IT is hereby notified that the Collective Bargaining Agreement set out in the schedule has been registered in terms of section 79 as read with section 101 of the Labour Act [Chapter 28:01] replaces Statutory Instrument 171 of 2010

SCHEDULE

HARARE MUNICIPAL UNDERTAKING

[CODE OF CONDUCT AND GRIEVANCE HANDLING PROCEDURE]

COLLECTIVE BARGAINING AGREEMENT

PART I

1. POLICY

1.1 The Harare Municipal Undertaking acknowledge the need for proper rules and procedures to maintain discipline and sound industrial relations; the need to accept a set of rules and mode of grievance handling herein referred to as the CODE OF CONDUCT AND GRIEVANCE HANDLING PROCEDURE; and agrees that this code shall remain in force until revised, modified and amended by mutual agreement by Social Partners and that no person by virtue of office or influence shall veto or overturn the provisions of this Code.

2. PREAMBLE

2.1 These are a set of rules and procedures designed to promote orderly conduct at the workplace. It should be interpreted as a set of rules for promoting discipline, industrial harmony, communication, efficiency, productivity, safety at the workplace and for providing a fair, orderly and timely settlement of disputes as and when they arise.

3. SCOPE AND DATE OF APPLICATION

3.1 This code shall apply to all permanent, contract or casual employees in Grade 16 to 5 employed by the City of Harare and shall include trainees for various periods. The code shall come into operation on the date specified in the Certificate of Registration which date shall be granted in terms of Statutory Instrument 379/90 as amended by S.I. 56 of 1992.

3.2 This Code shall apply to all permanent, contract or casual employees of City of Harare (herein referred to as the employer), except managerial employees and senior officials holding designated posts appointed in terms of the Urban Councils Act (Chapter 29:15). In terms of this Code, employees in Grade 5-16 are classified as ‘non – managerial’.
4. ACCESS TO CODE

4.1 All employees covered by this Code of Conduct in the Undertaking shall be issued with copies of this Code and any amendments shall be displayed on notice boards at all workplaces.

4.2 This Code of Conduct repeals Statutory Instruments of 2007 and other Statutory Instruments that were in place covering the same areas as covered herein.

5. VALUES AND PRINCIPLES GOVERNING THE CODE

5.1 This Code of Conduct and Grievance Handling Procedure and the administration thereof are premised on the following values and principles:

(a) Compliance with the relevant provisions of the Labour Act [Chapter 28:01](hereinafter referred to as the Labour Act),
(b) The promotion of the interests of City of Harare and the collective welfare of all its employees,
(c) The promotion of the participation of employees in decisions affecting their interests at the workplace,
(d) To promote social justice and democracy at the workplace,
(e) To promote transparency, openness and certainty in the administration of the Code,
(f) The need for the Code to provide for both procedural and substantive fairness and justice,
(g) Encouraging that disciplinary action should progressively be corrective and educational and taking punitive action either when corrective action has failed or when the offence so committed is of a serious nature,
(h) Securing the just, effective and expeditious resolution of disputes and unfair labour practices,
(i) That all the principles of natural justice shall be observed at all times,
(j) That all employees are presumed innocent until proven guilty,
(k) The right to appeal,
(l) That this Code is not a substitute for good Employer practices and that there is need for the employer to take all such actions as to minimise the commission of such offences by employees.

PART II

6. INTERPRETATIONS

6.1 In this code –

“Chairperson” means the chairperson of a Disciplinary Committee.


“Designated Agent” means a person appointed as such by the Registrar of Labour in terms of Section 63(2) of the Labour Act.
“Disciplinary Action” means any formal action taken in accordance with the provisions of this Code to correct the unsatisfactory conduct or performance of an employee;

“Disciplinary Committee” means a committee that adjudicates on cases of misconduct.

“Employee” means any person who performs work or services for the Harare municipality for remuneration.

“Employer” means City of Harare and its Business Units or any other admitted member in the Employment Council.

“Employment Council” means the Employment Council for Harare Municipal Undertaking

“Grievance” is any dissatisfaction or feeling arising out of the work itself or work situation.

“Head of Department” means a person holding office under the employer as Head of department or any employee appointed in terms of the Urban Councils Act (Chapter 29:15) to act in that capacity.

“Immediate Supervisor” means any employee next in seniority and to whom the subordinate employee directly reports to.

“Municipality” means City of Harare.

“Labour Court” means a court established in terms of Section 84 and 89 of the Labour Act (Chapter 28:01).

“Misconduct” means an act which violates rules and regulations of a workplace;

“Penalty” means corrective action or disciplinary action to be administered arising from the offence committed.

“Workers’ Committee” means as defined in Labour Act 28:01.

“Work Place” means wherever an employee is assigned to perform the employer’s duties.
“Workers’ Representative” means Union committee member, Trade Union official, Legal Practitioner or a fellow employee of the employee’s choice.

“Act” Means Labour Act [Chapter 28:01].

“Trade Union” as defined in the Labour Act 28:01 and the National Employment Council Constitution.

All time frames are prescribed in terms of working days

PART III

7. RESPONSIBILITIES OF EMPLOYER

Employer shall have the following responsibilities in terms of this Code:-

(a) maintain order and discipline in accordance with the provisions of this Code;
(b) ensure that employees abide with the provisions of this Code;
(c) to ensure fair labour standards at the workplace as defined in the Labour Act [Chapter 28:01].
(d) to work with employee representatives in establishing effective disciplinary and grievance handling procedure.
(e) to issue out copies of the code and educate employees on the code provisions thereof.
(f) Employer has a duty to manage,

8. RIGHTS AND DUTIES OF EMPLOYEE REPRESENTATIVES

In this Code, the Employee Representative shall have the following rights and duties:-

(a) promote and protect the rights and interest of the employees;
(b) to work with the Employer in establishing effective disciplinary and grievance procedures;
(c) ensure that fellow employees familiarise themselves with and abide by the provisions of this code;
(d) to ensure fair labour practice at the workplaces as defined in the Labour Act [Chapter 28:01].

PART IV

9. OFFENCES AND APPROPRIATE PENALTIES

9.1 A guide to imposition of penalties
9.2 The schedule below provides a guide on the appropriate penalties to be imposed on each offence.

9.3 KEY:

FW = First Written warning valid for 3 months
SWW = Second Written warning valid for 6 months
FWW = Final Written Warning valid for 12 months
D = Dismissal

<table>
<thead>
<tr>
<th>OFFENCE</th>
<th>1ST BREACH</th>
<th>2ND BREACH</th>
<th>3RD BREACH</th>
<th>4TH BREACH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minor Offences</td>
<td>FW</td>
<td>SWW</td>
<td>FWW</td>
<td>D</td>
</tr>
<tr>
<td>Serious Offences</td>
<td>SWW</td>
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<tr>
<td>Very Serious Offences</td>
<td>FWW</td>
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<tr>
<td>Gross Misconduct</td>
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9.4 The following penalties are provided for under this Code and shall be given in prescribed forms and as per relevant category or corresponding misconduct (see appendix 3 – 6). All penalties stated in this Code to be effecte by the Disciplinary Committee except for verbal warnings.

9.4.1 Warnings
9.4.2 Before a warning is given, the alleged offence must be investigated where necessary in order to establish whether or not:-

(a) The employee is guilty in terms of the code;
(b) It is necessary to give a warning at all, taking into account any previous offences.

9.4.3 Verbal warning shall be administered by superior for relatively minor breaches not warranting more severe action. These may be issued without an inquiry but in the presence of a witness.

9.4.4 Written Warnings shall clearly state brief particulars of the act of misconduct, the record of a current existing warning of the same offence or different misdemeanour, that the offence shall not be repeated and that any recurrence of the offence shall attract stern action. The procedure to be adopted is as follows:

(i) The employee shall be required to acknowledge receipt of the warning letter by signing all copies of the written warning.
(ii) In the event that an employee refuses to sign acknowledgement of the written warning, this must be recorded on the warning in the presence of the relevant staff office personnel and a representative of the worker not withstanding that the rights of either parties have not been breached.
(iii) One or more written warnings may be issued on repeated or different misconducts which do not warrant a final warning. The written warning shall be in the prescribed form.
9.4.5 **Dismissal (Termination of employment)** – For gross misconducts and habitual misconducts in respect of which reprimands have been given. Before imposing the penalty of dismissal, the disciplinary committee shall consider the seriousness of the offence and service record of the offender. Certain factors may either aggravate or mitigate an offence e.g. length of service, personal circumstances of the offender, seniority, breach of trust.

9.4.6 While the Disciplinary Committee is expected to follow the guide given for consistence, it must be noted that where appropriate a more lenient penalty may be imposed.

9.4.7 When a disciplinary committee decides to impose a more lenient penalty than prescribed in the Code in relation to the type of offence, such body should make a brief note to this effect on the case record.

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**PART V**

**10 DEFINITION AND CLASSIFICATION OF OFFENCES**

10.1 In this Code, offences are classified into four categories according to the level of severity. Allocation of particular offences to one of the four categories is primarily designed to facilitate control and consistency in the administration of discipline.

10.2 **Category One: Minor Offences**

(a) **Unauthorised absence from work for one (1) day:**

means absence from work for one (1) day without leave or reasonable cause.

(b) **Poor time keeping and related offences**

(i) Reporting late for work without leave or reasonable cause,

(ii) Leaving work early without leave or reasonable cause, and

(iii) Extended or unauthorised breaks during working hours without leave or reasonable cause.

(c) **Abusive language or gesture:**

Threatening to harm or threatening to do physical injury to any other person in the workplace using abusive, offensive, threatening or insulting language or body language thereof.

(d) **Horse play or unruly behaviour:** Indulging in rough behaviour or untaste joke(s) where such behaviour endangers the safety and health of others or the smooth running of the work place.
(e) **Discourteous to clients, visitors and other employees:** Being discourteous, impolite or disrespectful to any employee or person or client at the workplace.

### 10.3 Category Two: Serious Offences

a) **Negligence**

   (i) **Negligent loss:** Any act where an employee, through carelessness or negligence, loses employer’s property or is unable to account for it satisfactorily provided the loss is minimum.

   (ii) **Negligent damage:** Any act whereby an employee through carelessness or negligence causes or allows employer property in the employee’s charge to become damaged.

b) **Unsatisfactory work performance**

   (i) **Carelessness:** Performance of job or duty without exercising due care and attention leading to substandard work.

   (ii) **Time wasting:** Passing time idly or failing without reasonable cause to complete tasks.

   (iii) **Concealing defective work:** Failure to report or a deliberate attempt to conceal defective work.

   (iv) **Inefficiency:** Failure to do work correctly and timeously as well as wastage of employer resources.

c) **Driving municipal vehicles without a license or authority:** An employee is regarded to have driven without authority if he drives a Council vehicle without being a holder of a valid driver’s licence or Council driving authority.

d) **Usury:** (Money lending)(Chimbadzo) It is misconduct for an employee to be involved in administering any illegal money lending activity on employer’s business or premises.

e) **Unauthorised absence from work for two (2) to three (3) days consecutively:** It is a serious offence to be absent from work without leave or reasonable cause.

f) **Carrying of unauthorised passengers:** It is a misconduct to carry non-employees or unauthorised passengers as specified by Council vehicle use regulations, which prohibit among other practices the carrying of passengers for personal gain, whether in cash or kind.

g) **Disregarding of Council Safety and Security regulations as approved by the EC:** It is an offence to disregard laid down safety and security regulations and procedures.

h) **Gambling on company premises or during working hours:** It is a serious offence to be actively or passively involved in a gambling exercise (makasa or njuga) or similar such games for cash at a workplace or during working hours.

i) **Disregarding communication channels:** Means non-compliance with the chain of authority without a valid reason.

### 10.4 CATEGORY THREE: VERY SERIOUS OFFENCES
(a) **Unauthorised absence from work for up to four (4) consecutive days:** It is a very serious offence to be absent from work for up to 4 consecutive working days without leave or reasonable cause.

(b) **Deliberate refusal to work overtime/or to perform standby duties:** When a person in authority has given reasonable notice and/or reasonable explanation in case of an emergency or dire need requesting the need for overtime or to perform standby duties.

(c) **Doing private business during working hours (moonlighting):** It is misconduct for an employee to do private work during working hours whether or not it is for gain.

(d) **Non compliance with laid down procedure or standing instructions passed on or issued by a person in authority.**

(e) **Inciting another employee to disobey lawful orders or council procedures:** it is a very serious misconduct for an employee to incite another employee from disobeying a lawful order or council procedure.

(f) **Malingering:** An employee malingerers if he obtains leave by false pretence or obtains a medical certificate by false pretences in order to obtain such leave.

(g) **Aiding stealing:** An employee aids stealing if he enables, assists, encourages or permits any person to steal the employer’s or another employees’ property or refuses to give any information within his knowledge concerning the stolen property or deliberately closes his eyes to the obvious.

(h) **False evidence:** Deliberately giving untrue or misleading information or testimony whether verbal or in writing.

(i) **Threatening violence and Intimidation:** An employee makes threats or threatens violence if by action or volition of words or conduct leads another to apprehend fear to his person or family whether immediately or in the future and intimidates if by any threats or force, he prevents or obstructs another from performing his work or uses unlawful means to compel that other person to act or refrain from acting against his will.

(j) **Breach of confidentiality:** It is the unlawful disclosure of confidential or classified information to unauthorised persons or bodies.

(k) **Misuse of Council Property:** Using employer property for purposes other than for which it was intended.

(l) **Sleeping on duty:** Any employee found asleep on duty, whether or not such action constitutes a hazard to the safety and health of the offender or others or leads to damage of employer property shall be deemed guilty of an offence.

### 10.5 CATEGORY FOUR: GROSS MISCONDUCT OFFENCES

(a) (i) **Sexual harassment:** Includes unwanted and persistent conduct of a sexual nature or grave sexual conduct affecting the dignity of a person at work. It also includes unwelcome physical, verbal or non-verbal, that is, conduct that denigrates or ridicules or is intimidatory, suggestive, enticing or is physically abusive of another employee’s sex, such as derogatory or degrading remarks or insults which are gender related and offensive.

(ii) It shall also constitute sexual harassment for a senior employee to ask for or demand a sexual favour from a junior employee as a condition for a promotion, appointment or for any other considerations which has a bearing on an employee’s career.
(b) **Theft:** Unauthorised and intentional appropriation of property belonging to the employer or other person in the employment of the City of Harare, with the intention of permanently depriving the other of that property.

(c) **Corruption:** An employee is involved if he or she takes bribes or abetting or aiding corruption in order to do someone a favour on a matter related to the employee’s or other employee’s duties.

(d) **Extortion:** It amounts to demanding money or a favour from a member of the public or other employees dealing with City of Harare under threats of non-performance of his duty to such a person.

(e) **Falsification of documents (forgery):** It is an act of misconduct if an employee misrepresents any documents (including qualifications certificates) presented to the employer with the intention of causing actual prejudice or which is potentially prejudicial to the employer.

(f) **Fraud:** It means to unlawfully make misrepresentation whether written or oral which misrepresentation cause actual or potential prejudice to the employer or any person.

(g) **Habitual and substantial negligent of duty:** Neglect or dereliction of duty which results in the abandonment of all attention to production, administration or management activities.

(h) **Gross Incompetence or Inefficiency in the performance of work:** An employee is grossly inefficient or incompetent if he/she perform unsatisfactory or substandard work resulting in extremely poor work output which may result serious loss, damage or prejudice to the Council (or potential thereof).

(i) **Lack of a skill which an employee expressly or impliedly held himself or herself out to possess:** means an employee lacks skill which he or she indicated in writing or verbally, that he or she possesses such.

(j) **Fighting and Riotous Behaviour:** Fighting involves an exchange of blows or use of damaging objects by or between two or more employees at the workplace. Riotous behaviour involves violent conduct at whatever forum in and around company premises meant to disrupt the smooth running of activities of the company and to cause injury to property or humans.

(k) **Assault of clients, visitors, officials or council employees:** This is where an employee does a physical act which causes another employee, client or visitor reasonable fear or inflicting of physical injury to another or where one actually strikes, drags or touches another in anger, vengeful or insolent manner.

(l) **Possession of or dealing in illegal drugs whilst on duty or on municipality premises:** An employee is in possession of or is trafficking in illegal drugs if while at the workplace, sells or otherwise deals in or attempts to do so with any drug which is prohibited by law.
(m) **Consumption of alcohol or drunkenness or taking unprescribed drugs:** Being under the influence of intoxicating alcohol or drugs prohibited by law, whilst on duty or company premises which consumption has the effect of rendering the employee incapable of executing his normal duties during working hours.

(n) **Conflict of interest:** Any employee has a conflict of interest, if he is engaged in any activity to the prejudice of the business of the employer, or if such activity is inconsistent or incompatible with proper performance of his work or his position in the undertaking.

(o) **Sabotage:** Any act by an employee or employer to interfere with the normal operations of Municipality by disrupting / procuring substandard plant, machinery or equipment or by interrupting any supplies of fuel, water, power, merchandise or service necessary for business activity.

(p) **Conduct or behaviour likely to bring the Council’s name into disrepute:** e.g. issuing of unauthorised press statements or any other such conduct which has damaging effects to Council image.

(q) **Wilful loss or damage:** an act whereby an employee wilfully or deliberately looses or damages employer property. It is a breach of law or regulations if the intention is to disrupt services to the employer’s customers.

(r) **Unauthorised absence from work for five (5) or more consecutive days without reasonable cause:** It is a gross misconduct to be absent from work for five (5) consecutive or more working days without leave or reasonable cause.

(s) **Unlawful Job Action as defined in the Labour Act:** means an illegal industrial action which fails to fulfil the legal requirements of embarking in a Collective Job Action as provided for in the Labour Act and is calculated to persuade or cause a party to an employment relationship to accede to a demand related to employment, and includes a strike, boycott, lockout, sit-in, or sit-out, or other such concerted actions. An employee is also guilty of an unlawful job action if he or she persuades, incites, instigate, and forces another employee to engage in such an act. It is also an offence for an employee to voluntarily engage in such unlawful act.

(t) **Any act, conduct or omission grossly inconsistent with the fulfilment of express or implied conditions of one’s contract:** express conditions are those that are clearly written in one’s contract of employment as read with the job description and implied conditions are those that may not be specifically laid down in any document but which the law will nevertheless consider as forming part of the contract of employment.

(u) **Being in unlawful possession of an offensive weapon on Council premises:** such weapons include firearms, classified knives, knobkerries which are considered dangerous under criminal law.

(v) **Wilful disobedience to a lawful order:** it means a deliberate refusal to obey an instruction or an intentional defiance of a lawful order given by the employer.
10.6 Public Safety Department Special Offences

There shall be some offences specifically for the department of the Public Safety which shall be attached herein as an addendum to the Code.

PART VI

11 DISCIPLINARY PROCEEDINGS AND APPEAL PROCEDURE

11.1 Investigation

11.2 Any misconduct shall attract disciplinary action.

   (a) The authority for investigating any allegation of misconduct by an employee shall be the Head of Department in the respective sections, branches, division or departments in order to determine whether or not to charge the employee with act(s) of misconduct. This should be done in full consultation with the Human Resources Department. The authority may request for an explanation from the alleged accused who shall make use of Appendix 1 and the authority shall explain to an employee that any explanation made thereto may be used in any future hearing. An employee may be assisted by a Trade Union official, or a Workers Committee, or a fellow employee, or a Legal Practitioner.

   (b) The Head of Department may enlist the services of specialised personnel e.g. Internal Auditors and Harare Municipal Police.

11.3 Suspension pending disciplinary hearing

   a) An employee shall be suspended from duty by the Head of Department for serious offences in order to facilitate investigations into an alleged misconduct where his continued employment is likely to lead to interference with investigations, disturbance, injury, loss or damage which is prejudicial to the employer.

   b) Where suspension is without wages, salaries or benefits it shall be for a duration not exceeding fourteen (14) working days within which period an employee’s case must be heard and concluded failing of which the suspension must be uplifted with payment of full salary and benefits.

   c) Where the suspension is with full salaries and benefits it shall be for a duration not exceeding thirty days working days for the matter to be heard and concluded.

   d) If a matter is not determined within thirty days from the date of notification of a hearing, the employee or employer concerned may refer such matter to a Designated Agent in terms of section 101(6),who may then determine or otherwise dispose of the matter in accordance with section 93 of the Labour Act [28:01]

   e) The employee shall be notified of the suspension by a letter stating whether that employee is being suspended without pay or with full pay and benefits, the
reasons and grounds which has led to the suspension. The period of suspension and the effective date of suspension.

f) Where an employee is arrested and detained or imprisoned for any criminal offence a hearing shall not be convened in absentia however the employee shall not be paid salaries and benefits for the time of arrest, detention or imprisonment on the basis of no work no pay principle.

g) Where an employee is convicted and imprisoned without an option of a fine a hearing shall be convened in absentia and his or her contract of employment may be terminated subject to the disciplinary hearing findings.

11.4 Composition of Disciplinary Committee

The Disciplinary Committee shall consist of:-

(a) Division or Section manager (or his appointee) Chairing from another department.
(b) Two employer representatives (whose grades are above that of the alleged offender)
(c) Two City of Harare employee representatives appointed by a trade union where the employee is a member or if not a member, by the trade union of the employee’s choice.
(d) The chairperson and the minuting secretary of the disciplinary committee will come from the employer. The chairman and one employee representative shall confirm the minutes.
(e) For the avoidance of doubt, management representatives will be determined by the employer and employee’s representatives will be determined by the Trade Union where the employee is a member or if not a member, by the trade union of the employee’s choice.

11.5 Powers of the Disciplinary Committee

(a) The Chairperson shall ensure that equal representation at the hearing is attained. The quorum of the hearing shall be two members that is one from each side plus the Chairperson. There shall be no quorum if there is no equal representation from both sides. If there is no quorum the hearing shall be postponed and the Chairperson shall convene a second hearing within three working days. If there is no quorum again at the second hearing, the matter shall be referred to a Designated Agent.

(b) In the event that a hearing has commenced and either party decides to walk out, the hearing shall proceed with those present.

(c) In the case of the Disciplinary Committee failing to reach a unanimous verdict or decision, members may proceed by way of passing deliberative votes by secret ballot. In the event of a stalemate, the Chairperson shall pass a casting vote and the reasons shall be put on record.

(d) All questions or points proposed for decision by the Disciplinary committee shall be determined by a majority vote by the members present unless done so unanimously.
(e) It is hereby expressly declared that Disciplinary Committee will not investigate alleged misconduct referred to them and shall only entertain or adjudicate on cases referred to them on the basis of the evidence before them. However, a request for a postponement by either party based on the need to bring forth further evidence may be granted by the committee.

11.6 General rules to be followed during disciplinary committee proceedings

(a) Where the Head of Department is satisfied that an employee has committed an offence he may within five (5) working days refer the matter to the Head of Human Resources department which shall in turn arrange for the matter to be heard before a Disciplinary Committee.

(b) Hearings shall generally be conducted in an orderly manner without strict adherence to criminal or civil procedures but the Chairperson shall ensure that substantial justice is done and rules of natural justice are observed and all proper procedures are followed.

(c) Members of the disciplinary committee shall not disclose information to unauthorised persons before Hearing proceedings are finalised.

(d) The Disciplinary Committee shall be impartial.

(e) The Chairperson shall communicate the results of the Disciplinary Committee and attach relevant documents and minutes to the respective Head of Department in writing within three (3) days.

(f) In the event of an employee requiring witnesses or documents pertaining to the hearing he or she shall notify the Head of Department in writing at least two (2) days before the hearing giving names of witnesses and details of the documents.

(g) A hearing may be held in the absence of the employee if after being notified twice (2) of the date, time and place of hearing (there should be proof thereto) and the employee fails to attend without giving reasonable excuse. The fact that proceedings were held in his absence shall be placed on record;

(h) If an employee facing a disciplinary action resigns before a hearing is convened, the Employer may or may not proceed with such hearing.

11.7 Rights of Parties at the Disciplinary Hearing

(a) The alleged offender shall be entitled to:–

(i) to present his/her case in person or through a representative chosen by the employee;

(ii) to present his/her defence case and have witnesses cross-examined.

(iii) to call witnesses if any to testify in his favour; and

(iv) to have access to or be supplied with any documents or exhibits relevant to the case.
(b) The Chairperson and members of the committee shall be entitled to question the witnesses including the accused on any material issue for the purposes of ascertaining the truth regardless of in whose favour that may be.

(c) Witnesses shall be entitled to full protection by the Disciplinary Committee when giving their evidence freely and without being unduly harassed or humiliated in any manner during or after the hearing.

11.8 Disciplinary Procedure

a) The Disciplinary Committee in the prescribed form, convene a formal hearing on giving three (3) working days written notice to the employee of the proposed date, time and venue of the hearing.

b) The Disciplinary Committee shall be given resources required for serving disciplinary papers and conducting hearing.

c) The notice shall:

(i) specify the charge(s) employee is facing and a brief summary of facts constituting such charge(s).

(ii) advise the employee of his right to file a written defence outline or to present oral evidence before Disciplinary Committee on the hearing date.

(iii) Explain the employee’s rights to representation.

d) When conducting a hearing, the Chairperson shall:-

i) Explain disciplinary procedure to the employee and the parties present.

ii) Inform the employee of the alleged misconduct and ensure that the employee understands the misconduct, and

iii) The Chairperson shall enquire the language the employee is comfortable with.

iv) Allow the employee to respond to the allegation of misconduct and be permitted to make further pertinent comments he/she may wish to make, despite the fact that he/she may have already submitted a written statement, where applicable.

e) if accused employee admits that he is guilty of the misconduct the committee shall :-

i) enter a guilty plea,

ii) consider any mitigatory, extenuating circumstances or aggravating factors, and

iii) after the hearing, the Chairperson shall advise the alleged offender that the committee shall remain and deliberate on the findings of the hearing and the outcome may be communicated orally on the day of the conclusion of the hearing and further that he/she will receive the verdict in writing from the Head of Department or the Human Resources Department within four (4) days.

f) if the accused employee admits some but not all the charges the committee shall find him/her guilty of the charges which he/she admits and enter a plea of not guilty to those charges he is denying and proceed to hear the charges in dispute.
g) if the accused employee denies all the charges of misconduct the disciplinary committee shall –

i) enter a not guilty plea,
ii) call upon the accused employee to present the defence outline.
iii) the complainant / employer shall present his/her case, witnesses and evidence;
iv) the employee or defendant will then present his/her case, witnesses, and evidence.
v) after all evidence has been heard, cause the accused employee, his representative and witnesses if any to leave whilst the committee remains behind to deliberate on the matter and make a determination;
vi) the Head of Department or Head of Human Resources Department if it is termination, shall advise the employee of the verdict within four (4) days from the date of receipt of the determination by the Committee.

h) If the employee is acquitted, the case shall be dismissed and the finding “case dismissed” shall be entered on appendix 8 and the employee advised accordingly as per the prescribed form in this code. If employee was on suspension, the suspension shall be uplifted. The forms shall be kept in the individual’s personal record file for twelve (12) months.

i) If the employee is found guilty of the charge(s) of misconduct, the committee shall be guided by the penalties specified in Part IV.

j) Should the employee (or either party) be unhappy with decision made by the Disciplinary Committee, he or she may refer the matter within fourteen (14) working days of receiving communication of the decision to the Designated Agent.
PART VII

12 GRIEVANCE HANDLING PROCEDURE

12.1 Principles

(a) Every employee has the right to seek redress for any grievance whether it affects them individually or collectively,

(b) Grievances shall be responded to at the earliest possible stage and this must be done equitably, speedily and fairly,
(c) it is submitted that even small grievances can develop into larger frustrations affecting both productivity and human relations,
(d) as far as possible grievances should be settled at the lowest level possible.
(e) unless there are reasonable grounds for a longer period it shall be presumed that decisions made at any stage of proceedings are accepted by employee(s) unless he submits an appeal or a written notice of continued dissatisfaction within two(2) working days of being notified of the decision,
(f) The immediate supervisor should attempt to resolve the grievance before it can be referred to a higher authority,
(g) The grievance should be referred to the next level if the immediate supervisor fails to resolve it within five (5) days,
(h) In all grievance cases the employee may be represented by members of the trade union, workers committee or any other person of his/her own choice, or legal practitioner.
(i) A counselling approach should be adopted where possible and every effort should be made to arrive at an equitable settlement,
(j) Any unresolved grievance should be processed through appeal levels as prescribed in this Code,
(k) Formal hearings should be held in serious cases or group grievances.
(l) Records should be kept of all grievance proceedings by the Human Resources Department.
(m) Every effort must be made by all parties to sort out problems in house,
(n) Grievance will only be entertained if processed in the manner provided in this procedure, and

12.2 Procedure for Individual Grievance

Stage 1

a) The aggrieved employee personally raises the grievance with the immediate supervisor on the day the grievance arises or not later than the following day.

b) The immediate supervisor shall-
   Make arrangements for privacy to hear the grievance, permit the employee to be accompanied by a fellow worker or workers committee/union representative of his choice, identify the grievance and circumstances surrounding it, and clarify any points of confusion and inconsistency.

  c) The supervisor shall respond to the matter immediately and communicate his decision in writing not later than 3 days from submission.

  d) If the aggrieved employee is not satisfied with the decision of the supervisor he may within five (5) working days appeal to the Head of Division (or his appointee) who
shall hear the grievance in the presence of an Industrial Relations official and his or her representative if he or she may so wish.

Stage 2

a) The aggrieved employee(s) shall submit on the prescribed form the reasons for his appeal and a statement of the original grievance and decision.

b) The Head of Division (or his appointee) shall convene a grievance hearing within twenty four (24) hours in the presence of an Industrial Relations official, the aggrieved employee and his or her representative if he or she may so wish and the decision will be communicated to the employee within three (3) working days. Such a decision shall be recorded on the prescribed form.

c) If the aggrieved employee is again not satisfied with the outcome, he may appeal to the Head of Department (or his appointee).

Stage 3

The Head of Department (or his appointee) shall convene a grievance hearing within twenty four (24) hours in the presence of an Industrial Relations official and the aggrieved employee and his or her representative if he or she may so wish and the decision will be communicated to the employee within three (3) working days from the date of the hearing.

Stage 4

Should the aggrieved employee be dissatisfied with the decision taken in stage 3 he may refer the grievance to the National Employment Council for resolution by a Designated Agent.

12.3 Procedure for Collective Grievance

a) A collective grievance is a general one which applies to all or some of the employees covered by this code of conduct. It often relates to the organisation’s policies rather than individual incidents. Grievances shall be raised by employee’s representatives and resolved at Departmental Works’ Council forums.

b) If the grievance is not resolved at Departmental Works’ Council forum, it shall be referred to the Central Works Council forum for resolution.

c) If the grievance is still not resolved at the Central Works’ Council forum, the dispute can then be referred to the N.E.C for resolution by the Designated Agent.

d) In the event of a dispute of interest the matter shall be referred to the Full Employment Council for resolution, and the Council may refer the matter to the Designated Agent for resolution.
PART VIII

APPENDIX 1

CITY OF HARARE

REQUEST FOR EXPLANATION

(IN DUPLICATE)
FROM…………………………                           TO………………………………………..
EMPLOYEE’S NAME AND NUMBER

DEPARTMENT…………………                         DATE……………………………………

RE: ALLEGATIONS OF MISCONDUCT

It has been reported that you have committed a breach of the Disciplinary Code of Conduct

It is alleged that you: - (explanation of offence)
----------------------------------------------------------------------------------------------------------------------------------
----------------------------------------------------------------------------------------------------------------------------------
----------------------------------------------------------------------------------------------------------------------------------
in breach of the following provision of our Code of Conduct (give details of breached statutory provisions)----------------------------------------------------------------------------------------------------------------------------------
----------------------------------------------------------------------------------------------------------------------------------
(further detailed charges can be attached to this form)

In terms of this Code of Conduct you are hereby requested to supply a written response to the above-stated allegations within 24 hours or one working day.

Should you be unable to write, the Human Resources Department or your worker representatives will assist you.

SIGNED
----------------------------------------------------------------------------------------------------------------------------------
Head of Department/Section/Immediate Supervisor

I acknowledge receipt of the allegations being levelled against me and having read and understood the contents therein, I hereby append my signature thereto

SIGNED………………………………
Employee’s Signature

ON………………………… (DATE)   WITNESS………………………………

SIGNED……………………………… DATE………………………………
(HUMAN RESOURCES OFFICIAL)
APPENDIX 2

CITY OF HARARE

NOTICE TO ATTEND A DISCIPLINARY HEARING
(TO BE ISSUED AT LEAST 3 DAYS PRIOR TO THE HEARING)

(IN DUBLICATE)

FROM………………………………….        TO………………………………………

Employee’s name and number

You are required to attend a disciplinary hearing for which it is alleged that:

……………………………………………………………………………………………………..
……………………………………………………………………………………………………..
……………………………………………………………………………………………………..
……………………………………………………………………………………………………..

(DETAILED CHARGES CAN BE ATTACHED TO THIS FORM)

The hearing will be held on:

Date………………………………………       Time…………………………………………

Venue………………………………………………………………………………………..

You have the right to be represented /assisted by a fellow employee/workers committee/trade union representative of your choice if you so wish. Further you have the right to call witnesses and have them cross-examined or lead evidence.

SIGNED:

……………………………………………………………………………………………………

HEAD OF DEPARTMENT/Designated Officer

You are required to acknowledge receipt by signing below. Retain top copy and return the other copy to the above signed.

SIGNED………………………………..    Date………………………………

EMPLOYEES’ SIGNATURE

HUMAN RESOURCES OFFICIAL
*Please note that if you do not attend the hearing after receiving this notification the hearing shall proceed without you to the possible detriment of your interests.

APPENDIX 3

CITY OF HARARE
FIRST WRITTEN WARNING (FW)
(IN TRIPlicate)

EMPLOYEE’S NAME ……………………………….. DATE ………………………

PAY NO………………………………… VOTE ……………………..

DEPARTMENT/DIVISION/BRANCH/SECTION…………………………………………………………
…………………………………………………………………………………………………….

DATE/TIME OF MISCONDUCT …………………………………………..

DETAILS OF MISCONDUCT……………………………………………………………………
……………………………………………………………………………………………………..
……………………………………………………………………………………………………..
……………………………………………………………………………………………………..
……………………………………………………………………………………………………..
This offence shall not be repeated. Should you repeat this offence or commit another in terms of this code of conduct within the period of validity of this warning, the subsequent offence may attract a sterner penalty. Period of validity of warning: Three (3) months.

SIGNED …………………………………………..
(DISCIPLINARY COMMITTEE CHAIRPERSON)

DECLARATION BY EMPLOYEE AND EMPLOYEE’S REPRESENTATIVE

I ………………………………………….. acknowledge receipt of this warning.
(Print Name)

warning on this day …………………….. of ……………………….20………

(Employee’s Signature)……………………………..

I ………………………………………….. acknowledge that a copy of this warning was given to the employee in my presence.

SIGNED ………………………………………….. Date……………………………..
(EMPLOYEE REPRESENTATIVE)
APPENDIX 4

CITY OF HARARE

SECOND WRITTEN WARNING (SWW)

(IN TRIPlicate)
EMPLOYEE’S NAME …………………………………… DATE …………………

PAY NO……………………………………. VOTE NO…………………………

DEPARTMENT/DIVISION/BRANCH/SECTION……………………………………………………........
........................................................................................................................................

DATE/TIME OF MISCONDUCT …………………………………………………
........................................................................................................................................

DETAILS OF MISCONDUCT ………………………………………………………………….
........................................................................................................................................
which conduct is in breach of the following provisions of the Code
........................................................................................................................................
........................................................................................................................................

DETAILS OF ANY PREVIOUS WARNING(S) (STILL VALID)………………………………
........................................................................................................................................
........................................................................................................................................

This offence shall not be repeated. Should you repeat this offence or commit another in terms of this code of conduct within the period of validity of this warning, the subsequent offence may attract a sterner penalty. Period of Validity of warning: Six (6) months.

Signed ………………………………………….
(DISCIPLINARY COMMITTEE CHAIRPERSON)

DECLARATION BY EMPLOYEE AND EMPLOYEE’S REPRESENTATIVE

I ……………………………………………….. Acknowledge receipt of this
(Print Name)
Warning on (Date) …………………. Day of (Month) …………. Year ………

Signed ……………………………….
(Employee)
I ……………………………………………….. acknowledge that a copy of this
(Print Name)
Warning was given to the employee named above in my presence.
Signed ........................................ Date .................................
(Employee’s representative)

SIGNED .................................... Date .................................

(HUMAN RESOURCES OFFICIAL)
APPENDIX 5

CITY OF HARARE

FINAL WRITTEN WARNING (FWW)

(IN TRIPlicate)
EMPLOYEE’S NAME …………………………… DATE …………………

PAY NO…………………………………… VOTE NO……………

DEPARTMENT/DIVISION/BRANCH/SECTION
…………………………………………………………………………………………

DATE/TIME OF MISCONDUCT …………………………………………………
…………………………………………………………………………………………

DETAILS OF MISCONDUCT …………………………………………………………………...
………………………………………………………………………………………………………………
……………………………………………………………………………………….. which conduct is in
breach of the following provisions of the Code
………………………………………………………………………………………………………………

DETAILS OF ANY PREVIOUS WARNING(S) (STILL VALID)…………………
………………………………………………………………………………………………………………
……………………………………
………………………………

This offence shall not be repeated. Should you repeat this offence or commit another in terms of this
code of conduct within the period of validity of this warning, the subsequent offence may attract a sterner
penalty. Period of Validity of warning: Twelve (12) months.

Signed …………………………………………
(DISCIPLINARY COMMITTEE CHAIRPERSON)

DECLARATION BY EMPLOYEE AND EMPLOYEE’S REPRESENTATIVE

I ……………………………………………………… acknowledge receipt of this
(Print Name)
Warning on (Date) ………………. Day of (Month) ……………….. Year ………….

Signed …………………………………
(Employee)

I ……………………………………………….. acknowledge that a copy of this
(Print Name)
Warning was given to the employee named above in my presence.

Signed …………………………………… Date ………………………
(Employee’s representative)

SIGNED………………………………… Date…………………………

(HUMAN RESOURCES OFFICIAL)
APPENDIX 6
CITY OF HARARE

DISMISSAL FORM (D)

(IN TRIPlicate)
EMPLOYEE’S NAME ………………………………PAY/ VOTE No…………………………..

DEPARTMENT/DIVISION/BRANCH/SECTION…………………………………………………

DETAILS OF MISCONDUCT …………………………………………………………………
………………………………………………………………………………………………………………
………………………………………………………………………………………………………………
………………………………………………………………………………………………………………

DETAILS OF ANY PREVIOUS WARNING(S) (STILL VALID)……………………………
………………………………………………………………………………………………………………
………………………………………………………………………………………………………………
………………………………………………………………………………………………………………

That further to the hearing held in respect of the above-mentioned misconduct, you have been found guilty as charged and a decision has been passed to dismiss you from Council Service.

REASONS/ GROUNDS FOR DECISION (attach details if below space is inadequate)
………………………………………………………………………………………………………………
………………………………………………………………………………………………………………
………………………………………………………………………………………………………………
………………………………………………………………………………………………………………
………………………………………………………………………………………………………………

EFFECTIVE DATE OF DISMISSAL
Day……..……Month……………….………..….Year…………………...

Signed ………………………………………….
(DISCIPLINARY COMMITTEE CHAIRPERSON)

DECLARATION BY EMPLOYEE AND EMPLOYEE’S REPRESENTATIVE

I ………………………………………………………. acknowledge receipt of this
(Employee’s Name)
Dismissal Form on (Date) …………… (Month) …………………. Year ……………

Signed ………………………………………….
(Employee’s Signature)
I …………………………………………….. acknowledge that a copy of this
(Representative’s Name)
Dismissal Form was given to the employee named above in my presence.

Signed …………………………………………
(Employee’s representative)

SIGNED……………………………………
(Date)
(HUMAN RESOURCES OFFICIAL)
APPENDIX 7

CITY OF HARARE
DISCIPLINARY APPEAL FORM (IN TRIPlicate)

NAME …………………………………………… PAY NO………………………

DEPARTMENT …………………………… DATE …………………

DIVISION/BRANCH/SECTION………………………………………………

POSITION HELD …………………………………………………………………

CONTACT ADDRESS…………………………………………………………..

In terms of the Harare Municipal Employment Code of Conduct and Grievance Handling procedure, I hereby lodge an appeal to ……………………………………… against the decision of the Disciplinary Committee that sat at

Venue ………………………………………….. Date ……………………………

Offence/Misconduct……………………………………………………………………

…………………………………………………………………………………………

DETERMINATION

…………………………………………………………………………………………

…………………………………………………………………………………………

REASONS FOR APPEAL (attach documents if space is inadequate)

…………………………………………………………………………………………

…………………………………………………………………………………………

I WISH THE FOLLOWING PERSONS TO BE SUMMONED AS WITNESSES

NAME /PAY NO. / WORKSTATION
(i)………………………………………..……………………………………

(ii)………………………………………..……………………………………

(iii)………………………………………..……………………………………

AND THE FOLLOWING DOCUMENTS PRODUCED: ………………………………………

…………………………………………………………………………………………

SIGNATURE OF APPELANT …………………………DATE…………………………

SIGNED…………………………………                         DATE…………………………

(HUMAN RESOURCES OFFICIAL)

SIGNED ……………………………………                         DATE…………………………

(APPEALS’ COMMITTEE CHAIRPERSON)
APPENDIX 8

CITY OF HARARE (IN TRIPLICATE)

NOTIFICATION OF DISCIPLINARY COMMITTEE DECISION

NAME………………………………………………. PAY NO……………………

DEPARTMENT/DIVISION/BRANCH/SECTION……………………………………………………………………

CONTACT ADDRESS………………………………………………………………………………

THIS SERVES TO ADVISE THAT THE DISCIPLINARY COMMITTEE THAT HEARD YOUR CASE ON ………………………………………………………………………

RULED THAT …………………………………………………………………………………

THIS RULING WAS MADE AFTER THE COMMITTEE HAD ESTABLISHED THAT YOU ARE GUILTY/NOT GUILTY (Delete inapplicable) OF THE FOLLOWING MISCONDUCT/ALLEGATION(S) THAT WERE BEING LEVELLED AGAINST YOU …………………………………………………………………………………………………………………
………………………………………………………………………………………….
…………………………………………………………………………………………………….
reason(s)/ grounds for decision.
………………………………………………………………………………………………………………
………………………………………………………………………………………………………………
………………………………………………………………………………………………………………
………………………………………………………………………………………………………………
………………………………………………………………………………………………………………
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………………………………………………………………………………………………………………
………………………………………………………………………………………………………………
………………………………………………………………………………………………………………
………………………………………………………………………………………………………………

YOU MAY APPEAL AGAINST THE DECISION IN TERMS OF THIS CODE.

SIGNED…………………………………………
(DISCIPLINARY COMMITTEE CHAIRPERSON)
DATE…………………………

SIGNED…………………………………
(HUMAN RESOURCES OFFICIAL) DATE……………………………
PART X

AMENDMENT TO CODE

This Code may be amended from time to time by agreement between the employer’s representatives and the Trade Unions as may be deemed necessary and appropriate.

Anybody who vetoes breaches or hinders the provisions and process of the Code of Conduct shall be guilty of unfair labour practice and shall be dealt with in accordance with the provisions of the Labour Act.

DECLARATION/AGREEMENT

The Employment Council of the Harare Municipal Undertaking having arrived at the agreement set forth herein, the undersigned hereby declare that the foregoing is the agreement arrived at and affix their signature hereto.

Signed at Harare this ........day of ...... Year ......

____________________________________
Peter Moyo
COUNCILLOR
For and on Behalf of the Harare Municipality

____________________________________
B. Gwasira
COUNCILLOR
For and on behalf of the Harare Municipality

____________________________________
Dr C. Chingombe
HUMAN CAPITAL & PUBLIC SAFETY DIRECTOR
For and on behalf of the Harare Municipality

____________________________________
Cosmas Bungu
CHAIRMAN
For and on Behalf of the Harare Municipal Workers Union

____________________________________
K. Chivuzhe
PRESIDENT
For and on Behalf of the Water and Allied Workers Union of Zimbabwe
G. Matongera  
VICE CHAIRMAN  
For and on Behalf of the Harare Municipal Workers Union

D. Usingarawe  
CHAIRMAN  
For and on Behalf of Zimbabwe Urban Council Workers Union Harare Branch

Johnlife T. Mawire  
CHAIRMAN  
Employment Council for the Harare Municipal Undertaking

Rumbidzai Katsande  
SECRETARY GENERAL  
Employment Council for the Harare Municipal Undertaking