

Statutory Instrument of 2014

[CAP. 29:15

Harare (Protection of marginalised land) By-laws, 2014

ARRANGEMENT OF SECTIONS

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IT is hereby notified that the Minister of local Government, Public works and National Housing has, in terms of section 229 of the Urban Councils Act [*Chapter 29:15*] approved the following by-laws made by the City of Harare—

Title

1. These by-laws may be cited as the Harare (Protection of Marginalised Lands) By Laws, 2014.

Application

2. These by laws shall apply within the council area of the City of Harare and any local government area, the administration, control and management of which is vested in the city Council of Harare.

Interpretation

3. In these By Laws—

“Agency” means, the Environmental Management Agency established in terms of the Environmental Management Agency Act [*Chapter 20:27*].

“Authorised Person” means any person employed or delegated by council to carry out any functions prescribed in these by-laws;

“Council”, means the City Council of Harare.

“Equipment”, includes shovels, picks, wheelbarrows, spades, hoes or sieves.

“Marginalised Land”, means any area referred to in term of section 4 of these by-laws.

“Person”, shall include an individual or body corporate.

Prohibition of certain activities on marginalised land.

4. No person shall, without a valid licence issued by the Agency in terms of section 21 of the Environmental Management (Environmental Impact Assessment and Ecosystem Protection) Regulations, 2007, the proof whereof shall lie upon him or her, remove, dredge, fills, build upon, cultivate, excavate, degrade or otherwise alter in any way the soil or surface of—

- (a) wetlands; or
- (a) sloppy areas; or
- (b) hills; or
- (c) land within thirty (30) metres of the naturally defined banks of a public stream; or
- (d) land within thirty (30) metres of the high flood level of any body of water conserved in artificially constructed water storage on a public stream; or

- (e) bed, banks or course of any river or stream; or
- (f) any other area which the Council may from time to time designate as such.

Enforcement

5. (1) An Authorised person shall have authority to enter upon privately owned land for the purposes of carrying out his or her duties in terms of these by-laws.

(2) An authorised person may request any person who, in his or her opinion, appears to be contravening or to have contravened any provisions of these by-laws, to refrain from such contravention and take such remedial action to restore the property to its original condition and pay the prescribed fine not exceeding level three (3).

(3) Where any person who has been ordered to refrain from contravening these by-laws or to take remedial action to restore the property to its original condition in terms of subsection (1), refuses to comply with the instruction, he or she shall be guilty of an offence.

(4) Each day or portion thereof during which a violation continues shall constitute a separate offence.

Obstruction

6. Any person who obstructs or impedes or refuses to comply with a request of an authorised person acting in the exercise of the functions conferred in him or her by these by-laws, shall be guilty of an offence.

Extraction of clay and sand deposits

7 (1) No person shall excavate, remove, possess or licence the removal of clay or sand deposits for commercial purposes without a valid licence issued by the Agency.

(2) An authorised person shall order any person found excavating, removing, or in unauthorised possession of clay or sand deposits to pay the prescribed fine not exceeding level (3) three.

(3) Where any person so ordered to pay the spot fine in terms of subsection (2) refuses to comply, the council shall immediately impound the vehicle and equipment used in the excavation or removal of such clay or sand deposit.

(4) The vehicle or equipment so impounded shall be taken to a secure compound designated for that purpose by Council.

(5) The vehicle or equipment so impounded shall only be released upon payment of such storage charges as determined by Council from time to time.

(6) Any vehicle or equipment which remain unclaimed for three (3) months from the date of impoundment shall be disposed in terms of section 8.

Disposal of unclaimed vehicles and equipment

8. (1) Council shall publish in any newspaper of wide circulation within the Council area, a list of unclaimed vehicles and equipment and advise the owners to claim the goods within thirty (30) days.

(2) Council shall sell by public auction, any vehicles and equipment that remain unclaimed thirty (30) days after the notice of unclaimed vehicles and equipment has been published.

(3) Council shall deduct the charges for storage from the proceeds of the sale of unclaimed vehicles and equipment and the balance, if any, shall be paid to the owner within thirty (30) days from the date on which the owner submits to the council a written request for such payment.

(4) Council shall operate a special account into which money realised from the sale of unclaimed vehicles and equipment shall be deposited.

(5) Any money not claimed within thirty (30) days after the sale of vehicles and equipment shall be forfeited to Council.

Offences and Penalties

9. Any person who—

- (a) dredges, fills, builds upon, cultivate, excavate, degrades or otherwise alter in any way the soil or surface of any marginalised land in terms of section 4; or
- (b) obstructs, or impedes or refuses to comply with a request of an authorised person in terms of section 5 and 6; or
- (d) excavates, removes, possesses or licences the removal of clay or sand deposits for commercial purposes without a valid licence issued by the Agency in terms of section 7 (1);

Shall be guilty of an offence and liable, upon conviction, to a fine not exceeding level (5) five or fifteen days imprisonment or to both such fine and imprisonment.

Repeals

10. The Salisbury (Protection of Lands) By-laws published in Rhodesia Government Notice No. 104 of 1973 are hereby repealed.