

NORTH EAST DISTRICT COUNCIL (HAWKING AND STREET VENDING) BYE-LAWS

(section 44)
(30th June, 2016)

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BYE-LAW

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SCHEDULE

S.I. 70, 2016.

1. Citation

These Bye-laws may be cited as the North East District Council (Hawking and Street Vending) Bye-laws.

2. Interpretation

In these Bye-laws, unless the context otherwise requires—

"authorised official" means the Council Secretary or any employee of the Council duly authorised as such, in writing, by the Council;

"certificate" means a hawker's certificate of registration or a street vendor's certificate of registration, issued under bye-law 5;

"Council" means the North East District Council;

"council area" means the area under the jurisdiction of the Council;

"hawker" means a person who carries on the business of selling goods from place to place within the council area, which business has an average monthly turnover of not more than P2 000;

"register" means a register kept under bye-law 8;

"Registrar" means the Council Secretary or any employee of the Council duly authorised as such, in writing, by the Council; and

"street vendor" means a person who carries on the business of selling goods from a pitch or an identifiable temporary stand at which he or she stations himself or herself, either in a convenient public place or upon land which he or she has no right to control and within the council area, which business has an average monthly turnover of not more than P2 000.

3. Prohibition of hawking or street vending without certificate

A person shall not carry on the business of a hawker or street vendor within the council area unless such person—

- (a) is a citizen of Botswana;
- (b) has attained the age of 16 years;
- (c) is the holder of a valid certificate issued in terms of these Bye-laws; and

(d) is unemployed or is an employee of trades, sections of trades, industries and sections of industries which the Minister may fix minimum wages in terms of the Fourth Schedule to the Employment Act (Cap. 47:01).

4. Application for certificate

(1) A person who wishes to carry on the business of a hawker or street vendor shall make an application to the Registrar in Form A set out in the Schedule, and shall supply such information as the Registrar may require and, in particular, specify—

- (a) the class of goods to be traded; and
- (b) the area in which he or she wishes to trade.

(2) An application under sub-bye-law (1) shall be accompanied by—

(a) two photographs, approximately five by four centimeters in size, clearly depicting the face and shoulders of the applicant;

(b) a copy of the applicant's national identity card issued in accordance with the National Registration Act (Cap. 01:02); and

(c) a non-refundable application fee of P30.

5. Issue of certificate

(1) The Registrar may, if he or she is satisfied that the requirements of these Bye-laws have been met, issue a certificate as set out in Forms B or C set out in the Schedule respectively, subject to such conditions as he or she considers necessary or expedient having regard to the provisions of these Bye-laws.

(2) The Registrar may refuse to issue a certificate to any person—

(a) if the Registrar is satisfied that the issue of such certificate would be contrary to the public interest;

(b) in respect of a particular class of goods, if the Registrar is satisfied that the carrying on of business in respect of that class of goods would be contrary to the public interest;

(c) in respect of a particular area, if the Registrar is satisfied that carrying on of a business in such an area would be contrary to the public interest; or

(d) for any other reason which the Registrar thinks is expedient having regard to the provisions of these Bye-laws.

6. Period of certificate

A certificate issued under bye-law 5 (1) shall, subject to the provisions of these Bye-laws, be valid for a period of two years.

7. Renewal of certificate

(1) An applicant may, upon expiry of a certificate issued under these Bye-laws, apply to the Registrar, in Form D set out in the Schedule, for renewal of his or her certificate for a further two years period.

(2) An application for renewal in terms of sub-bye-law (1) shall be made not later than one month before the expiry of the certificate and shall be accompanied by a non-refundable fee of P20.

(3) Subject to sub-bye-law (5), the Registrar shall renew the certificate and may attach such conditions to the certificate as he or she considers necessary.

(4) A certificate which is not renewed under sub-bye-law (1) shall expire and the holder thereof may apply for a new certificate.

(5) The Registrar may refuse to renew a certificate if he or she is satisfied that-

- (a) the conditions of the certificate have not been complied with;
- (b) these Bye-laws have not been complied with; or
- (c) it is in the public interest not to renew such certificate.

8. Register of hawkers and street vendors

(1) The Registrar shall keep and maintain a register of hawkers and street vendors.

(2) The Registrar shall cause to be entered in such register the following particulars in respect of a holder of a hawker's certificate or a street vendor certificate—

- (a) his or her full names;
- (b) his or her certificate number;
- (c) the date of issue of the certificate;
- (d) the types of goods allowed to be sold as set out in the certificate;
- (e) the area in which such goods may be sold; and
- (f) any other particulars which the Registrar may consider necessary.

9. Issue of duplicate certificate

(1) The Registrar may issue a duplicate certificate upon payment by an applicant of an administration fee of P10 where he or she is satisfied that a certificate issued in terms of these Bye-laws has been lost or destroyed.

(2) Where a person recovers a certificate which has been lost and replaced such person shall return the duplicate certificate to the Registrar.

10. Certificate not transferable

A certificate issued under these Bye-laws shall not be hired, ceded, transferred, or in any way whatsoever made over to any other person:

Provided that a certificate may be transferred upon the death of the holder to his or her legal representative.

11. Modification, suspension or cancellation of certificate

(1) The Registrar may modify, suspend or cancel a certificate if the conditions of the certificate have not been complied with or if the continued use of the certificate constitutes a danger to public health.

(2) The Registrar may, at any time, withdraw or cancel a certificate issued under these Bye-laws if—

- (a) the holder thereof purports to hire, cede, transfer or in any way whatsoever make over the certificate to any other person;
- (b) the holder thereof is subsequently convicted of an offence under these Bye-laws; or
- (c) in his or her opinion, it is in the interest of the public to do so:

Provided that the Registrar shall, where practicable, allow the holder of a certificate such time as the Registrar may consider necessary to enable the holder of the certificate to dispose of his or tier existing stock.

12. Duties of hawkers and street vendors

(1) A hawker or street vendor shall—

- (a) at all times keep in a clean and sanitary condition all receptacles, instruments and other articles he or she use in the conduct of his or her trade;
- (b) pick and remove any litter or refuse which, in or through the conduct of his or her trade, has been deposited, dropped or has fallen on any public place or private property;
- (c) at all times keep his her person clean while engaged in the conduct of his or her trade; and
- (d) at the request of a police officer or authorised official remove his or her goods, vehicle or any other objects associated with his or her trade if such goods, vehicle or any other object associated with his or her trade is directly or indirectly obstructing traffic in any public place or obstructing the use of any public place, or causing a nuisance or danger to persons in the vicinity by means of his or her vehicle or goods.

(2) A hawker or street vendor shall not-

- (a) trade in goods other than those specified in his or her certificate; or
- (b) trade in areas other than those allowed by his or her certificate.

(3) A hawker or street vendor who contravenes the provisions of this bye-law commits an offence.

13. Prohibited forms of hawking

(1) A hawker shall not—

- (a) trade on any private property without the consent of the owner, lessee, manager or occupier of the said property;
- (b) erect or expose goods for sale in any tent, booth, stall, stand or similar structure;
- (c) refuse, at the request of a police officer or an authorised official, to remove his or her goods, vehicle or any other objects associated with his or her trade, to permit the Council's sanitary staff to clear any area in which he or she is conducting his or her business; or
- (d) hawk except between the hours of 7:00 a.m. and 7:00 p.m.

(2) A hawker who contravenes this bye-law commits an offence.

14. Prohibited forms of street vending

(1) A street vendor shall not-

- (a) erect any tent, booth, stall, stand or similar structure for purposes of selling goods unless authorised by the Council to erect such tent, booth, stall, stand or similar structure;
- (b) refuse, at the request of a police officer or an authorised official, to remove his or her goods, vehicle or any other objects associated with his or her trade, to permit the Council's sanitary staff to clear any area in which he or she is conducting his or her business;
- (c) when departing from the pitch at which he or she has been carrying on trade, leave behind goods, receptacles or other objects associated with his or her trade or leave such pitch in an unclean state;
- (d) carry on business except between the hours of 6:00 a.m. and 10:00 p.m.; or
- (e) trade in any private property without the consent of the owner, lessee, manager or occupier of the said property.

(2) A street vendor who contravenes this bye-law commits an offence.

(3) The Registrar may for purposes of sub-bye-law (1) (a) endorse authorisation to erect a tent, booth, stall, stand or similar structure on the certificate Issued under these Bye-laws.

15. Appeals

Any person aggrieved by the decision of the Registrar, under these Bye-laws, may appeal in writing to the Minister within 20 days of notification of the Registrar's decision.

16. Certificate to be produced for inspection

A holder of a certificate issued under these Bye-laws shall, on demand by a police officer or an authorised official, produce for inspection a certificate issued to him or her.

17. Penalties

(1) A person who contravenes any of these Bye-laws commits an offence and liable to a fine not exceeding P200, or to imprisonment for a term not exceeding three months, or to both.

(2) A person convicted of an offence under these Bye-laws may, in addition to any penalty imposed under sub-bye-law (1), have his or her goods impounded or confiscated.

SCHEDULE

Form A

(bye-law 4)

APPLICATION FOR HAWKER'S OR STREET VENDOR'S CERTIFICATE

(This form is to be completed in block letters. Attach two passport size photographs, approximately 5cm x 4cm and a copy of applicant's Omang.)

Full names of applicant:

(Surname first)

Place of residence:

.....
.....

Postal address:
.....
.....

Identity No.:

*I wish to apply for a hawker's/street vendor's certificate as follows:

(1) Areas to be covered:
.....
.....

(2) Trading in the following classes of goods:
.....
.....
.....

Date:

Signature of applicant:

FOR OFFICIAL USE ONLY

Date on which application was received

* Date of approval/rejection of application

.....

Registrar.

Form B

(bye-law 5 (1))

HAWKER'S CERTIFICATE

Photograph
of holder

Registration number:

Surname:

Other names:

Identity number:

Place of birth:

Sex:

Postal address:

Physical address:

District:

The holder of this certificate is entitled to hawk in the following areas/places—

.....
.....

and to trade in the following classes of goods—

.....
.....
subject to the following conditions—
.....
.....
.....

Signature or thumb-print of holder
Date of issue
Office of issue
OFFICIAL STAMP

.....
Signature of Registrar.
RENEWALS

Date:
Conditions:
.....
.....

Date: <i>Signature of Registrar</i>
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Conditions:
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Date: <i>Signature of Registrar</i>
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Conditions:
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Date:	 <i>Signature of Registrar</i>
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Form C

(bye-law 5 (1))

STREET VENDOR'S CERTIFICATE

Photograph
of holder

Registration number:

Surname:

Other names:

Identity number:

Place of birth:

Sex:

Postal address:

Physical address:

District:

The holder of this certificate is entitled to vend in the following areas/places—
.....
.....

and to trade in the following classes of goods—
.....
.....

subject to the following conditions—
.....
.....
.....

Signature or thumb-print of holder:

Date of issue

Office of issue

OFFICIAL STAMP

.....
Signature of Registrar.
RENEWALS

Date:

Conditions:

.....
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Date:

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Signature of Registrar

Conditions:

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Date:

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Signature of Registrar

Conditions:

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.....

Date: <i>Signature of Registrar</i>
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Form D

(bye-law 7 (1))

APPLICATION FOR RENEWAL OF A HAWKER'S OR STREET VENDOR'S CERTIFICATE

(This form is to be completed in block letters.)

Full names of applicant:

(Surname first)

Registration number:

Place of residence:

Postal address:

Identity No.:

* I wish to apply for the renewal of my hawker's/street vendor's certificate as follows:

(1) Areas to be covered—

.....

(2) Trading in the following classes of goods—

.....
.....
.....

Date: <i>Signature of Applicant</i>
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FOR OFFICIAL USE ONLY

Date on which application was received:

* Date of approval/rejection of application:

Registrar