

JWANENG TOWN COUNCIL (HAWKING AND STREET-VENDING) BYE-LAWS

(sections 44 and 45)

(17th August, 2018)

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BYE-LAW

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S.I. 121, 2018.

1. Citation

These Bye-laws may be cited as the Jwaneng Town Council (Hawking and Street-Vending) Bye-laws.

2. Interpretation

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

"**authorised official**" means the Council Law Enforcement Officer or any employee of the Council duly authorised as such, in writing, by the Town Clerk;

"**certificate**" means a hawker's certificate or a street-vendor's certificate issued under bye-law 4;

"**Council**" means the Jwaneng Town Council;

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

"**hawker**" means a person who carries on the business of selling his or her goods moving from one place to another within the Jwaneng council area;

"**Police Service**" means the Botswana Police Service;

"**register**" means any register which the Council is required to keep under bye-law 7;

"**Registrar**" means the Town Clerk 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 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 of 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 a citizen of Botswana;
- (b) has attained the age of 16 years; and
- (c) is the holder of a valid certificate issued in terms of these Bye-laws.

(2) Notwithstanding the provisions of subbye-law (1), any person who is not required to obtain a license to carry on any business in terms of section 32(3) of the Trade Act (Cap. 43:02) ">may

carry on the business of a hawker or street-vendor and shall not be required to obtain a certificate.

(3) Any person who contravenes this bye-law commits an offence under these Bye-laws.

4. Application for certificate

(1) Any person wishing to carry on the business of a hawker or street-vendor shall make an application to the Registrar in accordance with Form A as set out in the Schedule, supplying such information as the Registrar may require and, in particular, specifying the-

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

(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) a non-refundable P50 application fee; and

(c) a certified copy of the applicant's identity card issued in accordance with the provisions of the National Registration Act (Cap. 01:02).

(3) The Registrar may, if he or she is satisfied that the applicant meets the requirements of subbye-law (1) and (2), issue a hawker's or street-vendor's certificate in accordance with 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.

(4) The Registrar may refuse to issue a certificate to any person-

(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 the 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 a business in such area would be contrary to the public interest.

5. Validity of certificate

A certificate issued under bye-law 4(3) shall, subject to the provisions of these Bye-laws, be valid for a period of two years and, unless renewed under bye-law 6, shall expire immediately after a period of two years from the date of issue has elapsed.

6. 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 period of two years.

(2) An application for renewal in terms of subbye-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 subbye-law (1).

(3) An applicant shall pay P20 as renewal fee.

(4) Subject to subbye-law (6), the Registrar shall, on application made in terms of subbye-laws (1) and (2), endorse such renewal on the certificate and may attach such conditions to the renewal thereof as he or she may determine.

(5) Any certificate which is not renewed pursuant to an application made in accordance with subbye-laws (1) and (2) shall expire and the holder thereof may apply for a new certificate under bye-law 4.

(6) 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.

7. Register of hawkers and street-vendors

(1) The Registrar shall keep a register of all registered hawkers and a register of all registered street-vendors.

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

- (a) his or her full name;
- (b) his or her registration certificate number;
- (c) the date of registration;
- (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 as set out in the certificate; and
- (f) any other particulars which the Registrar may consider necessary.

8. Issue of 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) Where a person recovers a certificate which has been lost and replaced, such person shall return the duplicate certificate to the Registrar.

(3) An application for a duplicate certificate shall be accompanied by a non-refundable fee of P50.

9. Certificate not transferable

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

(2) Any person who contravenes subbye-law (1) commits an offence under these Bye-laws.

10. 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 certificate holder purports to hire, cede, transfer or in any way make over the certificate to any other person;
- (b) the certificate holder is 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 the certificate such time as he or she may consider necessary to enable the holder of the certificate to dispose of his or her existing stock.

11. 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 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 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 vehicle or his or her goods, remove himself or herself, such vehicle or goods, as the case may be, at the request of a member of the Police Service or an authorised official.

(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 subbye-law (1) or (2) commits an offence under these Bye-laws.

12. 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; or

(b) expose goods for sale in any tent, booth, stall, stand or similar structure.

(2) A hawker who contravenes the provisions of subbye-law (1) commits an offence under these Bye-laws.

13. Prohibited forms of street-vending

(1) A street-vendor shall not-

(a) in any area 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 permission 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 objects 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 05:00 hours and 00:00 hours.

(2) A street-vendor who contravenes subbye-law (1) commits an offence under these Bye-laws.

14. 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.

15. Certificate to be produced for inspection

(1) A holder of a certificate issued under these Bye-laws shall, on demand by any authorised official or a member of the Police Service immediately produce the certificate for inspection.

(2) A holder of a certificate who contravenes subbye-law (1) commits an offence under these Bye-laws.

16. Offences and penalties

(1) A person who is convicted of an offence under these Bye-laws shall be liable-

(a) for a first offence, to a fine not exceeding P1000 or to imprisonment for a term not exceeding two months, or to both; and

(b) for a second and subsequent offence, to a fine not exceeding P2000 or to imprisonment for a term not exceeding six months, or to both.

(2) A person convicted of an offence under these Bye-laws may, in addition to any penalty imposed under subbye-law (1), have-

(a) his or her certificate cancelled with effect from such date as the court considers necessary taking into account the time needed to enable him or her to dispose of his or her stock; or

(b) his or her goods impounded or confiscated by a member of the Police Service or an authorised official.

(3) Goods impounded or confiscated under these Bye-laws shall be forfeited to the Council and dealt with as the Council Secretary may direct, which may include their sale by public auction.

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 of the applicant, approximately 5cm x 4cm and a certified copy of applicant's national identity card).

Full names of applicant:

(Surname first)

Place of residence:

Postal address:

Identity number:

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

(delete as necessary)

(1) Areas to be covered:

.....
.....

(2) Trading in the following classes of goods:

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

Date:

Signature of applicant:

FOR OFFICIAL USE ONLY

Date on which the application was received:

Date of approval/rejection of application:

(delete as necessary)

.....

Registrar

Form B

HAWKER'S CERTIFICATE

(bye-law 4 (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:

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and to trade in the following classes of goods:

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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:

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.....

Date:

Signature of Registrar

Form C
STREET-VENDOR'S CERTIFICATE

(bye-law 4(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:

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and to trade in the following classes of goods:

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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:

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Date:

Signature of Registrar

Conditions:

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Date:

Signature of Registrar

Form D

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

(bye-law 6 (1))

(This form is to be completed in block letters)

Full names of applicant:

(Surname first)

Place of residence:

Postal address:

Identity number:

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

(delete as necessary)

(1) Areas to be covered:

.....
.....

(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:

Date of approval/rejection of application:

(delete as necessary)