

Chitungwiza (Vendors) By-laws, 2017.

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REPEAL

IT is hereby notified that the Minister of Local Government and Rural Development 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 (Vendors) By – laws of 2017.

Interpretation

2. In these regulations—

“animal” in addition to its ordinary meaning, includes any bird or reptile;

“applicant” means any person who makes an application to the Director of Housing and Community Services for a permit or lease agreement;

“authorized official” 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 disease or contagious skin disease.
- “Council” means Council of Chitungwiza municipality;
- “dairy products” means milk in capped bottles, sealed cans, sealed satchets or other approved containers and also include ice-cream ,ice-cream products or all other dairy products from licenced premises;
- “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;
- “Director of Housing and Community Services” means a person employed by Council to hold office as the Head of Department for Housing and Community 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;
- “licensed premises” means approved premises in terms of the **Chitungwiza (Licensed Premises) by-laws S.I 141 of 1981.**
- “medical examination certificate” means a certificate issued in terms of the Public Health (Medical Examination) (Food Handlers) Order, 1994,
- “lease agreement” means a document signed between a vendor and Council setting out the terms and conditions governing their relationship;
- “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;
- “permit” means a permit issued on behalf of the Council by the Director of Housing and Community Services in terms of section 5;
- “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;
- “stall” means any table, surface constructed above ground level or similar structure, whether or not it is situated within a building or under a roof or other structure;
- “stand” means any area designated as a stand, whether or not it is situated within a building or under a roof or other structure and whether or not it is situated on a paved or unpaved surface;

“vending site” means any land or premises set aside by the Council for the purpose of providing a place for the sale of any goods or foodstuffs and shall be classified into various categories as specified in the First Schedule;

“vendor” means any person who is a holder of a permit or lease agreement issued in terms of section 5 carries on the business of selling goods or foodstuffs within a vending site.

Land for vending sites

4. (1) The Council may set aside land or premises for the establishment of vending sites and may divide such land or premises into separate stands or stalls as the case may be.

(2) The vending sites shall be classified into categories as specified in the First Schedule.

Application for stand or stall in a vending site

5 (1) Any person wishing to use a stand or stall in a vending site as a vendor shall make an application to the Director of Housing and Community Services.

(2) Upon application—

(a) a permit may be issued; or

(b) a lease agreement may be entered into between the applicant and Council.

(3) A vendor who is issued with a permit or enters into a lease agreement with Council shall pay a fee as outlined in Section 10.

(4) A permit shall not be issued or lease agreement entered into by the Council—

(a) if, in the opinion of the Director of Housing and Community Services, the applicant has not complied with the relevant provisions of these by-laws;

(b) unless, in the case of an applicant intending to sell 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 vendors dealing in the goods in respect of which the permit is required in the area or on site, as the case maybe, in respect of which the permit is required.

(5) The Director of Housing and Community Services in consultation with the Director of Health Services may impose any conditions in the permit or lease agreement he or she deems necessary or desirable in the interests of public health.

(6) No holder of a permit or lease agreement which permits the sale of food shall contravene any condition imposed therein in terms of subsection (5).

(7) Every permit referred to in subsection (2) (a) shall—

(a) bear the month of the permit and the inscription “LICENCED VENDOR”;

(b) clearly define the area of the stand or stall and state the name of the applicant and the period for which the permit is valid;

(c) be renewed on a daily or monthly basis as the case maybe; and

(d) not be transferred from the person to whom it was issued to any other person.

(8) Every lease agreement referred to in subsection (2) (b) shall—

- (a) clearly define the area of the stand or stall and state the name of the applicant and the period for which the lease agreement is valid;
- (b) be valid until the 31st December of the year in which it was entered into or any other date as determined by the Director of Housing and Community Services;
- (c) not be transferred from the person to whom it was issued to any other person; and
- (d) set out the terms and conditions which govern the relationship between the applicant and Council.

Cleanliness of the stand or stall in a vending site

6 (1) A vendor who has been allocated a stand or stall shall keep such stand or stall and its immediate vicinity in a clean and hygienic state.

(2) No person shall permanently affix to any stand or stall any sign or any other thing whatsoever and no person shall paint on or otherwise deface any stand or stall:

Provided that with the consent of Council a temporary sign or any other thing may be erected if it can be removed readily and its erection and removal does not damage or deface the stand or stall on which it is erected.

Health

7 (1) A vendor of foodstuffs in a vending site shall—

- (a) cause every 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 he or she is clean and dressed in clean over clothing at all times.

(2) No person carrying on the business as a food vendor 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 vendor shall ensure that he or she is in good health at all times and holds a valid medical examination certificate.

(4) A person suffering from any contagious or infectious disease shall cease immediately to carry on the business of a food vendor.

(5) No person shall—

- (a) spit;
 - (b) urinate or defecate;
 - (c) drop or discard litter or any other waste matter;
- at any time in or within the immediate vicinity of the vending site.

(6) No person shall bring or permit any animal to be brought into or on to a vending site.

(7) Any container, storeroom, preparation room or trade equipment used for transporting, preparing or storing food by a vendor shall—

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

Goods that may be sold

8 (1) The Council may in respect of any vending site by resolution from time to time permit or declare what goods or foodstuffs may be sold or may permit or declare what goods or foodstuffs may be sold in different parts of the same vending site depending on the category of the vending site as outlined in the First Schedule.

(2) Council shall erect on or in the immediate vicinity of the vending site a sign setting out the goods or foodstuffs that may be sold in such site or any part of such site.

Designated officers

9 (1) The Council may appoint authorized officials to be in charge of the vending sites and such officials shall ensure the efficient ,orderly, clean and hygienic operation of the vending sites.

(2)Without derogation from the provisions of subsection (1) the Council may give the authorized officials referred to in subsection one (1) power to do all or any of the following—

- (a) require any person who—
 - (i) contravenes any provisions of section 7 of these by-laws,
 - (ii) is under the influence of alcohol or drugs,
 - (iii) causes disturbance, nuisance, or otherwise behaves in an offensive manner,
 to leave the vending site and its immediate vicinity.
- (b) require the stand holder or stall holder to—
 - (i) clean ,tidy or otherwise restore to a fit state any stand or stall in respect of which he holds a permit or lease agreement and its immediate vicinity,
 - (ii) clean, tidy or otherwise restore to a fit state any container, preparation room, storeroom or trade equipment used in connection with his or her business,
 - (iii) take adequate precautions to safeguard the food from dirt, dust, pests, vermin or other contamination,
 - (iv) produce at the request of the authorised officer his or her permit or lease agreement for any stand or stall he or she is occupying, and
 - (v) vacate any stand or stall if he or she is not in the possession of a permit or lease agreement in respect of such stand or stall or if he or she is selling goods which are not permitted to be sold in that vending site or that part of that vending site as the case maybe.

Fees Payable

10(1) A vendor who is issued with a permit shall pay a fee on a daily or monthly basis as the case maybe as fixed by resolution of Council from time to time.

(2) A vendor who enters into a lease agreement with Council shall pay a fee on a monthly basis as fixed by resolution of Council from time to time.

Seizure of goods

11(1) An Environmental Health Officer or any authorized official may if he or she has reason to believe that a violation of section 5, 6, 7, 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 Housing and Community Services.

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

- (a) the prescribed penalty outlined in the second schedule; and
- (b) storage charges set by resolution of Council from time to time.

Disposal of unclaimed goods

12(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 specified in the second schedule 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

13(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 officials.
- (2) Payment of the prescribed penalty and storage charges shall be made to the **Council's Treasurer** or to an authorized official.

Offences and Penalties

14(1) Any person who—

- (a) knowingly gives false information in an application in terms of section 5, or
- (b) alters or falsifies any permit or lease agreement issued in terms of section 5;
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 permit or lease agreement; or
- (e) unlawfully attempts to remove, removes or causes to be removed the seized goods from a secure compound; or
- (f) sells any goods at any place other than a vending site or other than in terms of any other legislation; or
- (g) carries on the business as a food vendor, sells food whilst to his or her knowledge, he or she is suffering from any contagious or infectious disease;
or
- (h) contravenes any terms or conditions attaching to his or her permit;

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) Director of Housing and Community Services may cancel a permit or lease agreement if the holder is guilty of any contravention of the provisions of these by-laws.

(3) Any permit or lease agreement 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 permit or lease agreement is cancelled in terms of subsection (3) above the holder shall return the permit or lease agreement to the Director of Housing and Community Services within 48 (forty –eight) hours of being given notice of such cancellation.

(5) Any person who fails to comply with provisions of subsection (4) 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.

(6) Any person who contravenes sections 6(2) and 7 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.

FIRST SCHEDULE

CATEGORIES OF VENDING SITES

- (a) Category A- sites designated for the sale of any publications, newspapers, magazines, cell phone recharge cards, phone recharge cards and any other related items as Council may by resolution declare from time to time.
- (b) Category B- sites designated for the sale of dairy products and any other related items as Council may by resolution declare from time to time.
- (c) Category C- sites designated for the sale of any other goods or foodstuffs not specified in section (a) and (b) above which may be sold in the vending site or in different parts of the same vending site and approved by resolution of Council from time to time.

SECOND SCHEDULE

PENALTIES

- 1. Prescribed penalty Level 3
- 2. Storage charges are prescribed by resolution of Council from time to time.

Repeal

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