

Marondera Municipal Council (Occupation of Council Properties)
By-laws, 2024

ARRANGEMENT OF SECTIONS

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IT is hereby notified that the Minister responsible for Local Government has, in terms of section 229 of the Urban Councils Act [*Chapter 29:15*], approved the following by-laws made by Marondera Municipal Council.

Title

1. These by-laws may be cited as the Marondera Municipal Council (Occupation of Council Properties) By-laws, 2024.

Application

2. These by-laws shall apply to all areas under the jurisdiction of the council.

Interpretation

3. In these by-laws—

“council” means Marondera Municipal Council;

“dependent” means any person who relies on another person especially a family member for financial support;

“eviction” means court ordered removal of a tenant from the council property they reside or occupy;

“in arrears” means owing money that should have been paid;

“land uses” means the management and modification of the property’s natural environment;

“lease” means a contract outlining the terms and conditions under which one party agrees to rent council property;

“occupation” means the action of living in or using a building or other place;

“particulars” means any facts or details about the tenant which are written down and kept as a record;

“property” means any building or stand to which permission is granted by council for use by any person on a lease;

“rent” means any prescribed fee charged by council to any person occupying council property;

“responsible officer” means the person to whom permission has been granted by the Council to administer this by-law;

“spouse” means a husband or wife considered in relation to their partner;

“tenant” means the person to whom occupation to council property has been granted by way of a lease agreement by the council.

Records

4. (1) The responsible officer shall keep a register of all council property available, registering as separate premises each convenient unit of accommodation.

(2) In respect of each council property registered in terms of subsection (1), the responsible officer shall record—

- (a) the number or some other description of such property; and
- (b) the number of any lease agreement or purchase agreement or agreement of sale in terms of which such property is occupied or is being purchased; and
- (c) the amount of rent or purchase instalment payable in respect of such property; and
- (d) the name and registration particulars of the holder of a lease; and
- (e) the names and the date of birth of each dependant of the holder of a lease; and
- (f) the name and registration particulars of any tenant and his or her spouse and dependants, if any, of the holder of a lease; and
- (h) the income of the holder of a lease.

No occupation without lease

5. (1) No person shall reside or occupy council property unless he or she is—

- (a) the holder of a lease and is registered by council; or
- (b) the dependant of the holder of lease; or
- (c) a person referred to in section 10(2), who has complied with a notice in terms of the proviso to that subsection; or
- (d) a person referred to in section 10(3).

(2) Subject to the provisions of subsection (1), no person shall occupy council property in respect of which—

- (a) he or she is not a registered lease holder; or

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(b) he or she does not have the consent of the holder of a lease.

(3) It shall be the duty of the holder of a lease relating to council property to take reasonable steps to ascertain that every person occupying that property may lawfully do so in terms of these by-laws.

(4) No holder of a lease shall permit another person to occupy council property registered in his or her name unless that person may lawfully do so.

Application for certificate to reside in council property

6.(1) Any person who wishes to obtain a lease to reside in council property shall apply to the responsible officer giving such information as the responsible officer may reasonably require in order to ascertain his or her identity and the nature of accommodation which he or she may require.

(2) Notwithstanding the provision of section 5, any person who is lawfully residing in council property shall be deemed to be lawfully residing in the council property which he or she is then occupying:

Provided that the responsible officer may, by notice, in writing, call upon any such person to apply for a lease in terms of these by-laws within one month of receiving such notice.

(3) Where a person occupies council property within the area without a lease because he or she was the dependant of the holder of a lease ceases to be a dependant, he or she may apply to the responsible officer for a lease to reside on the property.

(4) Whenever any person referred to in subsection (3) applies for a lease in terms of these by laws, the responsible officer shall make a determination.

Issue of lease

7. (1) Upon receipt of an application, the responsible officer shall cause the applicant to complete an application form.

(2) The responsible officer shall not issue any lease to any applicant if—

- (a) the applicant already has a lease in respect of the same category zone for which he or she is applying for a lease; or
- (b) there is no vacant property available; or
- (c) the applicant fails to meet the criteria stipulated in the prescribed council policy.

(3) The responsible officer may require any holder of a lease to produce his or her lease for inspection, and it shall thereupon become the duty of such holder—

- (a) to produce the lease; or
- (b) to satisfy the responsible officer that he or she is the dependant of the holder of a lease.

as soon as it is reasonably possible and, in any case, within twenty-four hours.

(4) If any person to whom a Lease has been issued in terms of this section loses the certificate, he or she shall, within one week of noticing the loss, apply to the responsible officer for a duplicate certificate for which the council may charge a fee as prescribed by council.

(5) A lease issued shall be issued subject to conditions specified by council.

Payment of rent, service, supplementary and other charges

8.(1) The rent, service, supplementary and other charges payable in respect of council property shall be determined by the council.

(2) The holder of a lease of council property for which rent and other charges have been fixed by the council shall pay the rent and other charges monthly, in advance, to Council:

Provided that metered supplies of water shall be prepaid or paid in arrears for a 30day period.

(3) Where payment is tendered in terms of subsection (2), the payment shall first be allocated against the payment for rent and then against other charges.

(4) If the rent for any council property has not been paid by the seventh day of the month, the responsible officer may order the

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holder of a lease to pay the rent within seven days or be given a notice to vacate the property.

(5) If after the fourteenth day of the month the rent remains unpaid, the responsible officer may—

- (a) give a three months eviction notice to the holder of a lease and all other occupants from the property; or
- (b) obtain an eviction order from the court.

(6) Where the responsible officer evicts the occupants of council property in terms of subsection (5)(b), he or she shall ensure that—

- (a) the registered tenant is given an opportunity to remove his or her belongings; and
- (b) care is taken not to injure any person or property; and
- (c) any unclaimed property upon eviction is taken into safe custody and responsible officer shall keep a record of—
 - (i) the nature of the property so taken; and
 - (ii) the date upon which the property was taken; and
 - (iii) the council property from which the property was taken.

(7) The responsible officer shall take reasonable steps to locate the owner of all property taken in terms of paragraph (c) of subsection (6) and, if it is not claimed within three months, and the responsible officer has reasonable grounds to believe that it has been abandoned, the responsible officer shall, subject to a council resolution, deliver the property to an auctioneer for sale at a public auction.

(8) The proceeds of the sales of any property sold in terms of subsection (7) shall be credited to the administration account of the council.

Change of particulars

9. The holder of a lease in respect of any council property shall, within seven days on the relevant event, report in writing, to the responsible officer—

- (a) any change in the marital status of any person occupying the property; and
- (b) the birth of a child to any woman occupying the property; and
- (c) the death of any person occupying the property.

Orders to vacate council property

10. (1) The responsible officer may order the holder of a Lease to vacate council property occupied on a leasehold basis if—

- (a) the holder of a lease has failed to vacate the property one month after written notice has been given that the property is required by the council for repair, reconstruction, demolition or any other council or public purpose; or
- (b) the holder of a lease in respect of accommodation designed as married quarters ceases to occupy accommodation as a married person with his family.

(2) The holder of a lease who has been ordered to vacate property in terms of subsection (1) shall vacate the property within one week of being ordered to do so.

(3) The dependants of the holder of a lease who is required to vacate council property in terms of this section, and registered tenant occupying that property, shall vacate the property before the end of the period within which the holder is required to vacate the property.

(4) The issue of an order to vacate council property shall not affect —

- (a) any right of the council to recover payments and other charges due in respect of the occupation of the property including any damages suffered by the council;
- (b) the rights of the council or the holder of a lease in respect of approved improvements made to that property during the currency of a lease in terms of which the property was occupied.

Abandoned council property

11. (1) If any council property appears to have been abandoned by the holder of a lease, the responsible officer may enter the property, take into safe custody any moveable property left on the property and re-allocate the council property to any other person.

(2) The responsible officer shall take reasonable steps to locate the owner of any property taken in terms of subsection (1), and, if it is not claimed within three months, the responsible officer has reasonable grounds to believe that it has been abandoned, he or she shall deliver the property to an auctioneer for the sale at a public auction, after council resolution.

(3) The proceeds on the sale of any property sold in terms of subsection (2) shall be credited to the administration account.

No occupation without registration

12. No person shall reside in any council property as a tenant or spouse or dependant of a tenant unless that tenant, spouse or dependant is registered as such in the records kept by the responsible officer in terms of section 4(2)(f) and the tenant has been issued with a Council document as evidence of registration.

Offences and penalties

13. Any person who contravenes these by-laws shall be guilty of an offence and liable to—

- (a) a fine prescribed by council; or
- (b) eviction.