreation site, river, estuary, dam, nature reserve, salt marsh, wetland, zoological, botanical or other garden, or hiking trail, including any portion thereof and any facility or apparatus therein or thereon, which is the property of, or is possessed, controlled or leased by the Municipality and to which the general public has access, whether on payment of admission fees or not, but excluding a public road or street;
- (b) a building, structure, hall room or office, including any part thereof or any facility or apparatus therein, which is the property of, or is possessed controlled or leased by the Municipality and to which the general public has access, whether on payment of admission of fees or not; and
- (c) a public amenity contemplated in paragraphs (a) and (b) if it is lawfully controlled or managed in terms of an agreement between a person and the Municipality;

"public gathering or procession" means a procession or gathering of more than 20 people;

"public place" means any square, building, park, recreation ground or open space which:–

- (a) is vested in the Municipality;
- (b) the public has the right to use; or
- (c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General's office and has been provided for or reserved for the use of the public or the owners of erven in such township;

"responsible person" means the person whose personal details and signature appear on the prescribed application form for registration;

"salt marsh" means wetlands which are part of the floodplain of rivers and estuaries;

"sea" means all marine waters, including -

- (a) the high seas;
- (b) all marine waters under the jurisdiction of any State; and
- (c) the bed, subsoil and substrata beneath those waters, but does not include estuaries.

"seashore", subject to section 26 of the National Environmental Management: Integrated Coastal Management Act, means the area between the low- water mark and the high-water mark;

"South African vessel" means any vessel registered or deemed to be registered in the Republic in terms of applicable legislation;

"special management area" means an area declared as such in terms of section 23 of the National Environmental Management: Integrated Coastal Management Act;

"surfboard" means a board composed largely of fibreglass or epoxy used for the riding of waves including longboards, paddle boards (stand-up and kneeling), kneeboards and similar craft, but excluding body boards composed primarily of Polyethylene, Polypropylene or similar;

"surfing" means riding waves on a board or similar contrivance capable, when in motion, of sustaining a person, but excludes riding a board propelled or driven by wind power or aided by a sail;

"waste" means any substance, whether or not that substance can be reused, recycled or recovered -

- (a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of;
- (b) that the generator has no further use of, for the purposes of production, reprocessing or consumption; and
- (c) that is discharged or deposited in a manner that may detrimentally impact on the environment.

"vessel" means any conveyance capable of floating on or in water or designed to navigate on or in water and includes a boat, a sailing boat or board, rowing boat, flat-bottomed boat, water jet driven boat, jet ski or any other water navigable craft of any type whatsoever whether self-propelled or not, but excluding a surfboard;

"vehicle" means a vehicle designed or adapted for propulsion or haulage by means of fuel, gas, electricity, battery or otherwise, animal drawn vehicle, wind driven vehicle, motorcycle or bicycle, as well as a trailer, a caravan or other implements designed or adapted to be drawn by such vehicle;

"wetland" means land which is transitional between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is periodically covered with shallow water, and which land in normal circumstances supports or would support vegetation typically adapted to life in saturated soil.

### ***Objectives***

To provide for procedures, methods and practices to regulate the use and management of the coastal zone. To control activities in the coastal zone and to provide for matters incidental thereto. Under the provisions of Section 156(2) of the [Constitution of the Republic of South Africa, 1996](#), and Sections 20(2) and 50 of the National Environmental Management: Integrated Coastal Management Act (Act No. 24 of 2008), the Matzikama Local Municipality hereby enacts as follows:

### ***Application***

#### **1.**

This by-law shall apply to the beach area and the coastal area under control of the Municipality insofar that it is appropriate and not excluded or inconsistent with any other law.

#### **2.**

If a determination of this by-law is in contradiction with any other by-law of the Municipality, this by-law or the most restricting by-law provisions must be adhered to but shall not derogate from the provisions of any other legislation.

### ***Public amenities***

#### **3. Number of visitors**

- (1) The Municipality may determine:
  - (a) the maximum number of persons or vehicles that may be in or at a public amenity at any time; and
  - (b) different classes of vehicles that may be in or at a public amenity at any time, and it may differentiate between public amenities.



#### 4. Admission to public amenity

- (1) The Municipality may determine the times, dates and conditions under which a public amenity is open to the public, having due regard to section 6 (1)(a).
- (2) The Municipality may determine the activities that may or may not be undertaken in a public amenity and these include, but are not limited to:
  - (a) the driving of a motor vehicle and different classes of motor vehicles in a public amenity;
  - (b) surfing, kite flying, wind surfing, kite surfing, water skiing, paddle skiing, jet skiing, riding of motorised craft, and similar activities on beaches at which these activities are allowed;
  - (c) sea bathing in such bathing areas on the beach, which areas were demarcated by the Municipality.
- (3) The Municipality may grant to any person or persons, during such hours and for such period as it may deem fit, the exclusive use of a public amenity for games, a public meeting, fete, show or other function or entertainment.
- (4) The Municipality may for reasons of maintenance, development, security, safety or public health, temporarily or permanently:
  - (a) close a public amenity or a portion thereof; or
  - (b) suspend all or any activities thereon.
- (5) Where a person in a public amenity has committed an offence in terms of these by-laws, an official may order such person to leave the public amenity, and a person ordered to leave must leave the amenity by the shortest route available to the public;
- (6) Where an official, on reasonable grounds, suspects that a person wishing to enter a public amenity intends to commit an offence in or at the public amenity, he or she may refuse entry to such person.

#### 5. Entrance fees

- (1) The Municipality may levy different entrance fees and issue entrance tickets in respect of persons of different ages, groups of persons, or different classes of vehicles and grant concessions in respect of entrance fees payable.
- (2) Entrance fees are payable at the entrance to a public amenity, except where another fee is indicated on a notice-board in terms of section 6(1).
- (3) An entrance ticket contemplated in subsection (1) is valid for the period contemplated in subsection (4).
- (4) An entrance fee is payable in respect of each day or portion thereof during which a person, group or vehicle is in a public amenity, provided that no fee is payable for the day on which such public amenity is left, if the amenity is left before 10:00 on such day and if the day is not the day of arrival.
- (5) No fee contemplated in subsection (1) is repayable where any portion of the period in respect of which such fee has been paid has not been or cannot be utilised, provided that the fee, which has been paid in respect of each full day and which has not been utilised, may, with the approval of the Municipality, be repaid upon application. For the purposes of this subsection "full day" means a period of 24 hours, commencing at 10:00 of any day.
- (6) An official may require any person in a public amenity to produce the entrance ticket issued in terms of subsection (1), and a person who fails to produce such ticket or a person who enters a public amenity without having paid the entrance fee commits an offence.

## 6. Notice-boards

- (1) The Municipality may erect a notice-board at the entrance to or in the immediate vicinity of a public amenity, on which any of the following are displayed:
  - (a) the times, dates and conditions of entry and activities that may or may not be undertaken;
  - (b) the fees payable;
  - (c) a notice of closure referred to in section 4(4);however, where no notice-board has been erected, and subject to section 8, no activities may be undertaken upon the public amenity.
- (2) No person other than an official or other person authorised to do so in this by-law may move or alter the contents of, and no person may deface or otherwise tamper with a notice-board erected by the Municipality.
- (3) A notice posted by Municipality in terms of subsection (1) may contain a graphic representation to convey meaning.
- (4) A person who contravenes any of the provisions of this section commits an offence.

## 7. Consent required for certain activities

- (1) No person may, without the prior written consent of the Municipality, at, in or upon a public amenity:
  - (a) arrange, hold, present or attend:
    - (i) a public entertainment;
    - (ii) a meeting;
    - (iii) a public gathering or procession, exhibition or performance;
    - (iv) an auction;
  - (b) collect money or any other goods;
  - (c) display or distribute a pamphlet, placards, painting, book, handbill or a printed, written or painted work;
  - (d) engage in any trading activity.
- (2) No person may at or in a public amenity undertake or perform any activity in contravention of a notice-board erected in terms of section 6(1).
- (3) No person may, without the prior written consent of the Municipality, erect or establish any fence, structure, dam, shelter or anything else, and a person who has obtained such consent may only erect such fence, structure, dam, shelter or anything else at a designated area set aside for this purpose.
- (4) No person may, without the prior written consent of the Municipality, bring into or have in his or her possession in a public amenity a firearm, and the Municipality may grant consent in the following instances only:
  - (a) for the firing of blank cartridges during organised competitions or sports meetings;
  - (b) in connection with the collection of specimens of marine life or birds or animals for scientific purposes;
  - (c) for the lawful culling of a whale, dolphin, or animal;

- (d) to signal distress in the instance where a proposed activity may require a distress signal to be given by means of a firearm.
- (5) A person who wishes to obtain the consent of the Municipality as contemplated in subsection (1) must complete and submit the prescribed form, and the Municipality may refuse or grant consent, subject to any conditions it deems necessary and subject to the prescribed fee having been paid, and a person who wishes to sell food must also comply with any laws relating to the selling of food.
- (6) A person who has been granted consent in terms of subsection (5) must at all times keep the form in his or her possession, and must produce the form on request of an official.

## 8. Use of public amenities

The Municipality may enter into an agreement with any person in terms of which a public amenity or any part thereof may be used for the purposes and subject to the conditions set out in the agreement.

## 9. Permit

- (1) Notwithstanding the provisions of sections 4, 5(1), 5(3), and 6(1), the Municipality may, on application and subject to any conditions it may impose, issue, free of charge or otherwise, a permit:
  - (a) to a group of people, such as, but not limited to, a group of bona fide students; or
  - (b) to a person who is undertaking scientific, educational or similar research.
- (2) The holder of a permit issued in terms of subsection (1) may:
  - (a) if he or she is the holder of a valid hunting licence, hunt, catch, kill or remove fauna under the supervision, control and in accordance with the instructions of an official;
  - (b) pick, collect or remove flora;
  - (c) take or remove anything of historical or scientific importance;
  - (d) have in his or her possession diving equipment, a weapon, trap, poison or a gardening tool, living or dead fauna or flora;
  - (e) remove any flora or carcass that has been plucked or hunted, only if the official has:
    - (i) inspected such flora or carcass;
    - (ii) considered it necessary or desirable, measured the dimensions or mass, or taken a sample of such flora or carcass; and
    - (iii) in writing authorised the permit holder to remove such flora or carcass; or
    - (iv) excavated soil, sand or stone or remove organic or inorganic objects.
- (3) The holder of a permit must, on arrival at the public amenity, display such permit to the control official, and a person who fails to do so, commits an offence.
- (4) The holder of a permit who undertakes an activity in contravention of a condition imposed commits an offence.

## 10. Prescribed fees

The Municipality may determine fees payable in terms of this by-law.

## 11. Animals

- (1) No person may, in contravention of a notice-board, bring any animal into a public amenity.

- (2) A person who is permitted to bring an animal into a public amenity must have direct and physical control over the animal by means of a leash or other device, and may not bath, wash or allow such animal to enter or remain in any pond, fountain or ornamental water.
- (3) A person who is permitted to bring an animal into a public amenity must have in his or her possession a mechanism or device to pick up or remove any excretion deposited in or upon such public amenity by such animal and any excretion deposited in such public amenity by any such animal must be picked up or removed by the person who brought the animal onto the public amenity.
- (4) Any animal not under the control, or apparently not under the control of a person, may, if found in or on a public amenity, be apprehended by the Municipality and removed to a pound where it may be dealt with in terms of any law relating to the impoundment of animals.
- (5) Any person who contravenes a provision of subsections (1), (2) or (3) commits an offence.

## 12. Prohibited behaviour

- (1) No person:
  - (a) who is drunk or under the influence of any drug may enter or remain in, and such person will not be admitted to, a public amenity;
  - (b) may in or at a public amenity:
    - (i) break, damage, destroy, tamper with, remove, misuse, disfigure or use anything or fail to observe an instruction by the Municipality;
    - (ii) throw or roll a rock, stone or object;
    - (iii) except if authorised to do so under section 8(2)(b), pull out, pick, cut or damage any flora growing in the amenity, or have such flora in his or her possession;
    - (iv) walk on a flowerbed;
    - (v) walk, stand, sit or lie on grass in contradiction with a notice;
    - (vi) write, paint, draw graffiti or a representation on a structure or path;
    - (vii) excavate soil, sand or stone or remove organic or inorganic objects; except if authorised to do so in terms of section 8;
    - (viii) interfere with water flow, obstruct water, divert a stream or drain a wetland;
    - (ix) deface or disfigure anything provided by the Municipality by pasting or affixing, in any way, any bills, papers, place cards, notices or anything else;
    - (x) wash, polish or repair a vehicle, except emergency repairs;
    - (xi) make a fire or burn refuse;
    - (xii) litter or dump any refuse, garden refuse or building materials;
    - (xiii) wash crockery or laundry or hang out clothes, except at places indicated by notice for that purpose;
    - (xiv) use or try to use anything provided by the Municipality in an amenity for a purpose other than that for which it is designed or determined by notice;
    - (xv) throw away any burning or smouldering object;
    - (xvi) behave or conduct himself or herself in an improper, indecent or unbecoming manner;
    - (xvii) defecate, urinate or undress, except in such building or on premises intended for that purpose;

- (xviii) lie on a bench or seating place provided by the Municipality or use it in such a manner that other users or potential users find it impossible to make use thereof;
  - (xix) play or sit on play-park equipment, except if the person concerned is a child under the age of 12 years;
  - (xx) swim, walk or play in a fish-pond, fountain, dam, river, artificial feature or pond in contravention with a notice prohibiting such action;
  - (xxi) having an open wound on his or her body, enter any bath or pool provided by the Municipality;
  - (xxii) perform any act that may detrimentally affect the health of another person;
  - (xxiii) enter or use a toilet facility indicated by notice for use by members of the opposite sex;
  - (xxiv) stay or sleep overnight other than in terms of section 13;
  - (xxv) hunt, injure, disturb, feed, kill, hurt, follow, disturb, ill-treat or catch an animal, or displace, disturb, destroy or remove a bird, nest or egg, or skin or gut an animal, except if authorised to do so under section 8(2);
  - (xxvi) fire a firearm, airgun or air pistol, except if it has been obtained in terms of section 7(4);
  - (xxvii) discharge a bow, fireworks or use a slingshot or catapult;
  - (xxviii) in any way whatsoever prejudice the safety, convenience or rights of other persons;
  - (xxix) obstruct or interfere with any official appointed by the Municipality, including a lifeguard, in the proper execution of his or her official duties;
  - (xxx) play or conduct a game in a manner that causes annoyance or endangers public safety;
  - (xxxi) play any hardball games or participate in such games on a public amenity, unless permitted by an appropriate sign or with written permission of the Municipality;
  - (xxxii) expose his or her body or clothe indecently;
  - (xxxiii) discard a burning or smouldering object or throw it out of a vehicle;
  - (xxxiv) drive or park a motor vehicle on any public amenity without the permission of the Municipality;
  - (xxxv) cause undue noise;
  - (xxxvi) be in the possession of or consume alcohol, except within a demarcated area at special events for which a permit for alcohol sale and consumption has been approved.
- (c) may enter:
- (i) or leave a public amenity other than by way of the official entry and exit point;
  - (ii) a public amenity without having paid the entrance fees as contemplated in section 5(1);
- (d) may release any wild animal, bird or flora into a public amenity;
- (e) may, in inland waters:
- (i) swim, catch fish or angle if not authorised to do so in terms of a notice- board erected in terms of section 6(1);
  - (ii) wash himself or herself or clean anything;

- (iii) may use any craft on inland waters at any place other than that which has been indicated on a notice-board erected in terms of section 6(1).
- (2) A person who contravenes a provision of subsection (1) commits an offence.

### 13. Vehicles

- (1) Where a person is permitted to drive a vehicle in a public amenity, he or she may not:
  - (a) travel with the vehicle elsewhere than on a road constructed by the Municipality;
  - (b) remove physical impediments erected or placed by the Municipality so as to gain illegal access to closed off areas;
  - (c) drive the vehicle at a speed in excess of the speed indicated on a notice-board erected by the Municipality; or
  - (d) Control of Use of Vehicles in the Coastal Area Regulations, 2014 in terms of the National Environmental Management: Integrated Coastal Management Act, 2008 ([Act No 24, 2008](#) as amended by [Act No 36 of 2014](#)).
- (2) The provisions of subsection (1) do not apply to an emergency vehicle while lawfully in use as such, or a vehicle used in an emergency, or a vehicle used by an official in the discharge of his or her duties.
- (3) A person who contravenes a provision of subsection (1) commits an offence.

#### *Boating/craft, including launching and operation*

### 14. General provisions regarding boating/craft including launching and operation

- (1) The Municipality may develop and approve management and/or operational plans for public launching areas in terms of "Management of Public Launch Sites in the Coastal Zone Regulations, 2014 in terms of the National Environmental Management: Integrated Coastal Management Act, 2008 ([Act No 24, 2008](#) as amended by [Act No 36 of 2014](#))" from whereas the Municipality may:-
  - (a) set aside a place for the exclusive use of different types of boats and vessels, or for the temporary use only of boats or vessels belonging to members of a boat and yacht club;
  - (b) prohibit the use or operation of any boat or vessel or type thereof, from certain parts of the beach and/or river areas and may differentiate between
    - boats or vessels belonging to or used by members of boat and yacht clubs and those belonging to or used by non-members of such clubs; and
    - the size and/or the engine capacity of boats or vessels
- (2) No person shall:-
  - (a) without the prior written permission of the Municipality or other mandated government department, within the beach and/or river areas launch, land, beach, keep, let or hire a boat, sail boat, surf-ski, or self-propelled craft of whatever kind, except at a recognised private launching site or places set aside for the purpose by the Municipality or other mandated government department by notice on the spot and which have been approved as registered public launching sites;
  - (b) use or operate a boat, surfboard, or vessel of whatever kind, in a manner dangerous to or causing annoyance to any person.
- (3) No one may keep or leave a boat, vessel, surfboard or similar craft unattended on the beach for more than 10 hours unless permitted by a notice;

- (4) A boat, surfboard or vessel kept or left unattended on the beach area in contravention of subsection (3) may be impounded by an authorised official;
- (5) Subsections (2)-(4) of this by-law shall not apply when a boat, vessel, surfboard or similar craft is used in emergency or for life-saving operations.

## 15. Registration of boats

- (1) No person may operate any power-driven boat, or a sailing boat or any other boat with an overall length of 6 metres or more, or with engines/motors (single or combined) exceeding 150hp excluding sailboards, canoes, paddle-skis and rowing boats, on a river, dam or estuary unless such boat has been registered with the Municipality and has displayed thereon in the manner provided by this By-law, the identification number allotted by the Municipality.
- (2) The Municipality may grant an application for registration of a boat referred to in subsection (1), subject to the conditions and the payment of fees as it may deem fit, and may vary or withdraw such conditions or withdraw the registration, if the Municipality decides such variations or withdrawal of conditions or withdrawal of registration is in the public interest.
- (3) The registration of a boat is not transferable from one person to another or from one boat to another, except where an owner of a registered boat, in terms of this by-law, transfers his registration to another boat belonging to him with the written permission of the Municipality.
- (4) The registration will specify the name of the person or club to whom it is issued, the maximum number of persons permitted to be carried in the boats as per application, the type and overall length of the boat, the maximum power of the engine, and the identification number allocated to the boat.
- (5) The Municipality may determine the total number of boats that may be registered in any one licensing period of twelve months.
- (6) The registration of a boat will be valid for a maximum period of one year.
- (7) The Municipality may determine the fee payable in respect of the registration of boats from time to time.
- (8) The Municipality may determine a *pro rata* fee.
- (9) The registration of boats is solely at the discretion of the Municipality and no reasons will be given if it fails to register a boat, unless on written application to do so.
- (10) The Municipality reserves the right to limit the number of registrations issued per person.
- (11) The registration for boats will, as of the effective date of this by-law, be granted firstly to those applicants whose applications are lodged with the Municipality by the effective date and in respect of subsequent licensing periods by 1 July in each year.
- (12) Registration will occur in the sequence in which they are received, subject to the Municipality's right to refuse any application for registration on good cause.
- (13) The owner of a registered boat must, before the boat is re-registered and at all times during the currency of the registration of the boat, have the identification number issued in respect of the boat permanently affixed in figures of a size and colour determined by Municipality so that the number is clearly visible from each side of the boat.
- (14) The registration of a boat constitutes authority to use the boat on a river, dam or estuary only and does not constitute authority for the boat to be taken through a river mouth past its narrowest point and out to sea.
- (15) The owner of a registered boat must at all times during the currency of the registration of the boat, have the registration documents available for inspection.

- (16) A boat registration permit may be refused if the conditions of a previously issued boat registration permit have not been adhered to.
- (17) The owner of a registered boat may not be in contravention of any condition imposed in terms of the South African Marine Safety Authority's National Small Vessel Safety Regulations 2007 read with "Marine Notice 13" in terms of the Merchant Shipping Act, 1951 ([Act No. 57 of 1951](#)).
- (18) A person who contravenes any provision of this section commits an offence.

## 16. The mooring of boats

- (1) When not in use, boats must be securely anchored or moored so as not to endanger other boats.
- (2) Boats floating loose may be taken in tow by the operator of any other boat or an authorised officer and moved to and secured in a place out of the way of other users of a river, dam or estuary.
- (3) Where a boat is floating loose through negligence on the part of the owner or persons using the boat with his express or implied consent, the owner will be in breach of this by-law and will be liable to the Municipality for any expense incurred where the removal to a safe place is effected by an authorised officer.
- (4) A person who contravenes a provision of subsection (1) commits an offence.

## 17. Rules of travel

- (1) The skipper of a boat must adhere to a general safety rule of "keep right" while under way.
- (2) Power-driven boats must steer clear of and give right of way to sailing boats and boats propelled by oars or paddles.
- (3) When two sailing boats are approaching each other so as to involve risk of collision, one of them shall keep out of the way of the other as follows:
  - (a) a boat that is running free shall keep out of the way of a boat that is close-hauled;
  - (b) a boat that is close-hauled on the port tack shall keep out of the way of a boat that is close-hauled on a star-board tack;
  - (c) when both boats are running free, with the wind on the same side, the boat that is to windward shall keep out of the way of the boat that is to leeward; and
  - (d) sailing boats and sail-boats shall not alter course immediately in front of any other boat.
- (4) When two power-driven boats are meeting head on or nearly head on so as to involve risk of collision, the operator of each boat must alter course to star-board (right) so that each shall pass on the port (left) side of the other.
- (5) The operator of a boat overtaking another boat must overtake the boat on the port (left)side and must keep his boat out of the way of the overtaken boat.
- (6) A person who contravenes any provision of this section commits an offence.

## 18. Operation of boats and prohibitions

- (1) The owner of a registered power-driven boat may not allow any person under the age of 16 years to control or operate such boat.
- (2) Notwithstanding the provisions of subsection (1), every owner of a power-driven boat must ensure that no person is permitted to control or operate such boat regardless of engine power if such person is not competent to handle it efficiently and if they do not possess a valid Skipper's Licence.



- (3) No person may operate a boat if his vision both ahead and astern is obscured either by passengers or any other object.
- (4) No person in charge of or steering a boat or an occupant thereof, may use such boat in a negligent or reckless manner or cause injury or damage or endanger any person or property.
- (5) No commercially registered boats or boats used for commercial purposes or boats exceeding six metres in overall length will be allowed on a river, dam or estuary without the written permission of the Municipality, and such boats may not be taken upstream of any particular point as determined by the Municipality in such written permission.
- (6) No person may, without the prior written permission of the Municipality, operate on the river any vessel or craft with a combined capacity exceeding 200 horsepower.
- (7) No power-driven boat may travel faster than a "no-wake speed" when it passes closer than ten metres from any other moving or stationary boat, jetty, slipway or person.
- (8) The skipper of a boat must ensure that the number of persons on board the boat shall at no time exceed the maximum number stipulated by the Municipality when registering the boat.
- (9) No boat shall disturb or endanger the safety of another boat with its wake.
- (10) After sunset and before sunrise:
  - (a) no person shall operate a boat on a river, dam or estuary
  - (b) without a forward-facing red port light, a forward-facing green starboard light and a white navigation light being switched on; no person shall anchor a boat on a river, dam or estuary without at least having a single white light visible for 360 degrees, switched on;
  - (c) no person shall operate a canoe, paddle-ski or sail board on a river, dam or estuary without a light visible for 360 degrees switched on, and shall be carried by a person aboard the canoe, paddle-ski or sailboard;
  - (d) no person shall operate a boat on a river, dam or estuary above a non-wake speed.
- (11) No person may operate a boat on a river, dam or estuary unless it carries a suitable container for refuse, as well as oars, paddles or other means of propulsion and a suitable anchor with a sufficient anchor line.
- (12) Owners or users of registered boats must ensure that children under five years of age and anyone on the boat who cannot swim wear a suitable buoyancy aid while boating.
- (13) All powerboats and other engines operated on a river, dam or estuary must be suitably silenced.
- (14) No person may operate a boat providing living accommodation on a river, dam or estuary without the prior written permission of the Municipality.
- (15) No powerboat, rowing or yachting regattas shall be permitted on a river, dam or estuary without the prior written permission of the Municipality.
- (16) The skipper of a boat may not leave or enter the river mouth without the occupants of the boat wearing suitable life jackets bearing the mark of the SANS.
- (17) No person may operate a boat in a "no-wake zone" at a speed which exceeds a "no-wake speed".
- (18) A person who contravenes any provision of this section commits an offence.

## 19. Jet-propelled craft

- (1) No person may use or operate a jet driven craft on the estuary unless special permission is issued by the Municipality.

- (2) No person may operate a personal watercraft or any other jet-propelled craft in an area other than the section that has been demarcated for such activity.
- (3) No person may operate a personal watercraft in the river mouth other for than for the express purpose of gaining access to and from the sea.
- (4) The owner of a personal watercraft or any other jet-propelled craft may not allow any person under the age of 16 years to operate his personal watercraft, unless the person is in possession of a valid special racing licence or under the personal supervision of an adult who must be the owner of such personal watercraft.
- (5) No person may operate a personal watercraft, unless wearing a suitable life jacket, helmet and kill switch, which must be attached to the operator.
- (6) The owner of a registered personal watercraft or any other jet-propelled craft may not operate or allow any other person to operate his watercraft in a reckless, negligent or inconsiderate manner.
- (7) The number of passengers, where applicable, may not exceed the safe-capacity load of the particular vessel.
- (8) No person may re-fuel any craft on the water.
- (9) No person may operate a personal watercraft or any other jet-propelled craft on any mud banks, salt marshes or other ecologically sensitive areas.
- (10) No person may operate a jet propelled craft or any other jet-propelled craft in water shallower than 50 centimetres, except at designated launching sites.
- (11) A person who contravenes any provision of this section commits an offence.

## 20. Skiing

- (1) No person may ski after sunset or before sunrise.
- (2) No boat towing a skier may pass closer than ten metres from any other stationary or moving boat, a jetty or slipway, except when dropping a skier.
- (3) The skipper of a boat may not follow closer than 100 metres in the wake of another boat towing a water skier.
- (4) No person may use a metal cable or steel wire to tow a skier behind a boat.
- (5) No skier may purposely drop or kick out a water ski, unless it is totally safe to do so and it does not constitute a danger to any other boat or person.
- (6) When a skier falls, the skipper of the boat must ensure that a red flag of 300 mm x 300 mm must be held up in the boat which was towing the skier and kept up until the skier boards the boat or resumes skiing.
- (7) No person may pull a ski rope behind a boat when it is not being used for skiing activities.
- (8) When skiing, the towing boat must keep to the right and follow a circuit in an anti-clockwise direction and in a position halfway between the shore and the midpoint of the river.
- (9) The skipper of the boat may not allow any person to water-ski from the boat, unless such person is wearing suitable personal buoyancy.
- (10) Every person who operates a power-driven boat while towing a person on water-skis, surfboards, water sled or similar object, must during the period 15 December to 15 January, the Easter weekend and all public holidays, have onboard another responsible person of at least sixteen years of age who must keep a proper look-out, and who must be conversant with recognised hand signals.
- (11) The skipper of a boat must not allow any person to water-ski from the boat outside of the demarcated skiing zones.

- (12) A person who contravenes any provision of this section commits an offence.

### ***Coastal Access Land***

#### **21.**

The Municipality is hereby, and in terms of section 20(1)(c) of the National Environmental Management: Integrated Coastal Management Act, afforded the powers to:

- (1) Designate any public access servitude in favour of the Municipality as coastal access land; and
- (2) Remove any public access servitude in favour of the Municipality as coastal access land, which is causing or contributing to adverse effects that the Municipality is unable to prevent or to mitigate adequately; subject to the Municipality giving notice of the intended designation or withdrawal of the designation to the owner of the land.
- (3) Protect and enforce the rights of the public to use coastal access land gain access to coastal public property;
- (4) Maintain that land so as to ensure that the public has access to the relevant coastal public property;
- (5) Where appropriate and within its available resources, provide facilities that promote access to coastal public property, including parking areas, toilets, boardwalks and other amenities, taking into account the needs of physically disabled persons;

#### **22.**

The public may

- (1) Utilise coastal access land for the sole purpose of accessing coastal public property.

#### **23.**

In terms of this bylaw:

- (1) Coastal Access Land is deemed to be a Public Amenity;
- (2) All prohibitions and conditions applicable to Public Amenities are applicable to Coastal Access Land;
- (3) No person may impede the public's right to traverse coastal access land in order to access the coastal zone, subject to the provisions applicable to Public Amenities.

### ***Overnighting/camping***

#### **24. Provisions regarding overnighting and camping**

- (1) No person may camp or overnight on any land belonging to or which is under the control of the Municipality, except on a camping site within the boundaries of a camping area.
- (2) No person may camp or overnight in an authorised camping area, whether continuous or otherwise, for a period exceeding three months in any period of twelve months without the written consent of the Municipality.
- (3) The Municipality may grant or refuse such an application subject to such conditions and for such period as it may deem fit, but not for any period in excess of a further three consecutive months.
- (4) The occupier of a camping site must be the person whose name appears on the camping permit, and he or she may not sublet, cede, dispose of or in any manner alienate his or her rights there under.
- (5) Reservation of camping sites will only be considered upon receipt of a written application.

- (6) The Municipality may determine conditions additional to those contained in this by-law for the use of camping sites that fall under the control of the Municipality.
- (7) The Municipality may determine conditions for the establishment of private camping facilities.
- (8) A person who contravenes a provision of subsections (1), (2) and (4), or any condition imposed by the Municipality in terms of subsections (6) and (7) commits an offence.

## **25. Provisions regarding Caravan parks**

- (1) Notwithstanding the provisions of section 23(2), the Municipality may allocate ten percent (10%) or such greater percentage of the sites in a caravan park to be permanently occupied by caravans or mobile homes.
- (2) The Municipality may determine conditions for the establishment of private caravan parks.
- (3) The Municipality may determine conditions additional to those contained in this by-law for the use of caravan parks that fall under the control of the Municipality.
- (4) Any person who contravenes or fails to comply with any condition imposed in terms of subsections (2) and (3) commits an offence.

## **26. Consumption of liquor/Drugs**

No person may operate or use a vessel, or may be in the driving seat of a power-driven boat with its engine running, or may water ski, while his or her blood contains 0.05 grams of alcohol or more per 100 ml of blood or as amended by possible new legislation regarding levels of alcohol per 100 ml of blood, or while under the influence of drugs.

## **27. Entertainment and trade**

No person shall, without the prior written permission of the Municipality, and then only in accordance with any conditions which may be imposed by the Municipality, irrespective whether for reward or gain, conduct:-

- (i) an organised entertainment, sports event, recreational activity; or
- (ii) business or trade of any sort within the beach area; and
- (iii) build, erect or place a building or structure of any kind on any part of the beach area.

## **28. Fireworks**

No person shall discharge without the prior consent of the Municipality, any fireworks or pyrotechnic works within the beach area, coastal access land, or coastal public property.

## **29. Fires**

No person shall, except at places and amenities provided by the Municipality, kindle a fire in the beach area without the prior written permission of the Municipality, excluding gas operated equipment of which the gas cylinder not exceeds 4,5 kilogram gas capacity.

### ***Protection of coastal fauna and flora***

## **30. Environment conservation**

- (1) No person may camp, picnic or light a fire below a high-water mark.
- (2) No person shall catch, chase, remove, or kill any bird, sea-life or other animal which occurs in the beach area, subject to the provisions of other legislation.

- (3) No person may disturb or attempt to disturb any bird or the nest thereof or remove eggs from nests, or disturb or attempt to disturb any animal or plant.
- (4) No person may wilfully or negligently pollute or foul a water body with fuel, oil, garbage, offal, sewerage, refuse or rubble of any kind whatsoever.
- (5) The Municipality has the right to indicate, by means of notices erected, where activities shall be limited, allowed, controlled or prohibited, and no person, other than an authorised officer, may move, deface or otherwise interfere with such notice-board, notice or marker placed by the Municipality in terms of this by-law.
- (6) A person who contravenes any provision of this section commits an offence.

### ***Waste Management***

#### **31. Littering**

- (1) No person may -
  - (a) discard, place or leave waste on any municipal land, a public road or a public place other than in a receptacle provided or approved by the Municipality for the discarding of waste by the public;
  - (b) disturb anything in, or remove anything from any receptacle which has been placed for the purposes of collecting waste; or
  - (c) sweep any waste into a gutter, onto a road reserve or onto any other public place.
- (2) An owner or occupier of property must monitor the property for acts of littering by another person and must forthwith report such act of littering to the Municipality.
- (3) A person who contravenes a provision of this section commits an offence.

#### **32. Dumping**

- (1) No person may -
  - (a) except with the permission of the owner or of the person or authority having control thereof dump, accumulate, place, deposit, leave or cause or allow to be dumped, accumulated, placed, deposited or left any waste whatsoever, whether for gain or otherwise, on or in -
    - (i) a public road;
    - (ii) a public place;
    - (iii) any drain, watercourse, flood prone areas, tidal or other water in or abutting on any such road, highway, street, lane, public footway or pavement, roadside or other open space to which the public has access; or
    - (iv) private or municipal land.
- (2) Should a person perform any of the acts referred to in subsection (1), the Municipality may by written notice require -
  - (a) the person directly or indirectly responsible for dumping, accumulating, placing, depositing, or leaving the waste;
  - (b) the owner of the waste, whether or not he is responsible for dumping, accumulating, placing, depositing, or leaving the waste; or
  - (c) the owner of the property on which the waste was dumped, accumulated, placed, deposited, or left, whether or not he or she is responsible therefore; to remove the waste within the period stated in the notice.

- (3) If a person fails to comply with the requirements of a written notice, the Municipality may dispose of, destroy or remove the waste and may recover the cost of doing so from the person or persons to whom the notice was issued.
- (4) If waste has been deposited in or on any unoccupied land in contravention of subsection (1) and it is necessary that the waste be forthwith removed or other steps be taken to eliminate or reduce the consequences of the deposit, the Municipality may remove the waste from the land or take other steps to eliminate or reduce the consequences of the deposit or, as the case may require, to remove the waste and take those steps, and is entitled to recover the cost incurred by it-
  - (a) from the owner of the land, unless he or she proves that he or she neither made nor knowingly caused nor knowingly permitted the deposit of the waste; or
  - (b) from any person who deposited or knowingly caused or knowingly permitted the deposit of any of the waste.
- (5) Any waste removed by the Municipality belongs to the Municipality and may be dealt with accordingly.
- (6) A person who contravenes a provision of subsection (1) or who fails to comply with a notice issued in terms of subsection (2) commits an offence.

### **33. Burning of waste**

- (1) No person may burn waste except at -
  - (a) an authorised incinerator operated by the Municipality; or
  - (b) a place designated by the Municipality for such purpose.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

### ***Swimming/Bathing***

### **34. Prohibition of swimming within certain areas**

- (1) The Municipality may by means of a notice set aside and reserve any area of the beach area, including a bathing pool exclusively for bathing or sunbathing.
- (2) Swimming within any part of the bathing area or presence within the beach area may be prohibited by the Municipality, either as a permanent or temporary measure, where special circumstances necessitate.
- (3) Swimming or presence within any part of the beach area may be temporarily prohibited by an authorised life-saver on duty for as long as he may consider a situation or the conditions of the sea unsafe.
- (4) Any permanent designation or prohibition under this by-law shall be indicated by notice on the spot and any temporary designation or prohibition by recognisable and intelligible signs at both ends of the prohibited area.

### **35. Offences relating to swimming**

- (1) No person shall swim in any part of the bathing area in which swimming has been prohibited.
- (2) No person shall remain, swim or sunbathe in the nude or be clad improperly or indecently or be dressed in underwear only within the beach area.
- (3) No person shall hang on to, sit upon or cause to sink any safety ropes provided for the protection of bathers, or in any way tamper with or interfere with such safety ropes or other appliances provided for the assistance of swimmers in distress.

- (4) No person shall enter or remain within the beach area contrary to a reasonable prohibition by the person having authority over or placed in charge of such coastal or seashore area, or as evidenced by a notice on the spot.

### **36. Aquatic events (e.g. organised triathlons, inflatable boat races)**

No person shall:-

- (a) within or on any beach area organise, participate or compete in any swimming race or aquatic sport or event, or organise training in respect of such water or any other sports that cause annoyance or affect the safety, comfort or rights of the users of the beach area, except with the prior consent of the Municipality and at such time and place as the Municipality may have determined;
- (b) within the bathing area play any game where the playing of games has been prohibited by a sign.

### ***Damage to property***

### **37. Damage of property**

- (1) No one may:-
  - (a) move, deface or otherwise interfere with any notice board, notice or marker or other object erected, posted or placed on the beach by the Municipality or an authorised official or
  - (b) interfere with, misuse or damage any building, facility, structure or other amenity provided for the use of the public on the beach area.
- (2) Any person who fails to observe the terms of notices affixed to any building, structure or amenity or upon the beach area by the Municipality or authorised person, shall be guilty of an offence.

### ***Angling***

### **38.**

No person may:

- (1) catch undersized or recently bred fish or remove such fish for breeding or stocking purposes;
- (2) catch fish or angle, whether from a boat or by way of gill net fishing, in the first 1km (one kilometre) from the river mouth of the estuary;
- (3) catch fish or angle in that portion of the bathing area wherein the Municipality has by notice prohibited fishing.
- (4) Where fishing and angling is not prohibited, no person may cast or manipulate his fishing equipment in a manner which may endanger or cause annoyance to anyone.

### **39.**

No person may:

- (1) fish from any bridge over a river;
- (2) impede any navigational channel with a fishing line;
- (3) leave a fishing line unattended in or near a navigation channel;
- (4) spear fish in a river.

A person who contravenes a provision of this section commits an offence.

### *Animals on the beach and adjacent areas*

#### **40. Animals on beaches**

- (1) The Municipality may, after an impact assessment and public participation process, allow dogs or horses or both on designated parts of the beach area, on such conditions, requirements, restrictions or tariffs it deems necessary.
- (2) No person shall:-
  - (a) cause or allow any animal belonging to them, or in their charge, to enter upon or remain in any part of the bathing area, unless it is a demarcated area wherein the Municipality has, by notice on the spot, admitted the presence of animals, except a certified guide dog fulfilling its duty as a guide dog;
  - (b) cause or allow a dog or horse in his charge, to enter or remain upon the bathing area, where the presence of dogs and or horses is admitted by a notice, unless:-
    - (i) such a dog is on a leash;
    - (ii) such a horse is bridled or reined; and is effectively restrained from causing annoyance or posing a danger to any other person or persons;
  - (c) cause or allow any other animal in his charge, to enter or remain upon the bathing area except with prior written permission by the Municipality.
- (3) Any animal found in the bathing area contrary to the provisions of subsection (2) may be impounded by an authorised person or municipal official and be removed to a pound, or other place of safe keeping, there to be dealt with in accordance with the prescriptions of such pound or place of safe keeping irrespective whether such animal is under the control or care of or accompanied by the owner or any other person
- (4) The owner or person in charge of the allowed dog, horse or other animal:-
  - (a) must at all times have the necessary equipment in his possession to be able to forthwith clean up any excretion from such animal and place it in a bag, wrapper or other container;
  - (b) forthwith clean up and remove any excrement resultant from such animal and dispose of it in a receptacle provided for the deposit of litter or refuse, or to keep it until it can be disposed of.
- (5) No animals of whatever kind may graze on any estuary, salt marsh or wetland.
- (6) Any person who, in contravention of the provisions or requirements of subsections (4) or (5), brings an animal in a bathing area or brings or allows any animal to graze on any estuary, salt marsh or wetland is guilty of an offence and such animal may be seized and impounded by an authorised person and removed to the Municipality's pound, or other place of safe keeping, there to be dealt with in accordance with the prescriptions of such pound or place of safekeeping.

### *General conduct on rivers, dams, estuaries and sea*

#### **41. Conduct on rivers, dams, estuaries and sea**

- (1) No person may:
  - (a) use obscene, offensive or indecent language;
  - (b) behave in an offensive, improper or disorderly manner;
  - (c) wilfully or negligently cause discomfort or inconvenience to others;



- (d) disturb the peace or cause undue noise;
  - (e) behave in a dangerous or reckless manner;
  - (f) furnish to any authorised officer any particulars that are false or misleading;
  - (g) impersonate or falsely represent himself or herself as an authorised officer;
  - (h) fail to comply with the lawful requirements of any authorised officer; or
  - (i) assault, obstruct, resist, delay, intimidate or otherwise interfere with an authorised officer in the performance of his or her duties.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

### ***Miscellaneous Provisions***

#### **42. Powers of official and offences**

- (1) The Municipality may appoint an officer, as well as any other official or person, and entrust them with the powers and duties to ensure that this by-law is duly observed.
- (2) In addition to the powers and duties referred to elsewhere in this by-law, and subject to any other applicable law, an officer or any other appointed official or person, including a peace officer, on presentation of his official identification:-
- (a) may investigate any act or omission which on reasonable suspicion may constitute an offence and a person commits an offence if he or she:
    - (i) threatens, resists, hinders or obstructs, or uses foul, abusive or insulting language towards or at an official in the exercise of his or her powers or execution of his or her duties;
    - (ii) falsely holds himself or herself out to be an official;
    - (iii) furnishes false or misleading information when complying with a request of an official;
    - (iv) fails to comply with a request of an official.
  - (b) may stop any vehicle or vessel within the beach area and examine any permit or authorisation, in order to satisfy himself that the vehicle or vessel permit or authorisation complies with this by-law or any other applicable law;
  - (c) require any person to furnish his/her name and address and give any other particulars required as to his identification where, in the opinion of the officer the person may reasonably be suspected of having committed an offence or is able to give evidence in regard to the commission, or suspected commission, of any such offence;
  - (d) seize anything which may in the opinion of the officer, afford evidence of an offence, provided if no prosecution for an offence is instituted, it be returned to the person from whose possession it was taken;
  - (e) subject to subsection 2(c), anything seized shall be disposed of in accordance with the applicable provisions of the Criminal Procedure Act, 1977 (Act 51 of 1977).

#### **43. Appeal**

A person whose rights are affected by a decision delegated by the Municipality may appeal against that decision by giving written notice of the appeal and the reasons therefor in terms of section 62 of the Local Government: Municipal Systems Act, 2000 ([Act 32 of 2000](#)) to the Municipal Manager within 21 days of the date of the notification of the decision.

#### 44. Penalties

A person who has committed an offence in terms of this by-law is, on conviction, liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

#### 45. Limitation of liability

The Municipality is not liable for any damage or loss caused by:

- (a) the exercise of any power or the performance of any duty in good faith under this by-law; or
- (b) the failure to exercise any power, or perform any function or duty in good faith under this by-law.

#### 46. Authentication and service of notices and other documents

- (1) A notice issued by the Municipality in terms of this by-law is deemed to be duly issued if it is signed by an officer authorised by the Municipality.
- (2) Any notice or other document that is served on a person is regarded as duly served:
  - (a) when it has been delivered to that person personally;
  - (b) when it has been left at that person's place of residence or business in the Republic of South Africa with a person apparently over the age of sixteen years;
  - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic of South Africa and an acknowledgment of the posting thereof from the postal service is obtained;
  - (d) if that person's address in the Republic of South Africa is unknown, when it has been served on that person's agent or representative in the Republic of South Africa in the manner provided by paragraphs (a), (b) or (c);
  - (e) if that person's address and agent or representative in the Republic of South Africa is unknown, when it has been posted in a conspicuous place on the land or business premises to which it relates;
  - (f) in the event of a juristic person, when it has been delivered at the registered office of the business premises of such juristic person;
  - (g) when it has been delivered, at the request of that person, to his or her e-mail address.
- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document is served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.

#### 47. Presumption

In any prosecution under this by-law it shall be presumed, unless the contrary is proved, that an animal found in a public amenity was brought into the amenity by the owner thereof or a person under the control of the owner, or that the owner or the person allowed the animal to enter the amenity.

#### **48. Entering into agreements**

The Municipality may enter into a written agreement with any person, organ of State, local community or organisation to provide for –

- (a) the co-operative development of any public amenity; or
- (b) the co-operative management of any public amenity; and
- (c) the regulation of human activities within a public amenity.

#### **49. Liaison forums in community**

- (1) The Municipality may establish one or more liaison forums in a community for the purposes of:
  - (a) creating conditions for a local community to participate in the affairs of the Municipality;
  - (b) encouraging a local community to participate in the affairs of the Municipality; and
  - (c) promoting the effective and safe use of public amenities.
- (2) A liaison forum may consist of:
  - (a) a member or members of an interest group, or an affected person;
  - (b) a member or members of a community in whose immediate area a public amenity exists;
  - (c) a designated official or officials of the Municipality;
  - (d) the councillor responsible for public amenities.
- (3)
  - (a) The Municipality may, when considering an application or registration in terms of this by-law, request the input of a liaison forum.
  - (b) A liaison forum or any person or persons contemplated in subsection (2) may, on own initiative submit an input to the Municipality for consideration.

#### **50. Repeal of by-laws**

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

#### **51. Short title and commencement**

This by-law may be cited as the Matzikama Local Municipality Coastal Management By-law and commences on the date of publication thereof in the Provincial Gazette.