

ARRANGEMENT OF BYE-LAWS

BYE-LAW

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Schedule

S.I. 92, 2008.

1. Citation

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

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

"hawker" means a person, under section 3, who carries on the business of selling goods from place to place within the Central District;

"Police Service" means the Botswana Police Service and the Local Police Force;

"register" means any 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 section 3, who carries on the business of selling

goods from a pitch at which he stations himself, either in a convenient public place or upon land on which he has no right to control.

3. Prohibition of hawking or street vending without certificate

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

- (a) is otherwise unemployed or an employee covered by the minimum wages;
- (b) is not forbidden by the conditions of his employment;
- (c) is a citizen of Botswana;
- (d) has attained the age of 16 years; and
- (e) is the holder of a valid certificate issued in terms of these Bye-Laws.

(2) Notwithstanding the provisions of sub-bye-law (1), a person who is not required to obtain a licence to carry on any business in terms of section 32(3) of the Trade Act, may carry on the business of a hawker or street vendor and shall not be required to obtain a certificate.

(3) A person who contravenes the provisions of sub-bye-law (2), shall be guilty of an offence.

4. Application for certificate

(1) A person wishing to carry on the business of a hawker or street vendor may make an application to the Registrar in Form A set out in the Schedule, supplying 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 intends to trade at.

(2) The application shall be accompanied by—

- (a) two photographs, approximately five by four centimetres in size, clearly depicting the face and shoulders of the applicant;
- (b) copy of the applicant's identity card (in these Bye-Laws referred to as an "Oman") issued in accordance with the provisions of the National Registration Act; and
- (c) a non-refundable application fee as shall be determined by the Council from time to time.

5. Issue of certificate

(1) The Registrar may refuse to issue a certificate—

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

(2) The Registrar may, if he is satisfied that the applicant meets the requirements of bye-law 4, issue a hawker's or street vendor's certificate in Forms B and C set out in the Schedule respectively, subject to such conditions as he considers necessary or expedient, having regard to the provisions of these Bye-Laws.

6. Renewal of certificate

A certificate issued under bye-law 5 (2) shall, subject to the provisions of these Bye-Laws, be valid for a period of two years and, unless renewed under bye-law 7, shall expire immediately after the lapse of two years from the date of issue.

7. Period of certificate

(1) A certificate may, upon expiry, be renewed by application made to the Registrar in Form D set out in the Schedule, for a period of two years and thereafter, for further periods of two years.

(2) An application for renewal in terms of sub-bye-law (1), shall be made –

- (a) not later than one month before the expiry of the certificate; or
- (b) not later than one month before the expiry of any of the subsequent periods for which the certificate has been renewed in terms of subby-law (1).

(3) Subject to the provisions of sub-bye-law (5), the Registrar shall, on application made in terms of sub-bye-laws (1) and (2), endorse such renewal on the certificate and may attach such conditions to the renewal, as he may determine.

(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 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 full name;
- (b) his certificate number;

- (c) his 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. Issue of duplicate certificate

(1) The Registrar, on being satisfied that a certificate issued in terms of these Bye-Laws has been lost or destroyed, shall issue a duplicate certificate.

(2) Where a person recovers a certificate which has been lost and replaced, such duplicate certificate shall be returned without delay to the Registrar.

10. Certificate not transferable

(1) A certificate issued under these Bye-Laws shall not be hired, ceded or transferred:

Provided that–

- (a) a certificate may be transferred upon the death of the holder to his legal representative, upon application; and
- (b) an application for a transfer under paragraph (a) shall be treated as if it were an application for a new certificate and accordingly, the provisions relating to the conditions and procedures to be complied with in applying for a new certificate shall apply.

11. Modification, suspension, etc.

(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 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 his opinion, it is in the interest of the public to do so:

Provided that the Registrar shall, where practicable, allow the certificate holder such time as he may consider necessary to enable the holder of the certificate to dispose of his 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 trade;

- (b) pick and remove any litter or refuse which, through the conduct of his trade, has been deposited, dropped or has fallen on any public place or private property;
- (c) at all times keep himself clean while engaged in the conduct of his 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, his vehicles or his goods, remove himself, 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 certificate; or
- (b) trade in areas other than those allowed by his certificate.

(3) A person who contravenes the provisions of sub-bye-law (1) or (2) shall be guilty of an offence.

13. Prohibited forms of hawking

(1) 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.

(2) A person who contravenes the provisions of sub-bye-law (1) shall be guilty of an offence.

14. Prohibited forms of street vending

(1) A street vendor shall not–

- (a) within a council area, 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 goods, receptacles and any other objects associated with his trade, so as to permit the Council's sanitary staff to clear an area in which he is conducting his business;
- (c) when departing from the pitch at which he has been carrying on trade, leave behind goods, receptacles or other objects associated with his 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.

(2) A person who contravenes the provisions of sub-bye-law (1) shall be guilty of an offence.

15. 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.

16. Certificate to be produced for inspection

(1) A holder of a certificate 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 the office of such authorised official, as the case may be.

(2) A person who contravenes the provisions of sub-bye-law (1) shall be guilty of an offence.

17. Offences and penalties

(1) A person who contravenes any of these Bye-Laws or any direction or prohibition duly given in terms thereof shall be guilty of an offence and liable—

- (a) on first conviction, to a fine not exceeding P2,000, or in default of payment thereof, to imprisonment for a term not exceeding nine months, or to both; and
- (b) on a second or subsequent conviction, to a fine not exceeding P5,000, or in default of payment thereof, to imprisonment for a term not exceeding two years, or to both.

(2) Where a person fails to pay a fine within the stipulated period, the Council may recover the fine in a court of law as a civil debt.

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 Omang.)

Full names of applicant

(Surname first)

Place of residence

Postal address

.....

.....
Identity No
.....

1(1) 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

2(2) Date of approval/rejection of application

.....
Registrar

Form B
HAWKER'S CERTIFICATE

(bye-law 5)

**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–

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.....
.....

.....
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:
.....
.....
.....

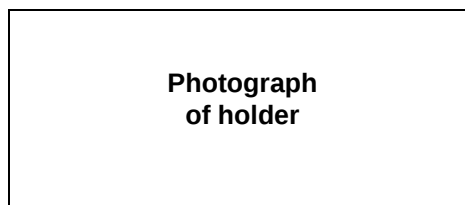
Date:
Signature of Registrar

Date:
Conditions:
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Signature of Registrar

Form C
STREET VENDOR'S CERTIFICATE

(bye-law 5)



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:

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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

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Conditions:.....

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Date:

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Signature of Registrar

Date:

Conditions:.....

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Signature of Registrar

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

(bye-law 7)

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

Full names of applicant

(Surname first)

Registration number

Place of residence

.....
.

Postal address

Identity No.....

1(3) I wish to apply for the renewal of my hawker's/street vendor's certificate as follows:

(1) Areas to be covered—

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.....

(2) Trading in the following classes of goods—

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Date:

.....

Signature of applicant

FOR OFFICIAL USE ONLY

Date on which application was received

2(4) Date of approval/rejection of application

.....

Registrar

.....

Council Secretary