

Statutory Instrument of 2014.

[CAP. 29:15

Harare (Noise) By-Laws, 2014

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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:—

Title

1. These by laws may be cited as the Harare (Noise) By laws, 2014.

Application

2. These by-laws shall apply to the council area of the City of Harare.

Interpretation of terms

3. In these by-laws –

“Authorised person”, means any person employed or delegated by Council to carry out any of the functions prescribed in these by laws;

“Council” means, the City Council of Harare;

“Director” means, the Director of Works;

“public street” includes any road, street, thoroughfare, greenway, land, footpath, open space or bridge to which the public has access;

“public place” means any street alley, park, public building, shopping centre, Central Business District, any place of business or assembly, open to, on frequented by the public and any other place which is open to the public view, or to which the public has access.

“scheme” means a scheme as defined in the Regional, Town and Country Planning Act [*Chapter 29:12*].

Suppression of noise

4. Subject to the provisions of section 6 no person shall –
 - (a) operate or cause or permit to be operated any wireless, loudspeaker, gramophone, record-player, amplifier, musical instrument or similar device so as to disturb or interfere with the rest, peace or tranquillity of any occupier of premises in the neighbourhood or in any public street, or in any public place; or

- (b) operate, or cause, or permit to be operated for the purpose of advertising, any wireless, loudspeaker, gramophone, record-player, amplifier, musical instrument or similar device in the neighbourhood in or adjacent to any public street or public place, without the prior written consent of the Council; or
- (c) make any noise or disturbances, by shouting, yelling or blowing upon any wind instrument, beating upon any drum or other instrument, article or device, or by any other means, which the noise or disturbances disturbs or interferes with the rest, peace or tranquillity of any occupier of premises in the neighbourhood or in any public place or public street; or
- (d) operate or cause to or permit to be operated any model aeroplane, steam or diesel powered model locomotive, model car, or other similar machine; or contrivance hereby the noise or disturbances is such as to disturb or interfere with the rest, peace or tranquillity of any occupier of premises in the neighbourhood or in any public place or public street; or
- (e) ring bell, sound a horn, blow whistle or a musical or other instrument or shout in any public street or public place or in the neighbourhood for the purpose of hawking, selling or distributing any article or thing whatsoever, or for advertising any entertainment, to the annoyance, disturbance or inconvenience of any occupier of premises in the neighbourhood or in any public place or in any public street; or
- (f) operate, or cause or permit to be operated, on any land zoned for residential, general residential or special residential purposes in any scheme/any power driven grass-cutting or hedge-cutting machine before the hour of 8 a.m. or between the hours of 2 p.m. and 4 p.m. or after the hour of 6 p.m. on any day; or
- (g) keep, or cause or permit to be kept, any bird or animal which, by reason of continued or repeated crowing, screeching, barking or whining, or other noisy or troublesome habits, causes annoyance, disturbance or inconvenience to any occupier of premises in the neighbourhood or public place.

Regulation of noisy businesses, trades and machinery

5. (1) Subject to the provisions of subsections (2) and (3), no person shall, other than on land zoned for industrial. Light industrial or special industrial purposes in any scheme, on a Sunday or public holiday, or before the hour of 7 a.m. or after the hour of 6 p.m. on any other day-

- (a) carry on, or cause or permit to be carried on, any business, trade or industry; or
- (b) use, or cause or permit to be used, in the course of building, demolition or excavation operations, any machine, machinery, engine, apparatus, tool or contrivance, whether powered or not;

which disturbs, or which is likely to disturb, the rest, peace and tranquillity of any occupier of premises in the neighbourhood or in any public place or public street.

(2) The prohibition contained in subsection (1) shall not apply in circumstances in which the carrying on of such business, trade of industry, or the use of such machine, machinery, engine, apparatus, tool or contrivance, is urgently necessary –

- (a) to preserve the life, safety or health of any person; or
- (b) to preserve property; or
- (c) to maintain essential services.

(3) the Council may, for good cause, on the written request of any person, grant whole or partial exemption from the prohibition contained in subsection (1), and may –

- (a) attach to any such exemption such conditions as it considers desirable; and
- (b) withdraw such exemption at any time by notice, in writing.

Temporary noise permit

In this section:-

“community event” includes any wedding, party, church service, awareness campaign or any such gathering where people are likely to congregate in huge numbers.

“promotional event” means any event done at a public place, public street or in the neighbourhood to promote a business or event to a target audience.

6(1) Any person may submit an application for a temporary noise permit for a community event or promotional event.

(2) The application made in terms of subsection (1) shall be made in writing to the Director and shall contain the following-

- (a) name and address of the applicant
- (b) description of the event
- (c) location of the event
- (d) a description of the source of sound and level of sound for which the temporary noise permit is sought; and

(e) times of day and the period of time (not in excess of six (6) months) for which temporary noise permit shall be granted.

(3) An application made in terms of subsection (1) above shall be accompanied by such application fee as may from time to time be prescribed by Council.

(4) Upon the application being granted, the applicant shall pay such Temporary Noise Fee as may from time to time be prescribed by Council.

Powers of the Director

7. (1) In making his or her determination in terms of section 6 above, the Director shall-

- (a) determine whether the event falls within the definition of community or promotional

event; or

(b) consider any negative effects the issuance of the Temporary Noise Permit may have on neighbouring properties of the Council area; or

(c) consider any benefits the issuance of the Temporary Noise Permit may have for the neighbouring properties or the Council area.

(2) Where the Director has made a decision in terms of subsection (1), he or she shall give written notice of the decision to the applicant by regular mail to the last known address of the applicant.

(3) The notice given in terms of subsection (3) shall-

(a) set out the grounds of the decision; and

(b) give reasonable particulars of the grounds.

(4) Any person aggrieved by the decision of the Director may appeal to the Administrative Court within twenty-one (21) days from the date such decision complained of was given.”

Obstruction

8. No person shall hinder or obstruct an authorised person from carrying out any of the functions prescribed in these by laws.

Impoundment of equipment, gadgets and equipment

9. (1) An authorised person may impound any equipment, gadget or machinery used in contravention of any provision of these by laws.

(2) The equipment, gadgets or machinery so impounded shall be taken to a secure compound designated for such purpose by Council.

(3) The equipment so impounded shall only be released upon the owner paying the prescribed penalty and such removal and storage charges as prescribed by Council from time to time.

Disposal of unclaimed equipment, gadgets and machinery

10. (1) Any equipment, gadget or machinery impounded in terms of section 9 which remain unclaimed for a period of three (3) months from date of impoundment. Council shall publish in an newspaper of wide circulation within the Council Area a list of impounded equipment which remain unclaimed for a period of thirty (30) days from the date of impounding, gadgets or machinery and advise the owners to claim the same within thirty (30) days;

(2) Council shall sell by public auction any equipment, gadgets or machinery 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 equipment, gadget or machinery 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 realised from the sale of unclaimed equipment, gadgets or machinery shall be deposited;

(5) Any money not claimed within thirty (30) days after such sale shall be forfeited to Council.

Offences and Penalties

11. Any person who-

- (a) contravenes or any condition attached to any exemption granted under subsection (3) of section 5;
- (b) contravenes or fails to comply with any conditions attached to the issuance of a Temporary Noise Permit in terms of section 6;
- (c) knowingly makes a false statement in respect of any application in terms of this by-laws;
- (d) obstructs, hinders or interferes with a 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;
- (e) 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;
- (f) fails or refuses to comply with any instruction given in terms of or for the purposes of these by-laws; or
- (g) pretends to be authorised person acting under power delegated to him or her, or
- (h) forges any permit; or
- (i) with intent to deceive, alters or erases any part of a certificate or any entry lawfully made thereon; or
- (j) intentionally produces or uses any forged permit which has been unlawfully altered or from which erasures have been unlawfully made; or
- (k) makes any unlawful entry on any Temporary Noise Permit; or

- (l) who, except as may be authorised in terms of this by-laws, hires, lends, code transfers, or in any way whatsoever hands over a Temporary Noise Permit to any other person; or
- (m) with intent to deceive, makes use for any purpose whatsoever of any Temporary Noise Permit issued in terms of this By-laws, or for any purpose of this 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 (1) 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 shall cancel a permit if the holder is penalised for any contravention of the provisions of these by laws.

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

(5) Where the permit is cancelled in terms of subsection (3) the holder shall return the permit to the Director within 48 (forty –eight) 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 5 (five) or 1 (one) year imprisonment or to both such fine and imprisonment.

Repeals

12. (1) The Harare (Noise) By Laws, 1973, as amended, published in Rhodesia Government Notice No. 1195 of 1973, are hereby repealed.