**Statutory Instrument …. 2022 [CAP. 29:13**

Manyame Rural District Council (Protection of marginalised land) By-laws, 2022

ARRANGEMENT OF SECTIONS

*Section*

1. Title
2. Application
3. Interpretation
4. Prohibition of certain activities on marginalised land
5. Enforcement
6. Obstruction
7. Extraction of clay and sand deposits
8. Disposal of unclaimed vehicles
9. Offences and Penalties
10. Repeals

It is hereby notified that the Minister of local Government and Public works has, in terms of section ~~229~~ 90 of the Rural District Councils Act [*Chapter 29:13*] approved the following by-laws made by the Manyame Rural District Council.

*Title*

1. These by-laws may be cited as the Manyame Rural District Council (Protection of Marginalised Lands) By Laws, 2022.

*Application*

1. These by laws shall apply within the council area of the Manyame Rural District Council and any local government area, the administration, control and management of which is vested in the council.

*Interpretation*

1. 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 Manyame Rural District Council.

“Equipment’’, includes mechanised earth moving equipment, lorries, pick-ups, push carts, 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.*

1. 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,and a permit issued by council 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

* 1. sloppy areas; or
  2. hills; or
  3. land within thirty (30) metres of the naturally defined banks of a public stream; or
  4. land within one hundred (100 metres of the high flood level of any dams i on a public stream; or
  5. any other area which the Council may from time to time designate as such.

*Procedure for applying for a permit*

3. (1) Any person intending to use, carry out any activity or engage in any development shall lodge with the Chief Executive Officer an application notifying of such intention;

(2) Subject to space availability shall be issued with a communal land lease and development permit.

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

(3) Any individual who occupies or engages in any development without an approved EIA or EMP and communal land lease and development permit from Council shall be guilty of an offense and liable to a fine as prescribed in the Council budget.

(4) Any individual who occupies or engages in any development without documents specified in (3) shall be removed from the land and have the developments demolished and the person prosecuted.

*Enforcement*

1. (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.

1. 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 penalty prescribed by Council;
2. 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.
3. 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 Council.

1. An authorised person shall order any person found excavating, removing, or in unauthorised possession of clay or sand deposits to pay a fine prescribed in the approved council budget.
2. 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.
3. The vehicle or equipment so impounded shall be taken to a secure compound designated for that purpose by Council.
4. The vehicle or equipment so impounded shall only be released upon payment of a fine specified in the tariff schedule plus such storage charges as determined by Council from time to time.
5. 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 advice the owners to claim the goods within thirty

(30) days.

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.

1. 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.

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

1. 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

(c)excavates, removes, possesses, or licences the removal of clay, sand or gravel 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 to a fine as prescribed in the first schedule as approved in the Manyame RDC Annual Budget.

**FIRST SCHEDULE**

**FEES**

|  |  |  |  |
| --- | --- | --- | --- |
| **Item** | **Section** | **Description** | **Fee $** |
| 1 | 7(2) | Spot Fine | As per budget |
|  | 7(5) | Storage Fees | As per budget |
|  | 8(2) | Disposal of uclaimed vehicle or equipment | As per budget |

**SECOND SCHEDULE**

**PENALTIES**

|  |  |  |  |
| --- | --- | --- | --- |
| **Item** | **Section** | **Description Of Offence** | **Charge** |
| 1 | 4(1)(a-d) | Removing, dredging, filling, building upon, cultivating, excavating, degrading or otherwise alteration in any way the soil or surface of marginalised lands | As per budget |
| 2 | 5(3) | Refusal to comply with an instruction ordered by an authorized person in terms of section 5 of these by-laws | As per budget |
| 3 | 7(1) | Excavation, removal, possession or licencing the removal of clay or sand deposits for commercial purposes without a valid licence issued by the Agency | As per budget |
| 4 | 6 | Obstruction or impedement or refusal to comply with a request of an authorised person acting in the exercise of the functions conferred upon him or her by these by-laws. | As per budget |