

Masvingo Rural District Council (Environmental and Natural
Resources Conservation) By-laws, 2019

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It is hereby notified that the Minister of Local Government, Public Works and National Housing has, in terms of subsection (4) of section 90 of the Rural District Councils Act [*Chapter 29:13*], approved the following by-laws made by the Masvingo Rural District Council: —

Title

1. These by-laws may be cited as Masvingo Rural District Council (Environmental and Natural Resources Conservation) By-laws, 2019.

Application

2. These by-laws shall apply to Masvingo Rural District Council area.

Interpretation

3. In these by-laws —

“agency” means the Environmental Management Agency;

“council” means the Masvingo Rural District Council;

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

“dump site” means an unregistered site where council dispose its general waste;

“EMA” means the Environmental Management Agency;

“environment means —

(a) the natural and manmade resources, including water, soil, minerals and living organisms, whether indigenous or exotic and the interaction between them;

(b) ecosystems, habitats, spatial surroundings or other constituent parts, whether natural or modified or constructed by people and communities;

“environment action plan” means an environmental 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 an environment 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 livelihoods 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 report on an environmental impact assessment produced by the developer of a project in terms of section 97 of the Environmental Management Act [*Chapter 20:27*];
- “environmental impact assessment certificate” 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;
- “environmental monitor” means any person appointed by the council to monitor the environment on behalf of it;
- “environmental works” means any physical structures put in place to control erosion;
- “fireguard” means a strip of land which has been cleared of inflammable matter;
- “forest produce” means any part whether alive or dead of any vegetation including wood, bark, seed, fruits, Mopani worms;
- “grazing area” means the area set aside in a plan for the grazing of livestock;
- “hazardous waste” means any toxic materials ready for disposal e.g. computers, calculators;
- “highest flood plain” means the highest level which water usually reaches in water body or river or stream after heavy rains;
- “impound” means confiscation of vessels;
- “invasive alien species” means, generally, exotic plants which have become naturalised and threaten the existence of indigenous species by penetrating and replacing indigenous vegetation, as specified in the Third Schedule of the Environmental Management Act [*Chapter 20:27*];

“landfill” means a properly waste disposal engineered site;

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

“local authority” refer to council;

“mineral panning” means illegal mining;

“natural resource” includes—

- (a) the air, soil, waters and minerals
- (b) the mammal, bird, fish and other animal life;
- (c) the trees, grasses and other vegetation; and
- (d) the springs, vleis, sponges, reed-beds, marshes, swamps and public streams;

“owner” means—

- (a) in the 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 produce of the land, including the spouse of such person and children over the age of eighteen years; and
- (c) the person registered in the Deeds Registry as the owner of the land or premises;

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

“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 inhabitants for residential, grazing, environmental conservation or cultivation purposes;

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

“provincial ARES officer” means the provincial ARES officer in the Ministry responsible for Agriculture in the province in which the communal land or resettlement land falls,

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

“RDC” means Rural District Council;

“reserved species” means any indigenous plants or vegetation specified in First Schedule;

“sleigh” means any vehicle used for transport which—

- (a) travels on runners instead of wheels; or
- (b) travels on any other manner on the surface of the ground without the use of wheels or trucks driven by wheels;

“standard fireguard” means a strip of land which has been cleared of any flammable material and has a width of a minimum of 9m either side of a boundary;

“stray animal” means any domesticated animal wonder;

“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 management enterprise” means any entity that is contracted to manage waste by council;

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

“ZINWA” means the Zimbabwe National Water Authority;

“ZRP” means the Zimbabwe Republic Police.

Preparation and adoption of a plan

4. (1) The council may prepare an environmental action plan for the area under its jurisdiction.

(2) 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 such manner as it considers appropriate to be inhabitants for the area for which the plan 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 to the proposed plan to lodge his or her objection with the council within 30 days of the date of notification of the proposal.
- (3) In preparing any plan, the council may—
 - (a) seek the advice of—
 - (i) the provincial planning officer; and
 - (ii) the provincial AREX officer; and
 - (iii) the provincial environmental officer; and
 - (iv) the provincial warden; and
 - (b) take into account any objection received in terms of subsection (3).
- (4) If in preparing any plan, the council does not act in accordance with the advice given by the officers referred to in subsection (3), it shall advise the provincial administrator, in writing, of this fact and the reasons thereof.
- (5) 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 (4); and
 - (b) advice tendered in terms of subsection (3);
- (6) The provincial administrator may within 30 days of the date a plan is forwarded to him or her in terms of subsection (5)—
 - (a) inform the council in writing of his or her approval of the plan; or
 - (b) inform the council in writing of his or her approval of the plan subject to such amendments as he or she may propose.
- (7) Where the provincial administrator makes proposals for the amendment of a plan, the council may—
 - (a) proceed in terms of subsections (3) and (4); and

- (b) if it is not satisfied with the decision of the provincial administrator, within 30 days notification of the decision, 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 and his or her decision shall be final.

(8) In describing areas in the plan, reference 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.

- (9) 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 council to be convenient; and
 - (b) be sent to each village development committee in the council area.

Contents of the plan

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

- (a) the maximum number of livestock which may be grazed in that grazing area;
- (b) which owner or owners 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 the grazing area;
- (d) the period within which any inhabitant is to cease grazing livestock in a grazing area;
- (e) the period within which any inhabitant is to reduce the number of livestock to the level he or 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 such inhabitant is not permitted to graze his or her livestock in terms of paragraph (b);
 - (g) the division of grazing land into paddocks for rotational grazing;
 - (h) the herding of livestock of any or all categories generational or within such designated paddocks and in the one or more herds;
 - (i) the marking of arable land or paddocks by fencing planting of tree lines or by any other means;
 - (j) the sitting of water points according to planned grazing area, paddocks, cultivated land, villages, sewerage, health, education and other welfare facilities;
 - (k) the sitting of a dip tanks, biomass for intensive feeding of livestock or game; and
 - (l) measures appropriate for the conservation and proper use of any wildlife in any grazing area.
- (2) In respect of any area set aside in plan for cultivation, the council may, in the plan, specify—
- (a) which inhabitants may cultivate in any cultivation area;
 - (b) the means or implements which shall be used to cultivate in any cultivation area;
 - (c) the type of crops which may be grown and their rotation, if any;
 - (d) the dates by which the residue of certain crops must be moved;
 - (e) responsibility for moving noxious weeds;
 - (f) contour ridging schemes and other land protection and conservation measures;
 - (g) areas to be set aside as wood lots;
 - (h) the date at which cultivation shall cease until certain land protection and conservation measures have been implemented.

(3) Any person who fails to comply with the provisions of the plan shall have committed an offence and liable to a fine not exceeding level 4 or imprisonment not exceeding six months or both.

Amendment of plan

6. (1) Sections 4(3) to (9) shall apply, *mutatis mutandis*, to any proposals to amend a plan.

(2) In respect of any area set aside in a plan for grazing, in the council, the plan shall specify—

- (a) the maximum number of livestock which may be grazed in that grazing area;
- (b) which owner or owners may graze livestock in a grazing area;
- (c) the maximum number of livestock or the maximum number of different types of livestock which owner may graze in a grazing area;
- (d) the period within which any inhabitant is to reduce the number of livestock to the levels he or she is permitted to graze in any grazing area in terms of paragraph (c);
- (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);
- (f) measures appropriate for the conservation and proper use of any wildlife in any grazing area.

(3) 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 in that area:

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

(4) The holder of a dipping card upon 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 on his or her dipping card until the contrary is proved.

(5) 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.

(6) 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 any 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;
- (e) contour ridging schemes and other land and soil protection and conservation measures;
- (f) areas to be set aside as wood lots;
- (g) areas to be set aside for renewable energy production crops;
- (h) the date on which cultivation shall cease until certain land protection and conservation measures have been implemented.

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

- (a) areas to be set aside as wood lots;
- (b) areas for growing renewable energy production crops;
- (c) contour ridging schemes and other land and soil protection and conservation measures; and
- (d) the measures that may be taken to protect and conserve the environment and natural resources.

Environmental plans

7. (1) Council shall develop environmental plans in terms of section 95 of the Environmental Management Act [*Chapter 20:27*], and in developing the environmental plans council shall—

- (a) consult residents in the council area;
- (b) consult all relevant government departments in the council area; and
- (c) consult other relevant stakeholders in the council area.

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(2) Council shall make available a copy of the environmental plan for public comments and representations within a period of 30 days.

(3) An environmental plan shall be made available for inspection and public comment at the council offices.

(4) Any person who wants to make a copy of the environmental plan shall do so at his or her own expense.

Environmental impact assessment

8. (1) 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 First Schedule of the Environmental Management Act [Chapter 20:27] is required to submit the following documents to council upon payment of a prescribed fee—

- (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.

(2) The traditional leadership in the concerned area shall give proof of consent to any person who wants to implement a project in their area of jurisdiction.

(3) Council shall order the developer concerned to cease operation until EIA report and certificate has been produced.

(4) Any person who fails to submit EIA report to the council and/or implement a project without EIA certificate shall have committed an offence and liable to a fine not exceeding level 5 or imprisonment for a period not exceeding six months or to both such a fine and imprisonment.

Environmental rehabilitation works on abandonment of projects

9. (1) Any person who undertakes a project that results in environmental degradation in the council area is required to inform council on any rehabilitation works that will be undertaken before abandonment or closure of the project.

(2) The council shall be given 12 months notice of any intended closure and issue a decommissioning certificate to concerned stakeholders upon completion of rehabilitation works.

(3) Any person who fails to submit rehabilitation plan to the council before project implementation shall have committed an offence and liable to a fine not exceeding level 3 or imprisonment for a period not exceeding three months or to both such a fine and imprisonment.

Environmental works carried out by council

10. Where a land owner or occupier as the case may be, requests 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, council may undertake such environmental works as may be necessary to rehabilitate the environment and recover the costs associated with such works from the land owner or occupier of the land.

Burning of vegetation

11. (1) The council may make an order to regulate and control the burning of vegetation in the council area in line with the requirements of the Forestry Act [*Chapter 19:05*].

(2) No person shall burn vegetation without giving notice to the adjoining neighbours, ZRP, traditional leaders, RDC, EMA and Forestry Commission.

(3) No person shall make a fire and leave it unattended even prior the fire season.

(4) Council shall issue orders on the construction of the standard fireguards.

(5) Owners of adjoining properties shall contribute to the construction of fireguards.

(6) All persons within the vicinity of a fire have a duty to take appropriate measures to put out fires irrespective of who started the fire or whose land or property it is.

(7) Any person who contravenes subsections (2), (3), (5) and (6) shall have committed an offence and liable to a fine not exceeding level 3 or imprisonment for a period not exceeding two months or to both such a fine and imprisonment.

Invasive alien species

12. (1) Every occupier or owner of land within the council area shall keep their land free from invasive alien species.

(2) The council shall give a written or oral order on the occupier or owner of 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 imminent threat to the environment, livestock or human health from invasive alien species on land belonging to or occupied by a resident in the council area, council may take measures to control, remove or clear the land of invasive alien species, at its own cost and recover the expenses incurred from the land owner or occupier as the case may be.

(4) Any person who fails to comply with an order to remove invasive alien species on his or her land or on land occupied shall have committed an offence and liable to a fine not exceeding level 3 or imprisonment for a period not exceeding three months or to both such a fine and imprisonment.

Protection of wetlands

13. (1) In order to promote the protection of wetlands, council shall take measures and make orders for the protection of wetlands, rivers and streams in the council area in line with the requirements of section 113 of the Environmental Management Act [*Chapter 20:27*].

(2) No person shall temper, drain, cultivate or carry any human activity in a wetland without EMA and RDC written approval.

(3) No person shall carry human activities within 30 metres from the highest flood plain of a dam or artificial water body.

(4) No person shall carry out human activities on land within 30 metres of naturally defined banks of a public stream/river.

(5) No person shall carry out human activities in the riverbed, banks or course of any river or stream.

(6) Any person who contravenes subsections (2), (3), (4) and (5) shall have committed an offence and liable to a fine not exceeding level 5 or imprisonment for a period not exceeding six months or to both such a fine and imprisonment.

Environment committee and sub-committee

14. (1) The environment committee and environment sub-committee appointed in terms of section 61 of the Rural District Councils Act [*Chapter 29:13*] in the council area shall exercise all the functions and duties imposed in terms of that Act and in pursuance of the need to promote environmental conservation, the development of the council area using natural resources and environmental protection.

(2) Council shall delegate some of their duties to an environmental monitor appointed by it.

Sleighs

15. (1) No person shall own, possess, use or cause to be used a sleigh on the council land.

(2) Any person who contravenes section 14 shall have committed an offence and liable to a fine not exceeding level 3 or imprisonment for a period not exceeding two months or to both such a fine and imprisonment.

Cutting of trees

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

- (a) collection and removal of dead wood for firewood;
- (b) cutting tree branches for building houses, keeping livestock and other domestic uses;
- (c) land clearing for agricultural purposes;
- (d) for other domestic purposes.

(2) No person shall sale or trade in any firewood or timber except under the terms of firewood or timber trader's licences issued by Forestry Commission under the following conditions—

- (a) council shall be notified upon payment of a prescribed fee and maintain a record of people or entities involved in firewood or timber trading;
- (b) any person who fails to give a notification to the council shall be guilty of an offence and liable to a fine not exceeding level 2 or imprisonment not exceeding one month or such fine and imprisonment;

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- (c) council shall give orders to any tobacco farmer on the establishment of woodlots for tobacco curing;
 - (d) any person who fails to comply with the order shall have committed an offence and liable to a fine not exceeding level 5 or imprisonment not exceeding six months or both such fine and imprisonment.
- (3) No person shall transport firewood or timber exceeding 0.5m³ (one wheelbarrow) without movement permit issued by Forestry Commission under the following condition—
- (a) council shall be notified upon payment of a prescribed fee and maintain a record of all transporters;
 - (b) farmers shall get permission for the transportation of firewood from Forestry Commission for commercial use and local leadership for domestic use.
- (4) Any person who fails to give a notification to the council shall be guilty of an offence and liable to fine not exceeding level 2 or imprisonment not exceeding one month or such fine and imprisonment.
- (5) A permit shall not authorise exploitation of reserved species.
- (6) Any person who exploit reserved species shall have committed an offence and liable to a fine not exceeding level 5 or to an imprisonment not exceeding six months or to both such a fine and imprisonment.
- (7) Council shall order to land owner or occupier the planting of trees on any degraded area under its jurisdiction.
- (8) Any person who fails to comply with an order shall have committed an offence and liable to a fine not exceeding level 4 or imprisonment not exceeding five months or to such fine and imprisonment.
- (9) Council shall seize any firewood, timber and equipment which is reasonably believed to having been used in the commission of an offence.
- (10) Council shall impound vessels used in the commission of an offence.

Fruits and other forest produce

17. (1) No person is allowed to harvest, collect or pick fruits or other forest produce for sale, except in terms of a harvesting permit issued by the council in consultation with Forestry Commission, in terms of the Communal Forest Produce Act [*Chapter 19:04*] and under the following conditions—

- (a) council shall be notified upon payment of a prescribed fee and maintain a record of people or entities involved in the picking, collection or harvesting of fruits or other forest produce for sale in the council area;
- (b) any person who fails to give a notification to the council shall be guilty of an offence and liable to fine not exceeding level 2 or imprisonment not exceeding one month or such fine and imprisonment;
- (c) council shall impose restrictions on the picking, harvesting of fruits or forest produce for commercial purposes if council finds it desirable to do so to conserve the environment.

(2) Any person who fails to abide by the imposed restriction shall have committed an offence and liable to a fine not exceeding level 5 or imprisonment not exceeding six months or such fine and imprisonment.

(3) No person shall harvest non timber forest produce prematurely.

(4) Any person who harvest, collect or pick fruits without harvesting permit issued by council and who harvest non timber forest produce prematurely shall have committed an offence and liable to a fine not exceeding level 4 or imprisonment not exceeding six months or such a fine and imprisonment.

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

18. (1) In Addition to compliance with the Environmental Management Act, every person who intends to extract river sand, stones and pit sand for commercial purposes shall inform council upon payment of a prescribed fee.

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(2) Council shall set aside areas on which gravel, stones, river sand and pit sand shall be extracted in the council area for commercial purposes upon payment of a fee in addition to the requirements in the Environmental Management Act.

(3) Council shall license a private player to extract river sand, pit sand, gravel and stones for commercial purposes upon payment of a prescribed fee.

(4) No person shall excavate, remove, possess, transport sand, clay, stones deposits in excess of one tonne or for commercial purposes without notifying the council upon payment of a prescribed fee.

(5) Any person who transport or excavate river sand, pit sand, clay, gravel and stones at an unregistered site for commercial purposes or exceeding one tonne shall have committed an offence and liable to a fine not exceeding level 5 or imprisonment not exceeding six months or such fine and imprisonment.

Reclaiming of gullies

19. (1) 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.

(2) Any person who drag an ox-drawn plough in such a manner as to cause gullies along field routes or other paths in the council area shall have committed an offence and liable to a fine not exceeding level 3 or imprisonment of three months or such fine and imprisonment.

(3) Council shall on its own take measures or make an order on any owner or occupier of land to rehabilitate or reclaim land affected by gullies in the council area.

(4) Any person who fails to comply with the provisions of the order shall have committed an offence and liable to a fine not exceeding level 3 or imprisonment not exceeding three months or such a fine and imprisonment.

Brick making

20. (1) No person shall mould or make bricks for sale or commercial purposes in the council area without the permission of council.

(2) Any person who moulds or make bricks for commercial purposes without council authority shall have committed an offence and liable to a fine not exceeding level 3 or imprisonment not exceeding three months or both.

(3) In the event that a person intends to mould or make bricks for sale or commercial purposes he 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;
- (b) use deadwood for burning the bricks and if this is not available ensure that they only cut branches of trees and not the whole tree; and
- (c) in the event that compliance with paragraph (b) in this subsection is not possible, demonstrate that he or she is capable of carrying out a reforestation projects in the area where trees have been cut.

(4) Council shall 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.

(5) The area set aside for commercial brick moulding shall be 30m from dams and rivers.

(6) Any person who moulds or makes bricks for commercial purposes outside council designated area shall have committed an offence and liable to a fine not exceeding level 3 or imprisonment not exceeding three months or both.

(7) No council permission is required for making or moulding bricks for domestic use shall seek permission from traditional leaders.

Commercial use of water resources

21. (1) No person shall abstract water from a dam or river or weir without notifying ZINWA.

(2) No person shall drill a borehole or well or abstract water from a river or stream without a permit from relevant

sub-catchment council on condition that he or she notifies in writing the Rural District Council upon payment of a prescribed fee.

(3) Any person who abstract water from a dam or drill a borehole or well without notifying the council shall have committed an offence and liable to a fine not exceeding level 2 or imprisonment not exceeding one month or both.

Protection of water resources

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

- (a) against pollution;
- (b) promote sustainable use.

(2) Council shall make orders controlling the protection and conservation of water resources in the council area.

(3) Any person who contravenes subsection (1)(a) shall have committed an offence and liable to a fine not exceeding level 5 or imprisonment not exceeding six months or both.

General provisions on protection of the environment and natural resources

23. (1) Council shall make orders controlling all or any of the following matters—

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

(2) Any person who fails to comply with the provision of the order shall have committed an offence and liable to a fine not exceeding level 5 or imprisonment not exceeding six months or both.

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

(4) 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 purpose; 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 reads it as having been read out in terms of paragraph (d).

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

(6) An order—

- (a) addressed to an individual shall come into operation immediately;
- (b) having general effect shall come into operation one week after the order is read out in terms of subsection (4)(d).

(7) The book in which orders are recorded in terms of subsection (4)(a) shall be available for inspection by any inhabitant of the affected area during normal working hours.

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

Construction of conservation works

24. (1) Council shall order any owner of land that requires conservation works to put appropriate conservation works in place over a reasonable period of time in consultation with Ministry of Agriculture.

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(2) Any person who fails to comply with the provisions of the order shall have committed an offence and liable to a fine not exceeding level 3 or imprisonment not exceeding three months or both.

(3) Council shall put conservation works for areas that need urgent attention and recover its costs from the owner of the land or occupier.

(4) No person shall construct conservation works in the council area without the authority of Ministry of Lands, Agriculture, Water Climate and Rural Resettlement.

(5) Any person who construct conservation works without the authority of Ministry of Agriculture shall have committed an offence and liable to a fine not exceeding level 3 or imprisonment not exceeding three months or both.

(6) No person shall build a weir dam or dam without first putting measures to control measures to control soil erosion.

(7) Any person who authorises or built a weir dam or dam without putting conservation works shall have committed an offence and liable to a fine not exceeding level 5 or imprisonment not exceeding six months or both.

Fencing and conservation works

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

(2) Any person who—

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

shall take responsibility to restore or rehabilitate the land worked upon at the conclusion of the project or otherwise shall be guilty of an offence and liable to pay a fine up to level 3 or imprisonment not exceeding three months or both.

Livestock management

26. (1) Council shall—

- (a) construct a pound in which all stray animals shall be kept;
- (b) charge a prescribed pound storage fee for any stray animal that is not reclaimed after 24 hours of being impounded;
- (c) auction impounded animals after three months of staying in the pound;
- (d) appoint a pound master;
- (e) order the removal of livestock and livestock structures in growth points and business service centres;

(2) Failure to comply with the provision of the order in subsection(1)(e) shall be an offence liable to a fine not exceeding level 3 or imprisonment not exceeding three months or both such fine and such imprisonment.

(3) No person shall organise or cause to organise livestock sales for commercial purpose in the council area without council authority.

(4) No person shall buy or sell or cause to buy or sell livestock for commercial purposes in the council area without authority upon payment of prescribed fee, council shall charge a prescribed fee on knockdown price per livestock to the buyer.

(5) Any person who buys or sells or causes to buy livestock without authority from council shall have committed an offence and liable to a fine not exceeding level 5 or imprisonment not exceeding six months or both such fine and such imprisonment.

(6) Any person who fails to remit the prescribed knockdown fee for livestock he or she bought shall have committed an offence and liable to a fine not exceeding level 5 or imprisonment not exceeding six months or both such fine and such imprisonment.

(7) Council shall construct an abattoir or slaughter poll or contract a private player to do so.

(8) No person shall slaughter any livestock for commercial purposes except at designated areas.

(9) Any person who fails to register with the council wildlife conservancy shall have committed an offence and liable to a fine not exceeding level 5 or imprisonment not exceeding six months or both such fine and such imprisonment.

Wildlife management

27. (1) All wildlife conservancy shall be registered with the council upon payment of a prescribed fee.

(2) Any person who fails to register with the council wildlife conservancy shall have committed an offence and liable to a fine not exceeding level 5 or imprisonment not exceeding six months or both.

(3) Council shall order adherence to standard operation procedures which are—

- (a) outside perimeter fence shall be 1,8 metres high with 18 to 21 stands of wire;
- (b) inside perimeter fence shall be 1,5 metres tall with four strands wires;
- (c) the gapping between the fences shall be 10 metres apart and shall be graded for inspection purposes;
- (d) all the fences shall be electrified with a minimum of 5 000 volts;

(4) Any person who fails to abide by the provisions of the order shall have committed an offence and liable to a fine not exceeding level 5 or imprisonment not exceeding six months or both.

(5) All problem wildlife animals shall be put on council hunting quota.

Air pollution

28. (1) No person shall emit any substances which cause air pollution in the council area based on the Standards and Enforcement Committee air quality standards in terms of section 63 of the Environmental Management Act.

- (2) No person who engages in any of the following activities—
 - (a) the burning of vehicle tyres; or
 - (b) the burning of bitumen; or

- (c) the burning of metallic wire coated with any material; or
- (d) the burning of oil in the open air; or
- (e) the operation of an incinerator; or
- (f) any activity that causes the emission of a pollutant into the atmosphere.

shall in the course of that activity emit any substance into the atmosphere in excess of the amount prescribed in the Third Schedule of the Environment Management (Atmosphere Pollution Control) Regulations, 2009, published in Statutory Instrument 72 of 2009.

(3) No person is permitted to burn any waste at a landfill.

(4) Any person who burns waste on a landfill or dump site shall have committed an offence and liable to a fine not exceeding level 5 or imprisonment not exceeding six months or both.

(5) Anyone who contravenes the provisions of subsections (1) and (2) shall be guilty of an offence and is liable to any of the following—

- (a) fine not exceeding level 5; or
- (b) temporary closure of the facility for up to three weeks until level of emissions have been rectified; or
- (c) imprisonment not exceeding six months.

Emission licences

29. (1) Any person who has an emission licence issued by the Environment Management Agency in the council area shall register with the council upon a payment of a prescribed fee.

(2) Any person who fails to register an emission license with the council shall have committed an offence and liable to a fine not exceeding level 2 or imprisonment not exceeding one month or both.

(3) Any member of the public may inspect the register of licences upon payment of an appropriate fee.

Solid and effluent waste management

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

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licence approved by the Agency and having notified the council of a prescribed fee.

(2) Any person who fails to notify the council for disposing of waste or effluent into the environment shall have committed an offence and liable to a fine not exceeding level 5 or imprisonment not exceeding six months or both.

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

- (a) on site disposal of household domestic waste by means of pit latrines, septic tanks and associated soak ways, refuse pits and other on site household domestic sanitation systems;
- (b) the application of inorganic fertilizers, chemicals and animal manure used for the purposes of agricultural production, if the application is onsite and its effects are restricted to the location where such production takes place.

(4) Every generator of solid and effluent waste shall prepare a waste management plan not later than the 30th November, of each year.

(5) Any person who fails to submit waste management plan to the council shall have committed an offence and liable to a fine not exceeding level 3 or imprisonment not exceeding three months or both.

(6) The Local Authority shall prepare a waste management plan not later than the 31st of December, of each year consisting of the matters specified in section 12(1) of the Environmental Management ((Effluent and Solid Waste Disposal) Regulations, Statutory Instrument 6 of 2007, in relation to the waste by or in possession by the Authority.

(7) In preparing its waste management plan the local authority may request in writing that generators of waste within its jurisdiction submit their waste management plans.

(8) The local authority shall designate suitable sites as waste collection sites within its jurisdiction for the management of wastes and ensure a waste collection frequency that minimises accumulation and avoids decomposition of waste on collection sites.

(9) The local authority shall register every waste collection and management enterprise operating within its area of jurisdiction upon payment of a prescribed fee.

(10) Any waste management enterprise that fails to register with the council shall have committed an offence and liable to a fine not exceeding level 5 or imprisonment not exceeding six months or both.

(11) The owner or occupier of a waste collection or waste management enterprise shall keep and maintain up to date records on the type, quantity, quality, origin and whereabouts of wastes or waste oils collected or managed by it.

(12) Any waste management enterprise that fails to keep up to date records shall have committed an offence and liable to a fine not exceeding level 3 or imprisonment not exceeding three months or both.

Removal of waste

31. (1) All refuse accumulated on premises shall be removed from time to time and shall be deposited to a designated refuse disposal site, and the council shall be entitled as 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 officials from time to time and at such a time as the council may so determine.

(2) Failure to dispose accumulated refuse at premises at designated disposal site or refuse to comply with an order to remove refuse under the supervision of council shall be an offence and liable to a fine not exceeding level 4 or imprisonment not exceeding six months or both.

Waste management, collection and disposal

32. (1) All waste generators shall properly store their waste and properly dispose it in a sustainable environmental manner except for domestic waste.

(2) Failure to properly store waste and properly dispose it, is an offence and liable to a fine not exceeding level 3 or imprisonment not exceeding three months or both.

(3) Domestic waste shall securely be put in bins and council shall frequently collect it and or whenever necessary.

(4) Failure to properly secure put waste in bins shall be an offence and liable to a fine not exceeding level 3 or imprisonment not exceeding three months or both.

(5) All households and shop owners shall have adequate bins in their homes.

(6) Council shall designate temporary waste collection points at appropriate sites.

(7) Council shall withdraw shopping licences and/or close all the shops without adequate bins.

Responsibility of refuse

33. All refuse removal in the council area shall be carried out by the Council's Environmental Health Section and no contractor shall be permitted to undertake refuse removal except when requested to do so by the Council and on its behalf and on agreed tariffs.

Landfills

34. (1) No person shall dispose general waste or hazardous waste at any other place except at designated site approved by council.

(2) Any person who fail to dispose general waste or hazardous waste at designated site approved by council shall have committed an offence and liable to a fine not exceeding level 5 or imprisonment not exceeding six months or both.

Littering and dumping

35. (1) No person is permitted to throw litter on any land, water surface, street, road or any site except in a container provided for that purpose or at a place specifically designed for that purpose.

(2) Any person who throws litter in undesignated site shall have committed an offence and liable to a fine not exceeding level 2 or imprisonment not exceeding one month or both.

(3) No person or shop owner is allowed to dump waste in any place except in a designated place designed for that purpose.

(4) Any shop owner or person who dumps waste at undesignated site shall have committed an offence and liable to a fine not exceeding level 2 or imprisonment not exceeding one month or both.

(5) Public transporters shall have adequate waste receptacles in their vehicles.

(6) Any public transporter without bins or with inadequate bins shall have committed an offence and liable to a fine exceeding level 2 or imprisonment not exceeding one month or both.

(7) Sanitary lanes shall always be kept clean.

(8) Any shop owner with littered sanitary lanes shall have committed an offence and liable a fine not exceeding level 3 or imprisonment not exceeding three months or both.

(9) No person shall leave/dump his or her vehicle wreckage in an undesignated area for a period specified by the council.

(10) Any person who dumps his or her vehicle wreckage in an undesignated area shall have committed an offence and liable to a fine not exceeding level 5 or imprisonment not exceeding six months or both.

(11) Council shall remove the vehicle wreckage and recover such removal cost from the owner.

Hazardous substance/waste and toxic chemicals

36. (1) Local Authority shall designate suitable sites as waste collection sites within its jurisdiction for management of wastes 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.

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

(3) Any person who disposes hazardous waste or substances in an undesignated site shall have committed an offence and liable to a fine not exceeding level 5 or imprisonment not exceeding six months or both.

(4) Any generator of hazardous waste shall ensure that council is notified of the activity liable to generate hazardous wastes upon payment of a prescribed fee.

(5) Any person who fails to notify the council shall have committed an offence and liable to a fine not exceeding level 3 or imprisonment not exceeding three months or both.

(6) Hazardous wastes and waste oils shall be collected, stored, transported and treated separately from other waste.

(7) Any person who fails to separately collect, store, transport and treat hazardous waste and waste oils shall have committed an offence and liable to a fine not exceeding level 5 or imprisonment not exceeding six months or both.

(8) The Local Authority shall keep records and registers of every waste collection and management enterprise operating within its jurisdiction.

Mineral panning and mining

37. (1) No person shall be allowed to engage in any mineral panning activity in the Council area.

(2) Any person who engages in mineral panning shall have committed an offence and liable to a fine not exceeding level 5 or imprisonment not exceeding six months or both.

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

(4) Council shall order any person who is mining or prospecting on grounds that are not open to pegging and prospecting to cease any operation.

(5) No person shall mine within 200m from the centre of a river or stream.

(6) Any person who contravenes subsections (3) and (4) shall have committed an offence and liable to a fine not exceeding level 5 or imprisonment not exceeding six months or both.

Resettlement areas

38. (1) Any person who occupies land in a resettlement area shall have either an offer letter, lease agreement or 99-year lease.

(2) Any person occupying resettlement areas shall register with the Council.

(3) Council shall order immediate removal of any person occupying land in resettlement areas without necessary documents from Ministry of Lands, Agriculture, Water, Climate and Rural Resettlement.

Allocation of arable land

39. No village head shall allocate land without consulting the headmen or chief and the land allocation committee.

Plant, pest and diseases

40. (1) Council shall order the destruction of cotton and tobacco stalks before the beginning of each new farming season in line with the requirements of Plant, Pest and Disease Control regulations.

(2) Any person who fails to comply with the provisions of the order shall have committed an offence and liable to a fine not exceeding level 5 or imprisonment not exceeding six months or both.
Appeal against decisions made by orders of council

41. (1) Any person who is aggrieved by a decision of an order made by council shall make an appeal within 30 days from date of issue to the responsible Minister accompanied with the prescribed fee.

(2) Any person who is aggrieved by an order of the responsible Minister shall appeal to the Administrative Court within 30 days from the date of determination by the Minister.

Offences and penalties

42. Any person who is convicted of three or more offences may have his or her rights under the plan revoked by the council.

