

Nkayi Rural District Council (Environmental and Natural Resources Conservation) By-laws, 2024

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

*Title*

1. These by-laws may be cited as the Nkayi Rural District Council Environmental and Natural Resources Conservation By-laws, 2024.

*Application*

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

*Interpretation*

3. In these by-laws—

“agency” means the Environmental Management Agency;

“biological diversity” means the variability among living organisms from all sources including, *inter alia*, terrestrial, marine and other aquatic ecosystems and

the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems;

“council” means the Nkayi Rural District Council;

“council area” means the area for which the council has been established or under its jurisdiction;

“developer” means a person who develops land, is engaged in extractive activities including mining;

“effluent” means waste water or other fluid originating from domestic, agricultural or industrial activity, whether the water or fluid is treated or untreated and whether it is discharged directly or indirectly into the environment;

“environment” means—

- (a) the natural and man made resources physical resources, both biotic and abiotic, occurring in the lithosphere and atmosphere, 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, including urbanised areas, agricultural areas, rural landscapes, and places of cultural significance;
- (c) the economic, social, cultural or aesthetic conditions and qualities that contribute to the value of the matters set out in paragraphs (a) and (b);

“environmental action plan” means an environmental action plan prepared by a Rural District Council 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(2) of the Rural District Councils Act [*Chapter 29:13*];

“environment sub-committee” means a sub-committee meant to assist the environment committee in carrying out its functions as appointed in terms of section 61(6) 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 and procedures are set out in terms of section 97 of the Environmental Management Act [*Chapter 20:27*] as read with sections 8 – 13 of the Environmental Impact Assessment and Ecosystems Protection Regulations, 2007 (Statutory Instrument 7 of 2007);
- “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 [*Chapter 20:27*];
- “grazing area” means the area set aside in a plan or other system adopted by the Rural District Council in collaboration with the traditional leaders and the community for the grazing of livestock;
- “high flood level” means maximum level of water which can safely be contained by a dam without encroaching on the dry free board. The maximum level to which the water level could rise due to rainfall or run off in the catchment areas over and above the level of water normally conserved in any artificially constructed water storage work;
- “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 to the Environment Management Act [*Chapter 20:27*];
- “livestock” means domestic animals including; cattle, donkeys, sheep and goats among others that are ordinarily kept by people at the homestead;

“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;
- (d) the springs, vleis, sponges, reed-beds, marshes, swamps and public streams; and
- (e) any other thing that the Minister of Environment and Natural Resources may, by notice in a statutory instrument, declare to be a natural resource, including a landscape or scenery which, in his opinion, should be preserved on account of its aesthetic appeal or scenic value;

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

“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;

“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;

“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;

“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, 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;

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

*Preparation and adoption of a Local Environmental Action plan*

4. (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 environmental action plan, council shall—

- (a) place on public exhibition a copy of the proposed environmental action plan for inspection by any of the inhabitants of the area;
- (b) put public notices by means of various communication channels indicating the place or places and period at which the plan shall be open for exhibition and inspection by council inhabitants;
- (c) call upon any inhabitant who have objections to the proposed plan to lodge their objections with the council within thirty days after the date of notification of the proposal;
- (d) consult all relevant stakeholders in the council area.

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

- (a) seek the advice of—
  - (i) the provincial planning officer; and
  - (ii) the provincial officer responsible for agriculture; and
  - (iii) the provincial environmental officer; and
  - (iv) the provincial warden; and

- (v) the provincial Mining Commissioner; and
  - (vi) any groups or individuals with expertise, skills, knowledge or an interest in the matter relevant for the development of the plan;
- (b) take into account any objections received in terms of subsection (2)(c).

(4) If in preparing any plan, the council does not act in accordance with the advice given by the officers and interested parties referred to in subsection (3), it shall advise the Provincial Council, 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 Council together with the substance of any—

- (a) objections lodged in terms of subsection (2)(c); and
- (b) advice tendered in terms of subsection (3).

(6) The Provincial Council may within thirty days from the date a plan is forwarded to them in terms of subsection (5)—

- (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 they may propose.

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

- (a) proceed in terms of subsections (2), (3) and (4); or
- (b) if it is not satisfied with the decision of the Provincial Council, within thirty days of notification of the decision, appeal to Cabinet through the Minister.

(8) After receiving an appeal from council in terms of subsection (7) the Minister shall call for representations from all the parties concerned, including, if necessary from the inhabitants of the area for which the plan is intended, before submitting the appeal to Cabinet.

(9) In describing areas in the plan, which must have coordinates, 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.

- (10) 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 Ward Assembly in the council area.

*Amendment of plan*

5. Subsections (2) to (9) of section 4 shall apply, *mutatis mutandis*, to any proposal to amend a plan.

*Grazing areas*

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

- (a) the maximum number of livestock which may be grazed in that grazing area;
- (b) which owner or owners or community may graze livestock in a specific grazing area;
- (c) the maximum number of livestock or the maximum number of different types of livestock which each owner may graze in a specific 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 to be taken to ensure the conservation of grazing lands in the area.

(2) 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.

(3) The holder of a livestock 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.

(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) Any person or inhabitant who grazes livestock in an undesignated area for grazing in terms of a Plan shall be guilty of an offence and liable to a fine prescribed by council or if it is the first time council may consider giving the person a written warning and upon commission of a similar offence a fine will be imposed.

#### *Cultivation areas*

7. (1) 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 or conservation areas;
- (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.

(2) Any person or inhabitant who deliberately fails to comply with a council plan with respect to cultivation of land shall be guilty of an offence and liable to a fine prescribed by council or if it is the first time, council may consider giving the person a written warning and upon commission of a similar offence a fine will be imposed.

*Conservation of natural resources areas*

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

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

(2) Any person who contravenes the requirements and conditions of a plan for conservation of natural resources as prescribed by the council shall be guilty of an offence and liable to a fine prescribed by the council, or to a written warning if the person is a first time offender and upon commission of a similar offence, a fine will be imposed.

*Waste management sites*

9. In respect to the management of waste in the council area, the plan shall specify—

- (a) the areas designated as waste management sites in the council area;
- (b) the types of waste generated and measures to recycle or reuse the waste.

*Environmental impact assessments*

10. (1) The developers of any projects in the council area for which an environmental impact assessment is required in terms of section 97 and the First Schedule to the Environmental Management Act [*Chapter 20:27*] shall—

- (a) consult council during the consultation process leading to the development of an environmental impact assessment;
- (b) involve council in organising public consultations meetings with traditional leaders and the local community in the area regarding the proposed development project;

- (c) submit to council the name, contact details and other relevant particulars such as qualifications of any consultant hired or engaged by the project developer to carry out the environmental impact assessment on his/her behalf and proof of their registration with the Environmental Management Agency;
- (d) submit to council a copy of the Environmental Impact Assessment Report for the proposed project;
- (e) submit to council a copy of the approved Environmental Impact Assessment report and an Environmental Impact Assessment Certificate issued for the project by the Director-General of the Environmental Management Agency.

(2) Council shall make environmental impact assessment reports submitted by project developers available and open for public inspection at council offices during working hours free of charge:

Provided that where any member of the public requires a copy, council shall provide such copy subject to payment of a fee as provided in council orders; and

Provided further that no person shall use any information contained therein for personal benefit and this has to be done in compliance with section 108 of the Environmental Management Act [*Chapter 20:27*].

(3) Council shall monitor the implementation of the environmental impact assessment report submitted by project developers jointly with environmental management agency.

(4) It is an offence for any project developer in a council area to start operations without submitting to council a copy of the Environmental Impact Assessment Report, or a copy of the Environmental Impact Assessment certificate issued by the Director-General of the Environmental Management Agency or a copy of the annual Environmental Management Plan produced by the project developer.

(5) Any person who fails to submit the documents required in terms of subsection (4) of this section shall be guilty of an offence and liable to a fine prescribed by council.

*Environmental rehabilitation works on abandonment of project*

11. (1) Any person who undertakes any project for commercial exploitation of natural resources including mining projects, resource extraction projects with the effect of causing environmental damage or environmental degradation or harm in the council area shall—

- (a) submit to council a rehabilitation plan containing rehabilitation works that will be undertaken before abandonment or closure of the project;
- (b) rehabilitate the environment before abandonment or closure of the project.

(2) Council shall monitor the implementation of rehabilitation plans of projects with assistance from the Environmental Management Agency.

(3) Any person who fails to rehabilitate the environment after abandonment or closure of the project shall be guilty of an offence and liable to a fine prescribed by council.

*Environmental works carried out by council*

12. Where a land owner or occupier as the case may be, requests 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, 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 and prevention of fires*

13. (1) The council shall make an order to regulate and control the burning of vegetation in the council area.

(2) No person in the council area shall burn growing or standing vegetation on any land without lodging a notice of intention to burn to council, the Traditional leaders, Environmental Sub Committee, Environment Management Agency, Forestry Commission, occupiers of adjoining land or to a police officer at the nearest convenient police station.

(3) The notice of intention to burn standing vegetation shall be made in line with the requirements of section 67 of the Forestry Act [*Chapter 19:05*].

(4) Every land owner, user or occupier who intends to burn vegetation or whose land is susceptible to perennial fires shall put in place adequate fire protection measures before the 31st of July each year.

(5) It shall be the duty of every land owner or occupier to put out any fire on his or her land.

(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) Every land owner, user or occupier in the council area is required to fully comply with all the fire prevention, pre-suppression, suppression and post suppression measures provided for in sections 16, 17 and 18 of the Environmental Management (Environmental Impact Assessment and Ecosystems Protection) Regulations, 2007, Statutory Instrument 7 of 2007.

(8) Any person who contravenes subsection (2), (4) or (5) shall be guilty of an offence and liable to a fine prescribed by council.

*Invasive alien species*

14. (1) Every occupier or owner of land within the council area shall keep their land free from invasive alien species in line with the requirements of section 118 of the Environmental Management Act [Chapter 20:27] as read with the Schedule to the by-laws, 2024.

(2) The council may 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 relation to invasive alien species “clearing” means to dig up or pull out and burn invasive alien species or to employ other means of destruction authorised by the Environmental Management Agency.

(4) 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.

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(5) Any occupier or owner of land who fails to keep his or her land free from invasive alien species without an adequate and reasonable explanation or fails to comply with a council order issued in terms of subsection (2) of this section shall be guilty of an offence and liable to a fine specified in an order of council.

*Protection of wetlands*

15. (1) Any person who intends in a council area to reclaim or drain, drill or make a tunnel, introduce any exotic animal or plant species, cultivate, or licence the cultivation of, or destroy any natural vegetation on, or dig up, break up, remove or alter in any way the soil or surface of—

- (a) wetland; or
- (b) land within 30 metres of the naturally defined banks of a public stream; or
- (c) land within 30 metres of the high flood-level of any body of water conserved in artificially constructed water storage work on a public stream; or
- (d) bed, banks or course of any river or stream;

shall, furnish the council with a licence issued by the Environmental Management Agency in terms of section 20(1) of the Environmental Management (Environmental Impact Assessment and Ecosystems Protection) Regulations, 2007, Statutory Instrument 7 of 2007, to perform any of the afore-said activities.

(2) In order to promote the protection of wetlands, council shall take additional measures and make orders for the protection of wetlands in the council area in line with the requirements of section 113 of the Environmental Management Act [*Chapter 20:27*] and section 20 of the Environmental Management (Environmental Impact Assessment and Ecosystems Protection) Regulations, 2007, Statutory Instrument 7 of 2007.

(3) Any person who fails to produce or furnish council with a valid licence issued by the Environmental Management Agency in terms of subsection (1) of this section or fails to comply with a council order made in terms of subsection (2) shall be guilty of an offence and liable to a fine prescribed by council.

*Environment committee and sub-committee*

16. (1) Council shall establish an Environment Committee and Environment Sub-committees whose functions and duties are as prescribed in section 61 of the Rural District Act [*Chapter 29:13*], in pursuance of the need to promote environmental conservation, the development of the council area using natural resources and environmental protection.

(2) In appointing the Environment Committee and Environment Sub-committees, council shall follow the prescribed procedures and composition of the Committees as set out in section 61 of the Rural District Councils Act [*Chapter 29:13*].

*Sleighs and farming implements*

17. (1) No person shall own, possess, use or have in his or her custody or control a sleigh, in a council area.

(2) No person is allowed to drag ox-drawn implements 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 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 contravenes subsections (1), (2) and orders made in terms of subsection (3) shall be guilty of an offence and liable to a fine specified by order of council.

*Cutting of trees*

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

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

(2) Cutting of trees in the council area for commercial and large scale agricultural purposes shall be controlled and done in consultation with the Forestry Commission and Agricultural Research and Extension Services (AREX).

(3) No person shall cut down reserved trees in the council area outlined in the Schedule of Reserved Trees in the Communal Lands Forest Produce Act [*Chapter 19:04*].

(4) Council may develop its own list of reserved trees found in their area other than the ones listed in the Schedule of Reserved Trees in the Communal Lands Forest Produce Act [*Chapter 19:04*] and which inhabitants will not be allowed to cut down.

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

(6) Any person who is found cutting down trees in contravention of subsection (1) shall be guilty of an offence and liable to a fine prescribed by council.

#### *Forest produce*

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

- (a) any person who is involved in commercial exploitation or collection for sale of forest produce is required to notify council in writing:

Provided council shall always seek ways of ensuring that the local inhabitants shall be given preference in accessing forest produce than people from other areas outside the council area and council may regulate or impose a fee for access;

- (b) council shall 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;
- (c) council may impose restrictions or make orders on the picking, harvesting or picking of fruits or plant produce for commercial purposes if council finds it desirable to do so to conserve the environment or the forest produce.

(2) Any person who collects, harvest or pick fruits or other forest produce for sale in the council area without seeking the



permission of council in writing shall be guilty of and liable to a fine prescribed by council.

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

20. (1) No person shall excavate, remove, possess, transport or licence the removal of sand, stones and pit sand, slate, pebbles, clay and lime for commercial purposes without seeking a permit from council and furnishing council with a licence obtained from the Environmental Management Agency issued in terms of section 3 of the Environmental Management (Environmental Impact Assessment and Ecosystems Protection) Regulations, 2007, Statutory Instrument 7 of 2007.

(2) Any person who intends to extract sand, stones, pit sand, slate, pebbles, clay and lime on his or her land or on council land shall apply to council stating the details of the excavation works to be conducted and submit an environmental rehabilitation plan to council, which shall also be forwarded to the Environmental Management Agency for consideration before any extraction or excavation is done in terms of section 3(3) of the Environmental Management (Environmental Impact Assessment and Ecosystems Protection) Regulations, 2007, Statutory Instrument 7 of 2007.

(3) On council land, council shall have the sole authority to identify designated sites for the extraction of gravel, stones, river sand or pit sand in the council area for commercial purposes.

(4) Council shall periodically monitor the collection or removal of gravel, stones, river sand or pit sand, slates, pebbles, clay and lime for non-commercial purposes.

(5) All provisions related to the abstraction of sand and clay as stated in the Environmental Management (Environmental Impact Assessment and Ecosystems Protection) Regulations, 2007, Statutory Instrument 7 of 2007, shall apply to the council area and all inhabitants and any person who wishes to engage in commercial extraction of clay and sand in the council area is required to comply with the law.

(6) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine prescribed by council.

(7) Council shall confiscate any instrument that is used in the commission of an offence referred to in subsection (6) and keep it in

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safe custody until the offender has fulfilled the penalty provided for in subsection (6).

(8) Where a confiscated instrument remains in the custody of council for a period exceeding 90 days.

*Brick making*

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

(2) In the event that a person intends to mould or make bricks for sale or for 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;
- (b) use deadwood for burning the bricks; 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 reforestation projects in the area where trees have been cut or shall establish a woodlot failing of which the licence will be revoked by council.

(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 determine from time to time.

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

(5) Inhabitants of the council areas shall be allowed to make or mould bricks for domestic use and are required to ensure that all pits created are rehabilitated, use dead wood for burning bricks and where possible undertake reforestation measures.

(6) Council shall monitor operations of moulding bricks for domestic purposes from time to time and when necessary make orders on rehabilitating the environment.

(7) Any person who contravenes the provisions of this section or mould or make bricks for sale or for commercial purposes in the

council area without permission from council, or fails to rehabilitate the environment after moulding bricks, or moulds and markets bricks in a undesignated area shall be guilty of an offence and liable to a fine prescribed by council.

*Protection of water sources*

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

- (a) against pollution;
- (b) to promote sustainable use of water resources.

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

(3) In the event that council has been appointed as one of the stakeholder representatives to serve in Water (Catchment and Sub-catchment Councils) in terms of the Water Act [Chapter 20:24], the Water (Catchment Councils) Regulations, 2000, Statutory Instrument 33 of 2000, and the Water (Sub-catchment Councils) Regulations, 2000, Statutory Instrument 47 of 2000, or when council has been delegated by the Minister responsible for Water Resources in terms of section 66 of the Water Act [Chapter 20:24] to exercise the powers conferred on a catchment council, the council shall ensure that the interests of its inhabitants are served by discharging its duties in the catchment or sub-catchment with the objective of—

- (a) promoting the right of access to water for primary purposes for all inhabitants as contemplated by the Water Act [Chapter 20:24]; and
- (b) ensuring the protection, conservation and sustenance of water resources and the environment.

*General provisions on protection of environment and natural resources*

23. (1) Council may 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) dipping of livestock;
- (g) the protection of road networks;
- (h) the rehabilitation of the environment by mining activities;  
and
- (i) the construction of conservation works in arable lands.

(2) 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.

(3) An order which is intended to be of general application throughout the communal and 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).

(4) For the purposes of paragraph (c) of subsection (3), subsection (9) of section 4 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 effect shall come into operation one week after the order is read out in terms of paragraph (d) of subsection (3).

(6) The book in which orders are recorded in terms of paragraph (a) of subsection (3) shall be available for inspection by any inhabitant 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.

(8) Any person who fails to comply with provisions of subsection (1) shall be guilty of an offence and liable to a fine prescribed by council and council may issue a written warning to a first offender without imposing a fine depending on the gravity of the offence.

#### *Bio-diversity protection*

24. (1) All persons in the council area have a duty to protect and conserve biological diversity in the council area in accordance with the provisions of section 116 of the Environmental Management Act [Chapter 20:27].

(2) Council may, if necessary prepare an inventory of the biological diversity of the council area, which can also be submitted to the Environmental Management Agency.

(3) All developers of projects required in terms of the Environmental Management Act to carry out Environmental Impact Assessments shall be required to submit to council a plan of how the project will integrate the conservation and sustainable utilisation of biological diversity in the council area.

#### *Commercial timber logging*

25. (1) Council shall designate areas for timber logging in collaboration with the Forestry Commission and in compliance with the requirements of the Forest Act [Chapter 19:05].

(2) All persons carrying out commercial timber logging in the area shall pay a prescribed fee to council.

(3) Commercial timber logger shall be responsible for reclamation of loading sites.

(4) Sections 57 and 58 of the Forest Act [Chapter 19:05] on the powers of the Environment Committee in relation to conservation of timber resources and restrictions on the cutting and removal of indigenous trees shall apply, *mutatis mutandis*, to the council area.

*Protection of wildlife and indigenous plants*

26. (1) Council shall take all necessary measures where it has been appointed as the appropriate authority in Communal Lands in terms of section 108(1) of the Parks and Wildlife Act [*Chapter 20:14*], to ensure compliance with the provisions of the Parks and Wildlife Act [*Chapter 20:14*], and in particular shall—

- (a) ensure that all persons who are involved in safari hunting or photographic safari on council land or communal land or other alienated land in the council area as prescribed in section 65 of the Parks and Wildlife Act [*Chapter 20:14*] have permits;
- (b) control hunting, removal and sale of live animals and animal products outside national parks, sanctuaries and safari areas by any person with a permit as prescribed in section 59(4) of the Parks and Wildlife Act [*Chapter 20:14*];
- (c) as the appropriate authority for any land, in terms of section 56 of the Parks and Wildlife Act and subject to Part VI of the Forest Act [*Chapter 19:05*], give permits to any person to pick any indigenous plant of the land or to sell indigenous plant picked in terms of a permit.

(2) Environment committees and sub-committees established in the council area shall have and exercise all the powers granted to them in terms of sections 77 and 78 of the Parks and Wildlife Act [*Chapter 20:14*] and in particular—

- (a) investigating and reporting upon animals and indigenous plants on alienated land within the council area;
- (b) order the cessation of hunting where an environment committee is of the opinion that the hunting of animals is taking place on a scale which is, in its opinion, likely to be injurious to animal populations in the council area.

(3) Any person who contravenes the provisions related to the protection of wildlife and indigenous plants in the council area shall be guilty of an offence and liable to a fine prescribed by council.

*Fencing and conservation works*

27. (1) Council shall erect perimeter 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 any conservation works on council land;
- (c) fails to construct and or 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 a fine prescribed by council.

*Air pollution*

28. (1) No person shall emit any substances which cause air pollution in the council area and as prescribed in the air quality standards set in terms of section 63 of the Environmental Management Act [Chapter 20:27] and the Environmental Management (Atmospheric Pollution Control) Regulations, 2009, Statutory Instrument 72 of 2009, which shall apply, *mutatis mutandis* in the council area.

(2) No person who engages in any of the following activities—

- (a) the burning of waste at a landfill; or
- (b) the burning of vehicle tyres; or
- (c) the burning of bitumen; or
- (d) the burning of metallic wire coated with any material; or
- (e) the burning of oil in the open air; or
- (f) the operation of an incinerator; or
- (g) 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 to the Environment Management (Atmospheric Pollution Control) Regulations, 2009, Statutory Instrument 72 of 2009.

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(3) All air polluters in the council area shall register with the Local Authority in order to assist council in the development of its environmental action plan and council shall maintain a database of all polluters in the area.

(4) All air polluters in the council area shall submit copies of their emission licences and any other reports related to their emissions that are required to be submitted to the Environmental Management Agency or that are issued by the Environmental Management Agency to council.

(5) In addition to notifying all relevant authorities and all persons who may be affected by any accidental emission of hazardous emissions as prescribed in section 17 of the Environment Management (Atmospheric Pollution Control) Regulations, 2009, Statutory Instrument 72 of 2009, the person who is licenced by the Environmental Management Agency, shall also notify council about the accidental emission within the time frame prescribed by the law.

*Solid and effluent waste management*

29. (1) No person shall dispose of solid waste, effluent or hazardous waste on land or 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 Environmental Management Agency in terms of the Environmental Management Act [*Chapter 20:27*].

(2) 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 soakways, 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;
- (c) all registered generators of solid, effluent and hazardous waste shall submit copies of their licenses and other relevant records related to solid and effluent waste management issued by the Environmental Management Agency to the council.



*Waste management plans*

30. (1) Council shall prepare its own waste management plan not later than the 31st of December of each year consisting of the matters specified in section 12 subsection (1) of the Environmental Management (Effluent and Solid Waste Disposal) Regulations, 2007, Statutory Instrument 6 of 2007 in relation to waste generated by it or under its control.

(2) In preparing its waste management plan the local Authority may also request in writing that all generators of solid and effluent waste operating within its jurisdiction submit their Waste management plans no later than the 31st of November of each year.

(3) Council in rural areas shall designate collection points at business centres and growth points 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.

*Waste management enterprises*

31. (1) The Local Authority shall keep records and a register of every waste collection and management enterprise operating within its area of jurisdiction and copies of their licences issued by the Environmental Management Agency issued in terms of Environmental Management (Effluent and Solid Waste Disposal) Regulations, 2007, Statutory Instrument 6 of 2007.

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

(3) Council shall appoint in writing a waste management enterprise licensing agent, whose name shall be communicated to the Environmental Management Agency and liaise with the Agency in all waste management enterprises licensing.

(4) Every person requiring a waste management enterprise licence shall abide by the procedures of applying for a waste management enterprise licence prescribed in section 16 of the Environmental Management (Effluents and Solid Waste Disposal) Regulations, 2007, Statutory Instrument 6 of 2007.

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(5) For the avoidance of doubt the following provisions as stated in the Environmental Management (Effluents and Solid Waste Disposal) Regulations, 2007, Statutory Instrument 6 of 2007, shall apply, *mutatis mutandis*, in the council area; and every person requiring a waste management enterprise licence shall —

- (a) submit the application in duplicate to the licensing agent within whose area of jurisdiction the waste management enterprise is or is proposed to be located and get the consent of the local authority;
- (b) pay to the licensing authority the appropriate fee as the local authority may require for the consideration of the application;
- (c) submit with or in connection with the application such additional information as council may require before granting its consent, including —
  - (i) information on the type, purpose, scope and duration of the waste management enterprise;
  - (ii) information concerning the ownership or condition of occupancy of the land on which the waste management enterprise is or is to be located;
  - (iii) a description of the operation, including a list of the machinery and other operating equipment;
  - (iv) a description of the premises of the waste management enterprise accompanied by the relevant drawings or plans;
  - (v) a description of the wastes to be used for the purposes of the waste management enterprise and the manner of their storage, treatment, recycling or processing;
  - (vi) a description of the measures intended for the prevention or mitigation of pollution including measures for the prevention of water pollution;
  - (vii) a description of the emissions expected from the treatment plant;
  - (viii) a description of the measures to be taken in the event of accidents.

(6) Immediately after receiving an application, the licensing agent shall, at the expense of the applicant, publish, in not less than 3 consecutive issues of a newspaper circulating within jurisdiction of the local authority concerned, a notice giving adequate particulars of the application and inviting any persons having any objections to the waste management enterprise licence being granted to lodge them in writing to the local authority within 21 days from the date of the first publication of the notice.

(7) After the council has considered any objections received, it shall transmit a copy of the application, together with recommendations of the local authority thereon, to the Environmental Management Agency, for consideration as prescribed in section 16 of the Environmental Management (Effluents and Solid Waste Disposal) Regulations, 2007, Statutory Instrument 6 of 2007.

*Waste collection enterprises operated by or on behalf of council*

32. (1) The local authority may operate a waste collection enterprise, whether on its own account or through an agent and may apply for a waste management licence from the Environmental Management Agency as prescribed in section 17 of the Environmental Management (Effluents and Solid Waste Disposal) Regulations, 2007, Statutory Instrument 6 of 2007.

(2) All provisions related to the application for a waste collection and management enterprises operated by or on behalf of local authorities, in terms of section 17 of the Environmental Management (Effluents and Solid Waste Disposal) Regulations, 2007, Statutory Instrument 6 of 2007, shall apply, *mutatis mutandis*, to the council area and council shall take all appropriate measures to comply with the law.

*Refuse removal and management*

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

(2) All refuse collected by council shall be disposed at a designated sanitary landfill.

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(3) Council may charge a fee for the collection of waste from households or other premises.

*Provision of waste receptacles*

34. (1) The owner or occupier of premises shall provide an adequate number of approved types of waste receptacles, in which all wastes shall be stored.

(2) The 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. The occupier of the premises shall cause the refuse receptacles to be accessible for removal on stipulated collection dates by council.

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

*Landfills*

35. No person shall dispose general waste or hazardous waste at any other place except in a licenced general landfill or a hazardous waste landfill.

*Littering*

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

(2) All operators of a public passenger conveyance that enters Public Terminus shall put in place sufficient bins within the vehicle for use by the passengers.

(3) An operator of a public passenger conveyance who fails to provide sufficient bins within the vehicle for use by the passengers shall be guilty of an offence and liable to a fine prescribed by the council.

*Hazardous substances and toxic chemicals*

37. (1) No person shall generate, store, sell, transport, use, recycle, discharge or dispose of hazardous waste to the environment in the council area except under a licence issued by the Environmental Management Agency.

(2) Any person who generates, store, transport, use, recycle, discharge or dispose hazardous waste in the council area shall submit

to the council a copy of the licence issued by the Environmental Management Agency.

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

(4) All provisions related to the management, control, storage, transportation, recycling, discharge or disposal of hazardous waste prescribed in the Environment Management (Hazardous Waste Management) Regulations, 2007, Statutory Instrument 10 of 2007, shall apply, *mutatis mutandis*, to the council area.

#### *Mining and mineral panning*

38. (1) It is an offence for any person to pan any mineral in the council area, except in terms of a licence issued in terms of the Mines and Minerals Act [*Chapter 21:05*] and any person found guilty of panning shall be liable to a fine to be prescribed by council in an order.

(2) All holders of prospecting, exploration and mining rights operating in the council area shall submit copies of their licences to council.

#### *Protection of genetic resources*

39. (1) The Local Authority shall establish a genetic resources and indigenous Genetic Resource based knowledge protection committee.

(2) The Committee shall have the following functions evolving a long term policy and guidelines on—

- (a) the conservation and sustainable use of genetic resources and their components; and
- (b) the equitable sharing of benefits arising out of the utilisation of genetic resources;
- (c) assisting indigenous communities to document their indigenous genetic resources;
- (d) the *sui generis* protection of indigenous 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 and be guided by the Environmental Management (Access to Genetic Resources and

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Indigenous Genetic Resource-based Knowledge) Regulations, 2009,  
Statutory Instrument 61 of 2009, in administering the above provisions.

*Offences*

40. Any person who contravenes any provision of these by-laws  
shall be guilty of an offence and liable to a fine specified by council.

SCHEDULE (*Section 14*)

INVASIVE ALIEN SPECIES

| <b>Botanical name</b>                   | <b>Common name</b>                     |
|---|--|
| Avena fatua L.                          | Wild oat                               |
| Azolla filiculoides Lam                 | Water lettuce                          |
| Cuscuta spp.                            | Dodder                                 |
| Eichhornia crassipes Solms              | Water hyacinth                         |
| Harrisia martinii (Labouret)<br>Britton | Moonflower cactus                      |
| Lantana camara L.                       | Cherry-pie                             |
| Opuntia aurantiaca Lindl.               | Jointed cactus or jointed prickly pear |
| Pistia Stratiotes L.                    | Azolla                                 |
| Salvinia auriculata Aubl                | Water Fern                             |