

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Title.
2. Interpretation.

PART II

GENERAL ENVIRONMENTAL PROVISIONS

3. Preparation and adoption of local environment action plan.
4. Amendment of a plan.
5. Contents of a plan.
6. Environmental impact assessments.
7. Environmental rehabilitation works on an abandoned project.
8. Environmental works carried out by Council.
9. Burning of vegetation.
10. Invasive alien species.
11. Protection of wetlands.
12. Environment committee and sub-committee.
13. Sleighs.
14. Cutting of trees.
15. Fruits and other forest produce.
16. Collection or removal of gravel, stones, river sand or pit sand.
17. Brick making.
18. Protection of water sources.

Section

- 19. General provision on protection of the environment and natural resources.**
- 20. Fencing and conservation works.**

PART III

POLLUTION, WASTE AND MANAGEMENT

- 21. Air pollution.**
- 22. Solid and effluent waste management.**
- 23. Removal of waste.**
- 24. Responsibility for refuse.**
- 25. Provision of waste receptacles.**
- 26. Landfills.**
- 27. Littering.**
- 28. Hazardous substances and toxic materials.**
- 29. Mineral panning.**
- 30. Genetic resources.**

PART IV

GENERAL PROVISIONS

- 31. Offences and penalties.**
- 32. Appeals.**

IT is hereby notified that the Minister of Local Government, Public Works and National Housing has, in terms of section 90 of the Rural District Councils Act [*Chapter 29:13*], approved the following by-laws made by Vungu Rural District Council:—

PART I

PRELIMINARY

Title

1. These by-laws may be cited as the Vungu Rural District Council (Environmental) By-laws, 2018.

Interpretation

2. In these by-laws—

“agency” means the Environment Management Agency;

“council” the specified urban council/rural district council;

“council area” means the area for which the council has been established;

“clear” in relation to invasive alien species means to dig up, pull out from the ground or to use any other means approved by the minister;

“environment” means the natural and man-made resources, including water, soil, minerals, living organisms whether indigenous or exotic and the interactions between them, ecosystem, habitants, spatial surroundings or constituent parts whether natural or modified or constructed by people;

“environment action plan” means an environment action plan prepared by a local authority for the area under its jurisdiction in terms of section 95 of the Environmental Management Act [*Chapter 20:27*];

“environment committee” means the means an environmental committee of the council as appointed in terms of section 61 of the Rural District Councils Act [Chapter 29:13];

“environmental impact assessment” means an evaluation of a project to determine its impact on the environment, human health and community livelihood whose specific requirements are set out in terms of section 97 of the Environmental Management Act [Chapter 20:27];

“environmental impact assessment report” means a certificate issued by the Director-General of the Environmental Management Agency for a particular project in terms of section 97 of the Environmental Management Act [Chapter 20:27];

“fireguard” means a strip of land which has been cleared of inflammable matter;

“genetic material” means any material of plant, animal, microbial or other origin containing fictional units of heredity;

“genetic resources” means genetic materials of plants, animals or micro-organisms of value as a resource for future generations or humanity;

“grazing area” means the area set aside in a plan for the grazing of livestock;

“invasive alien species” means generally, exotic plants which have become naturalised and threaten the existence of indigenous species by penetration and replacing indigenous vegetation, as specified in the Third Schedule of the Environmental Management Act [Chapter 20:27];

“livestock” means domestic animals including cattle, sheep, donkeys and goats;

“measure” includes measures, decisions and directives;

“natural resources” includes air, soil, water, minerals, mammal and any other wildlife, flora and fauna, springs, veils, sponges, reed-beds, marshes, swamps, steams, and any other thing that the President may, by public notice in a statutory instrument declare to be a natural resource including any scenery or landscape that due to its virtue is to be preserved on account of its aesthetic appeal or scenic value;

“owner” means in the case of livestock, the person who normally has custody or control thereof, it also means the person who has the right to produce on cultivated land including the children and spouse of that individual, and the person registered in the Deeds Registry as the owner of a piece of land;

“occupier” in relation to land premises means any person lawfully occupying or controlling the land premise;

“plan” means a diagram or illustration depicting or describing any area of land within communal or resettlement land areas set aside for exclusive use by the inhabitants for residential, grazing, environment conservation or cultivation purposes;

“Provincial Administrator” means the administrator for the province within which the communal and resettlement land concerned falls;

“provincial AGRITEX officer” means the provincial AGRITEX officer in the ministry responsible for agriculture in the province in which the communal or resettlement land falls, or any person in his or her office designated by him or her in writing to perform the officer’s functions;

“provincial council” means a provincial council established in terms of section *eleven* of the Provincial Councils

Bikita Rural District Council (Environmental) By-laws, 2018

and Administration Act [*Chapter 29:11*] as read in line with section 268 of the Constitution;

“provincial environment officer” means a person appointed by the council as an environmental officer and is registered as such by the Environmental Health Practitioners Council;

“provincial planning officer” means provincial planning officer designated as such by the Minister or any other appropriate authority;

“provincial warden” means the provincial warden of the Wildlife Management Authority who is responsible for the province in which the communal or resettlement land falls, or any person in the Wardens office designated by him or her to perform their functions;

“sleigh” means any vehicle used for transport which travels on runners instead of wheels or travels on any other manner on the surface of the ground without the use of wheels or tracks driven by wheels;

“vegetation” includes any tree, shrub, fern, flower, grass, creeper, crop or any other plant or organic matter or any part thereof whether dead or alive;

“waste material” includes any containers, wrappings, cartoons, cigarette packets, paper, vegetable matter, garden waste, hedge clippings, dead animals, ash, tins, rubbish, bricks, stones, soil, and any other matter or substance which is offensive, unwholesome or untidy;

“wetlands” means an area of marsh, fern, peat land, or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt and includes riparian land adjacent to the wetlands.

PART II

GENERAL ENVIRONMENTAL PROVISIONS

Preparation and adoption of local environment action plan

3. (1) The council shall prepare an environmental action plan for the area under its jurisdiction in terms of section 95 of the Environmental Management Act [Chapter 20:27].

(2) In developing the environment action plan, the council shall—

- (a) consult the inhabitants in the area;
- (b) consult all relevant government departments in the council area;
- (c) consult the ward assembly in the area; and
- (d) consult other interested stakeholders in the council area.

(3) Where a plan is to be prepared in terms of subsection (1), the Council shall—

- (a) cause its intention to prepare a plan to be notified in a such a manner as it considers appropriate to the inhabitants of the area for which it is intended; and
- (b) make available for inspection by any of the inhabitants a draft proposal of the area plan; and
- (c) call upon any inhabitant who has an objection with the council to notify the council in writing of his or her objection within thirty days from the date of notification of the proposal.

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

- (a) take into account any objection raised in subsection (3); and
- (b) seek the advice of—
 - (i) the officer in charge of planning; and

- (ii) the provincial AGRITEX officer; and
- (iii) the provincial environment officer; and
- (iv) the provincial warden.

(5) If in preparing any plan, the council does not act in accordance with the evidence given by the officers referred to in subsection (4), it shall advise the provincial council in writing of this fact and reason thereof.

(6) Once a plan has been prepared and approved by the 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 council may within thirty days of the date a plan is forwarded to them in terms of subsection (6)—

- (a) inform the council in writing of their approval of the plan; or
- (b) inform the council in writing of their approval of the plan subject to such amendments as the council may propose.

(8) Where the provincial council makes a proposal for the amendment of a plan, the council may proceed in terms of subsections (3), (4) and (5); or

(9) If the council is not satisfied with the decision of the Provincial Administrator, within thirty days of notification of the decision, may appeal to the Minister who after calling for representations 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.

(10) In describing the areas in the plan, references may be made to any summits of hills, streams, rivers, roads, fences, buildings, communal boundaries, prominent rocks or trees or any other thing which is readily identifiable by or is well known to the inhabitants.

- (11) Once a plan has been approved, a copy thereof shall—
- (a) be made 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 ward assembly in the council area.

Amendment of a plan

4. Subsections (3) to (11) of section 3 shall be construed accordingly to any proposal to amend a plan.

Contents of a plan

5. (1) In respect of any area set aside in any plan for grazing in the council, the plan shall specify—

- (a) the maximum number of livestock which may be grazed in that grazing area; and
- (b) which owner or owners may graze livestock in that area; and
- (c) the maximum number of livestock which each owner may graze in the grazing area; and
- (d) the period within which any inhabitant is to reduce the number of livestock to the levels that he or she is permitted to graze in any grazing area in terms of paragraph (c); and
- (e) the period within which any inhabitant is to cease grazing livestock within any area where such inhabitant is not permitted to graze his or her livestock in terms of paragraph (d); and
- (f) appropriate measures for the conversion and proper use of any animals in the grazing area.

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

Provided that it shall be a sufficient defence for the owner who provides that he or she took all reasonable precautions to ensure that the livestock did not graze outside the grazing area.

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

(4) No plan or part thereof shall be deemed to be invalid because it is not possible to determine the exact situation on the ground of the boundary of any grazing or cultivation area.

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

- (a) which inhabitants may cultivate the area; and
- (b) the means which may be used to cultivate in any cultivation area; and
- (c) the type of crops which may be grown and their rotation; and
- (d) the responsibility for removing noxious weeds; and
- (e) contour ridging schemes and other land and soil protection conservation measures; and
- (f) areas to be set aside as wood lots; and
- (g) areas to be set aside for renewable energy production crops; and
- (h) the date on which cultivation shall cease until certain land protection and conservation measures have been implemented.

(6) In respect for any area set aside in a plan for environmental and natural resources conservation, the council may specify in the plan—

- (a) areas to be set aside as wood lots;
- (b) areas for growing renewable energy crops;

- (c) contour ridging schemes and other land and soil protection and conservation measures;
- (d) the measures that may be taken to protect and conserve the environment and natural resources.

Environmental impact assessments

6. Any person who wants to implement any project in the council area for which an environmental impact assessment is required in terms of section 97 of the Environmental Management Act [Chapter 20:27], shall register the following documents to the Council —

- (a) a copy of the Environmental Impact Assessment Report for the proposed project; and
- (b) a copy of the environmental impact assessment certificate issued for the project by the Director-General of the Environmental Management Agency.

Environmental rehabilitation works on abandonment of a project

7. Any person who undertakes mining projects or any other projects that result in environmental degradation in the council area shall submit to the council a rehabilitation plan containing rehabilitation works that will be undertaken before abandonment or closure of the project.

Environmental works carried out by council

8. Where a land owner or occupier as the case may be, requests the council to carry out environmental works on his or her land, or in the event that the owner fails to do so on his or her own, the council may undertake such environmental works as necessary to rehabilitate the environment and recover the costs associated with such works from the land owner.

Burning of vegetation

9. The Council may make measure in accordance with Part VIII to the Forestry Act [Chapter 19:05] which shall apply, *mutatis mutandis*.

to the notice of intention to burn standing vegetation, fireguards and the extinguishing of fire.

Invasive alien species

10. (1) Every owner or occupier of land within the council area shall keep their land free from invasive alien species as specified in Part I of the Fifth Schedule to the Environmental Management Act [Chapter 20:27].

(2) The council may give a written measure on the occupier or owner of the land where invasive alien species is growing to clear or cause to be cleared any invasive alien species from his or her land.

(3) In cases where there is an imminent threat to the environment, livestock or human health from invasive alien species on land belonging to or occupied by an inhabitant in the council area, the council may take measures to control, remove or clear the land of the invasive alien species at its own cost and recover the expenses incurred from the land owner or occupier as the case may be.

Protection of wetlands

11. The provisions of section 113 of the Environmental Management Act [Chapter 20:27] shall apply, *mutatis mutandis*, with regard to the protection of wetlands.

Environment committee and sub committee

12. Pursuant to the provisions of section 61 of the Act, the council may establish environment committees and environment sub committees for the purposes of protecting the environment.

Sleighs

13. (1) No person shall, use or have in their control a sleigh.

(2) No person is allowed to drag an ox-drawn plough in such a manner as to cause gullies along field routes or other paths in the council area.

(3) Council may on its own take measures or give written measures to any occupier or owner of land to rehabilitate or reclaim land affected by gullies in the council area.

Cutting of trees

14. (1) No person shall cut down trees in the council area except for—

- (a) collection and removal of deadwood for firewood; and
- (b) cutting tree branches for building houses or domestic use; and
- (c) keeping livestock secure; and
- (d) land clearing for agricultural purposes.

(2) No person shall cut down reserved trees in the council area outlined in the Schedule of reserved trees in the Communal Land Forrest Produce Act [*Chapter 19:04*].

(3) Any person growing tobacco in the area shall be required to plant a woodlot or use alternative source fuel other than trees for curing their tobacco.

Fruits and other forest produce

15. (1) No person may harvest, collect or pick fruits or other plant produce for sale except in terms of a permit issued in terms of section 5 of the Communal Lands Forest Produce Act [*Chapter 19:04*].

(2) Council shall be notified and maintain a record of people or entities involved in the picking, collection or harvesting of fruits or other plant produce for sale in the council area.

(3) The council may impose restrictions on the picking, harvesting or collecting of fruits or plant produce for commercial purposes if council finds it desirable to do so to conserve the environment.

Collection or removal of gravel, stones, river sand or pit sand

16. (1) In addition to compliance with the Environmental Management Act [Chapter 20:27], every person who intends to extract gravel, stones, river sand or pit sand for commercial purposes shall—

- (a) inform the council; and
- (b) pay the prescribed fee.

(2) Council shall identify designated sites for the extraction of gravel, stones, river sand or pit sand for commercial purposes within the council area.

Brick making

17. (1) No person shall mould or make bricks for sale or commercial purposes in the council area without a licence from the council.

(2) In the event that a person intends to mould or make bricks for sale or commercial purposes, he or she shall demonstrate to council that he or she is capable of taking the following measures before he or she is granted permission—

- (a) rehabilitate the environment or pits created by his or her activities; and
- (b) use deadwood for burning the bricks, and in the event that this is not possible, use only branches of trees; and
- (c) in the event that compliance with paragraph (b) is not possible, demonstrate that he or she is capable of carrying out reforestation in the area where the trees have been cut.

(3) Council may set aside land for commercial brick making in the council area, which land shall be used by brick makers in the ward or village under specified terms and conditions as council may set.

(4) The selling of bricks shall be done at the registered brick making site approved by council.

(5) No council permission is required for making or moulding bricks for domestic use by inhabitants in council area.

Protection of water sources

18. (1) All inhabitants in council area have a duty to protect and conserve water resources and sources such as boreholes, dams, rivers, weirs and in particular—

- (a) protect water sources against pollution; and
- (b) promote sustainable use of water sources.

(2) Council may specify measures for controlling the protection and conservation of water resources in the council area.

General provisions on protection of the environment and natural resources

19. (1) The council may specify measures controlling all or any of the following matters—

- (a) picking or removal of indigenous plants;
- (b) hunting and removal of wildlife;
- (c) catching or removal of fish;
- (d) movement of livestock;
- (e) buying and selling of livestock;
- (f) dipping of livestock;
- (g) protection of road network;
- (h) rehabilitation of the environment by mining activities; and
- (i) construction of conservation works in arable lands.

(2) A measure in terms of subsection (1) which is of general application throughout the communal or resettlement areas within the council area or addressed to a particular person orally or in writing shall—

Bikita Rural District Council (Environmental) By-laws, 2018

- (a) be recorded in a book kept for that purpose;
- (b) specify the date upon which it is to come into operation;
- (c) specify and describe the area affected;
- (d) be announced at a public meeting of the council called for that purpose; and
- (e) be signed and dated by the person who has announced it in terms of paragraph (d).

(3) The book in which directives or measures are recorded in terms of subsection (2) shall be available for inspection by any inhabitant of the affected area during normal working hours or any other hours as the council may specify.

Fencing and conservation works

20. (1) Council shall fence and maintain conservation works within the area.

(2) Any person who—

- (a) damages, destroys or removes any fence within or along the boundary of council land; or
- (b) damages or destroys conservation works on council land; or
- (c) fails to maintain peg; or
- (d) undertakes a project that degrades the environment;

shall take responsibility to restore the land worked upon at the conclusion of the project or otherwise shall be guilty of an offence.

PART III

POLLUTION, WASTE AND WASTE MANAGEMENT

Air pollution

21. (1) No person may emit any substance which causes air pollution in the council area based on the Standards and Enforcement

Committee and air quality standards in terms of section 63 of the Environmental Management Act [Chapter 20:27].

(2) The Environmental Management (Atmospheric Pollution control) Regulations, 2009, published in Statutory Instrument 72 of 2009, shall apply with the necessary changes to the emission of pollutants in the council area.

(3) All air polluters shall register with the local authority in order to assist Council in the development of its environment action plan.

Solid and effluent waste management

22. (1) No person shall dispose of waste or effluent into a public stream or into any other surface water or ground water in the council area whether directly or through drainage or seepage except under a licence approved by the agency.

(2) A licence shall not be required in respect of—

- (a) on site disposal of domestic waste by means of pit latrines, septic tanks and associated soak way, refuse pits and other onsite domestic sanitation systems;
- (b) the application of inorganic fertilizers, chemicals and animal manure used for the purposes of agricultural production:

Provided that the application is onsite and the effects are restricted to the area where such production takes place.

(3) The Local Authority shall—

- (a) prepare its management plan no later than 31 December each year consisting of matters specified in section 12 of the Environmental Management (Effluent and Solid Waste Disposal) Regulations, 2007, published in Statutory Instrument 6 of 2007, in relation to waste by or in the possession of the local authority;

- (b) request waste management plans be submitted in writing from waste generators within its jurisdiction;
 - (c) designate suitable sites as waste collection sites within its jurisdiction for the frequent collection and management of waste; and
 - (d) keep records and a register of every waste collection and management enterprise operating within its jurisdiction.
- (4) The owner or occupier of a waste collection or waste management enterprise shall keep and maintain up to date records on type, quality, origin and whereabouts of waste collected by it.

Removal of waste

23. All refuse accumulated on the premises shall be removed from time to time and shall be deposited at designated refuse disposal sites and the council shall be entitled at its discretion either to remove such refuse itself or by its contractors or to require the owner or occupier to do so under the supervision of the council's authorised official at such a time as the council may determine.

Responsibility for refuse

24. All refuse removal in the council area shall be carried out by the Council's environment health section and no contractor shall be permitted to undertake refuse removal except when requested to do so by the Councils and on its behalf and on agreed tariffs.

Provision of waste receptacles

25. (1) The owner or occupier of a premises shall provide an adequate number of approved types of waste receptacles in which all waste shall be stored and such number of waste receptacles shall be determined by the Council from time to time.

(2) The owner or occupier of any premises referred to in subsection (1) shall deposit or cause to be deposited any waste generated on such premises in an approved waste receptacle.

(3) The occupier of a premises shall be responsible for keeping the waste receptacles area clean and orderly at all times.

Landfills

26. (1) No person shall dispose general waste or hazardous waste at any place other than in a licenced general landfill or hazardous waste landfill.

(2) All new solid waste sites shall be lined with the appropriate lining specific to the nature of the environmental risk, whether it is an industrial, domestic, mining or any type of solid waste as approved by the agency.

(3) There shall be classification of general waste disposal through landfills and fees as prescribed in the Environmental Management (Effluents and Solid Waste Disposal) Regulations, 2007, published in Statutory Instrument 6 of 2007.

(4) Any person who violates subsections (1) and (2) shall be guilty of an offence.

Littering

27. (1) Every local authority shall provide its area with bins for the collection of rubbish.

(2) No person is allowed to throw or dispose of any litter on land or water surface, street, road, site or any place except in a container provided for that purpose or at a place specifically designated for that purpose.

(3) All operators of public passenger vehicles that enter public terminuses shall put in place sufficient bins within the vehicle for use by passengers.

(4) An operator of a public passenger vehicle who fails to provide sufficient bins within the vehicle for use by passengers shall be guilty of an offence.

Hazardous substances and toxic chemicals

28. (1) No person shall generate, store, sell, transport, use, recycle or dispose of hazardous waste to the environment except under a licence approved by the agency.

(2) A register shall be kept by the agency of every licence holder in the council area and the register shall be open to inspection by members of the public at all times upon payment of a fee.

(3) The local authority shall prepare a waste management plan for its jurisdiction not later than the 31st of December each year consisting of an inventory of the waste management situation and in specific goals.

(4) The local authority shall designate suitable sites as waste collection sites within its jurisdiction for management of waste based on a report assessing the anticipated impact of the environment as well as issues outlined in section 3 of the Environmental Management (Hazardous Waste Management) Regulations, 2007, published in Statutory Instrument 10 of 2007.

(5) No hazardous waste shall be disposed of at any other place except in a licenced hazardous waste disposal site or landfill.

(6) The local authority shall keep records and registers of every waste collection and management operating within its jurisdiction.

Mineral panning

29. Any mining activity within the council area shall be done in accordance with the provisions of the Mines and Minerals Act [Chapter 21:05].

Genetic resources

30. (1) The local authority shall establish a genetic resources and indigenous genetic resource based knowledge protection committee.

(2) The committee shall have the functions of—

(a) evolving a long term policy and guidelines for—

- (i) the conservation and sustainable use of genetic resources and their components; and
 - (ii) the equitable sharing of benefits arising out of the utilisation of genetic resources.
- (b) assisting indigenous communities to document their indigenous genetic resource based knowledge and to register any intellectual property rights in relation thereto;
 - (c) making a complete inventory of genetic resources of the council area to input into the national database;
 - (d) developing an archive of records in any medium embodying the indigenous genetic resource-based knowledge of indigenous communities with a view of providing a basis for the recognition of community ownership rights in that knowledge;
 - (e) raising funds for the purpose of assisting local communities to manage access to genetic resources without affecting the environment.

(3) The council shall make reference to the Environmental Management (Access to Genetic Resources and Indigenous Genetic Resource-Based Knowledge) Regulations, 2009, published in Statutory Instrument 61 of 2009, in administering the above regulations.

PART IV

GENERAL PROVISIONS

Offences

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

- (a) grazes livestock in an area other than a grazing area; or
- (b) grazes livestock in a grazing area without being permitted by a plan to do so; or

Bikita Rural District Council (Environmental) By-laws, 2018

- (c) exceeds the number of livestock that he or she is permitted to graze; or
- (d) grazes livestock of a type prohibited by the plan; or
- (e) fails to destock at the rate and within the period stipulated in the plan; or
- (f) fails to remove livestock within the period stipulated in the plan; or
- (g) cultivates in an area other than the cultivation area; or
- (h) fails to carry out land protection and environmental conservation or rehabilitation measures which have been assigned in the plan; or
- (i) contravenes any provisions of these by-laws;

shall be guilty of an offence and unless otherwise stated, shall be liable to a fine not exceeding *level 6* or to imprisonment for a period not exceeding six months or to both such a fine and such imprisonment.

Appeals

32. (1) Any person who is aggrieved by any measure or order of the council in terms of these by-laws may, within thirty days after being notified of the decision or order, appeal against it to the Minister.

(2) Any person who is aggrieved by any measure or order of the Minister in terms of these by-laws may, within 30 days after being notified of the decision, directive, measure or order, appeal against it to the Administrative Court in such manner as may be prescribed in rules of court.