**Manyame Rural District Council (Specified businesses) Bylaws, 2022**

*Arrangement of Sections*

*Section*

1. Title
2. Application
3. Interpretation
4. Environmental impact assessments
5. Environmental rehabilitation works on abandonment of project
6. Environmental works carried out by council
7. Collection or removal of gravel
8. Crushing Stones
9. Sand Extraction
10. Clay extraction
11. Brick moulding
12. Commercial timber logging
13. Offences and penalties
14. Appeals

*Title*

1. These By- Laws may be cited as the “Manyame Rural District Council Specified Businesses By-Laws”

*Application*

1. These By- laws shall apply to all land within the jurisdiction of Manyame Rural District Council

*Interpretation of Terms*

1. In these by-laws—

**“specified business”** means businesses as defined in section 95 of the Rural District Councils Act Chapter 29:13

“**Agency**” means the Environmental Management Agency or the organisation responsible for managing the environment

“**Council**” means the Manyame Rural District Council

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

“**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;

“**environmental action plan**” means an environmental action plan prepared by Manyame 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 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 Section 8 – 13 of the Environmental Impact Assessment& Ecosystems Protection Regulations, 2007 ([*SI 7/2007*](dps://2007_7s)).

“**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;

**“permit”** means a permit issued in terms of these by laws;

“**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;

(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;

“**plan**” means a diagram or illustration depicting or describing any area of land within communal or resettlement or urban land areas set aside for specified business purposes;

**‘Permit’** means a legal document issuedby Councilauthorising a person to carry out specified business operations.

“**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;

**Application**

4. (1) Any person intending to carry out any specified business in the Council area shall lodge with the Chief Executive Officer an application notifying of such intention after paying the necessary application fees together with the project proposal;

(2) Within thirty days of the receipt of an application lodged with the Chief Executive Officer in terms of section 4 (1), the Council shall, in writing, notify the applicant of the outcome of their application.

(3) Once offered the applicant shall be required to obtain an EIA or EMP from the Environmental Management Agency.

(4) The Council may or may not approve such application taking into account the provisions of the Public Health Act, the Environmental Management Act, Regional Town and Country Planning Act, other Council by-laws and statutes of the Country.

(5) Successful applicants shall be issued with a development permit subject to payment of the requisite fees prescribed in the approved Council budget.

*Land Development Levy*

All specified business operators shall be required to pay Land Development Levies as specified in the Third schedule of the Rural District Councils Act and in line with the council budget.

*Collection or removal of gravel, stones, sand or pit sand, slates, pebbles, clay, lime*

1. (1) No person shall excavate, remove, possess, use, transport or license the removal of sand, stones and pit sand, slate, gravel, pebbles, and clay for commercial purposes without a permit from Council and furnishing Council with a license obtained from the Environmental Management Agency issued in terms of Section 3 of the Environmental Management (Environmental Impact Assessment & Ecosystems Protection) Regulations, 2007.
2. Any person who intends to extract sand, stones, pit sand, slate, pebbles, clay and gravel on his 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 & Ecosystems Protection) Regulations, 2007

*Environmental impact assessments*

1. (1) Specified Business Operators in the council area shall be required to conduct an environmental impact assessment as is required in terms of Section 97 and the First Schedule of the Environmental Management Act (Chapter 20:27) subject to the following conditions;
2. consult Council during the consultation process leading to the development of an environmental impact assessment;
3. involve Council in organising public consultations meetings in the area regarding the proposed development project;
4. Pay a fee as agreed per council budget to cover costs incurred by council during the EIA consultation;
5. 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 behalf and proof of their registration with the Environmental Management Agency;
6. submit to Council a copy of the Environmental Impact Assessment Report for the proposed project;
7. submit to Council a copy of the Environmental Impact Assessment Certificate issued for the project by the Director-General of the Environmental Management Agency;
8. submit to Council a copy of the Environmental Management Plan.

(2) It is an offence for any Specified Business operator 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.

(3) Any Specified Business operator who fails to submit the documents required in terms of subsection (2) of this section shall be guilty of an offence and liable to a fine as prescribed in the Council budget.

(4) Council shall be furnished by the Specified Business operator quarterly environmental monitoring reports produced, in terms of Section 106 of the Environmental Management Act (Chapter 20:27), operating in the Council area.

(5)Council shall take measures to make environmental impact assessment reports submitted by Specified Business operatorsavailable and open for public inspection at all reasonable times at the Council offices and sub offices on payment of the prescribed fee, if any: Provided 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)

*Environmental rehabilitation works on abandonment of project*

1. (1) Any Specified Business operator who undertakes any mining projects, resource extraction projects or any other projects for commercial exploitation of natural resources with the effect of causing environmental damage or environmental degradation or harm in the council area shall;
2. submit to Council a rehabilitation plan containing rehabilitation works that will be undertaken before abandonment or closure of the project.
3. 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 guilt of an offence and liable to a fine specified in the approved Council budget.

Transporters in specified business

(3) (a)Any transporter who wishes to provide transport in specified business shall have to register with council.

(b) Owners or users of sand transport shall be required to pay an quarterly permit fee which shall be specified in the council’s tariff schedule and maybe subjected to review from time to time and the extraction of pit sand, river sand, and gravel shall only take place at council in a manner prescribed by council.

( c) All sand transporters shall be expected to park at designated parking places

(c) Any transport operator or user who shall be found extracting the above in (a) without the requisite documents shall have his transport impounded by council.

(d) Council shall confiscate loads of river sand, pit sand, aggregate and concrete stones or stone products from transporters who fail to produce written authority from council or proof of payment of council levies.

(d) Council shall confiscate loads of river sand, pit sand, aggregate and concrete stones or stone products from stand owners who fail to produce written authority from council or proof of purchase from registered transporters and dealers.

(4) Any person who intends to extract sand, stones, pit sand, slate, pebbles, clay and gravel on his/her land or on Council land for domestic use shall do so after consultation with village head or local environmental monitor of that area.

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

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

(5) All provisions related to the abstraction of sand and clay as stated in the Environmental Management (Environmental Impact Assessment & Ecosystems Protection) Regulations, 2007, shall apply to the Council area and all inhabitants who wish to engage in commercial extraction of clay and sand in the Council area are required to comply with the law.

(6) Council shall charge a fee for the extraction and transportation of gravel, stones, river sand or pit sand, slates, pebbles, and clay in the council area and such fees will be subject to review from time to time

(7) Any person who contravenes subsection (1) of this section shall be guilty of an offence and liable to a fine specified in the approved Council budget.

(b)Transport impounded in subsection 3 (c) above shall only be released after the payment of a fine specified in the approved Council budget for a push cart, for a pick-up truck, for a 3.5 ton lorry, and for a 7 ton truck as stipulated on schedule one of the standard scale of fines.

*Brick moulding*

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

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

(a) rehabilitate the environment or pits created by his activities;

(b) prove to council that he shall use other fuel sources other than indigenous tree species for curing his bricks.

(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 both domestic and commercial purposes from time to time and when necessary make orders for the rehabilitation and restoration of 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 an undesignated area shall be guilty of an offence and liable to a fine specified in the approved Council budget.

*Commercial Timber Logging*

22. (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) Section 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.

(5) any person who conducts commercial timber logging in contravention to this part shall be guilty of an offence and shall be liable to a fine specified in the approved Council budget.

*Offences and Penalties*

39. (1) Any person who contravenes any provision of these by-laws or an order made by council shall be guilty of an offence and liable to a fine specified in the approved council budget

a) commercial timber logging

* 1. Use of sledges, including pulling of logs
  2. Illegal removal of gravel, stone crushing, sand extraction, clay extraction, brick moulding commercial timber logging
  3. The use of indigenous trees for brick curing
  4. Brick moulding in undesignated places
  5. The use of unregistered vehicles in specified business

2) Any person who is proven guilty of these or more offences in terms of these By-Laws shall be liable to an additional penalty specified in the approved Council budget if the offence is not satisfactorily corrected within 14 days of the sentence. For each day that the offence remains uncorrected after day 14, a fine specified in the approved Council budget shall be imposed.

4) All fines and Penalties arising from a breach of these By-Laws accrue to Manyame Rural District Council.

*Appeal against decisions or orders made by Council*

40. (1) Any person who is aggrieved by a decision or an order made by Council shall make an appeal to the Minister of Local Government;

(2) Any person who is aggrieved by an order of the Minister of Local Government shall appeal to the Administrative Court.