

Mberengwa Rural District Council (Push Cart) By-laws, 2023

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Title

1. These by-laws may be cited as the Mberengwa Rural District Council Push Cart Licensing By-laws,2023.

Application

2. These by-laws shall apply to the area under the jurisdiction of the Mberengwa Rural District Council.

Interpretation

3. In these by-laws-

"authorized person" means any person authorized by the council to exercise any function conferred by these by-laws

"licensing official" means a person appointed by Council to receive licence fees and collect moneys payable

under these by-laws;

"owner" in relation to any Push Cart includes the owner, joint owner or part owner of such Push Cart and any

person who has the lawful use of such Push Cart;

"Push Cart " means any human driven cart whether by pulling or pushing,

"licence token" means a metal badge on which is inscribed the year of issue, the licence number and the words Mberengwa Rural District Council

"council" means Mberengwa Rural District Council;

"council area" means the area under the jurisdiction of the Mberengwa Rural District Council

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

Application for licensing of Push Carts

- (1) No person shall use on any road within the council area any Push Cart which is ordinarily kept within the area unless it has been licensed in terms of these by-laws.
- (2) On the 1st of January in each year the owner of a Push Cart which is ordinarily kept and used on any road within the council area shall obtain a licence for the Push Cart.
- (3) The period of validity of every licence shall terminate on the 31st of December in the year of issue.
- (4) The application for any Push Cart Licence under these by-laws shall be made by the owner of the Push Cart to the licensing official and shall be accompanied by-
- (5) The receipt or letter from whom the Push Cart is bought or obtained; and*
 - (a) name, address, make and manufacturers number, if any, of such Push Cart; and
 - (b) the licence fees as prescribed by council from time to time; and when required, the applicant shall exhibit the Push Cart for which a licence is required at the office of the licensing official.
- (6) Any person who contravenes who contravenes subsections (1) above shall be guilty of an offence and shall be liable to pay a penalty of USD\$ 10.00.

Licences and licence tokens

- (1) In respect of every Push Cart, the licensing official shall supply to the applicant a licence receipt signed by the licensing official and containing a description of the Push Cart to which the licence relates, the manufacturer's number, the council registration number, the number of the licence token and the receipt number.
 - (a) 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 Push Cart shall maintain it while it is current, firmly affixed to the Push Cart in respect of which it is issued, in such a position and such manner as is by these by-laws prescribed.
 - (b) The owner of any Push Cart 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 Push Cart; or
- (b) in the case of tri Push Cart 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.

(2) Any person who contravenes who contravenes subsections (1) above shall be guilty of an offence and shall be liable to pay a penalty of USD\$ 5.00

Duplicate licence and licence badge

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

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.

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

Register of licences

Council shall keep a register of all Push Carts 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 or the owner of such Push Cart; and
- b) the make, manufacturer 's 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

(1) On the sale or change of ownership of any Push Cart, the person selling or disposing of the Push Cart shall deliver the relative Push Cart to the new owner and the new owner shall with in 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.

A duplicate licence or licence token shall be valid for the unexpired period of the original licence or licence token

(2) Any person who contravenes who contravenes subsections (1) above shall be guilty of an offence and shall be liable to pay a penalty of USD\$ 5.00

Exemption

9. Any-

- (c) Push Cart which is kept by a dealer for the purpose of a sale only; or
- (d) Push Cart which is not used on any road;
Shall be exempt from Licence fees; or

Push Cart 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. An authorized person may at any reasonable hour during the day enter upon any property where he or she suspects any Push Cart to be used on any road, within the council area in order to ascertain whether the provisions of these by-laws are not contravened.

(1) An authorized person may from time to time stop any Push Cart on 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.

(2) An authorized 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 Push Cart so connected to the offence and remove or cause to be removed such Push Cart to a secure compound and such Push Cart shall be recorded in a records book and kept safely.

(3) An impounded Push Cart 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 Push Cart s

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

(2) Council shall sell by public auction any Push Carts that remains unclaimed thirty days after the notice has been published.

(3) Council shall deduct its charges from the proceeds of the sale of unclaimed Push Cart 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 realized from the sale of unclaimed Push Carts shall be deposited.

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

Unlawful use of Push Cart

(1) Subject to the provisions of section 4(2), no person shall use or cause or permit to be used on any road, within the council area any Push Cart which is ordinarily kept within the

council area unless a valid licence is issued in terms of section 5 is in force in respect of the Push Cart.

(2)

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

(3) No person shall transfer a licence token issued in terms of section 5 to any other person, or from one Push Cart to another, or attach, or cause to be attached, any licence token so issued to any Push Cart other than the Push Cart 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 Push Cart 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 Push Cart which does not bear the licence token as provided in these by-laws:
or

(b) Any Push Cart upon which the registration number has been obliterated, defaced or altered.

(c) Any Pushcart at night from 6pm to 6am.

(d) Any Push Cart without wearing the appropriate reflective clothing.

(e) Any Push Cart any undesignated route.

(7) Any person who contravenes who contravenes subsections (1,2,3,4,5 and 6) above shall be guilty of an offence and shall be liable to pay a penalty of USD\$ 10.00

Presumption of ownership

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

Making false statements, fraudulent use of a license token and obstructing an authorized person

15. (1) No person shall-

- a. knowingly makes a false statement in respect of any application in terms of these by-laws;
or
- b. obstruct, hinder or interfere with an authorized 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
fail or refuse to furnish to an authorized person of the council acting under power delegate d 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
- c. fail or refusal to comply with any instruction given in terms of or for the purposes of these

- by-laws; or
- d. pretend to be authorized personal acting under power delegated to him or her; or forges any certificate; or with intent to deceive, alters or erases any part of a certificate or any entry lawfully made there on; or intentionally produces or uses any forged licence token which has been unlawfully altered or from which measures have been unlawfully made; or
 - e. make any unlawful entry on any licence token; or who, except as may be authorized 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 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 no this or her own;
- (2) Any person who contravenes who contravenes subsections (1) above shall be guilty of an offence and shall be liable to pay a penalty of USD\$ 20.00

Cancellation of a License

- (1) Council shall cancel a certificate if the holder is penalised of any contravention of the provisions of these by-laws. Any licence token cancelled in terms of subsection (1) shall not be renewed until a period of one Year has lapsed from the date of cancellation.
- (2) Where the licence token is cancelled in terms of subsection (1) the holder shall return the licence token to Council within 48 hours of being given notice of such cancellation.
- (3) Any person who fails to comply with the notice stated in subsection (2) above shall be guilty of an offence and liable to a penalty USD\$5.00

FIRST SCHEDULE

Offences and Fixed Penalties

<i>Section</i>	<i>Description of offence</i>	<i>Penalty</i>
4(6)	Operating a push cart without a license	USD10.00
5(2)	Failure to display a license	USD5.00
8(2)	Failure to inform Council of a change of ownership of a push cart	USD5.00
13(7)	Unlawful use of a push cart	USD5.00
15 (2)	Making false statements, fraudulent use of a license token and obstructing an authorized person	USD20.00
16(3)	Failure to return a cancelled license token	USD5.00