

Binga Rural District Council (Communal and Resettlement Land)
(Land Use and Conservation) By-laws, 2019

- (1) Fails to act to extinguish a fire or refuses to assist in extinguishing the veld fire;
shall be guilty of an offence.
- (2) Any person who contravenes any provision of these by-laws shall be guilty of an offence.
- (3) Any person who is convicted of three or more offences under subsection (1) may have his or her rights under the plan revoked by the council.
- (4) Any person who is convicted of an offence in terms of these by-laws shall be liable to a fine not exceeding level 5.

ADMIN

Statutory Instrument 64 of 2019.

[CAP. 29:13

Binga Rural District Council (Communal and Resettlement Land)
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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 90(4) of the Rural District Councils Act [Chapter 29:13], approved the following by-laws made by the Binga Rural District Council:—

Title

1. These by-laws may be cited as the Binga Rural District Council (Communal and Resettlement Land) (Land Use and Conservation) By-laws, 2019.

Application

2. These by-laws shall apply to communal and resettlement land within the Binga Rural District Council area.

Interpretation

3. In these by-laws—

- “council” means the Binga Rural District Council;
- “council area” means the area for which the council has been established;
- “grazing area” means an area set aside in a plan for grazing livestock;
- “livestock” means goats, poultry, pigeon, sheep, pigs, any domesticated game, bovine or equine animal;
- “mining commissioner” means the mining commissioner of the district within which the land or claims concerned are situated as defined under section 5 of the Mines and Minerals Act [Chapter 21:05];
- “owner” means—
- (a) in the case of livestock, the person who normally has custody or control thereof;
 - (b) in case of cultivated land, any person who has the right to produce of the land, including the spouse of such person, but excluding children under the age of eighteen years;
- “plan” means a diagram or illustration depicting or describing any areas of land set aside for exclusive use by inhabitants for residential, grazing and cultivation purposes, together with any written statement imposing conditions, control or other measures permitted or required by these by-laws;
- “provincial administrator” means the provincial administrator for the province within which the communal and resettlement land concerned falls;
- “provincial agritex officer” means the provincial agritex officer in the Ministry of Lands and Rural Resettlement responsible for the province in which the communal and resettlement land falls, or any person in his office designated by him in writing to perform his functions;
- “provincial planning officer” means the provincial planning officer in the Department of Physical Planning of

the Ministry of Local Government, Rural and Urban Development responsible for the province in which the communal and resettlement land falls, or any person in his office designated by him in writing to perform his functions;

“resettlement area” means land acquired or owned by the State for resettlement purposes;

“village development committee” means a village development committee appointed or formed under the Rural District Councils Act [Chapter 29:13];

“ward development committee” means a development committee for the ward appointed or formed under the Rural District Councils Act [Chapter 29:13].

Preparation and adoption of plan

4. (1) The council may prepare a plan for—

- (a) all communal or resettlement land; or
- (b) any ward or combination of wards in communal or resettlement land; or
- (c) any part of a ward or wards in communal and resettlement areas;

within the council area.

(2) The council shall prepare a plan for the area under the control of a village development committee, a headmen or group of village development committees or headmen where such headmen or village development committee or group of headmen or village development committees request the council to do so.

(3) Before the plan is prepared in terms of subsection (1), the council shall circulate a notice of intention to prepare a plan to the residents of the area.

(4) The council shall make a draft of the proposed plan available for inspection and shall invite any resident who has any objections to the proposed plan to lodge his objections to the council within 30 days of the date of notification of the proposal.

(5) In preparing any plan the council shall seek the advice of the—

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- (a) provincial planning officer; and
- (b) provincial agritex officer; and
- (c) regional officer; and
- (d) mining commissioner.

(6) If in preparing any plan, the council chooses to ignore the advice of all or any of the persons mentioned in subsection (5)(a) to (d), it shall advise the provincial administrator in writing, of this fact and reasons therefor.

(7) When a plan has been prepared and approved by the council it shall forward a copy thereof to—

- (a) the persons mentioned in subsection (5); and
- (b) the provincial administrator; and
- (c) the chairperson of every village development committee of the council whose area is affected by the plan.

(8) Upon receiving a plan in terms of subsection (7)(c), the village development committees shall consult inhabitants of their areas on the contents of the plans and shall, within 30 days, report back to the council the objections to the plan, if any, and the identity of the objectors.

(9) If the council receives no objection, in terms of subsection (8) or it receives objections and, after consultation with the village committees and objector concerned, amends or refrains from amending the plan, the council shall by resolution formally adopt the plan and forward it to the provincial administrator for approval, together with the substance of objections received and the identity of the objectors, if any:

Provided that if council accepts any amendment to the plan it shall, before adopting the amended plan, refer it back to the village committees for further consultation in terms of subsection (8).

(10) If, within 30 days of the council forwarding the plan to the provincial administrator, the provincial administrator—

- (a) notifies in writing, to the council his or her approval of the plan, or fails to notify the council of his or her decision about the plan, the plan shall come into effect from the date of such notification or from the date of the expiry of the period of 30 days as the case may be; or

- (b) notifies in writing, to the council his or her approval of the plan subject to any amendment he or she has affected, the council may—

- (i) re-adopt the plan as amended:

Provided that the council shall, before re-adopting the plan as amended, refer the amendment back to the village committees for further consultation in terms of subsection (8); or

- (ii) within 30 days of receiving such notifications, appeal to the Minister against the decision of the provincial administrator, and the decision of the Minister shall be final and binding from the date when it is made.

(11) In describing areas in a plan, an area may be described by reference of the 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 of the area.

(12) A copy of an adopted and approved plan shall be made available for inspection, free of charge, during normal working hours at the council offices and such other places as the council considers to be convenient, and one copy shall be sent to each village development committee and ward development committee in the council area.

Amendment of plan

5. Section 4(5) to (10) shall be read with the changes required by the context, apply, to any proposal to amend a plan.

Contents of a plan

6. (1) In respect of any area set aside in a plan for grazing, the council may, 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 where 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 generally or within such designated paddocks and in the one or more herds;
 - (i) the marking of arable land or paddocks by fencing, planting of trees lines or by any other means;
 - (j) the siting of water points according to planned grazing areas, paddocks, cultivated land, villages, sewerage health, education and other welfare facilities;
 - (k) the siting of dip tanks, enclosure's 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 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 removed;
 - (e) responsibility for removing 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.

Protection of vegetation and natural resources

7. (1) The council may within the communal and resettlement area, make orders controlling all or any of the following matters—

- (a) the cutting of trees;
- (b) the picking or removal of indigenous plants and other resources;
- (c) the catching or removal of fish;
- (d) the hunting or removal wildlife;
- (e) the collection or removal and selling of firewood;
- (f) the movement of livestock or aquatic life in general;
- (g) the buying and selling of livestock;
- (h) the levying or charging for the above resources or activity under this section;
- (i) extraction of sand, and other minerals;
- (j) the destruction of crops and other residue;
- (k) animals carrying capacity;
- (l) the destruction of conservation works;
- (m) streambank cultivation;
- (n) illegal resettlement;
- (o) veld fire;
- (p) fishing permits;
- (q) the cultivation of undesignated or uncovered land.

(2) An order made in terms of subsection (1) be addressed to a particular person orally or in writing or may have 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 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 the area affected and describe such area; and
- (d) be read out at a public meeting of the council; and
- (e) be signed, dated and certified by the person who read it as having been read out in terms of paragraph (d) by the Chief Executive Officer.

(4) For the purposes of subsection (3)(c), section 4(11) shall be read with the changes required by the context, to the description of the area.

(5) No order having general effect may be brought into operation before at least one week has elapsed after the order was read out in terms of subsection (3)(d).

(6) The book in which orders are recorded in terms of subsection (3)(a) shall be available for inspection by an inhabitant of the affected communal or resettlement area during normal working hours.

(7) The council may revoke or amend any order made by it in terms of this section.

Protection of wetlands, streambanks and water storage works

8. (1) No person shall cultivate, or permit the cultivation or destroy any natural vegetation in or dig up the surface of—

- (a) wetland;
- (b) land within 30 metres of stream;
- (c) land within 30 metres of constructed water storage works on a stream;

except in accordance with the Environmental Management Act [Chapter 20:27] (Act No. 13 of 2002) and the Water Act [Chapter 20:24].

Conservation works

9. (1) No person shall cultivate land without conservation works.

(2) Where a plan is not yet in operation and a person is cultivating land without conservation works, the council shall serve a written order on the person concerned; warning the person to carry out such protection measures as shall be advised or pegged by the provincial agritex officer.

(3) An order served in terms of this section shall relate to—

- (a) the carrying out of land protection measures where such measures are non-existent; and
- (b) the upgrading or improvement of substandard land protection measures on cultivated land.

(4) Any person who damages or destroys any conservation works shall be guilty of an offence.

Fencing and road signs

10. Any person who—

- (a) damages, destroys, tampers or removes any fence within a communal or resettlement area or on the boundary of a communal or resettlement area along tarred national roads; or
- (b) removes any road sign;

shall be guilty of an offence.

Extraction of stones, sand and top soil

11. No person shall except in accordance with the Mines and Minerals Acts [Chapter 21:05], extract, sell or transport—

- (a) pit sand; or
- (b) river sand; or
- (c) gravel or top soil; or
- (d) soap stone; or
- (e) any other type of stone;

without the authority of the council.

Resettlement areas

12. (1) In resettlement areas a plot holder shall construct a concrete beacon at every corner of his or her arable and residential

plots within one month of allocation and each beacon shall have a steel peg in the centre and shall measure 50 centimetres deep and 25 centimetres in diameter.

(2) Business persons shall develop their stands and structures and shall start trading within 12 months of being allocated their land.

(3) A resettlement holding, whether residential, business or arable, shall be declared vacant if it is left idle for a period of 12 continuous months, unless the council has been advised and agreed on that agreement.

Burial

13. (1) No body shall be buried other than in a cemetery established in terms of the Cemeteries Act [Chapter 5:04].

(2) Any person who buries a body in a place other than a designated cemetery shall be guilty of an offence.

Evidence

14. (1) If any livestock is found grazing in an area other than a grazing area, the owner shall be presumed to have allowed the stock so to graze.

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

(2) 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 upon his or her dipping card until the contrary is proved.

(3) 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:

Provided that no person shall be convicted of an offence in terms of section 16(1)(a), (b), (c) or (f), unless it can be shown that the land in respect of which the charge arose falls clearly within or outside the area concerned.

(4) The book referred to in section 7(3) shall be admissible in court upon its mere production, and shall constitute *prima facie* evidence of—

- (a) any order recorded therein; and
- (b) the due observation of section 7(3) and (5) in respect of any such order.

Appointment of ward conservation enforcers

15. (1) The council shall appoint ward conservation enforcers responsible for implementing the provisions of these by-laws.

(2) A person appointed under these by-laws to be ward conservation enforcer shall be issued with a licence.

Offences and penalties

16. (1) Any person, whether an inhabitant or otherwise, who, within the area covered by a plan—

- (a) grazes his or her livestock in any area other than a grazing area; or
- (b) grazes his or her livestock in a grazing area where he or she is not permitted by the plan to do so; or
- (c) exceeds the number of livestock he or she is permitted to graze or grazes livestock of a type prohibited in the plan; or
- (d) fails to destock at the rate and within the period stipulated in the plan; or
- (e) fails to remove his or her livestock within the period stipulated in the plan; or
- (f) cultivates in an area other than a cultivation area; or
- (g) fails to carry out any land protection measures which has been assigned to him or her in the plan; or
- (h) contravenes any term, condition or control measure in a plan; or
- (i) acquires any livestock in the council area without the authority of the council; or
- (j) removes any communal land or resettlement land produce as listed in sections 8(1), outside the village, or ward or council area without the authority of the council; or
- (k) causes or lights a veld fire without the authority of the council; or