

LOCAL GOVERNMENT (DISTRICT COUNCILS) ACT
(Cap. 40:01)

**KGATLENG DISTRICT COUNCIL (HAWKING AND STREET
VENDING) BYE-LAWS, 2010**

(Published on 3rd December, 2010)

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SCHEDULES

IN EXERCISE of the powers conferred on the Kgatleng District Council by section 33 of the Local Government (District Councils) Act, and with the approval of the Minister of Local Government, the following Bye-laws are hereby made —

1. These Bye-laws may be cited as the Kgatleng District Council (Hawking and Street Vending) Bye-laws, 2010. Citation

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

“authorised officer” 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 4;

“Council” means the Kgatleng 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 Botswana, which business has an average monthly turnover of not more than P2 000;

“register” means a register to be kept by the Registrar under bye-law 11;

“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 in a pitch, in a public place or upon land to which he has no right or control, which business has an average monthly turnover of not more than P2 000.

Prohibition of hawking or street vending without certificate

3. No person shall carry on the business of a hawker or street vendor within the council area unless that 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.

Application for certificate

4. (1) Any person wishing to carry on the business of a hawker or street vendor shall apply for a certificate to the Registrar in Form A set out in Schedule 1 to these Bye-laws.

(2) The application under subbye-law (1) shall be accompanied by —

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

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Issue of certificate

5. (1) The Registrar may, if satisfied that the requirements of these Bye-laws have been met, and upon payment of a fee set out in Schedule 2, issue a hawker's or street vendor's certificate in Form B or C set out in Schedule 1 respectively, subject to such conditions as he may consider 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 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 that area or areas would be contrary to the public interest.

Validity of certificate

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

Renewal of certificate

7. (1) A holder of a hawker's or street vendor's certificate may, upon its expiry, apply to the Registrar for a renewal of the certificate, in Form D set out in the Schedule 1, for a period of two successive years and thereafter for further periods of two years.

(2) An application for renewal in terms of subbye-law (1) shall be made not later than —

- (a) one month before the expiry of that certificate; or
- (b) one month before the expiry of any of the subsequent periods for which the certificate has been renewed.

(3) Subject to the provisions of subbye-law (4), the Registrar may, on receipt of an application, renew the certificate by endorsing on the certificate upon payment of a fee set out in Schedule 2, and may attach such conditions to the renewal thereof as he may determine.

(4) 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 licence.

Issue of duplicate certificate

8. (1) The Registrar may, on being satisfied that a certificate issued in terms of these Bye-laws has been lost or destroyed, and upon payment of a fee set out in Schedule 2, issue a duplicate certificate to that person.

(2) Where a person who has been issued with a duplicate certificate under subbye-law (1) subsequently recovers the certificate that was lost, that person shall return the duplicate certificate to the Registrar.

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

Certificate not transferable

(2) Any person who contravenes the provisions of subbye-law (1) commits an offence and is liable to a penalty under bye-law 17.

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

Modification, suspension or cancellation of certificate

(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 opinion, it is in the public interest to do so.

(3) The Registrar shall, in exercising the power in subbye-law (2), where practicable, allow the certificate holder such time as necessary to enable the holder of the certificate to dispose of existing stock.

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

Register of hawkers and 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) full names;
- (b) registration certificate number;
- (c) date of registration;
- (d) types of goods allowed to be sold (as contained in the certificate);
- (e) area in which such goods may be sold (as contained in the certificate); and
- (f) any other particulars which the Registrar may consider necessary.

(3) The Registrar may de-register a hawker or street vendor where —

- (a) the hawker or street vendor's licence has expired and an application for renewal has not been made;
- (b) the hawker or street vendor has not complied with the conditions of the licence;
- (c) the hawker or street vendor has been found guilty of an offence under these Bye-laws and that offence necessitating cancellation of the licence; or
- (d) it is in the public interest to remove that hawker or street vendor from the register.

12. Any person aggrieved by the decision of the Registrar, made under these Bye-laws, may appeal to the Minister.

Appeals

13. (1) A hawker or street vendor shall —

Duties of hawkers and street vendors

- (a) keep in a clean and sanitary conditions all receptacles, instruments and other articles used in the conduct of his trade;
- (b) pick and remove any litter or refuse which, in or through the conduct of trade, has been deposited, dropped or has fallen on any public place or private property;
- (c) keep his person clean while engaged in the conduct of the trade; and
- (d) provide a separate storage compartment for the goods to be traded.

(2) A hawker or street vendor shall not —

- (a) agree, undertake or purport to hire, cede, transfer or in any way whatsoever make over his certificate to any other person;
- (b) trade in goods other than those specified in his certificate;
- (c) trade in area other than those allowed by his certificate; or

(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, at the request of a police officer or authorised officer, remove himself, his vehicles or his goods, as the case may be, to such other place, as may reasonably be required, in order to discontinue such obstruction or danger or to abate such nuisance.

(3) Any person who contravenes the provisions of this Bye-law commits an offence and is liable to a penalty under bye-law 17.

Prohibited forms of hawking

14. (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; or

(c) trade, except between the hours of 6 a.m. and 10 p.m.

(2) Any person who contravenes the provisions of subbye-law (1) commits an offence and is liable to a penalty under bye-law 17.

Prohibited forms of street vending

15. (1) A street vendor shall not —

(a) erect or expose goods for sale in any area in a tent, booth, stall, stand or similar structure without the approval of the Registrar;

(b) if requested by a police officer or an authorised officer, refuse to move his goods, receptacles and any other objects associated with his trade, so as to permit the Council's sanitary staff to clear any 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; or

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

(2) Any person who contravenes the provisions of subbye-law (1) commits an offence and is liable to a penalty under bye-law 17.

Certificate to be produced for inspection

16. (1) A holder of a certificate issued under these Bye-laws shall, on demand by any police officer or authorised officer, produce it for inspection or, within 48 hours of such demand, produce it for inspection at the office of the authorised officer or at the station of the police officer, as the case may be.

(2) Any person who contravenes the provisions of subbye-law (1) commits an offence and is liable to a penalty under these Bye-laws.

Penalties for offences

17. (1) Any person who commits an offence under these Bye-laws shall be liable to a fine not exceeding P100, or to imprisonment for a term not exceeding one month, or to both, and for a second or subsequent offence, to a fine not exceeding P500, or to imprisonment for a term not exceeding three months, or to both.

(2) Any person who is convicted of any offence under these Bye-laws may, in addition to any penalty under subbye-law (1) have his —

(a) certificate cancelled with effect from a date that the court considers necessary taking into account the time needed to enable the person to dispose of his existing stock; or

(b) his goods impounded or confiscated by the Council.

SCHEDULE 1

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 5cm x 4cm and a copy of applicant's Omang).

Full names of applicant:.....
(Surname first)

Place of residence:.....

Postal address:.....

.....

Identity No.:.....

Delete as necessary: 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:

.....
.....

(3) Any other information required by Registrar

.....
.....

Date :

.....
Signature of applicant

FOR OFFICIAL USE ONLY

Date on which application was received:

Date of approval/rejection of application:

.....
Signature of Registrar.

FORM B

HAWKER'S CERTIFICATE
(bye-law 5)

(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:

.....
Signature of Registrar.

Conditions:

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.....

Date:

.....
Signature of Registrar.

Date:

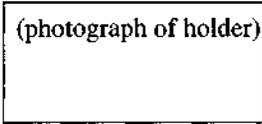
Conditions:

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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

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

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)

Place of residence

Postal address:

Identity No.

Identity No.

Delete as necessary 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

.....
Signature of Registrar.

SCHEDULE 2

FEEES

(bye-laws 5,7 and 8)

Hawker or street vendor certificate	P50
Renewal of certificate	P50
Duplicate certificate	P50

MADE this 8th day of September, 2010.

JIMMY NSALA,
Council Secretary,
Kgatleng District Council.

APPROVED this 17th day of November, 2010.

L. MOKALAKE,
Minister of Local Government.