

Statutory Instrument No. 58 of 1985

TOWNSHIPS ACT
(Cap. 40:02)

**TOWN COUNCILS (HAWKING AND STREET-VENDING)
REGULATIONS, 1985**

(Published on 3rd May, 1985)

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SCHEDULE

IN EXERCISE of the powers conferred on the Minister of Local Government and Lands by section 3 of the Townships Act, the following Regulations are hereby made. —

1. These Regulations may be cited as the Town Councils (Hawking and Street-Vending) Regulations, 1985. Citation

2. In these Regulations, unless the context otherwise requires — Inter-pretation
“certificate” means a certificate of registration issued under regulation 4;

“council” means the Town Council to which these Regulations have been applied by a notice published in the Gazette under section 3 of the Act;

“council area” means the area under the jurisdiction of the council;

“council officer” means the Town Clerk, the Treasurer and any employee of the council duly authorised by the Town Clerk in writing;

“hawker” means a person who, otherwise than a street vendor, hawks within the meaning of that term as defined in the Trading Act; Cap. 43:02

“Licensing Authority” means the council or any committee convened by the council to perform its functions under these Regulations;
“register” means the register which a council is required to keep under regulation 4;

“Registrar” means the Town Clerk or any employee of the Council duly authorised by the Town Clerk in writing;

“street-vendor” means any person who carries on the business of selling goods from a pitch at which he stations himself either in a public place or upon ground over which he has no right of control.

Licence
required
to carry on
hawking
business

3. (1) No person shall carry on the business of a hawker within the council area unless he is the holder of a valid hawker’s licence issued by the Licensing Authority.

(2) A hawker’s licence shall be in Form 1 as set out in the First Schedule hereto.

(3) Any person who contravenes the provisions of subregulation (1) shall be guilty of an offence and liable to a fine of P50 or to imprisonment for 3 months, or to both.

(4) Notwithstanding the provisions of subregulation (1), a manufacturer or producer of perishable goods who operates on a small scale may carry on the business of a hawker and shall not be required to obtain a hawker’s licence.

Street-
vendors to
be registered

4. (1) No person shall carry on the business of a street-vendor within the council area unless he is the holder of a certificate of registration issued by the Registrar.

(2) A street-vendor’s certificate shall be in Form 2 as set out in the Schedule hereto and shall be issued only on payment of a registration fee of P1.

(3) The Registrar shall keep a register in the prescribed form in which shall be entered such particulars of street-vendors as the council may deem necessary.

(4) Any person who contravenes subregulation (1) shall be guilty of an offence and liable to a fine of P50 or to imprisonment for 3 months, or to both.

(5) Notwithstanding the provisions of subregulation (1) a manufacturer or producer of perishable goods who operates on a small-scale may carry on the business of a street-vendor and shall not be required to obtain a certificate of registration.

Period of
hawker’s
licence

5. (1) Every hawker’s licence shall be an annual licence beginning from 1st January and shall subject to the provisions of regulation 11 (2) and (3) expire immediately after 31st December of the year in which it is issued.

(2) Where a hawker’s licence is issued during the currency of a year, it shall be valid for the remaining period of that year.

Applica-
tion for
hawker’s
licence

6. (1) Any person who wishes to obtain a hawker’s licence shall make an application therefor to the Licensing Authority in Form 3 as set out in the Schedule hereto.

(2) In any application, the applicant shall specify —

(a) the classes of goods in which he wishes to trade;

(b) the area in which he wishes to hawk.

(3) The application shall be accompanied by two copies of a clearly recognisable head and shoulders of a photograph of the applicant, approximately 5 by 4 centimetres in size.

7. (1) No person shall be licensed to carry on the business of a hawker elsewhere than in the wards specified in the licence.

Wards and areas

(2) No person shall be registered to carry on the business of a street vendor elsewhere than in the areas specified in the certificate.

(3) No person shall be registered to carry on the business of a street vendor on any private property unless the owner of such property has notified the Registrar in writing that he consents to such property being used by street vendors for the purpose of carrying on their business.

8. (1) Where an application for a hawker's licence is made in terms of regulation 6, the Licensing Authority shall, at least 14 days before the date of the meeting at which such application is to be considered, post a notice of such application at the council's office and such notice shall be open to public inspection

Procedure of Licensing Authority

(2) In considering any application for a hawker's licence, the Licensing Authority may regulate its own procedure.

9. (1) Subject to the provisions of subregulations (2) and (3) the Licensing Authority, after consideration of an application made in terms of regulation 6, shall issue the applicant with a hawker's licence on payment of a fee of P5, unless the applicant is disqualified by law from obtaining such a licence.

Issue of a hawker's licence and street-vendor's certificate

(2) The Licensing Authority or the Registrar, as the case may be, may refuse to issue a hawker's licence or a street-vendor's certificate, as the case may be, to any person who —

(a) is a minor under 16 years of age;

(b) is an unrehabilitated insolvent;

(c) has assigned his estate for the benefit of his creditors;

(d) has, during the 5 years preceding the application, been convicted of any offence —

(i) under these Regulations; or

(ii) involving dishonesty;

(e) is neither a citizen of Botswana nor entitled to reside in Botswana.

(3) The Licensing Authority or the Registrar, as the case may be, may refuse to issue a hawker's licence or a street vendor's certificate as the case may be, to any person if it or he is satisfied that the issue of such licence or certificate, as the case may be, would be contrary to the public interest.

(4) The Licensing Authority or the Registrar, may refuse to issue a hawker's licence or a street-vendor's certificate, as the case may be, in respect of a particular class of goods if it or he is satisfied that the carrying on of business in respect of that class of goods would be contrary to the public interest.

10. (1) The Licensing Authority, on being satisfied that a hawker's licence issued by the Licensing Authority has been lost or destroyed, shall on payment of a fee of 50t and on being supplied with two copies of a clearly recognizable head and shoulders of the photograph of the person to whom the licence was issued, approximately 5×4 cm in size, issue a duplicate licence to that person.

Issue of duplicate hawker's licence and street vendor's certificate

(2) The Registrar, on being satisfied that a street vendor's certificate issued by him has been lost or destroyed, and on payment of a fee of 50t shall issue a duplicate certificate to that person.

(3) Where a licence or certificate which had been lost and replaced is recovered, the duplicate licence or certificate as the case may be, shall be returned forthwith to the Licensing Authority or Registrar, as the case may be.

Renewal of
hawker's
licence

11. (1) A hawker's licence may, upon its expiry, be renewed by application in the prescribed form to the licensing Authority.

(2) Every application for renewal of a hawker's licence shall be made not later than 31st March of the following year.

(3) On application made in terms of subregulations (1) and (2) hereof, and on payment of a fee of P1, the Licensing Authority shall endorse such renewal on the licence and may attach such conditions to the renewal thereof as it may determine.

(4) For the purposes of subregulations (2), where any person who holds a valid hawker's licence on 31st December in any year renews that licence on or before 31st March of the following year, such licence shall be deemed to have continued in force until such renewal.

(5) Every hawker's licence which is not renewed on or before 31st March of the following year shall expire immediately thereafter and may be renewed only by taking out a new licence.

(6) The Licensing Authority may refuse to renew a hawker's licence if in its or his opinion it is in the public interest not to renew such a licence.

Modifica-
tion,
suspension,
or
cancellation

12. (1) The Licensing Authority or Registrar, as the case may be, may at any time, modify or suspend a licence or certificate, as the case may be, if in its or his opinion, the continued use of such licence or certificate constitutes a danger to public health.

(2) A licence or certificate which is suspended under the provisions of subregulation (1) shall continue to be so suspended until the holder of such licence or certificate, as the case may be, has complied, to the satisfaction of the Licensing Authority or Registrar, with such requirements designed to remove the danger as the Licensing Authority or Registrar may specify.

(3) The Licensing Authority or Registrar, as the case may be, may at any time withdraw or cancel a licence or certificate issued under these Regulations if, in its or his opinion it is in the public interest to do so:

Provided that the Licensing Authority or Registrar, shall allow the licence holder or certificate holder, as the case may be, such time as he may consider necessary to enable the holder of the licence or certificate to dispose of his existing stock.

(4) A licence holder or certificate holder shall not be entitled to any refund of fees paid in respect of any licence or certificate that has been suspended, withdrawn or cancelled by the Licensing Authority or Registrar in terms of this regulation.

Duties of a
hawker or
street-
vendor

13. (1) No hawker shall —

(a) use vehicles greater in number than the number of vehicles permitted by the Licensing Authority and endorsed upon his licence for the purpose of carrying, storing or exhibiting his goods; or

(b) agree, undertake or purport to transfer his licence to another person;

(c) trade in any other goods except those specified in his licence.

- (2) Every hawker or street-vendor shall —
- (a) keep in a clean and sanitary condition at all times, receptacles, instruments and other articles used in the exercise of his trade;
 - (b) pick up and remove any paper, litter, refuse, receptacles and other objects which in the exercise of his trade have been deposited or dropped, or have fallen in or on any public place or private property whereon he has conducted his business.
 - (c) wear clean clothing while engaged in the conduct of his business;
 - (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 while engaged in the conduct of his business, at the request of any member of the Botswana Police Force or a council officer, remove himself, his vehicles or his goods, as the case may be, to such a distance as may reasonably be required to discontinue such obstruction or danger or to abate such nuisance.

14. No hawker shall —

- (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) hawk elsewhere than in the wards specified in the licence; or
- (d) hawk except between the hours of 7 a.m. and 7 p.m.

Further duties of a hawker

15. (1) No street-vendor shall —

- (a) in any area erect, or expose goods for sale in any tent, booth, stall, stand or similar structure unless the Registrar has granted him permission for the use in such area of such tent, booth, stall, stand or structure and has endorsed his certificate accordingly; or
- (b) carry on his business elsewhere than in the area in respect of which he is registered; or
- (c) carry on his business except in between the hours of 6 a.m. and 10 p.m.

Further duties of a street-vendor

(2) Every street vendor shall —

- (a) at the request of a member of the Botswana Police Force or a council officer, move his goods, receptacles and any other objects associated with his trade so as to permit the council's sanitary staff to clean any area in which he is conducting his business; and
- (b) when departing from the pitch at which he has been carrying on business, remove all goods, receptacles, or other objects associated with his trade and leave such pitch in a clean state.

16. A hawker's licence or street-vendor's certificate shall not be hired, ceded, transferred or in any way whatsoever made over to any other person.

Licence and certificate not transferable

17. (1) Every holder of a hawker's licence or a street vendor's certificate shall, on demand by any member of the Botswana Police Force or council officer immediately thereon produce it for inspection or otherwise shall, within 48 hours of such demand, produce it at the station or office of such member or officer.

Licences of certificates to be produced for inspection

(2) Any person who fails to comply with the provisions of subregulation (1) shall be guilty of an offence and liable to a fine of P50 or to imprisonment for one month, or to both.

Offences and penalties

18. (1) Any person who contravenes any provision contained in regulations, 13, 14, and 15 shall be guilty of an offence and liable to a fine of P50 or to imprisonment for one month, or to both.

(2) Any person who is convicted of any offence under these Regulations may, in addition to any penalty to which he may be liable, be liable to have his licence or certificate, as the case may be, cancelled with effect from such date as the court may consider it necessary to fix in order to enable him to dispose of his existing stock.

Appeal

19. Any person aggrieved by the decision of the Licensing Authority or Registrar made under these Regulations may appeal to the Minister whose decision shall be final.

SCHEDULE

FORM 1

..... TOWN COUNCIL HAWKER'S LICENCE
(This Licence is NOT transferable)

(Name) is hereby licensed in accordance with the Town Councils (Hawking and Street-Vending) Regulations to carry on the business of a hawker, trading in the following classes of goods —

.....
.....

.....
in the following wards —

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

.....
Signature of Holder.

Photograph of holder

Right thumb-print of Holder

Endorsements

1. Number of vehicles permitted

2. Other endorsements

Date of Issue

Fee Paid

Receipt No.

.....
Council Officer.

SCHEDULE

FORM 2

..... TOWN COUNCIL STREET-VENDOR'S CERTIFICATE
(This certificate is NOT transferable)

(Name) is hereby registered, in accordance with the Town Councils (Hawking and Street-Vending) Regulations to carry on the business of a street vendor, trading in the following class of goods —

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

in the following areas —

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.....
Signature of Holder.

Right thumb-print of Holder

Date of Issue

.....
Registrar.

RENEWALS

Date

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Form 3

APPLICATION FOR A HAWKER'S LICENCE

Full Names
(Block letters)

Address
.....

Nationality
*(if not a citizen of Botswana, state whether you hold a residence permit,
or on what ground you claim to be entitled to reside in Botswana)*

Age Sex

I wish to trade in the following class of goods
.....
.....

I wish to hawk/carry on business as a hawker in the following wards —
.....
.....
.....

Date

.....
Signature or mark of applicant.

MADE this 17th day of April, 1985.

LESEDI L.T. MOTHIBAMELE,
Minister of Local Government and Lands.

L2/7/99