

**Mberengwa Rural District Council (Occupation of Council Properties) By-laws, 2023**

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**Definition of terms**

‘responsible officer’ means the person to whom permission has been granted by the Council to carry out council duty.

“tenant” means the person to whom occupation to council property has been granted by way of a lease agreement by the council.

“property” means any building or stand to which permission is granted by council for use by any person on a lease.

“Dependent” means any person who relies on another person especially a family member for financial support.

“rent” means any prescribed fee charged by council to any person occupying council property.

“lease” means a contract outlining the terms and conditions under which one party agrees to rent council property.

“spouse” means a husband or wife considered in relation to their partner.

“council” means Mberengwa Rural District Council.

“in arrears” means owing money that should have been paid already.

“eviction” means court ordered removal of a tenant from the property where they reside.

“landuses” means the management and modification of the property’s natural environment.

“particulars” means any facts or details about the tenant which are written down and kept as a record.

“occupation” means the action of living in or using a building or other place.

## *PART II - Records*

1. (1) The responsible officer shall keep a register of all council property available, registering as separate premises each convenient unit of accommodation.

(2) In respect of each council property registered in terms of subsection (1), the responsible officer shall record-

(a) the number or some other description of such property; and

(b) the number of any lease agreement or purchase agreement or agreement of sale in terms of which such property is occupied or is being purchased; and

(c) the amount of rent or purchase instalment payable in respect of such property; and

(d) the name and registration particulars of the holder of a Lease; and

(e) the names and, in the case of persons apparently under the age of nineteen years, the approximately date of birth of each dependant of the holder of a Lease; and

(f) the name and registration particulars of any tenant and his or her spouse and dependants, if any, of the holder of a Lease; and

(h) the income of the holder of a Lease.

### *No occupation without lease*

2. (1) Subject to the provisions of these by-laws, no person shall reside in council property for more than forty-eight hours unless he is-

(a) the holder of a Lease and is registered according in respect of council property; or

- (b) a tenant registered in respect of council property; or
  - (c) the dependant of the holder of Lease or of a registered tenant; or
  - (d) a person referred to in subsection (2) of section 9, who has complied with a notice in terms of the proviso to that subsection; or
  - (e) a person referred to in subsection (3) of section 9.
- (2) Subject to the provisions of subsection (1), no person shall occupation council property in respect of which-
- (a) he is not registered; or
  - (b) he does not have the consent of the holder of a Lease.
- (3) It shall be the duty of the holder of a Lease relating to council property to take reasonable steps to ascertain that every person occupying that property may lawfully do so in terms of these by-laws.
- (4) No holder of a Lease shall permit another person to occupation council property registered in his name unless that person may lawfully do so in terms of these by-laws.

#### *Application for certificate to reside in council property*

3. (1) If, after the date from which these by-laws apply to the council, a person is required to obtain a lease to reside in the council property, he shall apply to the responsible officer giving such information as the responsible officer may reasonably require in order to ascertain his identity and the nature of accommodation which he may require.
- (2) Notwithstanding the provision of section 8, any person who is lawfully residing in council property on the date these by-laws come into effect shall be deemed to be lawfully residing in the council property which he is then occupying:
- Provided that the responsible officer may, by notice, in writing, call upon any such person to apply for a Lease in terms of these by-laws within one month of receiving such notice.
- (3) In the case of property, if a person who has been occupying council property within the area without a Lease because he is the dependant of the holder of a Lease ceases to be a dependant, apply to the responsible officer for a certificate to reside in the area.
- (4) Whenever any person referred to in subsection (3) applies for a Lease in terms of these by laws, the responsible officer shall issue a certificate to such a person, unless in the responsible officer's opinion, the issues of such a certificate would result in the overcrowding of the council property concerned.

#### *Issue of Lease*

4. (1) Upon receipt of an application, the responsible officer shall issue a Lease in the form prescribed in the First Schedule.
- (2) The responsible officer shall not issue a Lease to any applicant if suitable vacant accommodation is not available without causing overcrowding.

(3) The responsible officer may require any holder of a Lease to produce his lease for inspection, and it shall thereupon become the duty of such holder-

(a) to produce the Lease; or

(b) to satisfy the responsible officer that he is the dependant of the holder of a Lease;

As soon as it is reasonably possible and, in any case, within twenty-four hours.

(4) If any person to whom a Lease has been issued in terms of this section loses the certificate, he shall, within one week of noticing the loss, apply to the responsible officer for a duplicate certificate for which the council may charge a fee not exceeding fifty cents.

*Payments of rents, service, supplementary and other charges*

5.(1) The rents, service, supplementary and other charges payable in respect of council property shall be determined by the council from time to time.

(2) The holder of a Lease of council property for which rent and other charges have been fixed by the council shall pay the rent and other charges monthly, in advance, to the responsible officer Council:

Provided that metered supplies of water shall be paid for monthly, prepaid or in arrears for a 30days period

(3) Where payment is tendered in terms of subsection (2), the payment shall first be allocated against the payment for rent and then against the payment for supplementary and other charges and lastly against the payment for service charges.

(4) If the rent for any council property has not been paid by the seventh day of the month, the responsible officer may order the holder of a Lease to pay the rent within seven days or be given a notice to vacate the property.

(5) If the responsible officer has made an order in terms of subsection (4), and the rent is still unpaid after the twelfth day of the month, the responsible officer may lock up the council property for forty-eight hours and prevent the holder of a Lease from residing therein pending payment of the rent.

(6) If after the fourteenth day of the month the rent remains unpaid, the responsible officer may-

(a) give a 3 months eviction notice to the holder of a Lease and all other occupants from the property; or

(b) obtain an eviction order from the court.

(7) Where the responsible officer evicts the occupants of council property in terms of subsection (6)(b), he shall ensure that-

(a) any registered tenant is given an opportunity to remove his belongings; and

- (b) care is taken not to injure any person or property;
- (c) any property worth more than one dollar and unclaimed upon eviction is taken into safe custody and responsible officer shall keep a record of-
  - (i) the nature of the property so taken; and
  - (ii) the date upon which the property was taken; and
  - (iii) the council property from which the property was taken.

(8) The responsible officer shall take reasonable steps to locate the owner of all property taken in terms of paragraph (c) of subsection (7) and, if it is not claimed within three months, and the responsible officer has reasonable grounds to believe that it has been abandoned, the responsible officer shall, to a council resolution, deliver the property to an auctioneer for sale at a public auction.

(9) The proceeds of the sales of any property sold in terms of subsection (8) shall be credited to the Administration account of the council.

#### *Change of particulars*

6. The holder of a Lease in respect of any council property shall, within seven days on the relevant event, report to the responsible officer-
- (a) any change in the marital status of any person occupying the property; and
  - (b) the birth of a child to any woman occupying the property; and
  - (c) the death of any person occupying the property.

#### *Orders to vacate council property.*

7. (1) The responsible officer may order the holder of a Lease to vacate council property occupied on a leasehold basis if—

- (a) The holder of a Lease has failed to vacate the property one month after written notice has been given that the property is required by the council for repair, reconstruction, demolition or any other council or public purpose:

Provided that, in such circumstances, the responsible officer shall offer the holder of a Lease any available alternative accommodation before the exercise of his power under this section; or

- (b) The holder of a Lease in respect of accommodation designed as married quarters ceases to occupation accommodation as a married person with his family.

(2) The holder of a Lease who has been ordered to vacate property in terms of subsection (1) shall vacate the property within one week of being ordered to do so.

(3) The dependants of the holder of a certificate of who is required to vacate Council property in terms of this section, and registered tenant occupying that property, shall vacate the property before the end of the period within which the holder is required to vacate the property.

(4) The issue of an order to vacate Council property shall not affect –

a) Any right of the council to recover payments and other charges due in respect of the occupation of the property including any damages suffered by the Council.

b) The rights of the Council or the holder of a Lease in respect of approved improvements made to that property during the currency of a lease in terms of which the property was occupied.

#### *Abandoned Council property*

8. (1) If any Council property appears to have been abandoned by the holder of a Lease, the responsible officer may enter the property, take into safe custody any moveable property left on the property and re-allocate the Council property to any other person. (2) The responsible officer shall take reasonable steps to locate the owner of any property taken in terms of subsection (1), and, if it is not claimed within three months, the responsible officer has reasonable grounds to believe that it has been abandoned, he shall subject to the directions of the deliver the property to an auctioneer for the sale at a public auction. (3) The proceeds on the sale of any property sold in terms of subsection (2) shall be credited to the housing account.

### PART III - TENANT

#### *No occupation without registration*

9. No person shall reside in any Council property as a tenant or spouse or dependant of a tenant unless that tenant, spouse or dependant is registered as such in the records kept by the responsible officer in terms of paragraph (f) of subsection (2) of section 7 and the tenant has been issued with a Council document as evidence of registration.

#### *Application for registration as a tenant*

10. Any person who wishes to reside as a tenant in council property in any area shall apply to the responsible officer in the form prescribed in the Second Schedule. Refusal of application for registration

11. (1) The responsible officer shall refuse any application for registration as a tenant if–

a) In his opinion, having regard to the information available to him, the approval of the application would result in the overcrowding of the council property concerned; or

b) The applicant has been in default and is still owing money to the council for any fee or charge levied in connection with council property in the area.

*Tenant's fees*

12. (1) Any person permitted to reside within the area as a tenant shall pay to the responsible officer, monthly, in advance, such tenant's fee as may be determined by the Council.

(2) If a tenant fails to pay the tenant's fee in terms of subsection (1), the responsible officer may, upon giving forty-eight hours' notice—

- a. Summarily evict the tenant from the council property; and
- b. Cancel the tenant's authorization to reside in the Council property.

*Eviction of tenants*

13. If the holder of a Lease in respect of Council property occupied by a tenant wishes to evict the tenant, he shall inform the responsible officer, who shall determine a reasonable period of notice and order the tenant to vacate the property accordingly:

Provided that the responsible officer shall not give the tenant less than one month's notice to vacate the property.

**PART IV - GENERAL**

14. The Local Government Areas General Regulations, 1962, published in Rhodesia Government Notice. 569 of 1962 and the Local Government Areas (African Township) Regulations, 1972, published in Rhodesia Government Notice 635 of 1972 are replaced.

FIRST SCHEDULE (Section 10)

***LEASE AGREEMENT***

Agreement of lease entered into between:  
Mberengwa Rural District Council  
C/O Chief Executive Officer  
P. O. Box 50, Mataga.  
(The lessor of the one part :)

**and**

.....  
**(herein referred to as the lessee)**

1. The lease shall be for period commencing on the first day of ..... to .....20..... (2 above 9M square office) for office use (Herein after referred as the asset) situated in Mataga Growth Point.
2. The lease agreement be payable by the lessee to the lessor for the premises shall be a monthly sum of .....for the period of ..... to .....20.....then ..... for the period of ..... to ..... 20..... payable at the beginning of every month, by the lessee to the lessor by way of a stop order, cash or cheque at the option of the lessor, payments shall be paid by the lessee to the lessor at the latter's address above mentioned, free of bank exchange or at such other place in Zimbabwe as the lessor may deem suitable but in line with council regulations.
3. The lessee shall pay electricity, water, refuse removal, telephone and other service charges levied in respect of the asset and shall pay any deposit required from time to time for supply of such services. It shall be the duty of the lessee to arrange for the asset
- 4 (a). The lessee shall not carry out alterations of any kind to the asset without the Lessor's prior written permission.  
b) Any developments done to the asset be it partitioning and renovations will remain as council property in the event **YOU** or **COUNCIL** decides to terminate the contract
5. (a) The lessee shall not be entitled to cede or assign the lease, nor subject nor per any other right of use to anyone without the lessor's written permission. In the event of lessee breaching (5a), the agreement shall be cancelled and the lessee required to return the property and paying for damages sustained. (5b) In the event of the lessee failing to return the asset at the end of such notice given by the lessor, the lessor shall be entitled to immediately proceed through a competent court of law to sue the lessee.
6. Any notice to be given to the lessee may be given by the lessor to the lessee for the asset's return.
7. In the event of non-payment of any portion thereof on its due date, or of the breach of any other terms, clauses conditions of this lease, the lessor shall have the right forthwith to cancel this lease and retake possession of the asset without prejudice to any claim which the lessor may have against the lease for rent already due or for any other damage which he may suffer by reason of the termination of this lease, no waiver by the lessor of any terms, condition or clause of this lease on any subsequent occasion.
8. Any notice of termination of this lease given in terms hereof shall be one calendar month written notice given by not later than mid-day on the first day of a calendar month by one party to the other at their respective addresses aforementioned.

Signed and agreed to by the lessor at **MBERENGWA RURAL DISTRICT COUNCIL**  
This \_\_\_\_\_ day of ..... **20**.....

**For Mberengwa Rural District Council**

NAME.....SIGNATURE.....DATE.....

CEO's STAMP
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**As witness**

1.NAME.....POST.....SIGNATURE.....DATE  
.....

2.NAME.....POST.....SIGNATURE.....DATE  
.....

Signed and agreed to by the lessee at.....This day ..... of.....

.....

**LESSEE**

**As witness**

1.NAME.....SIGNATURE.....DATE.....

NAME.....SIGNATURE.....DATE.....