

**Chitungwiza (Hawkers) By-Laws, 2017.**

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IT is hereby notified that the Minister of Local Government, Rural Development, 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 Chitungwiza Municipality—

*Title*

1. These regulations may be cited as the Chitungwiza (Hawkers) By-laws, 2017.

## *Interpretation*

2. In these regulations—

“authorized person” means any person employed or delegated by Council to carry out functions prescribed in these by- laws;

“bread” includes unfilled rolls;

“contagious and infectious disease” means

(a) any disease as defined in section 17 of the Public Health Act [*Chapter 15:09*];

(b) any sexually transmitted infections or contagious skin disease.

“council” means Harare City Council;

“Director of Health Services” means a person employed by Council to hold office as the Head of Department for Health Services and includes a person authorized to act in that capacity;

“Environmental Health Officer” means an Environmental Health Officer registered by the Health Professions Authority of Zimbabwe and employed by the Council;

“food” means anything other than drugs which is ordinarily used or intended to be used for human consumption, whatever its form, state or stage of preparation;

“form” means the appropriate form prescribed in the Fourth Schedule;

“hawker” means any person who carries on the business of selling goods whilst traveling about for that purpose from place to place, either on foot, with a carrier or vehicle or pushcart;

“licence” means a licence issued in terms of section 5;

“licenced premises” means approved premises in terms of the **Chitungwiza (Licensed Premises)by-laws 141 of 1981.**

“medical examination certificate” means a certificate issued in terms of the Public Health (Medical Examination)(Food Handlers) Order 1994;

“milk” means milk in capped bottles, sealed cans, sealed satchets or other approved containers but does not include ice-cream ,ice-cream products or other dairy products;

“nuisance” means a condition which interferes with, or is likely to interfere with, the ordinary peace and comfort of the public or any section of the public;

**“prescribed penalty” means a penalty not exceeding level three.**

“public place” means any bridge,enclosure,footpath,garden,service lane, park, garage, car park, open space,pavement,road ,side walk,square,subway,street, mall or undeveloped land or any other area vested in or controlled by the council ,to which the public has access;

“secure compound” means any area designated by Council for the purpose of safekeeping of the goods removed under these by-laws;

“sell” in addition to its ordinary meaning, means barter or exchange or offer or expose or prepare for sale.

#### *Control of Hawkers*

3(1) Subject to section 5, no person shall carry on the business of a hawker—

- (a) unless he is in possession of a valid licence ; and
- (b) in the areas specified in the First Schedule; and
- (c) in articles of food other than those specified in the Second Schedule; and
- (d) in articles of food specified in the Third Schedule; and
- (e) except in the areas specified in the licence concerned.

(2) No person shall carry on the business of hawking food unless the food is from licensed premises or other sources approved by the resolution of Council from time to time.

#### *Control of Employer of Hawkers*

4(1) No person shall engage or employ another, whether as an agent or employee, to carry on the business of hawking—

- (a) unless he is in the possession of a valid hawker’s employer’s licence on which is specified the number of hawkers which the holder thereof may employ or retain as an agent; and
- (b) in the areas specified in the First Schedule; and
- (c) in articles of food other than those specified in the Second Schedule; and
- (d) in articles of food specified in the Third Schedule; and
- (e) unless in respect of hawking of food, the food is from licenced premises; and
- (f) except in areas specified in the licence concerned.

(2) A person referred to in this section shall, in respect of each hawker employed or retained as an agent by him, issue such hawker with a licence obtained from Council before such hawker commences business.

(3) Notwithstanding subsection(1)(a) the Director of Health Services may authorize in writing, on payment of the appropriate fee, an increase in the number of hawkers employed or retained as agents.

#### *Application for licences*

5 (1) Any person requiring a licence shall submit an application to the Director of Health Services in the form prescribed in the Fourth Schedule.

(2) A licence may be issued by the Council—

- (a) if the Director of Health Services is satisfied that the applicant has complied with the relevant provisions of these by-laws ,and
- (b) upon payment of the appropriate fee.

(3) A licence shall not be issued by the Council—

- (a) if, in the opinion of the Director of Health Services ,the applicant has not complied with the relevant provisions of these by-laws,
- (b) unless, in the case of an applicant intending to hawk food, such articles of food have been prepared at licenced premises or other sources approved by resolution of Council from time to time, and

- (c) if, in its opinion, there are sufficient hawkers dealing in the goods in respect of which the licence is required in the area or on site, as the case maybe, in respect of which the licence is required.

(3) The Council, in issuing the licence, may impose in that licence such conditions as the Director of Health Services deems necessary or desirable in the interests of public health.

(4) No holder of a licence which permits the sale of food shall contravene any condition imposed therein.

(5) Every licence referred to in subsection (2) shall—

- (a) bear the year of the licence and the inscription “**LICENCED HAWKER**”,
- (b) whether the person is a hawker, agent or employed to carry on the business of hawking, be affixed in a conspicuous position to the vehicle or the container to be used by him or her, and
- (c) specify the area in which the hawker will operate from.

(3) A licence shall—

- (a) not be transferred from the person to whom it was issued to any other person, and
- (b) be valid until the 31<sup>st</sup> December of the year in which it was issued:

Provided that an employer of a hawker may transfer a licence to another employee or agent provided the licence is still valid and the person will be working in the same area specified in the licence concerned.

#### *Health certificate*

6(1) Any person who, whether as the holder of a licence himself or herself or as the agent or servant of another, wishes to carry on the business of selling food as a hawker shall obtain a certificate from a medical practitioner or the medical officer of health, certifying that at the date of certification, he was examined and not to suffering from any contagious and infectious disease.

(2) A health certificate shall be valid for a period one year after it is issued:

Provided that nothing in this subsection contained shall be construed as preventing the council from cancelling a licence issued in terms of these by-laws, despite the fact of the validity of any such certificate held by the hawker concerned.

#### *Restrictions and conditions of licence*

7(1) The council may, in issuing or renewing a licence—

- (a) restrict the applicant to dealing in goods listed in his application;
- (b) restrict the applicant to dealing in certain goods, whether listed in his or her application or not, if, in its opinion, not to make such restriction would—
  - (i) adversely affect any existing trade or business carried on in the area of jurisdiction of the council; or
  - (ii) be undesirable in the interests of public health, public safety or public morality or public order;
- (c) restrict the applicant to carry on the business for which the licence is required to certain areas and sites and on certain hours and days;

- (d) require the applicant to affix to any vehicle, container or stall used in connection with the business for which the licence is required such identification marks as the council may specify;
- (e) require the applicant, to ensure that his agents or employees whilst engaged upon the business for which the licence is required, wear such clothing and display, in such manner as to be clearly visible, such badges for the purposes of identifying them with the applicant as the applicant may specify;
- (f) require the applicant, whilst engaged in the business for which the licence is required, to wear such clothing and to display, in such manner as to be clearly visible, such badges as the council may specify.

(2) Any condition or restriction imposed by the council in terms of subsection (1) shall be specified on the licence concerned.

*Currency, renewal and variation of licence*

8(1) A licence issued or renewed in terms of these by-laws shall be in the form set out in the **Third Schedule**, and shall be valid up to and including the 31<sup>st</sup> December of the year of which it was issued or renewed.

(2) The holder of a licence who wishes to renew the licence for the next succeeding year shall apply to the council for the renewal thereof during the month of December preceding that year, and the provisions for sections **6 and 7** shall *mutates mutandis*, apply:

Provided that the council may—

- (a) waive the requirement to submit any photograph with an application for the renewal of a licence;
- (b) require the production of the licence previously issued to him.

(3) The holder of a licence who wishes to have any condition or restriction imposed upon his licence altered or removed, either during the period of its validity or renewal, shall—

- (a) in the case of a renewal, specify the nature and extent of the variation required in his application for renewal;
- (b) in any other case, make application, in writing, to the council, specifying the nature and extent of the variation required.

(4) When an application in terms of subsection (3)(b) is successful, the applicant shall submit his or her licence to the council for the appropriate endorsement to be made.

*Refusal of application or renewal of licence*

9. The council may refuse to issue or renew a licence if—

- (a) the applicant has, within two years, preceding the making of the relevant application, been convicted of—
  - (i) any offence under these by-laws which were repealed on adoption of these by-laws; or

- (ii) any offence under the Trade Measures Act [*Chapter 14:23*]; or
- (iii) any offence which involves carelessness concerning, or a disregard for cleanliness, hygiene, public health or public nuisance; or
- (iv) any offence involving dishonesty;

and has been sentenced therefore to imprisonment without the option of a fine whether or not the sentence has been suspended;

- (b) in the opinion of the council—
  - (i) the issue of renewal would adversely affect any existing trade or business carried on in the area of jurisdiction of the council; or
  - (ii) the goods sought to be dealt in ought not to be dealt in the interests of the public health, public safety or public morality; or
  - (iii) any vehicle, container, storage-premises, clothing or equipment used, for or to be used in connection with the business for which the licence is unsuitable in the interests of public health; or

#### *Cancellation of licence*

10(1) The council may cancel a licence if the holder thereof at any time after the issue of the licence—

- (a) has been convicted of any offence referred to in section **12(a)**; or
- (b) does not maintain a satisfactory standard of cleanliness in respect of his or her person or any agent of his or hers who is engaged or employed in the business to which the licence relates; or
- (c) does not maintain a satisfactory standard of cleanliness in respect of any vehicle, container, storage premises, clothing or equipment used by him or her or by any agent of his or hers in connection with the business to which the licence relates.

(2) The council shall cancel a hawker's licence if the holder thereof is dealing in food and is found to be suffering from a contagious and infectious disease:

Provided that the council shall, at no extra charge, reissue the holder with a licence if—

- (a) he or she produces a health certificate, issued after the date of cancellation of the licence, certifying that he or she is no longer suffering from a contagious and infectious disease; or
- (b) he or she applies to the council for his or her licence to be restricted and sale of goods other than food and submits his or her licence to the council for the purpose of the relevant endorsement to be made.

(3) If any hawker engaged or employed by the holder of a licence in connection with the sale of food is found to be suffering from a contagious and infectious disease, the council may, by notice, in writing, given to the holder of the licence direct him or her to cease forthwith engaging or employing that hawker in connection with the sale of food and if such direction is not complied with forthwith the council will cancel the licence:

Provided that the council shall at no extra charge reissue the holder with a licence if—

- (a) he or she produces a health certificate issued after the date of cancellation of the licence certifying that the hawker or street vendor is concerned is no longer suffering from a contagious or infectious disease; or
- (b) he or she applies to the council for his or her licence to be restricted to the sale of goods other than food and submits his licence to the council for the purpose of the relevant endorsement to be made; or
- (c) he or she satisfies the council that he or she has terminated the engagement of or discharged the hawker or street vendor concerned.

(4) Any licence cancelled in terms of this section shall be returned to the council by the holder thereof within thirty days of such cancellation.

*Inspection of vehicles, containers, preparation rooms and trade equipment*

11 (1) An Environmental Health Officer or any authorized person may at any time inspect any vehicle, container, preparation room or trade equipment used by a hawker or by a person employing hawkers or retaining them as agents in order to ascertain whether the provisions of these by- laws are being complied with.

(2) No person shall hinder, obstruct or prevent an Environmental Health Officer or authorized person from carrying out an inspection in accordance with subsection (1).

*Health, personal and food hygiene*

12(1) A person carrying on business as a food hawker shall—

- (a) cause every vehicle, container, storeroom, preparation room or trade equipment used in connection with his or her business to be maintained in a clean and sanitary condition and in good repair,
- (b) take adequate precautions to safeguard the food from dirt, dust, pests, vermin or other contamination, and
- (c) ensure that his or her agent(s) are clean and dressed in clean over clothing.

(2) No person carrying on the business as a food hawker, shall cause the selling of food whilst to his or her knowledge, he or she is suffering from any contagious or infectious disease.

(3) Every employer hawker shall ensure that his or her employees are in good health at all times and hold a valid medical examination certificate.

(4) A person suffering from any contagious or infectious disease shall cease immediately to hawk food until certified fit by a registered medical practitioner.

(5) Any vehicle, container, preparation room or trade equipment used for transporting, preparing or storing food by a hawker or person employing hawkers or retaining them as agents shall—

- (a) be constructed in such a way as to protect any food to be carried or stored therein from contamination; and
- (b) be used solely for transporting, preparing or storing food; and
- (c) bear the name and address of the license holder visibly and legibly displayed in letters not less than twenty – five (25) millimeters in height.

*Hawkers to keep moving*

13(1) No person carrying on the business of a hawker shall—

- (a) remain stationary whilst conducting his or her business for longer than fifteen (15) minutes:

Provided that after the period of fifteen minutes, he or she shall not be in a position within a radius of one hundred metres from the place at which he or she was at the commencement of the fifteen (15) minutes period;

- (b) for the purposes of such business, return within one hour to any place, or to within one hundred metres thereof, which he or she has already visited for such purpose.

(2) No person carrying on the business of a hawker shall—

- (a) directly or indirectly obstruct the use of a public place, or
- (b) be a nuisance to any person in the vicinity of such public place.

*Hawkers using motor vehicles or pushcarts*

14(1) No person carrying on the business of a hawker using a motor vehicle or pushcart shall—

- (a) remain stationary whilst conducting his or her business for longer than fifteen (15) minutes:

Provided that after the period of fifteen minutes, he or she shall not be in a position within a radius of one hundred metres from the place at which he or she was at the commencement of the fifteen (15) minutes period;

- (b) for the purposes of such business, return within one hour to any place, or to within one hundred metres thereof, which he or she has already visited for such purpose.

(2) No person carrying on the business of a hawker using a motor vehicle or pushcart shall ,

- (a) directly or indirectly obstruct the use of a public place, or
- (b) be a nuisance to any person in the vicinity of such public place ,or
- (c) park his or her vehicle or station his or her pushcart within a road reserve.

(3) Subject to the provisions of sub-section (1) and (2) above a person carrying on the business of a hawker using a motor vehicle or pushcart shall park his or her motor vehicle or station his or her pushcart seven (7) metres away from the road.

*Fees*

15. The council may, by resolution, fix fees for any application made in terms of these by-laws and for any licence, or duplicate thereof, issued in terms of these by-laws:

Provided that—

- (a) any fee shall be fixed through a council resolution; and
- (b) the fee for a licence issued after the 30<sup>th</sup> of June in any year shall be fifty *per centum* of the annual fee for such licence.

*Seizure of goods*

16(1) An Environmental Health Officer or any authorized person may if he or she has reason to believe that a violation of section 4, 5, 6, 8, 9 and 10 of these by-laws has been committed seize or cause to be seized any goods so connected to the offence and remove or cause to be removed such



seized goods to a secure compound and such goods shall be recorded in a records book and kept safely:

Provided that perishable goods shall be disposed or destroyed after obtaining written authority from the Director of Health Services.

(2) Any seized goods removed to a secure compound shall be released to the owner after payment of—

- (a) the prescribed penalty , and
- (b) storage charges set by resolution of Council from time to time.

#### *Removal of litter*

17. A hawker shall—

- (a) pick up any litter which in the exercise of his or her business has fallen on any public place; and
- (b) on request by any official to the council, move his receptacles and goods so as to permit such official to clean the streets or gutters; and
- (c) remove all receptacles and goods from his or her place or stand on the completion of business for the day and shall leave his or her place or stand in a clean condition.

#### *Replacement of lost or destroyed licence*

18. Any person who has been issued with a licence in terms of these by-laws may obtain a duplicate thereof—

- (a) on certifying, in writing, to the council that the licence concerned has been lost or destroyed; and
- (b) on payment of the appropriate fee.

#### *Change of address or abandonment of business*

19 A holder of a licence shall, within seven days of the abandonment of his or her business or of any change of address of his or her business or his storage-premises, notify the council in writing of such fact or of such change of address as the case may be.

#### *Obstruction or nuisance*

20(1) Any authorised person may direct any hawker who is directly or indirectly obstructing the use of any public place, or is a nuisance to any person in the vicinity of any public place, to move for such distance as may be reasonable or to cease such obstruction or to abate such nuisance, as the case may be.

(2) No hawker shall refuse to comply with any direction given in terms of subsection (1).

#### *Disposal of unclaimed goods*

21 (1) Council shall publish in any newspaper of wide circulation within the Council area a list of unclaimed goods and advise the owners to claim the goods within thirty (30) days.

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

(3) Council shall deduct the charges for storage from the proceeds of the sale of unclaimed goods and the balance (if any) shall be paid to the owner within thirty (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 realized from the sale of unclaimed goods shall be deposited.

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

#### *Designation*

22(1) Council shall publish in any newspaper circulating within the Council controlled area—

- (a) any place designated as a secure compound, and
- (b) the names of any persons appointed as authorized persons.

(2) Payment of the prescribed penalty and storage charges shall be made to the Council's City Treasurer or to an authorized person.

#### *Offences and Penalties*

23(1) Any person who—

- (a) knowingly gives false information in an application in terms of section 6, or
- (b) alters or falsifies any licence issued in terms of section 6, or
- (c) unlawfully attempts to obstruct, hinder or prevent or causes to be obstructed, hindered or prevented, an authorized person in the exercise of his or her duties under these by-laws, or
- (d) sells any goods or foodstuffs without a licence, or
- (e) unlawfully attempts to remove, removes or causes to be removed the seized goods from a secure compound, or
- (f) carries on the business as a food hawker, sells food whilst to his or her knowledge, he or she is suffering from any contagious or infectious disease; or
- (g) contravenes any condition attaching to a licence;  
shall be guilty of an offence and liable to a fine not exceeding level 5 (five) or fifteen days imprisonment or to both such fine and imprisonment.

(2) Director of Health Services shall cancel a licence if the holder is penalised of any contravention of the provisions of these by – laws.

(3) Any licence cancelled in terms of subsection (2) shall not be renewed until a period of 1 (one) year has lapsed from the date of cancellation.

(4) Where the license is cancelled in terms of subsection (2) the holder shall return the licence and the disc to the Director of Health Services within 48 (forty –eight) hours of being given notice of such cancellation.

(5) Any person who fails to comply with the notice stated in subsection (4) above shall be guilty of an offence and liable to a fine not exceeding level 5 (five) or fifteen days imprisonment or to both such fine and imprisonment.

FIRST SCHEDULE (*Sections 4 and 5*)  
AREAS WHERE THE BUSINESS OF HAWKING IS PROHIBITED

1. Within one hundred (100) metres of any shop or store.

SECOND SCHEDULE (*Sections 4 and 5*)  
ARTICLES OF FOOD PERMITTED TO BE SOLD BY HAWKERS

1. Ice – cream, artificial ice – cream, frozen dairy confection, milk, milk ice and ice lollies which are manufactured and wrapped at licensed premises.
2. Aerated waters, fruit- juices, fruit –syrups, cordials or cordials or fruit- squashes in sealed containers from or prepared at licensed premises.
3. (a) Bakery products, including bread, biscuits, cakes ,tarts and buns ,  
(b) Potato crisps ,peanuts and biltong  
provided that such food stuffs have been prepared and wrapped at licensed premises
4. Raw fruit and vegetables.
5. Any other food stuffs approved by Director of Health Services upon application.

THIRD SCHEDULE (*Sections 4 and 5*)

ARTICLES OF FOOD NOT PERMITTED TO BE SOLD BY HAWKERS

1. Bakery products and sandwiches containing meat, fish or fresh cream.
2. Any other food-stuffs prohibited by any other by-laws of Council.
3. Any other food-stuffs prohibited to be sold by hawkers by the Director of Health Services from time to time.

FOURTH SCHEDULE (*Section 6*)  
FORMS

**FORM 1**

**CHITUNGWIZA MUNICIPALITY**

**HEALTH DEPARTMENT**

**PART 1 TO BE COMPLETED BY ALL APPLICANTS**

1. Application for

(a)	Hawker's Licence	
(b)	Licence to employ hawkers or retain as agents	
(c)	Additional licences	

**Mark the appropriate place with an X**

2. Name of applicant.....
3. Applicant's postal address.....
4. Applicant's telephone number, if any.....
5. Physical address of business premises.....  
.....
6. Goods to be dealt in.....
7. Areas of which the licence is sought.....
8. Type of vehicle or containers to be used.....

***PART II TO BE COMPLETED BY ALL APPLICANTS TO TRADE OR RETAIN AS AGENTS***

9. Number of Hawkers to be employed or retained as agents.....
10. Areas from which business is to be carried out.....
11. Number of additional licences.....

DATE.....

SIGNATURE.....

***OFFICE USE ONLY***

***N.A./R.C. OF O***

REF.....

Application entered  
Decision entered  
T.P. Report Req

.....  
ENVIRONMENTAL HEALTH OFFICER  
.....

DIRECTOR OF HEALTH SERVICES

**FORM 2**

CHITUNGWIZA MUNICIPALITY

**MUNICIPAL HAWKERS LICENCE**

Type of licence..... Fee.....

Licensee.....

Number of licences issued.....

Other details (trading site).....

Address of approved premises.....

Address of Licensee.....

Health Dept. Approval Reference and Date.....

**NOT TRANSFERABLE**

Issued subject to Regulations

Valid to 31<sup>st</sup> December 20....., unless previously suspended.

This is to certify that the City Council of Harare has approved the issue of this licence.

This document does not represent a valid license unless the correct fee has been paid and carries a receipt issued by a Council Treasurer receipting machine.

DATE..... 20.....

DIRECTOR OF  
HEALTH SERVICES

*Repeal*

The Chitungwiza Hawkers and Street Vendors (Adoption) By-Laws, 1979 published in statutory instrument 116 of 1979, are hereby repealed.