

Matzikama, South Africa

Keeping of Animals

Legislation as at 15 November 2019

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Keeping of Animals
Contents

1. Definitions 1

2. Application of By-law 3

Chapter I – General Provisions Relating to the Keeping of Animals 3

 3. Permission to keep animals (excluding pets) 3

 4. Consideration of applications and imposition of conditions 3

 5. Visibility of structures on premises 4

 6. Waiver of requirements and withdrawal of authorisations 4

 7. Validity of authorisations 4

 8. Duties of owners or keepers of animals 4

 9. Animals kept in an unsatisfactory manner 4

 10. Euthanasia of animals (including pets) 4

 11. Hawking of animals (including pets) 4

Chapter II – Provisions Relating to the Keeping of Dogs, Cats and Pets 5

 Part 1 – General provisions relating to dogs, cats and pets 5

 12. Number of dogs and cats 5

 13. Breeders of dogs and cats 5

 14. Breeders of pets 5

 15. Conditions and restrictions 6

 16. Withdrawal of permission 6

 Part 2 – Specific provisions for dogs 6

 17. Keeping of dogs 6

 18. Sterilisation of dogs 6

 19. Dogs in public places 7

 20. Control of dogs 7

 21. Fencing of property 8

 Part 3 – Animal cruelty 8

 22. Animal cruelty 8

Chapter III – Dog Kennels, Catteries, Pet Shops and Pet Parlours 8

 23. Permission to operate 8

Chapter IV – Co-operation Between Municipalities 9

 24. Service delivery arrangements 9

Chapter V – General Provisions 9

 25. Right of entry and inspection 9

 26. Service of documents and process 9

27. Transitional provisions	10
28. Appeal	10
29. Offences and penalties	10
30. Exemption	11
31. Repeal of By-laws	11
32. Short title and commencement	11

Matzikama South Africa

Keeping of Animals By-law, 2019

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1. Definitions

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

"**animals**" means any equine, bovine, sheep, goat, poultry, camel, dog, cat or other domestic animal or bird, or any wild animal or reptile which is in captivity or under the control of a person;

"**authorised official**" means a designated person-

- (a) a member of the Service as defined in Section 1 of the South African Police Service Act, 1995 ([Act 68 of 1995](#));
- (b) a municipal law enforcement officer appointed under any law;
- (c) a person who has been declared a peace officer under Section 334(1) of the Criminal Procedures Act, 1977 ([Act 51 of 1977](#)); or
- (d) a member of the Animal Welfare Society or SPCA;

"**bird**" means a pigeon, peafowl, pheasant, partridge, canary, budgerigar, parrot, ostrich and any other domesticated bird or wild bird which is in captivity or under control of a person;

"**cattery**" means any establishment where cats are bred or boarded;

"**District Municipality**" means the West Coast District Municipality established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 ([Act 117 of 1998](#)) and includes any political structure, political office bearer, duly authorised agent thereof 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, political office- bearer, agent or employee;

"**dwelling house**" means a single building designed for use as a residence for a single family situated on premises containing not more than two such buildings;

"**dwelling unit**" means an inter-connected suite of rooms including a kitchen or scullery designed for occupation by a single family, other than dwelling house, irrespective of whether such unit is a single building or forms part of a building containing two or more such units;

"**guide dog**" means a dog which has been trained to assist a blind or poor-sighted person and includes a service dog which has been trained to assist a person who is mentally or physically incapacitated;

"**kennel**" means premises in or upon which-

- (a) boarding facilities for dogs are provided;
- (b) dogs are bred for commercial purposes;
- (c) dogs are kept for the purposes of being trained or hired out with or without handlers; or

- (d) dogs are kept for commercial security purposes;

"Municipality" means the Municipality of Matzikama established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 ([Act 117 of 1998](#)), Provincial Notice No. 481 dated 4 December 2000 and includes any political structure, political office-bearer, 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 political structure, political office-bearer, or employee;

"Municipal Manager" means a person appointed in terms of Section 54A of the Local Government: Municipal Systems Act, 2000 ([Act 32 of 2000](#)) and includes any person-

- (a) acting in such position; and
- (b) to whom the municipal manager has delegated any power, function or responsibility in as far as it concerns the execution of those powers functions or duties;

"owner" means in relation to any animal, includes the person having possession, charge, custody or control of such animal;

"permit" means the written permission granted by the Municipality in terms of this By-law;

"pet" means a tame animal which is kept in a household for companionship and amusement;

"pet parlour" means an establishment where pets are groomed;

"pet shop" means an establishment where pets are kept for trading purposes;

"poultry" means fowl, goose, ostrich, duck, pigeon, dove, turkey, muscovy, guineafowl, quails, buttonquails, exotic and indigenous game birds, peacock or peahen or bird whether domesticated or wild;

"premises" means-

- (a) land or portion of land, whether or not a building or structure has been constructed or erected on such land or portion thereof;
- (b) a building, structure, tent or caravan and the land on which it is situated and includes any vehicles, carriage, ship or boat;

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

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

- (a) any services servitude and public passage on public land;
- (b) the sidewalk or verge of any such road, street or thoroughfare;
- (c) any bridge, structure or drift traversed by any such road, street or thoroughfare; and
- (d) any other work of object forming part of or connected with or belonging to such road, street or thoroughfare;

"responsible authority" means the Matzikama Municipality or the West Coast District Municipality or any national or provincial department that may in terms of its powers and functions impose conditions or restrictions in respect of the keeping of animals;

"structure" means any stable, shed, pigsty, kraal, aviary, paddock, covering structure, poultry house, enclosed run, loft or building used for shelter or the keeping or enclosing of animals.

2. Application of By-law

- (1) The provisions of Sections 3 and 12(1) are not applicable to-
 - (a) premises or land which is used for bona fida agricultural purposes; or
 - (b) premises or land identified by the Municipality where the keeper of animals or the operation of pet parlours, pet shops or catteries and kennels is permitted and indicated as such in an approved spatial development framework and zoning scheme.
- (2) A person who keeps animals on premises contemplated in subsection (1)(a) and (b), is not exempt from the other provisions of this By-law.

Chapter I General Provisions Relating to the Keeping of Animals

3. Permission to keep animals (excluding pets)

- (1) No person shall keep or permit to be kept on any premises or property any animals, excluding pets, without the written permission of the Municipality.
- (2) For the purpose of managing the keeping of animals on premises, the Municipality may determine the number of bee hives, as well as the kind, number and sex of animals that may be kept and the areas within which the keeping of such animals and bees shall be prohibited.
- (3) In order to consider an application in terms of subsection (1), the Municipality may obtain the input or comments of the owner or occupants of surrounding premises.
- (4) An application to keep animals must be submitted on an application form obtainable from the Municipality, and be accompanied by a detailed site plan indicating all existing or proposed structures and fences on the premises for which the permit is required.
- (5) Detailed plans, according to specifications obtainable from the Municipality, of structures in which it is proposed to keep animals must accompany the application in subsection (4) and such plans must be approved by the Municipality.
- (6) Where possible, an exposition of the numbers, kinds and genders of animals must accompany the plans in subsection (5).

4. Consideration of applications and imposition of conditions

- (1) The Municipality may grant permission or refuse, after consideration of-
 - (a) the input or comments obtained in terms of [Section 3\(3\)](#);
 - (b) the location, geographical features or size of the premises in respect of which the application is submitted;
 - (c) the documents and expositions submitted in terms of [Section 3](#); or
 - (d) any other information relating to the application.
- (2) Where consent is refused, the Municipality must furnish the applicant with the reasons for such refusal and at the same time advise him or her of the right to appeal in terms of [Section 28](#).
- (3) Where consent is granted, the Municipality may impose conditions.

5. Visibility of structures on premises

All structures in which animals are kept shall be suitably screened from any street.

6. Waiver of requirements and withdrawal of authorisations

Notwithstanding the aforementioned provisions, the Municipality may after considering conditions particular to the property and on condition that no objection is received from the owners or occupants of surrounding premises, waive any or all of the requirements of this part and impose other conditions if appropriate and may further withdraw any authorisation in terms of [Section 4](#) if any of the conditions therein are not adhered to.

7. Validity of authorisations

All authorisations to keep animals granted in terms of any By-law or regulation repealed shall be deemed to have been granted in terms of this By-law.

8. Duties of owners or keepers of animals

The owner of animals or the keeper thereof-

- (a) may not cause or allow an animal to interfere with the ordinary comfort, convenience, peace or quiet of other people;
- (b) must provide such animal with bedding, shelter, the necessary veterinary treatment, water and proper food daily; and
- (c) must at all times maintain the premises on which the animals are kept and all appurtenances in good repair and in neat condition so as to prevent the occurrence of a public nuisance.

9. Animals kept in an unsatisfactory manner

Whenever animals are kept on any premises, whether or not such premises have been approved by the Municipality under this By-law, are a public nuisance, the Municipality may by written notice require the owner or occupier of such premises, within a period to be stated in such notice, but not less than 24 hours after the date of such notice, to remove the cause of and to carry out such action or take such steps necessary to ensure the prevention of such nuisance.

10. Euthanasia of animals (including pets)

- (1) The Municipality may order the euthanasia of an animal which is-
 - (a) dangerous or ferocious; or
 - (b) injured or diseased to such an extent that it would be humane to do so.
- (2) Animals euthanised in terms of subsection (1) must be euthanised by a qualified veterinarian or under the supervision of a qualified veterinarian with such instruments or appliances and in such a manner as to inflict as little suffering as possible.

11. Hawking of animals (including pets)

- (1) No person may hawk an animal-
 - (a) in a public road or public place; or

- (b) in or from a movable structure or vehicle.
- (2) A person who contravenes any of the provisions of Sections 3, 8 and 9 as well as subsection (1) of this Section commits an offence.

Chapter II

Provisions Relating to the Keeping of Dogs, Cats and Pets

Part 1 – General provisions relating to dogs, cats and pets

12. Number of dogs and cats

- (1) Subject to the provisions of Sections 13 and 27, no person may keep on any premises-
 - (a) more than two dogs; and
 - (b) more than two cats,
without the permission of the Municipality.
- (2) An application for permission in terms of subsection (1) to keep more than the stipulated number of cats or dogs must be submitted on an application form obtainable from the Municipality and must contain an exposition of the breed, gender and number of dogs and cats applied for.
- (3) A restriction imposed under this Section on the number of animals that may be kept on the premises does not apply for a period of 10 weeks after the birth of the litter from an animal in terms of a permit.
- (4) A person whose permit to keep a dog or cat or other animal has been cancelled or who has previously had a dog or cat or other animal removed from his or her care or has a previous criminal conviction or civil judgement against him or her in respect of cruelty to an animal, may not keep a dog or cat or other animal, unless a court determines otherwise.

13. Breeders of dogs and cats

- (1) A breeder of dogs who wishes to keep more than two dogs or a breeder of cats who wishes to keep more than two cats must obtain permission from the Municipality.
- (2) An application in terms of subsection (1) must be submitted in the form prescribed by the Municipality and must contain an exposition of the race, gender and number of dogs or cats applied for.
- (3) Plans and specifications of structures in which it is proposed to keep the dogs and cats, as well as a site plan indicating all existing or proposed structures and fences on the premises of which the permit is required, must accompany the application in subsection (1) and such plans must be approved by the Municipality.

14. Breeders of pets

- (1) A person who breeds with pets must obtain the approval of the Municipality.
- (2) The provisions of Section 13(2) and (3) are, with the necessary adjustments, applicable to an application in terms of subsection (1).

15. Conditions and restrictions

The Municipality's permission in terms of Sections 4, 12, 13 and 14 shall be granted subject to such conditions and restrictions such as the Municipality, in consultation with another responsible authority, may deem fit to impose.

16. Withdrawal of permission

- (1) Where a person contravenes or fails to adhere to a condition or restriction contemplated in [Section 15](#), the Municipality may, after hearing that person, withdraw its consent and may order the removal of animals from the premises for care and safekeeping by an animal welfare organisation or pound.
- (2) Any cost incurred by the Municipality for the removal and safekeeping of animals contemplated in subsection (1), shall be recoverable from the owner or keeper of such animals.

Part 2 – Specific provisions for dogs

17. Keeping of dogs

- (1) No person shall permit any dog owned or kept by him or her which is in the assessment of the authorised official ferocious, vicious or dangerous to be in any public road or public place, unless it is humanely muzzled and held on a leash and under control.
- (2) An authorised official may instruct the owner of a dog to properly fence the premises on which the dog is kept and also to erect a sign or signs in conspicuous places warning people that a potentially vicious or ferocious dog is kept on the property and a failure to comply with such instruction within a time specified in such instruction will constitute an offence.
- (3) The owner of a dog commits an offence when he did not exercise reasonable precautions to prevent a dog from biting or attacking or posing a menace to the safety of persons or domestic animals.
- (4) A designated law enforcement officer may be issued with a warrant to seize a dog from a particular location where it is not desirable in the interests of public safety that the dog be so located.
- (5) In urgent circumstances where there are reasonable grounds to believe that entry without warrant is necessary to prevent imminent bodily harm or death to any person or domestic animal, designated peace officers will have a right of entry without a warrant and, if so required, seize and remove such dog to a place of safe-keeping.

18. Sterilisation of dogs

- (1) An authorised official may cause a dog to be sterilised should he or she deem it necessary-
 - (a) in the interest of the welfare of the dog;
 - (b) to prevent nuisances; or
 - (c) when the dog is stray.
- (2) The owner of a sterilised dog must obtain from a registered veterinarian proof that the dog has been sterilised and must produce such documents for inspection to any authorised official.

19. Dogs in public places

- (1) The owner or keeper of a dog may not bring or allow it in a public road or public place; unless the dog is kept on a leash by a responsible person.
- (2) Except in the event of a blind person being led by a guide dog, a person in charge of a dog in a public road or public place must remove any faeces left by the dog, by wrapping it in paper or plastic and disposing of it in a receptacle provided for litter or refuse.

20. Control of dogs

- (1) No person may-
 - (a) permit a bitch on heat owned or kept by him or her to be in a public road or public place without supervision;
 - (b) urge a dog to attack, worry or frighten any person or animal, except where necessary for the defence of such first-mentioned person or his or her property;
 - (c) keep a dog if the premises where such a dog is kept is not properly and adequately fenced to keep such a dog inside when it is not on a leash;
 - (d) permit a dog owned or kept by such a person-
 - (i) to trespass on private property;
 - (ii) to be in any public road or public place whilst such dog suffers from an infectious or contagious disease;
 - (iii) to constitute a hazard to traffic on any street;
 - (iv) to constitute or likely to constitute a source of danger or injury to persons outside the premises on which such dog is kept;
 - (v) to be a source of danger to employees of the Municipality entering upon such premises for the purpose of carrying out their duties;
 - (e) keep any dog which-
 - (i) by barking, yelping, howling or whining; or
 - (ii) by having acquired the habit of charging persons, vehicles or animals outside any premises where it is kept;
 - (iii) interferes materially with the ordinary comfort, convenience, peace or quiet or neighbours.
- (2) The Municipality may seize and impound at a place designated by the Municipality, a dog which is found in a public road or public place in contravention with the provisions of subsection (1).
- (3) Notwithstanding the provisions of subsection 20(2), no person or authorised official may take any dog or other animal into custody for the purpose of having it impounded if there are reasonable grounds to believe that the dog or other animal is a female with un-weaned young, unless such animal and un-weaned young are taken into custody together.
- (4) A dog impounded in terms of subsection (2) may be released to the owner of such dog upon payment of a fee determined by the Municipality.
- (5) A dog impounded in terms of subsection (2), may be sold or euthanased after having been kept in custody for ten working days.

- (6) A person who contravenes any provision of Section 19 or of this Section commits an offence.

21. Fencing of property

No person shall keep a dog on his or her premises which is not properly and adequately fenced to keep such dog inside when it is not on a leash unless the dog is confined to the premises in some other manner, provided that such confinement is not inhumane in the assessment of the authorised official.

Part 3 – Animal cruelty

22. Animal cruelty

- (1) No person may terrify or cause stress or fear to any animal with fireworks or by any other means.
- (2) Any person who-
- (a) possesses, keeps, imports, buys, sells, trains, breeds or has under his or her control an animal for the purposes of fighting any other animal;
 - (b) baits, provokes or incites any animal to attack another animal or to proceed with the fighting of another animal;
 - (c) for financial gain or as a form of amusement promotes animal fights;
 - (d) allows any of the acts referred to in paragraphs (a) to (c) to take place on any premises or place in his or her possession or under his or her charge or control;
 - (e) owns, uses or controls any premises or place for the purposes or partly for the purpose of presenting animal fights on such premises or place or who acts or assists in the management of such premises or place, or who receives any consideration for the admission of any person to such premises or place; or
 - (f) is present as a spectator at any premises or place where any of the acts referred to in paragraphs (b) to (e) is taking place or where preparations are being made for such acts, is guilty of an offence.
- (3) In any prosecution it is presumed, unless the contrary is proved, that an animal that is found at any premises or place is the property or under the control of the owner of those premises or that place, or is the property or under the control of the person who uses or is in control of the premises or place.

Chapter III

Dog Kennels, Catteries, Pet Shops and Pet Parlours

23. Permission to operate

- (1) No kennel, cattery, pet shop or pet parlour may be operated without the permission of the Municipality, which permission may be subject to conditions.
- (2) Applications for permission must be done on an application form obtainable from the Municipality.
- (3) The person operating a kennel, cattery, pet shop or pet parlour may not conduct the business in such a manner so as to cause any nuisance or annoyance to other people.
- (4) A person who contravenes any provision of this Section commits an offence.

Chapter IV Co-operation Between Municipalities

24. Service delivery arrangements

In an effort to achieve optimal service delivery in terms of this By-law, the Municipality may enter into agreement with the district Municipality with which legislative and executive powers is shared, in respect of the following-

- (a) the practical arrangement with regard to the execution of the provisions of this By-law;
- (b) the imposition and enforcements of conditions with regard to any application in terms of this By-law, in so far as such conditions pertain to the functions and powers performed by the district Municipality;
- (c) the recovery of costs and expenses related to any action in terms of this By-law;
- (d) subject to the provisions of Section 86 of the Local Government: Municipal Structures Act, [No. 117 of 1998](#) mechanisms for the settlement of disputes with regard to execution of powers of functions in terms of this By-law or the matters on which have been agreed;
- (e) any other matter regarded necessary by the parties to achieve optimal service delivery in terms of this By-law.

Chapter V General Provisions

25. Right of entry and inspection

- (1) Any duly authorised employee of the Municipality is authorised to inspect any premises within the municipal area when there are reasonable grounds to suspect that there is non-compliance with the provisions of this By-law.
- (2) When entering premises in terms on subsection (1), the authorised employee must on request by any person, identify him/herself by producing written proof of authorisation.
- (3) The authorised employee may be accompanied by a person reasonably required to assist in conducting the inspections.
- (4) Any person who fails to give or refuses access to any authorised employee if he requests entrance on any land or premises, or obstructs or hinders him in the execution of his duties under this By-law, or who fails or refuses to give information that he may lawfully be required to give to such employee, or who gives false or misleading information knowing it to be false or misleading, shall be guilty of an offence.

26. Service of documents and process

- (1) Whenever a notice, order, demand or other document is authorised or required to be served on a person in terms of this By-law, it shall be deemed to have been effectively and sufficiently served on such person-
 - (a) when it has been delivered to him personally;
 - (b) when it has been left at his place of residence or business in the Republic with a person apparently over the age of 16;

- (c) when it has been posted or registered by certified mail to his/her last known residential or businesses address in the Republic and an acknowledgement of the posting thereof is produced;
 - (d) if his address in the Republic is unknown, when it has been served on his agent or representative in the Republic in the manner provided by Section (a), (b) or (c); or
 - (e) if his address and agent in the Republic is unknown, when it has been posted in a conspicuous place on the immovable property (if any) to which it relates.
- (2) When any notice, order, demand or other document as aforesaid is authorised or required to be served on a person by reason of his being or having been the owner or occupier of or holding some other right in respect of immovable property, it shall not be necessary to name him, but shall be sufficient if he is therein described as the owner, occupier or holder of such immovable property or other right, as the case may be.

27. Transitional provisions

A person who, at the commencement of this By-law, owns a larger number of animals than the number contemplated in [Section 12](#), may continue to keep such larger number of animals, but may not replace any animal in excess of that number should one or more of the animals die or be disposed of, unless permission is obtained from the Municipality for exceeding that number.

28. Appeal

- (1) A person whose rights are affected by a decision taken by a political structure, political office-bearer, or staff member of a Municipality in terms of a power of duty delegated or sub-delegated by a delegating authority to the political structure, political office-bearer, or staff member may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection (4).
- (3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (4) When the appeal is against a decision taken by-
 - (a) a staff member other than the municipal manager, the municipal manager is the appeal authority;
 - (b) the municipal manager, the executive mayor is the appeal authority;
 - (c) a political structure or office bearer, a committee of councillors who were not involved in the decision and appointed by the Municipal Council for this purpose is the appeal authority.
- (5) An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.
- (6) The provisions of this Section do not detract from any appropriate appeal procedure provided for in any other applicable law.

29. Offences and penalties

- (1) A person who-

- (a) contravenes or fails to comply with any provisions of this By-law or with any order or notice lawfully issued thereunder commits an offence; and
 - (b) continues to commit an offence after notice has been served on him or her to cease committing such offence or after he has been convicted of such offence shall be guilty of a continuing offence.
- (2) Any person convicted of an offence under this By-law shall be liable to a fine not exceeding R20 000 or imprisonment for a period not exceeding two years.
- (3) Any court convicting any person of keeping any animal which is not kept under control in accordance with the provisions of the By-law may, in addition to the penalty referred to in subsection (2), order the euthanasation of the animal concerned, and thereupon an authorised official may euthanase such animal.

30. Exemption

Notwithstanding the provisions of this By-law, the Municipality may exempt any person and/or class of persons from any or all of these requirements and may impose any other requirements it deems appropriate.

31. Repeal of By-laws

The By-laws relating to the keeping of animals previously applicable in the Municipality of Matzikama or any of the disestablished municipalities that were incorporated into the current Municipality of Matzikama are hereby repealed.

32. Short title and commencement

This By-law shall be known as the "By-law relating to the Keeping of Animals" and shall come into operation on the date of publication thereof in the *Provincial Gazette*.