

KWENENG DISTRICT COUNCIL (HAWKING AND STREET-VENDING) BYE-LAWS

(sections 44 and 45)

(21st July, 2017)

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BYE-LAW

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S.I. 81, 2017.

1. Citation

These Bye-Laws may be cited as the Kweneng 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 Kweneng District Council;

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

"hawker" means a person, under bye-law 3, who carries on the business of selling goods from place to place within the Kweneng District Council;

"Police Service" means the Botswana Police Service;

"register" means a register which the council is required to keep 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, under bye-law 3, who carries on the business of selling goods from a pitch at which he or she stations himself or herself, either in a convenient public place or upon land on which he or she has no right to control, or upon land which he or she has the right to control and which shall be known as a "Tuck shop".

3. Prohibition on hawking or street-vending without certificate

A person shall not carry on the business of hawking or street-vending within the council area unless such person-

- (a) is not forbidden by the conditions of his or her employment;
- (b) is a citizen of Botswana;
- (c) has attained the age of 16 years; and
- (d) is the holder of a valid certificate issued in terms of these Bye-laws.

4. Application for certificate

(1) A person wishing to carry on the business of hawking or street-vending may apply for a certificate to the Registrar in accordance with Form A set out in the Schedule.

(2) A person applying for a certificate in accordance with subbye-law (1) shall supply such information as the Registrar may require and, in particular, specifying-

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

(3) The application shall be accompanied by-

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

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

(c) a non-refundable application fee as shall be determined by the council from time to time.

5. Issuance of certificate

(1) The Registrar may, if he or she is satisfied that the applicant meets the requirements of bye-law 4, issue a hawker's or street-vendor's certificate in accordance with Form 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-

(a) if he or she 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 he or she is satisfied that the carrying on of business in respect of that class of goods would be contrary to the public interest; or

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

6. Validity of certificate

A certificate issued under bye-law 5(1) shall be valid for a period of two years.

7. Renewal of certificate

(1) A holder of a certificate issued under these Bye-laws may, upon expiry of the certificate, apply to the Registrar for a renewal of the certificate in accordance with Form D set out in the Schedule, for a further two year period.

(2) An application for renewal in terms of subbye-law (1), shall be made not later than one month before the expiry of the certificate.

(3) The Registrar shall, on application made in terms of subbye-law (1) endorse such renewal on the Form B or C certificate set out in the Schedule and may attach such conditions to the renewal, as he or she may determine.

(4) 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) the conditions of 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 a register of hawkers and of street-vendors.

(2) The Registrar shall cause to be entered into such registers the following particulars in respect of each hawker or street-vendor-

- (a) his or her full name;
- (b) his or her certificate number;
- (c) his or her date of registration;
- (d) the types of goods allowed to be sold, as contained in the certificate;
- (e) the area in which such goods may be sold, as contained in the certificate; and

(f) any other particulars which the Registrar may consider necessary.

9. Duplicate certificate

(1) A holder of a certificate issued under these Bye-laws, whose certificate has been lost or destroyed, shall apply to the Registrar, in writing, for a duplicate certificate.

(2) The Registrar, on being satisfied that a certificate has been lost or destroyed shall issue a duplicate certificate.

10. Certificate not transferable

A holder of a certificate issued under these Bye-laws shall not be hired, cede or transfer or in any way make over the certificate to another person.

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 hawking or street-vending 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 certificate holder purports to hire, cede, transfer or in any way make over the certificate to another person;

(b) the holder is convicted of an offence under these Bye-laws; or

(c) in the Registrar's opinion, it is in the public interest to do so.

(3) Where the Registrar withdraws or cancels a certificate under subbye-law (2), he or she may, where practicable, allow the certificate holder such time as the Registrar may consider necessary to enable the certificate holder to dispose of his or her 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 used in the conduct of his or her trade;

(b) pick and remove any litter or refuse which, 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 himself or herself clean while engaged in the conduct of his or her trade; and

(d) if 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 himself or herself, his or her vehicles or his or her goods, remove himself or herself, such vehicles or goods, as the case may be, at the request of a member of the Police Service or an authorised official, in order to discontinue obstruction or danger or to abate nuisance.

(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 specified in his or her certificate.

13. Prohibited forms of hawking

A hawker shall not-

(a) hawk 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; or

(c) hawk except between the hours of 7 a.m. and 7 p.m.

14. Prohibited forms of street-vending

A street-vendor shall not-

(a) erect or expose goods for sale in a tent, booth, stall, stand or similar structure, unless approved by the council to use, in such area, such tent, booth, stall, stand or similar structure and the Registrar has endorsed such approval on the certificate;

(b) refuse, at the request of a member of the Police Service or an authorised official, to move his or her goods, receptacles and any other object associated with his or her trade, so as

to permit the council's sanitary staff to clear an area in which the street-vendor 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; and

(d) carry on business except between the hours of 6 a.m. and 10 p.m.

15. Certificate to be produced for inspection

A certificate holder whose certificate is issued under these Bye-laws shall, on demand by a member of the Police Service or an authorised official immediately produce the certificate for inspection or otherwise shall, within 48 hours of such demand, produce such certificate for inspection at the station of such member of the Police Service or at the office of such authorised official as the case may be.

16. Appeals

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

17. Offences and penalties

(1) A person who contravenes these Bye-laws commits an offence and is liable-

(a) for a first offence to a fine not exceeding P350 or to imprisonment for a term not exceeding one month or to both; and

(b) for a second or subsequent offence to a fine not exceeding P500 or to imprisonment for a term not exceeding three months.

SCHEDULE

Form A

APPLICATION FOR HAWKER'S OR STREET-VENDOR'S CERTIFICATE

(Bye-law 4)

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

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

HAWKER'S CERTIFICATE

(Bye-laws 5(1) and 7(3))
Photograph of holder

Registration number

Surname

Other names

Identity number

Place of birth

Gender

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:

.....

Signature of Registrar

Conditions:

.....

.....

Date:

.....

Signature of Registrar

Conditions:

.....

.....

Date:

.....
Signature of Registrar

Form C

STREET-VENDOR'S CERTIFICATE

(Bye-laws 5 and 7(3))

Photograph of holder

Registration number
Surname
Other names
Identity number
Place of birth
Gender
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:

.....

.....

Date:

.....

Signature of Registrar

Conditions:

.....

.....

Date:

.....

Signature of Registrar

Conditions:

.....

.....

Date:

.....

Signature of Registrar

Form D

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

(Bye-law 7(1))

(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:

.....

Signature of applicant

FOR OFFICIAL USE ONLY

Date on which application was received

.....

* Date of approval/rejection of application

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Registrar