

Matzikama, South Africa

## Holding of Events

Legislation as at 15 November 2019

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# Matzikama South Africa

## Holding of Events By-law, 2019

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**Commenced on 15 November 2019**

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Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Matzikama Municipality enacts as follows:

### Chapter 1 Definitions and application

#### 1. Definitions

In this by-law, the English text shall prevail in the event of an inconsistency between the different texts, and unless the context otherwise indicates:–

"**authorised official**" means a person appointed as such in terms of section 13(2);

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

"**event**" means any public gathering of not less than 20 participants excluding filming to be considered on merit based on the impact on the surrounding of the purpose built venue or alternatively in a street or at a public place or any other municipal owned property to which the public has access, for any purpose, including—

- (a) a sporting, recreational or entertainment event, including live acts;
- (b) an educational, cultural or religious event;
- (c) a business event including any marketing, public relations, promotional or exhibition event;
- (d) a charitable event, including any conference or organisational or community event;
- (e) filming which is of such a nature that it may have an effect on traffic or pedestrians or that it may draw spectators; or
- (e) any other similar event;

"**event organiser**" means a person, who applies to hold an event in terms of section 4, whether in personal capacity or on behalf of another person, body or organisation;

"**participants**" mean spectators, the event organiser and event crew;

"**fees**" means the fees determined in terms of the Municipality's Tariff Policy;

"**municipal manager**" means the person appointed as municipal manager for the Municipality in terms of section 54A of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) or a person acting as such;

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

"**permit**" means a permit issued by the municipal manager or delegate for the holding of an event;

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

"**public facilities**" means facilities providing services to the community which cannot be supplied directly to the individual land unit satisfying specific individual and/or community needs including safety; security; communication, recreation; sport; education; health; public administration; cultural and social needs generally regarded as the responsibility of a sphere of government but also provided privately when it is perceived that the government provided services are inadequate.

"**public property**" means all land owned by any organ of state and public property not registered in the name of the Matzikama Municipality that is used, managed, protected, conserved and enhanced in the interests of the whole community, e.g. road reserves, open space and state land that vests in the Municipality or is proclaimed by any other organ of state.

"**public road**" means any road, street or thoroughfare or any public place (whether a thoroughfare or not) which is commonly used by the general public or to which the public has a right of access and having been proclaimed accordingly by the Municipality and / or indicated as such on a Surveyor General approved diagram.

"**purpose-built venue**" means a venue zoned, built and suitable for the holding of specific events;

"**SANS**" means the South African National Standards contemplated in section 2 of the Standards Act, 1993, ([Act 29 of 1993](#)), and SANS followed by any number means a reference to a SANS code of practice, specification or standard of the corresponding number;

"**venue**" means any open space, enclosed or semi-enclosed temporary structure or permanent structure to which the public has access –

- (a) within which a temporary or permanent structure may be erected, where an event is to be hosted; and
- (b) which, may consist of –
  - (i) seating for spectators, attendees or an audience; or
  - (ii) a playing field or a permanent or temporary podium or other area within a venue, reserved for the purposes of hosting an event;

"**venue owner**" means any person who, directly or indirectly, owns, leases, rents, acquires, or exercises the powers of an owner or occupier of a venue.

## 2. Application of this by-law

- (1) This by-law applies to all events held within the area of jurisdiction of the Municipality.
- (2) In the event of a conflict between this by-law and any other by-law of the Municipality, this by-law prevails regarding the management and holding of events.

## Chapter 2

### Permit application process, requirements and enforcement

## 3. Permit requirement for event

Subject to [section 11](#), no person may hold an event unless a permit has been issued upon application made in terms of [section 4](#).

#### 4. Application for permit to hold event

- (1) A person who wants to hold or organise an event must apply in writing to the municipal manager for a permit—
  - (a) at least 30 days before the event is to take place unless, due to special circumstances, the municipal manager agrees to a shorter period;
  - (b) in cases where municipal services are required, roads or venues are to be closed or any other measures are required to be taken by the Municipality, within such period as may be determined by the municipal manager.
- (2) The application must be accompanied by the applicable fees and a deposit, as may be required, and must include the following information:
  - (a) the name of the event organiser;
  - (b) the proposed venue for the event;
  - (c) the proposed days and hours of operation for the event;
  - (d) a copy of a contract with a sub-contractor where such sub-contractor will be involved at the event;
  - (e) the services to be rendered by the Municipality if applicable;
  - (f) a copy of the contract with the venue owner, unless the applicant is the venue owner;
  - (g) the maximum number of attendees, including staff, to be allowed at the event;
  - (h) the proposed security plans for the event, including the number of security personnel and their qualifications;
  - (i) the proposed medical and safety plans for the event, including the number of medical personnel and their qualifications;
  - (j) the proposed noise control plans for the event, including volume levels of music, power of the music system and power insulation inside the building where applicable;
  - (k) the proposed parking and traffic plans for the event;
  - (l) arrangements with the health department of the West Coast District Municipality with regard to food safety control at the event;
  - (m) evidence, to the satisfaction of the municipal manager, that appropriate public liability insurance cover is in place for the event;
  - (n) waste management and sanitation plans and access to potable water; and
  - (o) any other information as may be requested by the municipal manager.
- (4) The municipal manager must approve or refuse an application within a reasonable time.
- (5) If the municipal manager refuses an application, he or she must provide written reasons for the refusal to the applicant.
- (6) The issuing of a permit does not exempt any person of the obligation to comply with any other law.

#### 5. Criteria and conditions

- (1) The municipal manager must consider an application for a permit in accordance with the following criteria, where applicable:
  - (a) the type and size of the event;

- (b) the impact of the event on municipal services, including services relating to noise control, traffic, parking, local amenities, public places, health and the environment.
  - (c) whether the proposed use of the land complies with the applicable zoning scheme and any conditions there under; and
  - (d) any other criteria that the municipal manager determines.
- (2) The municipal manager may impose reasonable conditions in respect of the permit to protect the health and safety of the public, which conditions may include, but are not limited to-
- (a) location and hours during which the event may be held;
  - (b) sanitation and availability of potable water;
  - (c) security and crowd management;
  - (d) parking and traffic;
  - (e) emergency and medical services;
  - (f) cleaning of the premises and the surrounding area, and waste disposal;
  - (g) insurance;
  - (h) lighting;
  - (i) fire services and safety;
  - (j) temporary construction, barricades and fencing;
  - (k) erection and removal of advertising and promotional material;
  - (l) noise levels;
  - (m) food safety control;
  - (n) a refundable deposit.

## 6. Requirements and conditions

- (1) An event organiser may not advertise an event before the municipal manager approves the application and issues a permit for the event.
- (2) The Municipality is not liable for any—
  - (a) damage to or loss of any property of the event organiser; or
  - (b) costs incurred by an event organiser or any third party, arising from any planning for an event, the submission of an application for a permit or the issuing, refusal, revocation or suspension of a permit.
- (3) The event organiser must ensure that the permit is available at the venue for inspection during the event.

## 7. Holding of event

An event organiser whose application has been approved in terms [section 4](#) is responsible for the event and must ensure—

- (a) that the event is held in compliance with this by-law, the conditions imposed by the municipal manager and any other law that is applicable;
- (b) that the event complies with the requirements of SANS 10366:2006 in so far it relates to safety and health at the event;

- (c) that the conduct of persons attending the event and the activities undertaken or carried out at the event do not detrimentally impact on affected communities during the event; and
- (d) compliance with any compliance notice or other notice issued by the municipal manager or an authorised official in terms of section 8 or 10.

## 8. Compliance notices

- (1) If the municipal manager or an authorised official on reasonable grounds believes that an event organiser has contravened a provision of this by-law or of any other applicable law, or a condition of the permit concerned, or that circumstances have arisen that have the potential of leading to a contravention of any such provision or condition, the municipal manager or the authorised official may issue a compliance notice to the event organiser.
- (2) A notice in terms of subsection (1) must be served on the event organiser and must state—
  - (a) the provision of this by-law or any other law, or the condition of the permit, that has been contravened or would have been contravened if the circumstances that have arisen were allowed to continue;
  - (b) the measures that must be taken to rectify the contravention;
  - (c) the time period for compliance with the notice; and
  - (d) the event organiser's right to make representations with regard to the alleged non-compliance.
- (3) If a person on whom a notice was served in terms of subsection (1) fails to comply with the notice, the municipal manager or an authorised official may take any steps necessary to rectify the contravention or the circumstances that have arisen, at the cost of the event organiser.

## 9. Inspections and right of access

- (1) The municipal manager or an authorised official may, before, during or after the holding of an event, conduct inspections of the venue to determine compliance with this by-law.
- (2) The municipal manager or an authorised official has a right of access to any venue where an event is held, is to be held or has been held for the purposes of—
  - (a) ascertaining whether any provision of this by-law has been contravened;
  - (b) enforcing compliance with this by-law; or
  - (c) considering an application and determining conditions to a permit.
- (3) The municipal manager or an authorised official may, by written notice served on any venue owner require him/her to provide, at any reasonable date and time, access to such property for a purpose referred to in subsection (2).

## 10. Suspension and revocation of permit

- (1) The municipal manager may, if he or she on reasonable grounds believes that an event organiser has failed to comply with a compliance notice issued in terms [section 8](#), by notice in writing to the event organiser—
  - (a) suspend the permit until the event organiser has complied with the compliance notice; or
  - (b) revoke the permit and take any necessary steps relating to the revocation, and recover the costs of doing so from the event organiser.
- (2) The municipal manager may, if action has been taken in terms subsection (1), withhold the deposit paid by the event organiser as security for the payment of the costs.

## 11. Exclusions

- (1) The permit requirement contained in this chapter does not apply to the following:
  - (a) funerals;
  - (b) events held at a purpose-built venue or the grounds of any school, or at any playground, place of worship, hotel, conference centre, stadium, athletic field, arena, auditorium or similar permanent place of assembly, when used for events normally held in such venue; and
  - (c) events regulated by the Safety at Sports and Recreational Events Act, 2010 ([Act 2 of 2010](#)) or the Regulation of Gatherings Act, 1993 ([Act 205 of 1993](#));
- (2) Subsection (1)(b) does not apply to events or parts of events which—
  - (a) are held outside the venue concerned; or
  - (b) by their nature, size or impact fall outside the normal use parameters for the venue.

## Chapter 3 General provision

## 12. Agreements and partnerships

The municipality may, subject to any other law, enter into an agreement or partnership with an event organiser for the holding and management of an event.

## 13. Delegations

- (1) The municipal manager may delegate to any employee of the municipality a power conferred on or a duty imposed on him or her by this by-law.
- (2) The municipal manager may appoint any employee of the municipality as an authorised official to enforce this by-law.
- (3) The municipal manager may issue an authorised official with an appointment card.

## 14. Offences and penalties

A person who fails to comply with—

- (a) [section 3](#);
- (b) [section 4\(1\)](#);
- (c) [section 6\(1\)](#);
- (d) a condition to a permit; or
- (e) a notice issued in terms of [section 8](#) or [10](#), commits an offence and is on conviction liable to—
  - (i) a fine or imprisonment or to both such fine and such imprisonment; and
  - (ii) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
  - (iii) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.



**15. 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 therefore in terms of section 62 of the Local Government: Municipal Systems Act ([Act 32 of 2000](#)) to the municipal manager within 21 days of the date of the notification of the decision

**16. 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.

**17. Short title and commencement**

This by-law shall be known as the By-law on the Holding of Events and shall come into operation on the date of publication thereof in the Provincial Gazette.