

LOCAL GOVERNMENT ACT
(Cap. 40:01)

KWENENG DISTRICT COUNCIL (FOOD-VENDING) BYE-LAWS

(Published on 24th November, 2017)

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BYE-LAW

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SCHEDULE

IN EXERCISE of the powers conferred by section 44 and 45 of the Local Government Act, and with the approval of the Minister of Local Government, the Kweneng District Council hereby makes the following Bye-Laws —

- Citation 1. These Bye-Laws may be cited as the Kweneng District Council (Food-Vending) Bye-Laws, 2017.
- Interpretation 2. In these Bye-Laws, unless the context otherwise requires —
“appliance” means any utensil, machinery, instrument, apparatus, crockery, article or part thereof, used or intended for use in processing, preparation, handling and serving of food;
“authorised official” means any person authorised by the Council Secretary in writing for purposes of giving effect to these Bye-laws;
“council” means the Kweneng District Council;
“council area” means the area within the jurisdiction of the Council;
“crockery” means glasses, plate, dishes, cup, saucer, spoon, fork, ladle, chopstick, and shall include any disposable article used or intended for use in or for the making, preparing, keeping, selling, supplying or the serving of food;

“disposable article” means any appliances, containers, gargets, implements, crockery, utensils or wrappers intended for a single use in the storage, preparation, display, sale or serving of food;

“food-vendor” means a person who prepares, packs, stores, displays and sells ready-to-eat-food or beverages either from a stall, business premise or from place to place;

“food-handler” means a person who assists in the preparation, cooking, handling and the serving of food;

“medical practitioner” means a person registered as a medical practitioner in terms of section 9 of the Botswana Health Professions Act, entitling him or her to practise as such in Botswana;

“micro-organism” shall include any macroscopic living organisms that can cause food borne or water borne disease that can be transmitted through food or water;

“mobile food-vendor” means a food-vendor who moves from place to place for the purpose of processing, preparing, delivering, displaying and serving of ready to eat food;

“perishable food” means food that consists wholly or partly of milk, milk products, eggs, meat, poultry, fish or other ingredients capable of supporting progressive growth of micro-organisms that cause food spoilage, food-poisoning and food borne diseases;

“pest” means any animal or insect, domestic or otherwise, capable of directly or indirectly contaminating food, and shall include rodents, roaches, flies or other insects or vermin infestation;

“ready-to-eat-food” means any food including beverages other than alcoholic beverages which is normally consumed in its raw state, or any food handled, processed, mixed, cooked or otherwise prepared into a form in which it is normally consumed without further processing;

“stall” includes a cart, caravan or motor-vehicle with or without wheels, or any fixed place equipped with chairs, tables, benches, baskets, or any other structure approved by the Council for food-vending business;

“utensil” includes appliances, containers, gargets and equipment, including traditional ones, used in the processing, preparation, handling and serving of food; and

“waste water” means sullage water arising as a result of the activities of food-vending business.

3. No person shall carry on the business of a food-vendor within the council area, unless such a person —

- (a) has attained the age of 15 years;
- (b) is the holder of a food-vending licence; and
- (c) is free from any communicable or infectious disease that are food or water borne.

4. (1) Any person who wishes to carry on the business of a food-vendor shall make an application to the Council in the form set out in Schedule 1, supplying such information in relation thereto as the Council may require, in particular, specifying the following —

- (a) types of food to be traded;
- (b) the stall or premises upon which the business is to be carried;
- (c) the area within which business is to be carried on; and
- (d) the health status of every food vender or food handler to be employed.

Cap. 61.02

Prohibition from carrying on business of food-vendor without licence

Application for licence

	<p>(2) The Council may, if it is satisfied that the conditions of these Bye-laws are met, and on payment of a fee of P20, issue a food-vendor's licence in the form set out in Schedule 2, which shall be valid for a year.</p> <p>(3) The Council may attach such conditions to the licence issued under sub-bye-law (2), as it may deem necessary.</p>
Renewal of licence	<p>5. (1) A holder of a licence issued under bye-law 4 may apply to the Council for a renewal of the licence in the form set out in the Schedule 3.</p> <p>(2) An application shall be accompanied by a fee of P20.</p> <p>(3) Where the application is approved, the Council may endorse such conditions as it may deem necessary.</p>
Inspection of premises	<p>6. (1) An authorised official may enter and inspect the stall or business premises at any reasonable time for the purpose of licensing under these Bye-laws.</p> <p>(2) An authorised official shall at any reasonable time, inspect any stall or business premises, upon being aware that perishable food or any other food which is ready for consumption is contaminated, collect samples of perishable food or any suspected contaminated food for examination at no cost, together with the food-vendor, and if the food is found to be contaminated or decayed, it shall be destroyed and the licence of such vendor may be suspended by the Council.</p>
Licence to be produced for inspection	<p>7. A licensed food-vendor shall display a licence issued under these Bye-laws within the stall or business premises and where not displayed shall be produced by the food-vendor to any authorised official on demand for inspection.</p>
Licence not transferable	<p>8. A food-vendor shall not transfer a licence issued under these Bye-laws, and the licence may be revoked by the Council if the food-vendor —</p> <ul style="list-style-type: none"> (a) transfers the licence without the consent of the Council; (b) refuses to submit his or her medical certificate or that of his or her food handlers or helpers from a medical practitioner; (c) suffers from a communicable or infectious disease; or (d) is convicted of an offence under these Bye-laws.
Health status of food-vendors	<p>9. (1) Any food-vendor, helper or food handler whether suspected or suffering from a food borne or water borne disease, or is otherwise a carrier of such disease or organism, who is likely to transmit any disease producing organism to food or water, shall not conduct business until he or she furnishes a certificate from a medical practitioner that he or she is free from the infection.</p> <p>(2) Any food-vendor, helper, or food handler who suffers from diarrhoea or vomiting shall cease to handle food in any capacity and shall seek medical treatment.</p> <p>(3) Any food-vendor, helper, or food handler who is, or has been a carrier of food or water borne disease or organism, shall not be involved in food handling activities until he or she furnishes a certificate from a medical practitioner that he or she is no longer a carrier of the organism or disease.</p> <p>(4) Any person who fails to comply with the provisions of this bye-law shall be guilty of an offence.</p>
Personal hygiene of food-vendors	<p>10. Every food-vendor, helper or handler shall, during the conduct of the business —</p> <ul style="list-style-type: none"> (a) wear an identification tag; (b) wear clean light coloured overalls, aprons and other appropriate outer wear, head gear and shoes;

- (c) wash hands thoroughly with soap and clean water before and after handling food, visiting the toilet, handling insanitary articles, toxic and dangerous materials and when necessary;
- (d) keep nails short and clean at all times;
- (e) keep hair clean and tidy and covered during business hours;
- (f) cover sores, wounds and other skin eruptions with a water proof dressing which is firmly secured and routinely changed;
- (g) not eat, drink, smoke or chew tobacco, gum or other materials while preparing or serving food;
- (h) refrain from any unhygienic practices such as spitting, picking or cleaning nose, ears or any bodily orifice;
- (i) not sneeze or cough on to the food or blow into food bags;
- (j) not allow visitors or customers into the food preparation and serving areas to avoid food contamination;
- (k) not use the stall or business premises for anything other than food-vending; and
- (l) not lick fingers during the preparation, handling and the serving of food.

11. A food vendor's stall or business premises shall —

Location

- (a) be located in a place which does not encourage contamination of food during its preparation or serving;
- (b) not be located in a restricted area such as a solid waste disposal area, rubbish dump, sewage treatment or oxidation lagoon, animal habitat or husbandry centre;
- (c) operate in an area which is reasonably free from objectionable odours, smoke, dust or toxic fumes or any form of contamination;
- (d) be located in an area with a readily accessible toilet facility and where such area is in a commercial area the vendor shall produce a lease agreement between him or her and the owner of such a toilet facility allowing him to use the facility;
- (e) be free from unnecessary stored goods or articles, discarded articles and obstruction in order to enable the food vendor, food-handlers or helpers to carry out their duties efficiently and to allow easy access during cleaning and other business activities; and
- (f) allow for easy disposal of waste.

12. (1) A food-vendor's stall or business premises shall not be approved by the Council unless —

Structure

- (a) constructed from easily cleanable material such as stainless steel, aluminium, glazed tiles or any other material as may be approved by the Council;
 - (b) maintained in a state of good repair at all times;
 - (c) it has preparation areas and working surfaces made of smooth and impermeable food grade materials;
 - (d) all cooking areas, washing equipment, working tables, shelves and food cupboards are placed at least 45 cm above ground; and
 - (e) it has sufficient light at all times and meets any other requirements under existing Legislation.
- (2) A food-vendor's stall and business premises shall be approved in writing by an authorised official before a licence can be issued under these Bye-laws.

Sanitary
conditions

13. A food-vendor shall —

- (a) ensure that all appliances, crockery and other articles used in the conduct of the business are kept in clean and sanitary conditions by washing them with clean water and detergent, and the use of approved means of disinfection or sterilisation, where necessary;
- (b) take all reasonable steps to ensure that clean, disinfected or sterilised utensils are kept separate from those which have not been washed, disinfected or sterilised;
- (c) ensure that towels and dish cloths used for the purpose of wiping appliances and crockery are kept clean and handled in a sanitary manner, and are not used for any other purpose;
- (d) ensure at all times that there is sufficient wholesome water available for use including drinking water;
- (e) ensure that there is an efficient waste water disposal system in the form of a soak away, as the Council may direct;
- (f) avoid contamination of food and water by waste;
- (g) remove and dispose of any food left overs, waste, discarded articles from working surfaces, tables, floors and the surrounding area as often as necessary and at the close of each day;
- (h) ensure that solid waste is disposed into suitable containers which are then secured with tight fitting lids or placed in rubbish bins for ultimate disposal at a recommended site.
- (i) clean waste receptacles after disposal of waste; and
- (j) ensure that adequate toilet facilities, hygienically maintained, are available for the food vendor, handlers and patrons or a written agreement between him or her and the owner of the premises for use of sanitary facilities.

Appliances

14. (1) A food-vendor shall ensure that all appliances used in the conduct of the food-vending business shall —

- (a) be made of non-absorbent and non-toxic material;
- (b) not be capable of producing any odour or taste;
- (c) be free from cracks, crevices, chips, except as a result of reasonable wear and tear;
- (d) have cleanable surfaces on all sides;
- (e) be maintained in a state of good repair at all times;
- (f) be cleaned thoroughly and regularly with clean water and detergent and approved means of disinfection where necessary, and in the case of a mobile food-vendor, with clean portable water;
- (g) be kept clean and washed separate from unwashed ones; and
- (h) be kept clean and washed separate from unwashed ones during transportation.

(2) A food-vendor shall remove any cracked, chipped and any unsuitable appliance and crockery from use in the serving of food, and ensure that where disposable crockery is used in the conduct of the business, it shall be disposed off after a single use.

Pest control

15. (1) A food-vendor shall ensure that his or her stall or business premises is free from roaches and other pests, as well as other food contaminants.

(2) A food-vendor shall as soon as reasonably practicable, on becoming aware of pest infestation take steps to eliminate pests and prevent re-infestation.

16. An authorised official may at any reasonable time enter and inspect the stall or business premises of a food-vendor for the purpose of ensuring that the conditions of the stall or business premises, and the operation of the business complies with the provisions of these Bye-laws, and the conditions of the licence in respect thereof, if any.

Powers of entry

17. Where in the opinion of the Council, a stall or business premises licensed under these Bye-laws is likely to constitute a threat or pose a danger to public health, the Council may direct the closure of such a stall or business premises until it is satisfied that the threat or danger has been remedied.

Closure of stalls or business premises

18. (1) A food-vendor, food-handler or helper shall ensure that —

Cooking and serving of food

- (a) vegetables and fruits are thoroughly washed with clean water before being served to clients.
- (b) all ingredients including meat, poultry, fish, eggs, fruit or any perishable ingredients used during the processing, preparation and cooking of food, shall be fresh and wholesome.
- (c) ready-to-eat-food shall be bought from a licensed reliable source.
- (d) ready-to-eat food shall be served with clean tongs, forks, spoons warm at all times.
- (e) a food-vendor shall ensure that ready-to-eat food, where not served in disposable crockery, shall be served in proper disposable material meant for serving food, which shall include —
 - (i) grade aluminium foil;
 - (ii) waxed paper;
 - (iii) food grade plastic; or
 - (iv) any other suitable material as may be approved by the Council.

19. The food-vendor shall ensure that —

Transportation of food

- (a) food is kept clean and free from toxic material, pests and other contaminants at all times, and shall be stored at proper temperatures during transportation.
- (b) non-perishable food shall be kept in clean containers with tight fitting lids, and shall be kept separate from perishable and raw food to prevent contamination.
- (c) perishable food shall be stored in clean refrigerated or frozen containers which shall not be overloaded to prevent spoilage.
- (d) any motor-vehicle or other means of transport used for the transportation of food shall be in a clean and good condition.

20. (1) The Council shall take all necessary steps to make the provisions of these Bye-laws known to food-vendors and patrons.

Food advisory services

(2) The Council may, offer basic training in food hygiene to food-vendors and may, through an authorised official, offer on-site advise and guidance on food hygiene, either before the issuance of a licence under these Bye-laws or as the Council may deem necessary.

(3) An authorised official may educate consumers through publicity campaigns, or any suitable method on food hygiene.

21. Any person who contravenes the provisions of these Bye-laws commits an offence and shall be liable to a fine not exceeding P200, or in default of payment to imprisonment for a term not exceeding three months or to both.

Offences and penalties

SCHEDULE 1

APPLICATION FOR A FOOD-VENDOR'S LICENCE
(Bye-Law 4)

(Attach two copies of a passport size photograph)

(1) Full name of applicant:

.....

(2) Residential address:

.....

(3) Postal address:

.....

(4) Nationality:

.....

Identity No.

.....

I wish to apply for a food-vendor's licence as follows:

Location of premises:

.....

Number of food-venders (if any) and their qualifications (or experience):

.....

The health status of every food vender and of any food handler to be employed.

.....

Types of food to be traded.....

Date

.....

Signature of applicant

FOR OFFICIAL USE ONLY

Date on which application was received by Licensing Officer

Proposed hearing of application

Date of approval/rejection of application

.....

Licensing Officer

SCHEDULE 2

FOOD-VENDING LICENCE
(Bye-Law 4 (2))

NOT TRANSFERABLE

Licence No.

Name is hereby

licensed in accordance with the Kweneng District Council (Food-vending) Bye-laws to carry on the business of a food-vendor in the following area(s):

.....
.....

Conditions (if any) applicable:

.....

Signature of holder

or

.....

Right thumb print of holder

Date of issue: Fee paid O/R No.

Date on which application was received by Licensing Officer

.....

Licensing Officer

SCHEDULE 3

RENEWAL OF APPLICATION
(Bye-Law 5)

(1) Applicant for renewal to complete the following:

(a) location of premises:

(b) number of food-handlers:

(2) Conditions (if any) applicable:

.....

Date

Licensing Officer

MADE this 12th day of October, 2017.

*Council Secretary,
Kweneng District Council.*

APPROVED this 20th day of October, 2017.

SLUMBER TSOGWANE,
*Minister of Local Government and Rural
Development.*