

Makonde Rural District Council (Communal and Resettlement
Land) (Land Use and Conservation) By-laws, 2012

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IT is hereby notified that the Minister of Local Government, Urban and Rural Development has, in terms of section 90 of the Rural District Councils Act [*Chapter 29:13*], approved the following by-laws:—

Title

1. These By-laws shall be cited as the Makonde Rural District Council (Communal and Resettlement Land) (Land Use and Conservation) By-laws, 2012.

Application

2. These by-laws shall apply to communal and resettlement land within the Makonde Rural District Council.

Interpretation

3. In these by-laws—

“conservation works” means works undertaken by a conservation committee in terms of section 38 of the Environmental Management Act [*Chapter 20:13*] (Act 13 of 2002);

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- “Council” means the Makonde Rural District Council;
- “grazing area” means an area set aside in a plan for the grazing of livestock;
- “inhabitant” means a person who is resident in the area under the jurisdiction of a Chief, Headman or Village Head within the Council area;
- “livestock” means cattle, donkeys, sheep, pigs and goats;
- “local leadership” means people in authority over a given community e.g Councillors, Village Heads, Headmen and Chiefs;
- “Owner” means—
- (a) in case of livestock, the person who normally has custody or control thereof;
 - (b) in the case of cultivated land, any person who has the right to the procedure of the land, including the spouse of such person but excluding children under the age of eighteen years;
- “plan” means a diagram or illustration depicting or describing any area of land within a commercial land area set aside for exclusive by inhabitants for a fixed time period;
- “Provincial Administrator” means the Provincial Administrator for the Province within the communal and resettlement land concerned falls;
- “Provincial Planning Officer” means the Provincial Planning Officer in the department of Physical Planning under the Ministry of Local Government, Urban and Rural Development responsible for the Province in which the land falls, or any person in his/her office designated by him/her in writing to perform his/her functions;
- “Provincial Warden” means the Provincial Warden in the Parks and Wildlife Authority who is responsible for Makonde District, or any person in his/her office designated by him/her in writing to perform his/her functions;
- “District AREX Officer” means the District Officer in the Ministry of Agriculture responsible for Makonde District

or any person in his/her office designated by him/her in writing to perform his/her functions;

“Regional Officer” means the Regional Officer in the Department of Natural Resources in the Ministry of Environment and Tourism responsible for the region in which the communal or resettlement land falls, or any person in his/her office designated by him in writing to perform his or her functions;

“Village Development Committee” means a Committee presided over by the Village Head and charged with the responsibility to spearhead development activities of the village.

Preparation and adoption of plan

4. (1) The Council may prepare a plan for—

- (a) all communal or resettlement land within the Council area; or
- (b) any ward or combination of wards in communal and resettlement land within the Council area; or
- (c) any part of a ward or wards in communal and resettlement land within the Council area.

(2) If requested to do so by the Village Development Committee or Headman, the Council shall prepare a plan for the area for which the Village Development Committee or Headman concerned is responsible.

(3) Where the Council intends to prepare a plan in terms of subsection (1) it shall cause the inhabitants of the area for which the area is intended, to be notified in such manner as it considers appropriate, of its intention to prepare a plan and shall—

- (a) make available for inspection by any of the inhabitants a draft proposal of the plan; and
- (b) call upon any inhabitant who has any objection to the proposed plan to lodge his or her objection with the Council within thirty days of notification of the proposal.

(4) In preparing any plan, the Council shall—

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- (a) seek advice of—
 - (i) the Provincial Planning Officer; or
 - (ii) the District AREX Officer; or
 - (iii) the Provincial Warden; or
 - (iv) the Regional Officer; and
- (b) take into account any objections received in terms of subsection (3).

(5) If in preparing any plan the Council does not act in accordance with the advice given by any of the Officers referred to in subsection (4), it shall advise the Provincial Administrator in writing of this fact and reasons thereof.

(6) Once a plan has been prepared and approved by Council by resolution, a copy thereof shall be forwarded to the Provincial Administrator together with the substance of any—

- (a) objections lodged in terms of subsection (3); and
- (b) advice tendered in terms of subsection (4).

(7) The Provincial Administrator may, within thirty days of the date a plan is forwarded to him/her in terms of subsection (6) —

- (a) inform the Council in writing of his/her approval of the plan; or
- (b) approve the plan subject to such amendments as he/she may propose.

(8) Where the Provincial Administrator makes proposals for the amendment of a plan, the Council may—

- (a) proceed in terms of subsections (3), (4) and (5); or
- (b) if it is not satisfied with the decision of the Provincial Administrator, within thirty days of notification of the decision, appeal to the Minister who, after calling for representatives from all the parties concerned, including, if necessary, from the inhabitants of the area for which the plan is intended, shall make a decision on the matter and his/her decision shall be final.

(9) Once a plan has been approved, a copy thereof shall—

- (a) be available for inspection, free of charge, during normal working hours at the offices of the Council or at any place or places considered by the Council to be convenient; and
- (b) be sent to each Village Development Committee in the Council area.

Amendment of plan

5. Section 4(3) to (8) shall apply, *mutatis mutandis*, to any proposals to amend a plan.

Contents of the plan

6. (1) In respect of any area set aside in a plan for grazing, Council may, in the plan specify—

- (a) the maximum number of livestock which may be grazed in that grazing area;
- (b) which owners or owner may graze livestock in a grazing area;
- (c) the maximum number of livestock or the maximum number of different types of livestock which each owner may graze in a grazing area;
- (d) the period within which inhabitants are to cease other activities within a grazing area;
- (e) the period within which any inhabitant is to reduce the number of livestock to the level he/she is permitted to graze in any grazing area in terms of paragraph (c);
- (f) the period within which any inhabitant is to cease grazing livestock within any area where such inhabitant is not permitted to graze his/her livestock in terms of paragraph (d);
- (g) the division of grazing land into paddocks for rotational grazing;
- (h) the herding of livestock of any or all categories, generally or within such designated paddocks and in the one or more herds;
- (i) the marking of arable land or paddock by fencing, planting of tree lines, or by any other means;

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- (j) the siting of water points according to planned grazing areas, paddocks, cultivated land, villagers and sewerage, health, education and other welfare facilities;
- (k) the siting of dip tanks, bomas for intensive feeding of livestock or game;

and measure appropriate for the conservation and proper use of any wild life in any grazing area.

(2) In respect of any area set aside in a plan for cultivation, the Council may, in the plan specify—

- (a) which inhabitants may cultivate in a cultivation area;
- (b) the means or implements which may be used to cultivate in any cultivation area;
- (c) the type of crops which may be grown and their rotation;
- (d) the responsibility for removing noxious weeds and invasive plants;
- (e) contour-ridging schemes and other land protection and land conservation measures;
- (f) areas to be set aside as woodlots;
- (g) the date on which cultivation shall cease until certain land protection and land conservation measures have been implemented;
- (h) the amalgamation of cultivated land or the abandonment of the same.

Sleighs

7. No person shall own, possess, use, or have in custody or control a sleigh.

Protection of vegetation and natural resources

8. (1) The Council may take orders controlling all or any of the following matters—

- (a) the cutting of trees;
- (b) the picking or removal of indigenous plants;
- (c) the hunting or removal of wild life;

- (d) the catching or removal of fish;
- (e) the collection or removal of wood;
- (f) the movement of livestock;
- (g) the buying and selling of livestock;
- (h) the destruction of crops and their residues;
- (i) animals carrying capacity;
- (j) cruelty to animals;
- (k) the cultivation of undesignated or unconserved land;
- (l) the destruction of conservation works;
- (m) stream bank cultivation;
- (n) illegal settlement;
- (o) veld fires;
- (p) fishing permits;
- (q) unauthorised selling or disposal of meat from wild animals, fish and birds;

within the communal or resettlement areas.

(2) An order made in terms of subsection (1) may be addressed to particular person orally or in writing and may be in general application throughout the communal or resettlement areas within the council area.

(3) An order which is intended to be of general application throughout the communal or resettlement areas shall—

- (a) be recorded in a book kept for the purposes; and
- (b) specify the date upon which it is to come into operation; and
- (c) specify and describe the area affected; and
- (d) be read out at a public meeting of the Council called for that purpose; and
- (e) be signed, dated and certified by the person who read it as having been read out in terms of paragraph (d).

(4) For the purpose of subsection (3)(c), section 4(9) shall apply, *mutatis mutandis*, to the description of the area referred to in that paragraph.

(5) An order—

- (a) addressed to an individual shall come into operation immediately;
- (b) having general application shall come into operation one week after the order is read out in terms of subsection (3)(d).

(6) The book in which orders are recorded in terms of subsection (3)(a) shall be available for inspection by any inhabitants of the affected area during normal working hours.

(7) An order made in terms of this section may be amended or revoked by the Council.

Fencing and conservation works

9. Any person who—

- (a) damages, destroys or removes any fence within a communal or resettlement area or on the boundary of a communal or resettlement area; or
- (b) damages or destroys any conservation works in any area to which these regulations apply;

shall be guilty of an offence.

Evidence

10. (1) If any livestock is found grazing in an area other than a grazing area, the owner thereof shall be presumed to have allowed the livestock to graze:

Provided that it shall be a sufficient defence if the owner proves that he/she took all reasonable precautions to ensure that the stock did not graze outside the grazing area.

(2) The holder of a dipping card which is recorded the number of cattle which he or she dips shall be deemed to have the custody or control of the number of cattle recorded upon his or her dipping card until the contrary is proved.

(3) No plan or part thereof shall be deemed to be invalid as long as it is possible to determine the exact situation on the ground of the boundary of any grazing or cultivation area:

Provided that no person shall be convicted of an offence in terms of paragraph (a), (b), (c) or (f) of section 11(1) unless it can be

shown that the land in respect of which the charge arose falls clearly within or outside the area concerned.

(4) The book in which orders are recorded in terms of section 8(3)(a), shall be admissible in court upon its mere production and shall constitute *prima facie* evidence of—

- (a) any order recorded therein; and
- (b) the due observation of section 8(3) and (4) in respect of any such order.

Offences and penalties

11. (1) Any person, whether an inhabitant, or otherwise, who within the area covered by a plan—

- (a) grazes his/her livestock in any area other than grazing area; or
- (b) grazes his/her livestock he/she is permitted to graze, or grazes livestock of a type prohibited by the plan; or
- (c) exceeds the number of livestock he/she is permitted to graze, or grazes livestock of a type prohibited by the plan; or
- (d) fails to de-stock at the rate and within the period stipulated in the plan; or
- (e) fails to remove his/her livestock within the period stipulated in the plan; or
- (f) cultivates in an area other than a cultivation area; or
- (g) cleans any amount of land either for cultivation, grazing, building or other purposes without written authority of the Council; or
- (h) removes any communal land produce, as listed in section 8(1), outside the Council area without the authority of the Council; or
- (i) acquires and departure any livestock in the Council area without authority of the Council; or
- (j) fails to carry out any protection measures which have been assigned to him/her in a plan; or
- (k) contravenes any term, condition or control measure in a plan;

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shall be guilty of an offence.

(2) Any person who contravenes any provision of these by-laws or any order made in terms of section 8 shall be guilty of an offence.

(3) Any person who is convicted of three or more offences under subsection (1) may have his/her rights under the plan revoked by the Council.

(4) Any person who is guilty of an offence in terms of these by-laws shall be liable to a fine not exceeding level three or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.