

Chitungwiza Municipality Environment and Natural Resources Management By-laws,
2022

It is hereby notified that the Minister of Local Government and Public Works has, in terms of Section 229 of the Urban Councils Act (*Chapter 29:15*), approved the following by-laws made by the Chitungwiza Municipality

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Title

1. These by-laws may be cited as the Chitungwiza Municipality Environment and Natural Resources Management By-Laws, 2022.

Application

2. These by-laws shall apply to the Council area and to any local government area the administration, control and management is vested in terms of the Urban Councils Act (*Chapter 29:15*)

Interpretation

3. In these by-laws—

“**agency**” means the Environmental Management Agency

“**council**” means the Chitungwiza Municipality

“**council area**” means the area for which the council has been established;

“**domestic animal**” means any animal, kept by an owner or occupier on his premises, which is not a bovine, equine, ovine or porcine animal;

“**environment**” means—

- (a) the natural and man-made 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;

“environment action plan” means an environmental action plan prepared by a Council for the area under its jurisdiction in terms of Section 95 of the Environmental Management Act (*Chapter 20:27*)

“environmental impact assessment” means an evaluation of a project to determine its impact on the environment, human health and community livelihoods whose specific requirements are set out in terms of section 97 of the Environmental Management Act (*Chapter 20:27*);

“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*);

“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 of the Environment Management Act (*Chapter 20:27*)

“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 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;

“**noise**” means sounds of an annoying, distracting, or physically harmful nature

“**occupier**”, in relation to any premises, means—

- (a) any person in actual occupation of, or legally entitled to occupy, such premises; or
- (b) any person having the control, charge or management of such premises, whether as agent or otherwise; or
- (c) in the case of vacant premises, the owner thereof;

“**owner**” means—

- (a) the person registered in the Deeds Registry as the owner of the land or premises;

“**premises**” includes land and buildings;

“**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.

“**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 sal and includes riparian land to the adjacent to the wetlands.

“**waste-disposal management**” means any area of land set aside and designated by the council from time to time for the disposal of waste.

Preparation and adoption of a Local Environmental Action Plan

4. (1) 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).

Environmental impact assessments

5. (1) Any developer or project proponent as the case may be of any project in the Council area, for which an environmental impact assessment is required in terms of Section 97 and the project is specified in the First Schedule to Section 2 and 97 of the Environmental Management Act (Chapter 20:27) shall;
- (a) consult Council during the consultation process leading to the development of an environmental impact assessment upon payment of a consultation fee as prescribed fee set by Council from time to time.
 - (b) involve Council in organising public consultations meetings 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 behalf and submit 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 Environmental Impact Assessment Certificate issued for the project by the Director-General of the Environmental Management Agency;
 - (f) submit to Council a copy of the annual Environmental Management Plan, if applicable.
- (2) 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 within a period of thirty days after the issuance of the said documents.

(4) Any person who fails to submit the documents required in terms of subsection (2) of this section shall be liable to a penalty set by Council from time to time and Council shall cause such project to be stopped pending compliance.

(5) Council shall request from time to time, at its own expense all relevant information from the Environmental Management Agency related to quarterly environmental monitoring reports produced by project developers, in terms of Section 106 of the Environmental Management Act (Chapter 20:27), operating in the Council area.

(6) Council shall take measures to make environmental impact assessment reports submitted by project developers available and open for public inspection at all reasonable times at the Council offices upon payment of a prescribed fee set by Council from time to time, 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

6. (1) Any person who undertakes any project for which an environmental impact assessment is required and 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 as per the approved rehabilitation plan stated in subsection (a) above.

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

(3) Any person who fails to rehabilitate the environment after abandonment or closure of the project shall be liable to pay a penalty set by Council from time to time.

Environmental Rehabilitation Fund

7. (1) Notwithstanding section 6, there is hereby established a fund known as the Environmental Rehabilitation Fund into which any person who undertakes any resource extraction project with the effect of causing environmental degradation will contribute a fee as provided in the schedule

Environmental works carried out by council

8. (1) All home owners or occupiers, business and industrial premises owners or occupiers shall maintain the frontage of such properties in a clean state at all times.
- (2) Where a land owner or occupier as the case may be, requests council to carry out environmental works on his land, or in the event that the owner fails to do so on his own, council shall undertake such environmental works as may be necessary to rehabilitate the environment and keep it in a clean state and recover the costs associated with such works from the land owner or occupier of the land.
- (3) Any person who contravenes subsection (1) and (2) liable to penalty set by Council from time to time.

Environmental Zoning

9. (1) Subject to Part III and Part IV of the Regional, Town and Country Planning Act (Chapter 29:12) and the Second Schedule to Section 198 of the Urban Councils Act, when formulating an environmental action plan, Council may consider designating certain areas amongst others for particular environmental activities and operations and in particular;
- (a) urban agriculture
 - (b) waste management sites
 - (c) conservation of natural resources in urban areas

Conservation of natural resources in urban areas

10. (1) In this section Natural resources refers to any resource as defined by Section 2 of the EMA Act.
- (2) In respect of any area designated in the environmental action plan for conservation of natural resources no person shall:
- (a) Pollute
 - (b) extract
 - (c) kill or injure
 - (d) fish
 - (e) cut or burn
 - (f) Hunt
- (3) Any person who contravenes subsection (2) liable to pay a penalty prescribed by Council from time to time.

Permit for natural resources utilization

11. (1) Any person who wishes to utilize any natural resources specified in section 6 shall;
- (a) Apply to the Council for such permit using the prescribed form and shall state:
 - I. Area within which they wish to utilize the natural resource
 - II. The kind, size and quantity of the natural resource which they want to utilize
 - (b) Pay the prescribed fee
- (2) the council in approving the application may impose such conditions as is necessary as prescribed from time to time.

Protection of Natural vegetation

12. (1) No person shall—
- (a) hew, cut, injure, destroy, gather or remove any firewood, brushwood or grass from any Council land; or

- (b) cut, fell, damage or remove any tree, shrub or bush on any Council land, whether living or dead; or
- (c) set fire to any tree, bush, grass, weed or refuse on any Council land;

Without the prior written approval of the Council.

- (2) The Council shall require any landowner on whose property the vegetation during the dry season constitutes a fire hazard to adjoining land or property to cut fire-guards of approved width around the boundary of his land, and such internal fire- breaks as may be necessary, and to remove cut grass or bush from such fire-guards or fire- breaks.
- (3) Any person who contravenes subsections (1) and (2) shall be a liable to pay a penalty set by Council from time to time.

Bio-diversity protection

- 13. (1) Every person in the Council area has a duty to protect and conserve biological diversity in the urban environment in accordance with the provisions of section 116 of the Environmental Management Act; and in particular;
 - (a) Council may prepare an inventory of the biological diversity of the council area or in areas that are specifically set aside for biodiversity conservation;
 - (b) Set aside biodiversity conservation areas in the council area
 - (c) Council may fence and maintain biodiversity or environmental conservation works within the area
- (2) Any person who damages, destroys or removes any fence erected for the protection and conservation of biodiversity or the environment in the Council area shall pay a penalty set by Council from time to time.

Protection of wetlands

- 14. (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) a wetland; or
- (b) any water canal or other water works
- (c) land within 30 metres of the naturally defined banks of a public stream; or
- (d) 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
- (e) bed, banks or course of any river or stream;

shall, furnish and submit to Council a Licence issued by the Environmental Management Agency in terms of Section 20 (1) of the Environmental Management (Environmental Impact Assessment & Ecosystems Protection) Regulations, 2007, Statutory Instrument 7 of 2007, to perform any of the aforesaid activities;

(2) In order to promote the protection of wetlands, council may 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 & Ecosystems Protection) Regulations, 2007, Statutory Instrument 7 of 2007.

(3) Any person who fails to submit or furnish Council 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 liable to pay a penalty of set by Council from time to time.

Pollution of streams

15. (1) No person shall—

- a. deposit any cinders, ashes, bricks, rubbish, filth or any other matter whatsoever which may cause or be likely to cause annoyance or a nuisance or pollution in any public stream or watercourse, including any ditch or drain or other works provided for the disposal of storm-water; or

- b. permit any sewage, trade effluent, filthy or impure water, poisonous or noxious liquid, any polluting fluid whatsoever, to discharge or to be discharged, or to flow, into any public stream or watercourse, or into the dry bed of any public stream or watercourse, including any ditch or drain or other works provided for the disposal of storm-water; or
- c. install any septic tank or french drain within thirty metres of any stream or watercourse, or the dry bed of any stream or watercourse.

(2) Any person who contravenes subsection (1) shall be liable to a Civil Penalty set by Council from time to time.

Protection of water sources

16. (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, SI 33 of 2000 and the Water (Sub catchment Councils) Regulations, SI 47 of 2000, or when council has been delegated by the Minister of Water Resources in terms of Section 66 of the Water Act 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

b) ensuring the protection, conservation and sustenance of water resources and the environment.

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

17. (1) No person shall excavate, dig holes, remove, possess, transport or authorise the removal of sand, stones and pit sand, slate, pebbles, clay, including overburden and lime without seeking the written permission of Council and furnishing Council with a licence issued by the Environmental Management Agency 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 lime 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
- (3) Council shall have the sole authority to identify designated sites for the extraction of gravel, stones, pebbles, slates, 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, 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 & Ecosystems Protection) Regulations, 2007, shall apply to the Council area and all inhabitants and any person who wishes to engage in commercial extraction of clay, sand gravel, stones, pebbles, slates, river sand or pit sand in the Council area is required to comply with the law and is also required to pay the extraction fees prescribed by Council from time to time.

- (6) No person shall deposit, or cause or permit to be deposited, any rubble, soil, refuse, garden rubbish, building debris or other waste matter on any Council land except where specially designated areas have been set aside for such purpose, without the prior written approval of the Council.
- (7) Where required by the Council, all holes, wells, pits or other excavations on any private land shall be effectively fenced or enclosed to the satisfaction of the Council.
- (8) Any person who contravenes subsections (1), (2), (3), (4), (5), (6) and (7), shall be liable to a Civil Penalty set by Council from time to time.

Air pollution

18. (1) No person shall emit any substances which cause air pollution in the Council area without a licence issued and 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 S. I. 72/2009, 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 of the Environment Management (Atmospheric Pollution Control) Regulations S.I. 72/2009;

- (3) All air polluters in the Council area shall register with the Council 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 S.I. 72/2009, the person who is licenced by the Environmental Management Agency, shall also notify Council about the accidental emission within the timeframe prescribed by the law.
- (6) Any person who contravenes subsection (2) shall be liable to a Civil Penalty set by Council from time to time.

Hazardous substances and toxic chemicals

19. (1) No person shall generate, store, sell, transport, use, recycle, discharge or dispose of hazardous waste including waste referred to on Section 8 of S.I 268/2018 to the environment except under a licence approved by the Environmental Management Agency.
 - (2) A register shall be kept by the Environmental Management Agency of every licence holder in the council area and the register shall be open to inspection by members of the public at all reasonable times upon payment of the prescribed fee set by Council from time to time.

(3) The council shall prepare a waste management plan for its jurisdiction not later than the 31st of December of each year consisting of an inventory of the waste management situation and its specific goals

(4) The council shall designate suitable sites as waste collection sites within its jurisdiction for management of wastes based on a report assessing the anticipated impact of the environment as well as issues outlined in Section 3 of the Environmental Management (Hazardous Waste Management) Regulations S.I 10/2007.

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

(6) Council shall keep records and registers of every waste collection and management enterprise operating within its jurisdiction.

(7) Any person who fails to comply with the provisions of subsections (1) and (5) shall be liable to Civil set by Council from time to time.

Noise

20. (1) No person in the Council area shall emit noise in excess of the emission standards prescribed in terms of section 79 of the Environmental Management Act

(2) No person shall;

(a) Operate or cause or permit to be operated in any shop, business premises or any other premises whatsoever or on any land adjacent to any street, road or sanitary lane any wireless, loudspeaker, gramophone, amplifier or similar instrument so as to be a nuisance to the occupants or inmates of any premises in the neighbourhood

(b) Operate any wireless or musical instrument operating electricity, a loudspeaker or other similar device for the purpose of advertising on or adjacent to any street, road or sanitary lane without prior consent of Council

(c) Continue to make any loud or unseemly noise or disturbance either by shouting, screaming or yelling or by blowing upon any horn or other instrument or by beating any drum or other instrument in any public or private

building or in any premises or in any street, square, alley or other thoroughfare or in any sanitary lane, which noise or disturbance may in any way disturb or interfere with the rest, peace or tranquillity of the inhabitants, after having been requested by any police officer or other inhabitant to desist

(3) Any person who contravenes or fails to comply with the provision of Subsections (1) and (2) shall be liable to a Civil Penalty set by Council from time to time.

Brick manufacturing

21 (1) No person shall manufacture, mould or sell bricks without the authority of Council.

(2) Any person granted authority by Council shall pay a fee as may be prescribed by Council from time to time.

(3) The manufacturing, moulding or selling of bricks shall be done at the registered brick making site or other site approved by Council.

(4) Any person who manufactures, moulds or sells bricks without Council authority shall risk his /her bricks, machinery or equipment being seized and forfeited by Council.

Offences and Penalties

22 Any person who contravenes the provisions of these by-laws shall be guilty of an offence and liable to a fine not exceeding level five or imprisonment not exceeding six months or both such fine and imprisonment.