

TOWNSHIPS ACT
(Cap. 40:02)

**TOWN COUNCIL (HAWKING AND STREET-VENDING)
REGULATIONS, 2002**

(Published on 26th April, 2002)

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SCHEDULE

IN EXERCISE of the powers conferred on the Minister of Local Government by section 9 of the Townships Act, the following Regulations are hereby made —

1. These Regulations may be cited as the Town Council (Hawking and Street-Vending) Regulations, 2002.

Citation

2. In these Regulations, unless the context otherwise requires —

Interpretation

“authorised official” means the Town Clerk or City Clerk 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 regulation 4;

“Council” means a city or a town council established under the Town Council Regulations;

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

“hawker” means a person, being otherwise unemployed, who carries on the business of selling his goods from place to place within Botswana, which business has an average monthly turnover of no more than P500 per month;

“Police Force” means the Botswana Police Force or the Local Police Force;

“register” means any register which a Council is required to keep under regulation 7;

“Registrar” means a Town Clerk or City Clerk or any employee of the Council duly authorised as such, in writing, by the Council; and

“street-vendor” means a person, being otherwise unemployed, 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 which he has no right to control, which business has an average monthly turnover of no more than P500 per month.

Prohibition of
hawking or
street-vending
without
certificate

3. (1) No person shall 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 Regulations.

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(2) Notwithstanding the provisions of subregulation (1), any person who is not required to obtain a licence to carry on any business in terms of section 54 of the Trade and Liquor Act 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 the provisions of subregulation (1), as read with subregulation (2), shall be guilty of an offence under these Regulations.

Application
for certificate

4. (1) Any person wishing to carry on the business of a hawker or street-vendor shall make an application as set out in Form A of the Schedule, to the Registrar, 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 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; and
- (b) a copy of the applicant’s identity card (in these Regulations referred to as an “*Oman*g”) issued in accordance with the provisions of the National Registration Act.

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(3) 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 such area or areas would be contrary to the public interest.

(4) The Registrar may, if he is satisfied that the requirements of these Regulations have been met, issue a hawker’s or street-vendor’s certificate as set out in Forms B and C of the Schedule respectively, subject to such conditions as he considers necessary or expedient having regard to the provisions of these Regulations.

Period of
certificate

5. A certificate issued under regulation 4 (4) shall, subject to the provisions of these Regulations, be valid for a period of two years and, unless renewed under regulation 6, shall expire immediately after a period of two years from the date of issue thereof has elapsed.

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

Renewal of
certificate

(2) An application for renewal in terms of subregulation (1), shall be made —

- (a) no later than one month before the expiry of that certificate; or
- (b) no later than one month before the expiry of any of the subsequent periods for which the certificate has been renewed in terms of subregulation (1).

(3) Subject to the provisions of subregulation (5), the Registrar shall, on application made in terms of subregulations (1) and (2), endorse such renewal on the certificate and may attach such conditions to the renewal thereof as he may determine.

(4) Any certificate which is not renewed pursuant to an application made in accordance with subregulations (1) and (2) shall expire and may be renewed only by applying 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 Regulations have not been complied with; or
- (c) it is in the public interest not to renew such licence.

7. (1) The Registrar shall keep a register of all registered hawkers and a register 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) his full name;
- (b) his registration certificate number;
- (c) the 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.

8. (1) The Registrar, on being satisfied that a certificate issued in terms of these Regulations has been lost or destroyed, shall issue a duplicate certificate to that person —

Issue of
duplicate
certificate

(2) Where a certificate which has been lost and replaced is recovered, the duplicate certificate shall be returned forthwith to the Registrar.

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

Certificate not
transferable

(2) Any person who contravenes the provisions of subregulation (1) shall be guilty of an offence under these Regulations.

10. (1) The Registrar may modify, suspend or cancel 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 Regulations 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 Regulations; 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.

Duties of
hawkers and
street-
vendeors

11. (1) Every 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, in or 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 his or her person clean while engaged in the conduct of his trade;
- (d) provide a separate storage compartment for the goods to be traded; and
- (e) 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 any member of the Police Force 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.

(2) No hawker or street-vendor shall —

- (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; or
- (c) trade in areas other than those allowed by his certificate.

(3) Any person who contravenes the provisions of subregulations (1) or (2) shall be guilty of an offence under these Regulations.

Prohibited
forms of
hawking

12. (1) 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; or
- (c) hawk except between the hours of 7 a.m. and 7 p.m.

(2) Any person who contravenes the provisions of subregulation (1) shall be guilty of an offence under these Regulations.

Prohibited
forms of
street-vending

13. (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 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 Force 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 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;
- (d) carry on business except in between the hours of 6 a.m. and 10 p.m.

(2) Any person who contravenes the provisions of subregulation (1) shall be guilty of an offence under these Regulations.

14. Any person aggrieved by the decision of the Registrar, made under these Regulations, may appeal, in writing, to the Minister.

Appeals

15. (1) Every holder of a certificate issued under these Regulations shall, on demand by any authorised official or any member of the Police Force, immediately thereon produce it for inspection or otherwise shall, within 48 hours of such demand, produce it for inspection at the office of such authorised official or at the station of such member of the Police Force, as the case may be.

Certificate to be produced for inspection

(2) Any person who contravenes the provisions of subregulation (1) shall be guilty of an offence under these Regulations.

16. (1) Any person who is guilty of an offence under these Regulations shall be liable, on conviction for a first offence, to a fine not exceeding P100 or to imprisonment for a term not exceeding two months, or to both, and for a second and subsequent conviction, to a fine not exceeding P200 or to imprisonment for a term not exceeding six months, or to both.

Penalties for offences

(2) Any person who is convicted of any offence under these Regulations may, in addition to any penalty to which he may be liable to —

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

(b) have his goods impounded or confiscated.

17. The Town Council (Hawking and Street-Vending) Regulations are hereby revoked.

Revocation of Cap. 40:02 (Sub. Leg.)

SCHEDULE

FORM A (regulation 4)

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

(This form is to be completed in block letters. Attach two passport size photographs, approximately 5 cm x 4 cm and a copy of your *Oman*.)

Full name of applicant.....
(Surname first)

Place of residence.....

Postal address.....

Identity No.....

* 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.....

.....
Registrar

* Delete as necessary

FORM B
(regulation 4)

HAWKER'S CERTIFICATE

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

.....
Signature of Registrar

Date:.....

Conditions:.....
.....
.....

.....
Signature of Registrar

Date:.....

Conditions:.....

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.....
Signature of Registrar

FORM C
(regulation 4)

STREET-VENDOR’S CERTIFICATE

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 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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Signature of Registrar

Date:.....

Conditions:

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Signature of Registrar

Date:.....

Conditions:.....

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Signature of Registrar

Date:.....

Conditions:.....

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Signature of Registrar

FORM D
(regulation 6)

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

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

Full name of applicant
(Surname first)

Registration number

Place of residence

.....

Postal address.....

Identity No.

* 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 —

.....
.....

Date:.....

.....
Signature of applicant

FOR OFFICIAL USE ONLY

Date on which application was received.....

* Date of approval / rejection of application.....

* Delete as necessary

.....
Registrar

MADE this 3rd day of April, 2002.

M.N. NASHA,
Minister of Local Government.