

Harare (Cycle Licensing) By-laws, 2016

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 229 of the Urban Councils Act [*Chapter 29:15*], approved the following by-laws made by Harare City Council: —

Title

1. These by-laws may be cited as the Harare (Cycle Licensing) By-laws, 2016.

Application

2. These by-laws shall apply to the area under the jurisdiction of the City Council of Harare.

Interpretation

3. In these by-laws—

“authorised person” means any person authorised by the council to exercise any function conferred by these by-laws and includes a police officer;

“licensing official” means a person appointed by the Director of works to receive licence fees and other moneys payable under these by-laws;

“owner” in relation to any cycle includes the owner, joint owner or part owner of such cycle, and any person who has the lawful use of such cycle;

“cycle” means any pedal cycle, handcart or animal drawn cart;

“licence token” means a metal badge on which is inscribed the year of issue, the licence number and the words “City of Harare”;

“council” means the City Council of Harare;

“council area” means the area under the jurisdiction of the City Council of Harare;

“road” includes, any existing street, bridge, subway, avenue, lane, footpath, sanitary lane, close or thoroughfare.

Application for licencing of cycles

4. (1) No person shall use on any road within the council area any cycle which is ordinarily kept within the area unless it has been licensed in terms of these by-laws.

(2) On the 1st January in each year, the owner of a cycle which is ordinarily kept and used on any road within the council area shall obtain a licence for the cycle.

(3) The period of validity of every licence shall terminate on the 31 December in the year of issue.

(4) The application for any cycle licence under these by-laws shall be made by the owner of the vehicle to the licensing official and shall be accompanied by—

- (a) the receipt or letter from whom the cycle is bought or obtained; and

- (b) name, address, make and manufacturers number, if any, of such cycle; and
- (c) the licence fees as prescribed by council from time to time; and
- (d) when required, the applicant shall exhibit the cycle for which a licence is required at the office of the licensing official.

Licences and licence tokens

5. (1) In respect of every cycle, the licensing official shall supply to the applicant a licence receipt signed by the licensing official and containing a description of the cycle to which the licence relates, the manufacturer's number, the council registration number, the number of the licence token and the receipt number.

(2) Such licence token shall be stamped or numbered with a distinctive mark or number indicating the period for which it is issued and the owner of the cycle shall maintain it while it is current, firmly affixed to the cycle in respect of which it is issued, in such a position and such manner as is by these by-laws prescribed.

(3) The owner of any cycle to whom a licence token is issued in terms of subsection (1) shall forthwith cause the token to be attached—

- (a) to the left side of the hub on the front wheel of the cycle; or
- (b) in the case of tricycle at the front, to the left side of the hub of the wheel on the left; or
- (c) in the case of a cart to the left side of the hub on the left wheel.

Duplicate licence and licence badge

6. (1) If a token issued in terms of section 5(1) is lost or destroyed, the owner of the cycle to which it relates shall forthwith apply to the licensing official for a duplicate licence token.

(2) A duplicate licence token shall be issued to an applicant on proof of a licence accompanied by the fee prescribed by council from time to time.

(3) A duplicate licence or licence token shall be valid for the unexpired period of the original licence or licence token.

Register of licences

7. Council shall keep a register of all cycles which have been licensed in terms of these by-laws and shall record in such register—

- (a) the name and residential address or company address of the owner of such cycle; and
- (b) the make, manufacturers number and the council registration number of such vehicle; and
- (c) the receipt, token number, date of issue of the licence and the date on which the licence shall expire.

Sale and change of ownership

8. On the sale or change of ownership of any cycle, the person selling or disposing of the cycle shall deliver the relative licence to the new owner and the new owner shall within fourteen days of his or her becoming the owner, register the change of ownership at the office of the licensing official and shall be accompanied by the transfer fees prescribed by council from time to time.

Exemption

9. Any—

- (a) cycle which is kept by a dealer for the purpose of sale only; or
 - (b) cycle which is not used on any road;
- shall be exempt from licence fees; or
- (c) cycle duly licensed by any council in Zimbabwe and bearing a licence token or other token issued by such Local Authority will, provided no change of ownership has taken place, be exempt from licence fees for the unexpired portion of the period for which the licence is current.

Inspections, enforcement and impoundment

10. (1) An authorised person may at any reasonable hour during the day, enter upon any property where he or she suspects any cycle to

be used on any road within council area in order to ascertain whether the provisions of these by-laws are not contravened.

(2) An authorised person may from time to time stop any cycle or any road for the purpose of inspecting a licence or licence token and to ensure that the provisions of the by-laws are not contravened.

(3) An authorised person may if he or she has reason to believe that a violation of section 5 of these by-laws has been committed impoundment or cause to impound any cycle so connected to the offence and remove or cause to be removed such cycle to a secure compound and such cycle shall be recorded in a records book and kept safely.

(4) An impounded cycle removed to a secure compound shall be released to the owner upon payment of—

- (a) the prescribed penalty; and
- (b) storage charges set by council from time to time.

Disposal of unclaimed cycles

11. (1) Council shall publish in an newspaper of wide circulation within the council area a list of unclaimed cycles which have been in its custody for one month and advise the owners to claim the cycles within 30 days.

(2) Council shall sell by public auction any cycles that remain unclaimed thirty 30 days after the notice has been published.

(3) Council shall deduct its charges from the proceeds of the sale of unclaimed cycles and the balance (if any) shall be paid to the owner within 30 days from the date on which the owner submits to council a written request for such payment.

(4) Council shall operate a special account into which money realised from the sale of unclaimed cycles shall be deposited.

(5) Any money not claimed within 30 days after the sale of unclaimed cycles shall be forfeited to council.

Unlawful use of cycle

12. (1) Subject to the provisions of the proviso of section 4(2), no person shall use or cause or permit to be used on any road, within

the council area any cycle which is ordinarily kept within the council area unless a valid licence issued in terms of section 5 is in force in respect of the cycle.

(2) No person shall use or cause or permit to be used on any road within the council area any cycle which is required to be licensed in terms of section 4 unless the cycle has a valid token issued in terms of section 5 affixed thereon.

(3) No person shall transfer a licence token issued in terms of section 5 to any other person, or from one cycle to another, or attach, or cause to be attached, any licence token so issued to any cycle other than the cycle to which it relates.

(4) No person shall obliterate, deface or alter any licence token issued in terms of these by-laws.

(5) No person shall obliterate, deface or alter any registration number impressed on any cycle in accordance with these by-laws.

(6) No person shall use or cause or allow to be used on any road within the council area—

- (a) any cycle which does not bear the licence token as provided in these by-laws; or
- (b) any cycle upon which the registration number has been obliterated, defaced or altered.

Presumption of ownership

13. For the purposes of these by-laws, every person in whose custody, charge, possession, or on whose premises any cycle is found shall be deemed to be the owner of such cycle until the contrary is proved.

Offences and penalties

14. (1) Any person who—

- (a) contravenes or fails to comply with any provision of these by-laws; or
- (b) contravenes or fails to comply with any requirement set out in an order issued and served to him or her in terms of these by-laws; or

- (c) contravenes or fails to comply with any condition imposed in terms of these by-laws; or
- (d) knowingly makes a false statement in respect of any application in terms of these by-laws; or
- (e) obstructs, hinders or interferes with an authorised person acting under power delegated to him or her, in the exercise of any power or the performance of any duty under these by-laws; or
- (f) fails or refuses to furnish to an authorised person of the council acting under power delegated to him or her, with any documentation or information required for the purposes of these by-laws or furnishes a false or misleading document or false or misleading information; or
- (g) fails or refuses to comply with any instruction given in terms of or for the purposes of these by-laws; or
- (h) pretends to be authorised person acting under power delegated to him or her; or
- (i) forges any certificate; or
- (j) with intent to deceive, alters or erases any part of a certificate or any entry lawfully made thereon; or
- (k) intentionally produces or uses any forged licence token which has been unlawfully altered or from which erasures have been unlawfully made; or
- (l) makes any unlawful entry on any licence token; or
- (m) who, except as may be authorised in terms of these by-laws, hires, lends, code transfers, or in any way whatsoever hands over a licence token to any other person; or
- (n) with intent to deceive, makes use for any purpose whatsoever of any licence token issued in terms of these by-laws, or for any purpose of these by-laws which is not his or her own;

shall be guilty of an offence and liable to a fine not exceeding level five or one year imprisonment or to both such fine and imprisonment.

(2) A person who causes or incites another person to commit an offence referred to in subsection (1), or who being in a position of authority over another person permits or allows him or her to commit an offence, shall himself or herself be guilty of that offence and liable to a fine not exceeding level five or one year imprisonment or to both such fine and imprisonment.

(3) Director of Works shall cancel a certificate if the holder is penalised of any contravention of the provisions of these by-laws.

(4) Any licence token cancelled in terms of subsection (3) shall not be renewed until a period of one year has lapsed from the date of cancellation.

(5) Where the licence token is cancelled in terms of subsection (3) the holder shall return the licence token to the Director of Works within 48 hours of being given notice of such cancellation.

(6) Any person who fails to comply with the notice stated in subsection (5) above shall be guilty of an offence and liable to a fine not exceeding level five or one year imprisonment or to both such fine and imprisonment.

(7) Any person who contravenes any other provision of these by-laws not specified in subsection (1) above, shall be guilty of an offence and liable to a fine not exceeding level five or one year imprisonment or to both such fine and imprisonment.