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THE NAKURU COUNTY TRADE ACT, 2020

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THE NAKURU COUNTY TRADE ACT, 2020

AN ACT of the Nakuru County Assembly to provide for the promotion, development and regulation of trade ad grant and for connected purposes

ENACTED by the County Assembly of Nakuru as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Nakuru County Trade Act, 2020.

Interpretation

2. In this Act, unless the context otherwise requires—

‘business climate’ means the general economic development within the society of business enterprises and includes the attitude and practice of government, political leadership, labor organizations and financial institutions towards businesses and business activity, the taxation regime and other economic indicators affecting business enterprises.

‘busker’ means any person who performs the activity of busking;

‘busking’ includes any activity of sounding or playing a musical instrument, singing, reciting or performing conjuring, juggling, puppetry, miming, dancing or other entertainment or doing any of those things concurrently;

‘department’ means the county department responsible for trade as established by the County Executive Committee;

‘executive member’ means the County Executive Committee member responsible for trade

‘licence’ means a licence issued under this Act and includes a permit issued under this Act for the purposes of carrying out trade or business

‘street trading’ means sale of goods or services in a street; and

‘town’ has the same meaning assigned under the Urban Areas and Cities Act, 2011 and includes a city.

Purpose of the Act

3. The purpose of this Act is to provide for the implementation of section 7 of Part 2 of the Fourth Schedule to the Constitution and to provide for:

- (a) Promotion of Development of Trade.
- (b) Regulation of Trade.
- (c) Promotion of Local Economic Development; and

- (d) Promotion of Private Sector Development

PART II—ADMINISTRATION

Functions of the Department

4. The Department shall be responsible for—

- (a) Promoting development of trade
- (b) Regulating trade
- (c) Issuing trade licenses
- (d) Facilitating private sector development
- (e) In collaboration with other stakeholders, facilitating the development of policies, strategies and plans for trade promotion and development
- (f) Promoting and facilitating access to markets
- (g) Promoting and facilitating development and access to trade related infrastructure
- (h) Facilitating acquisition, adoption and utilization of technology
- (i) Carrying out research and maintaining such trade data and statistics
- (j) Facilitating public-private engagement
- (k) Advising the Executive Member on the appropriate policy for promoting conducive business climate
- (l) Review policies, systems, procedures
- (m) Monitoring and evaluating implementation of this Act; and
- (n) Carrying out any other functions as may be assigned by the Executive Member.

Staff

5. The County Public Service Board shall, in consultation with the Executive Member, establish offices and appoint such staff under the Department, in accordance with the County Government Act, 2012.

Trade Status Report

6. (1) The Department shall, within three months after the end of each financial year, prepare and submit to the Executive Member a trade status report for the immediate preceding year which shall consist of—

- (a) the status of the implementation of the Act;

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- (b) the growth of the number of new businesses established in the county disaggregated according to geographical areas, age and gender of persons who established the businesses and sectors in which the businesses were established among others;
 - (c) challenges faced in implementing this Act;
 - (d) overall status of trade development in the county;
 - (e) measures taken or adopted to promote business and trade development;
 - (f) growth of existing businesses and any relevant projections for the following year;
 - (g) measures taken to promote enabling business climate and facilitate trade;
 - (h) consultations or initiatives undertaken for dialogue with the private sector; and
 - (i) any other matter as the Executive Member may require
- (2) The Executive Member shall, within fourteen days of receiving the report submit it to the County Executive Committee for consideration and adoption.
- (3) The Department shall—
- (a) publish the report prepared under subsection (1)
 - (b) publicize the report to the private sector and residents in the county; and
 - (c) Facilitate the collation of views and feedback from county residents in relation to the report.

PART III—TRADE PROMOTION AND DEVELOPMENT

Trade Promotion and Development

7. The Department shall promote and facilitate Trade Development through—

- (a) Providing business development services through business training, consultation and advisory services;
- (b) Providing business support through business financing;
- (c) Carrying out business survey and business profiling within Nakuru County;
- (d) Carrying out regular assessment on business climate;

- (e) Reviewing policies and practices that affect business climate and advising the County Executive Committee on appropriate measures to be adopted for promoting trade development;
- (f) Facilitating access to markets for goods and services produced in the county;
- (g) Facilitating and promoting cross border trade with other neighboring counties;
- (h) In collaboration with other stakeholders organizing trade and market fairs for promoting products;
- (i) Providing sectoral and inter-sectoral linkages among private sector players within and outside the county; and
- (j) Carrying out any other function as may be assigned by the Executive Member.

Interdepartmental Trade Development Coordinating Committee

8. (1) There is established the Interdepartmental Trade Development Committee which shall consist of—

- (a) All chief officers responsible for administering policy matters affecting trade as designated by the County Executive Committee;
- (b) County Director of Trade and the Representative of the County Attorney; and
- (c) Any officer responsible for a department of national government in the county that is responsible for policy matters affecting trade in the county.

(2) The Chief Officer responsible for trade shall be the Chairperson of the independent Committee and the County Director for Trade in the department shall be the Secretary.

(3) The Interdepartmental committee shall be responsible for—

- (a) Coordinating implementation of inter sectoral policies and programs related to trade;

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- (e) Facilitating collaboration with National government on trade development; and
- (f) Carrying any other function as may be assigned by the County Executive Committee.

(4) The Department shall provide the secretariat services to the Interdepartmental Committee.

(5) The Interdepartmental committee shall submit quarterly monthly progress reports of its operations to the County Executive Committee.

County Public-Private Trade Sector Committee

9. (1) There is established the County Public-Private Trade Sector Committee.

(2) The County Public-Private Sector Committee shall consist of—

- (a) the Executive Committee Member who shall be the Chairperson
- (b) One member from each sub county appointed by the Executive Committee Member in consultation with the Governor to represent from the private sector;
- (c) the Chief Officer responsible for trade and the Director of Trade who shall be an ex-officio member.

(3) A person shall not be appointed under —

- (a) subsection (2) (a), unless the person
 - (i) possess a degree from a recognized university; and
 - (ii) operates a business or a trade in the county or is an officer or manager of a business.

(4) The County Public-Private Trade Sector Committee shall be responsible for—

- (a) facilitating collaboration and partnership between the county government and the private sector in the county on trade development matters;
- (b) collating issues affecting the private sector in the county that require to be addressed by the county government;
- (c) advising the County Executive Committee on appropriate measures to be adopted in promoting private sector development as well as trade development;
- (d) facilitating implementation of county policies and programs related to trade and private sector development;

- (e) facilitating the planning of county public-private sector consultative forums;
 - (f) addressing conflicts or challenges affecting the private sector in the county; and
 - (g) carrying out any other function as may be assigned by the Executive Member.
- (5) A member of the Committee may—
- (a) at any time resign from office by issuing notice of not less than three months in writing to the chairperson of the Committee; or
 - (b) be removed from office by the Executive Member, for-
 - (i) serious violation of the Constitution or any other written law;
 - (ii) gross misconduct, whether in the performance of the function of the office or otherwise;
 - (iii) physical or mental incapacity to perform the functions of office;
 - (iv) incompetence; or
 - (v) Bankruptcy.

County Public-Private Sector forum

10. (1) There is established the county public-private sector consultative forum which shall consist of the following members;-

- (a) the Governor who shall be the convener of the Forum;
- (b) the County Executive member who shall be the secretary;
- (c) three members from each sub-county appointed by the County Executive Member in consultation with the Governor to represent the private sector;
- (d) the chief officer of the Department for the time being responsible for matters relating to trade or his representative;
- (e) one member from each class of private sector stakeholders nominated by Nakuru Business Association, Hawkers Association, Nakuru Chamber of Commerce and any other association which the County Executive Member deems fit to invite.

(2) Meetings—

- (a) Forum shall be in form of a meeting held not less than three (3) times in every financial year and not more than four months shall lapse between the date of one meeting and the date of the next meeting.
 - (b) Notwithstanding the provisions of Paragraph (a), the Governor may, upon requisition in writing by at least twelve (12) members convene a special meeting of the Forum at any time for the transaction of business of the Forum subject to sub-section (3).
 - (c) Unless three quarters of the total members of the Forum otherwise agree, at least fourteen (14) days written notice of every meeting of the Forum shall be given to every member of the Forum.
 - (d) the convener shall preside at every meeting at which he/she is present but in his/her absence, the County Executive Member shall preside at the meeting, in the absence of the County Executive Member the Chief Officer of the Department for the time being responsible for trade or his/her representative shall preside, but in the absence of the Chief Officer or his/her Representative the members present at the Forum shall elect one of their members to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the convener.
- (3) The county public-private sector forum shall—
- (a) be an avenue for consultation and dialogue between the county government and the private sector on matters affecting the private sector;
 - (b) provide the platform for the County Executive Committee to-
 - (i) articulate the county agenda, policies and programs being planned or implemented in order to promote private sector development;
 - (ii) report on the progress of addressing matters raised by the private sector.
 - (c) provide a platform for—
 - (i) mobilizing the private sector to participate in county development programs; and
 - (ii) consultation with the private sector on matters related to compliance with county and national laws.

Business and Industrial Parks or Centers

11. (1) There shall be established in the county such business and industrial parks or centers as are necessary to facilitate trade development.

(2) The business and industrial parks or centers established under this section may include—

- (a) technology parks;
- (b) business incubation parks;
- (c) Special economic zones which may target general business processes or manufacturing sectors; and
- (d) special services zones.

(3) The County Executive Committee shall in collaboration with the National government, private sector and other stakeholders take appropriate measures to facilitate the development and operationalization of the businesses and industrial parks developed

Infrastructure development

12. The County Executive Committee shall in each year prioritize the essential infrastructure to be developed for the financial year.

Micro and Small Enterprises Development

13. The Executive Member shall in collaboration with other public and private stakeholders develop and implement policies and programs for the development of micro and small enterprises in all sectors in liaison with the National Government.

PART IV—INVESTMENT BOARD

14. There shall be established a Nakuru County Investment Board.

15. The objectives and purpose of the Investment Board shall be to source for both international and local investors and to promote business meetings, investment conferences and exhibitions.

16. The Investment Board shall—

- (a) develop, implement and co-ordinate an Investment strategy;
- (b) identify investment needs and advise the business sector stakeholders on the investment trends;
- (c) develop and manage a policy to market the industrial business parks in Nakuru County;
- (d) organize and host meetings and provide incentives for investor conferences;

- (e) develop and implement memorandum of understandings for consideration by the Governor with the private sector and other government entities to promote investment;
- (f) establish and develop an investment zoning policy to regulate establishment of businesses;
- (h) perform any other functions that are ancillary to the object and purpose for which the Investment Board is established.

17.(1) There shall be a Board of Directors of the Investment Board which shall consist of—

- (a) a chairperson appointed by the Governor;
- (b) The Chief Officer of the Department for the time being responsible for matters relating to trade or his representative; shall be ex officio member
- (c) The Chief Officer of the Department for the time being responsible for matters relating to finance or his representative;
- (d) The County Director of Trade
- (e) the Chief Executive Officer of the Investment Board, who shall be the secretary appointed in accordance with section 21; and
- (f) Four other members nominated by the Kenya Association of Manufacturers, Nakuru Business Association, Hawkers Association, the Nakuru Chamber of Commerce or any other registered business association.

(2) The members of the Board of Directors shall be appointed at different times so that the respective expiry dates of their terms of office shall fall at different times.

(3) The Board of Directors shall ensure the proper and effective performance of the functions of the Investment Board.

(4) The Board of Directors may enter into partnership with another body or organization within or outside Kenya as it may consider appropriate, in furtherance of the objects of the Investment Board.

(5) The members of the Board of Directors shall be paid sitting allowances as the prescribed rates by the Nakuru County Public Service Management Board.

18. (1) A member of the Board of Directors appointed under section 17(1) (a) and (e) shall hold office for a term of three years but shall be eligible for re-appointment for one further term of three years.

(2) A member of the Board of Directors, other than an ex officio member may, at any time, resign from office by giving notice, in writing, addressed to the Executive Committee Member.

(3) A member of the Board of Directors, other than an ex-officio member, who is absent from three consecutive meetings of the Board of Directors without sufficient cause shall cease to be a member of the Board of Directors.

(4) Where a member of the Board of Directors is, for sufficient cause, unable to act as a member, the Executive Committee Member shall determine whether the inability would result in the declaration of a vacancy.

(5) Where there is a vacancy—

(a) under subsection (2) or (3) or section 10(2), or

(b) as a result of declaration under subsection (4), or

(c) by reason of the death of a member, another member shall fill the position subject to provisions of Section 17.

19. The conduct of the meetings of the Board of Directors shall be in accordance with the Second Schedule.

20. (1) A member of the Board of Directors who has an interest in a matter for consideration by the Board of Directors shall disclose, in writing, the nature of that interest and shall be disqualified from participating in any deliberations of the Board of Directors relating to that matter.

(2) A member who fails to disclose interest in a matter in accordance with subsection (1) shall cease to be a member of the Board of Directors.

(3) The Board of Directors shall ensure the proper and effective performance of the functions of the Investment Board.

(4) The Board of Directors may enter into partnership with another body or organization within or outside Nakuru County and Kenya as it may consider appropriate, in furtherance of the objects of the Investment Board.

21. Subject to this Act, the Board of Directors may, by resolution either generally or in any particular case, delegate to any committee of the Board of Directors or to any member, officer, employee or agent of the Investment Board, the exercise of any of the powers or, the performance of any of the functions or duties of the Board of Directors under this Act.

22. (1) The County Public Service Board shall, in consultation with the Board of Directors and subject to subsection (2), competitively recruit

and appoint a person to be the Chief Executive Officer of the Investment Board.

(2) A person shall not be qualified for appointment as the Chief Executive Officer under subsection (1) unless that person has a degree in marketing, business administration or related discipline and has at least ten years' experience at senior management level in Commerce or Business administration or related sector.

(3) The Chief Executive Officer shall hold office for a term of three years but shall be eligible for re-appointment for one further term of three years.

(4) The Board of Directors may appoint such officers and other staff as may be necessary for the proper and effective performance of the functions of the Investment Board.

23. (1) The Chief Executive Officer shall be responsible for the day to day administration of the affairs of the Investment Board and the performance of its functions under this Act.

(2) The Chief Executive Officer shall perform any other functions determined by the Board of Directors.

24. (1) There shall be a general fund of the Investment Board which shall vest in the Board of Directors and into which shall be paid—

- (a) monies appropriated by County Assembly of Nakuru for the purposes of the Investment Board;
- (b) monies that may accrue to or vest in the Board in course of the performance of its functions under this Act or any other law and approved by County Assembly;
- (c) Monies provided to the Board from the Fund;
- (d) Donations, grants and gifts made to the Board; and
- (e) Monies from any other source approved by the Executive Committee Member for the time being responsible for matters relating to finance.

(2) There shall be paid out of the general fund of the Investment Board any expenditure incurred by the Board in the exercise of its powers or the performance of its functions under this Act.

(3) The Board may recommend to the Executive Committee Member for Trade, proposal for investments of funds not immediately required for its purposes, who shall then forward the same, to the Executive committee member for Finance for approval.

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(4) The fund shall be used and appropriated only through the Board approved financial budget.

(5) The headquarters of the Board shall be in Nakuru County.

**PART V—ESTABLISHMENT OF THE DIRECTORATE OF
TRADE, MARKETS AND INDUSTRY**

Directorate of Trade, Markets and industry

25. There is established a Directorate of Trade, Markets and Industry.

Appointment

26. (1) The Directorate shall be headed by a Director of trade, Markets and Industry.

(2) The Director shall be appointed by the Executive Committee Member, on the recommendation of the County public service Board.

Functions and powers of Directorate

27. The functions of the Directorate shall be to—

- (a) advise the chief officer on all matters affecting the development of county trading relationships with other counties;
- (b) represent the chief officer in county meetings, conferences when delegated;
- (c) assist in the promotion of the county's produce and products; (d) advise on commodity pricing and marketing within the county;
- (e) facilitate the obtaining of funds for the purpose of trade development and promotion;
- (f) advice on the criteria for the development of industry and commerce to be applied in evaluating approvals;
- (g) administer laws relating to fair trading and consumer protection;
- (h) promote the development of small businesses and disseminate knowledge and commercial practice to the county; and
- (i) Evaluate investment proposals suitable for funding by the Government;
- (k) Issue a licence under this Act;
- (l) Withdraw or cancel a licence issued under this Act and
- (m) Impose any such conditions on a licence issued under this Act

- (n) The Directorate of Trade and markets may delegate the powers to the licencing officers, in writing, to undertake the duties in 31 (1) below.

Inspection and search

28. An officer may at any reasonable time, enter a place that he believes to be a place where goods are being manufactured, prepared or supplied or services are supplied and arranged and shall —

- (a) inspect goods or partly manufactured goods;
- (b) take a sample of anything to which the goods are manufactured or produced;
- (c) make inquiries of any person employed or has responsibility over that place; or (d) inspect and take copies of records required to be kept under this Act.

Confidential information

29. (1) An officer who divulges confidential information obtained during the course of inspection or search conducted under this Act commits an offence.

(2) This section shall not apply to information that is—

- (a) given as evidence in court proceedings;
- (b) given as part of a report prepared for the purpose of an investigation;
- (c) a matter of public record;

(3) A person who commits an offence under this section is liable to a fine not exceeding fifty thousand shillings, or a term of imprisonment not exceeding three months or to both.

Reports

30. (1) The Directorate shall, within three months after the end of each financial year, or within such longer period as the Chief Officer may in special circumstances allow, cause to be made and transmitted to the Executive Committee Member a report dealing generally with the activities of the Directorate during the preceding financial year.

(2) The Director shall from time to time furnish to the Chief Officer a report relating to a particular matter or matters investigated, or being investigated which require the special attention of the Executive Committee Member.

(3) The Executive Committee Member shall cause a copy of the report submitted under this section to be laid before the County Assembly.

PART VI – TRADE LICENSING/PERMIT

Licensing Officer

31. There shall be such licensing officers in the Department as shall be appointed by the County Public Service Board in consultation with the Executive Member and shall report to the Directorate of Trade and markets.

Requirements for Licence

32.(1) A person shall not carry out any trade or business in a trading area unless in accordance with the conditions of a licence issued under this Act.

(2) A person who operates a trade or business without a licence commits an offence and shall be liable—

(a) in the case of a registered business to a fine of fifty thousand shillings in the first instance and one hundred thousand shillings for any subsequent similar offence within the same year; and

(b) in the case of an individual to a fine of five thousand shillings and fifteen thousand shillings for any subsequent similar offence within the same year.

Applications for Licence

33.(1) A person intending to carry out any trade in the county shall make an application to the Department for a licence in the prescribed form.

(2) An applicant for a licence under this section shall be required to meet the required conditions under this Act or any other written law.

(3) Directorate of Trade and markets shall review and consider the application for a licence within seven days of the application and shall ascertain that—

- (a) the application is in respect to the respective trade or business classification in accordance with section 29;
- (b) the trade or business is lawful;
- (c) the premises in respect of which the application is made meets the conditions related to occupational health, environmental health and sanitation and the building code;
- (d) the applicant has a tax compliance certificate for the previous licensed period; and

(e) any other matter as may be prescribed.

(4) Directorate of Trade and markets may require an applicant to provide information related to compliance with written laws related to standards, manufacture, distribution or sale of certain products as may be prescribed and any such findings be filed by Directorate of Trade and markets for review.

Grant of a Licence

34.(1) Directorate of Trade and markets is satisfied that an applicant meets the requirements of this Act, Directorate of Trade and markets shall, upon the applicant paying the prescribed licence fee, grant the licence in the prescribed form.

(2) Where the Directorate of Trade and markets or licensing officer is not satisfied that the application meets the requirements of this Act, the Director Trade or delegated officer shall reject the application and shall within seven days of such rejection communicate to the applicant giving reasons for the rejection.

(3) An applicant whose application for a licence is rejected under sub section 2 may resubmit upon meeting the requirements of this Act.

(4) An applicant whose application has been refused may within fourteen days of such refusal appeal to the High Court.

Provisional licence

35. Where an application for a licence meets requirements of this Act but the licence under which the applicant has been carrying out business or trade has expired, the Directorate of Trade and markets may issue a provisional licence which shall be valid for a period not exceeding one month in order to enable the licensing officer process the licence under section 18.

Conditions of Licence

36. The Directorate of Trade and markets may impose such conditions on a licence which shall be endorsed on the licence as the Directorate of Trade and markets deems necessary in order to ensure compliance with this Act or any other written law.

Licence to Apply to only one Premise

37. For purpose of this Act, only one licence fee and one licence shall be issued for a premise unless more than one type of business is being operated under one premise, or parcel of land, in which instance further applications for the business type must be lodged, appropriate fee paid and the due process followed as prescribe under this Act.

Licence Fees

38. All applicants must pay the applicable licence fee determined by the current Finance Act before any licence is issued.

Validity of a Licence

39.(1) A licence issued under this Act shall expire on the thirty first of December in each year.

(2) Notwithstanding sub section (1), the Department shall classify the licence to be valid for one day, one week, one month, six months or one year from date of application and depending on the nature of business or trade.

Cancellation or Withdrawal of Licence

40. 1) Where the Directorate of Trade and markets is satisfied that a cancellation or withdrawal is justified through any contravention of any part of this Act by the applicant or the agent of applicant or through illegality of due process or through inspection whereby it is determined the nature of business does not conform to governing applicable laws or may be of adverse conditions or impending adverse conditions to the safety of the people and environment, the licence may be immediately cancelled and withdrawn and appropriate legal measures taken by the department.

(2) Directorate of Trade and markets shall within seven days of such cancellation or withdrawal communicate in writing to the applicant giving reasons for the cancellation or withdrawal and the remedial actions, if any, needed for reinstatement of licence.

(3) An applicant whose licence is cancelled or withdrawn under sub section 1 may reapply for licence upon meeting the requirements of this Act or through proof of remedial actions.

Appeal to Court

42. An applicant whose reapplication has been refused may within fourteen days of such refusal appeal to the High Court.

Licence to be displayed

43. The licence issued must be displayed clearly and within sight of any authorized officer or enforcement officer on scheduled or unscheduled inspection.

PART VII – TRADE REGULATION

44.(1) The Executive Member shall, with the approval of the County Executive Committee classify trades and businesses for the purposes of

administration of this Act and any other written law or matter that requires classification of businesses.

(2) The classification under sub section (1) shall be in accordance with the established standard or practice in the classification of business.

Trading areas

45.(1) The Executive Member shall, with the approval of the County Executive Committee prescribe the specific trading areas designated for each classification of trade or business.

(2) The designation of the trading areas shall be done in accordance with the spatial plan adopted for the specific area taking into consideration public health, environmental health, public order, safety and security matters.

(3) The Executive Member may specify the days or hours of operation for a class of business in the respective trading area.

(4) The Executive Member shall while designating trading areas take into consideration the welfare of persons with disabilities who are carrying out trade or business which shall include special and preferential treatment.

Classification of Trades and Businesses

46. (1) A person shall not carry out any trade or business in an area not designated as a trading area for the class of trade or business.

(2) A person who contravenes this section commits an offence and shall be liable to a fine of fifty thousand shillings.

Street trading and Hawking

47. Streets traders or hawkers shall carry out street trading or hawking only in areas designated as operational to street traders or hawkers by the Executive Member.

PART VIII—PUBLIC MARKETS

Establishment and control of markets

48(1) There shall be such public markets in each urban area or such area as the Executive Member may designate for the purposes of facilitating trade for the prescribed goods and services.

(2) The Executive Committee Member shall classify the markets on the basis of geographical position, type of goods or services traded, whether permanent or occasional.

49. The Directorate shall establish, maintain, manage and regulate public markets for the sale of marketable commodities.

50. The Executive Committee Member may designate certain days to be market days for markets established under this Act.

51. The Department shall ensure that each public market complies with public health and environmental health requirements and the Constitution.

52. The Department shall collaborate with national government entities responsible for standardization, quality control and counterfeit control.

Licenses of appointed places

53. (1) A person shall not hold space in the public market within the county without a license.

(2) The Executive Committee Member may grant a person a license to establish and use a designated area as a public market for the sale of marketable commodities.

(3) A person who contravenes subsection (1) commits an offence and is liable to a fine not exceeding fifty thousand shillings or to a term of imprisonment not exceeding three months or to both.

Stallage and charges

54. (1) The Directorate shall demand from every person—

- (a) using a stall or place in a public market; or
- (b) bringing into the market any marketable commodities which the Executive Committee Member may permit to be sold;
- (c) using a weighing or measuring instrument provided and kept in the market; such stallages and charges as maybe prescribed.

(2) The stallages and charges payable under sub-section (1) shall be paid at such times and in such a manner as may be prescribed.

(3) Where a person liable for payment of any stallage or charge does not pay on demand, the amount due may be recovered as a debt.

(4) A person who assaults a public officer or a person duly authorized to collect stallage or charge is liable to a fine of fifty thousand shillings; or to imprisonment for the term not exceeding three months or to both.

License for commercial activities

55. (1) For carrying out of any commercial activity from an open air market—

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- (a) a regular trader must obtain a license; and
- (b) a casual trader must pay such fee as may be prescribed.

(2) A license issued under subsection (1) shall be guided as provided under the second schedule.

Street hawkers

56. (1) A street hawker may carry out their commercial activity from designated place or street by moving from place to place.

Buskers

57. Selling by busking is permitted under this Act and shall be subject to the conditions set under the second schedule.

Disorder in the market

58. (1) A person in charge of a public market or a person authorized may remove from the public market, any person who misbehaves in a disorderly manner and who misconducts himself.

(2) A person who in a public market behaves in a disorderly manner or offensive manner commits an offense and is liable to a fine not exceeding fifty thousand shillings; or to a term of imprisonment not exceeding three months or to both.

Prohibited goods

59. (1) A market operator shall not sell or offer for sale prohibited goods in a public market. (2) A trader shall not sell or offer for sale prohibited goods. (3) This section shall not apply where the goods have been acquired directly from the producer, manufacturer, wholesaler, distributor or retailer of the goods and where the vendor provides to the operator prior to the sale or offering for sale at a commercial market, proof that the vendor is an authorized sales representative of the producer, manufacturer, wholesaler, distributor or retailer of the goods subject to issuance of a license by the Directorate.

Prescribed goods

60. (1) A trader shall not sell or offer for sale at a public market

(4) A person who contravenes this section commits an offence and is liable to a fine not exceeding fifty thousand or imprisonment to a term not exceeding six months.

Access to prescribed goods

61. Every trader shall, upon request, produce prescribed goods or provide access to prescribed goods to an officer of the Directorate.

Seizure and removal of prescribed goods

62. Where an authorized officer on reasonable grounds, is satisfied that the goods are —

- (a) prohibited goods; and
- (b) not being sold by an authorized sales representative of the producer, manufacturer, wholesaler, distributor or retailer of the goods, the officer may, without laying any information or obtaining any warrant, seize and remove those goods.

Sale of meat

63. (1) A person shall not sell fresh meat except in a public market or in such shops as is licensed by the Executive Committee Member.

(2) The Executive Committee Member may grant to any person a license to sell fresh meat at any premises other than a public market, upon payment of such sums and terms and conditions prescribed.

(3) There shall be no payable fee for a license to sell fresh meat where a premises is licensed as a slaughter house.

(4) A person shall not be allowed to sell meat unless he meets the standards provided for in the public health laws in force.

(5) A person who contravenes this section commits an offence and is liable for a fine of fifty thousand shillings or to a term of imprisonment for not more than three months.

Sale of marketable commodities and other goods

64. (1) Subject to section 23, a person shall not sell any marketable commodities in the entrance to any building or on the pavements of any road situated within the limits of a prescribed area for the purpose of this section.

(2) Subject to sub-section (1), a person shall not sell any marketable commodities in any part of any public place within the limits of a prescribed area.

(3) A person who contravenes subsection (1) commits an offence and is liable to a fine not exceeding twenty thousand shillings or to imprisonment for a period not exceeding three (3) months.

Exceptions

65. Section 21 shall not apply to the carrying of marketable commodities from place to place for the purpose of sale within a prescribed area except where —

- (a) any sale in accordance with the provisions of any law relating to hawkers of any marketable commodities at any building situate within any area prescribed for the purposes of that section;
- (b) any sale of any marketable commodities in any shop or in any public market held for public purposes within any area prescribed for the purposes of that section;
- (c) any sale of any marketable commodities in the entrance to of any building situated within any area prescribed for the purposes of that section in any case where the vendor first obtains the permission of the owner or occupier of such building to sell and so conducts their business so as not to cause obstruction to any person lawfully using such road; or
- (d) any sale of any marketable commodities as defined in section 23, in any part of any public place or within any area prescribed for the purposes of section 21, by any person to whom a permit is issued and who sells at the place and in accordance with the terms and conditions specified in the permit issued.

Issuance of permits

66. (1) Every person desirous of being issued a permit authorizing the person to sell in any part of a public place or within an area prescribed for the purposes of section 22, any permitted marketable commodities shall make an application to the Directorate.

(2) Every applicant shall produce evidence to the satisfaction of the Directorate as to their good character.

(3) A permit under subsection (1) shall be issued by the Directorate upon payment of the prescribed fee, and shall be valid for one year from the date of issuance.

(4) Every person to whom a permit is issued under subsection (3) must display the permit in a conspicuous place and produce their permit when required to do so by the Directorate or any officer authorized by the Directorate.

(5) An applicant for the permit under this section who is dissatisfied by a refusal of the Directorate to grant the permit may appeal to the Executive Committee Member.

PART IX— ENFORCEMENT

67. The enforcement of this Act shall be carried out in a manner that—

- (a) Recognizes and respects the private nature of persons or businesses licensed under this Act;
- (b) Supports and encourages compliance with the Act
- (c) Promotes trade and business operations; and
- (d) Respects and observes the rule of law and fundamental rights

Authorised Officer

68. (1) The Executive Member shall appoint such persons to be authorized persons for the purposes of Part IX of this Act and shall issue a certificate of appointment in the prescribed format. The appointed authorized officers shall report to Director of Trade for matters arising in enforcement.

(2) Notwithstanding the provisions in sub section (1), the county Director OF Trade and County public health officers shall be authorized officers under this Act

69. An authorized officer shall be responsible for ensuring compliance with this Act

Powers of an Authorised Officer

70. An authorized officer may enter any premises licensed under this Act or purporting to be licenced under this Act, whether such premises are licensed or not, for the purposes of carrying out inspections in compliance with this Act

Inspection and forms of inspections

71. An authorized officer entering any premises for the purposes of carrying out an inspection under this section shall, if so required, produce for inspection his certificate of appointment or any other valid official identification confirming credentials. The Inspections may be scheduled or non-scheduled.

72. Any applicant or the agent present at the time of inspection, at the location of inspection, who refuses to produce information as required by an authorized officer under section 34 or 37 commits an offence and is liable to a fine of twenty thousand shillings

PART X – GENERAL PROVISIONS**Regulations**

73. (1) The Executive Member may make regulations as required for the operationalization of the Act.

(2) Without prejudice to the generality of sub section (1), the regulations—

- (a) prescribe the establishment of town public-private committee;
- (b) prescribe the licence fees;
- (c) prescribe the forms;
- (d) prescribe matters related to compliance with written laws in regard to application for licence;
- (e) prescribe the classification of trades and businesses;
- (f) prescribe the designation of trading areas;
- (g) prescribe matters related to street trading;
- (h) prescribe the goods and services to be traded in a public market;
- (i) prescribe the appointment procedure for public markets management committees
- (j) prescribe the guidelines for allocation of trading space in public markets; and
- (k) prescribe the form of certificate of appointment for authorized officers
- (l) prescribe the design and format of the contents contained in the licence
- (m) prescribe direct authority of purchase of the preprinted licence

**FIRST SCHEDULE
APPROVED FORMS**

**Part A—APPLICATION FORM FOR THE GRANT /RENEWAL
OF A TRADE LICENCE**

1. Applicants name and description of business, profession, trade or occupation to be conducted.

2. Name under which business, profession, trade or occupation, is or is to be carried out.

3. If business is a partnership, give full names and addresses of all partners.

4. Give any registration details of business, profession, trade or occupation.

5. Address at which business, profession, trade or occupation is or is to be carried on.

6. List P.O. Box of the business, profession, trade or occupation.

7. Provide a description of the premises including address to which the licence is to apply.

8. Is the applicant a resident in Kenya?

9. Is the applicant an un-discharged bankrupt?

10. State the date on which it is desired to begin conducting the business, profession, trade or occupation or the number of the previous licence.

11. Please provide the following additional info (any pending litigation).

12. Please provide the following additional documents: as are relevant to the nature of business (KRA compliance certificate, KRA Pin Certificate, all other necessary documents – NEMA, NCA, WARMA, Professional body approvals etc).

13. Application fee is attached* or no application fee applies

I certify that the particulars given above are true and correct

Date

Signature of applicant

PART B**NAKURU COUNTY TRADE LICENCE ACT 2019**

A trade licence to conduct (insert business, trade, profession or occupation to be conducted) at the premises at (insert location of the premises to which licence applies) is granted for the period starting on (insert initial date of grant of the trade licence) and ending on 31 December (insert year) or is renewed for the period from 1 January to 31 December (insert year).

The holder of the licence is (insert name of person to whom the trade licence is granted or for whom it is renewed).

The licence is granted or renewed* subject to the (insert name of County Trade Licence Act (Year) and the rules made under that Act, and the conditions set out below:

[Insert conditions relating to the particular business, trade, profession or occupation to which the licence relates].

Granted by (insert name of County) 1. Director Trade/ licencing officer (append Name and Signature – validate with stamp), 2. Revenue officer (append name and signature – validate with stamp) (Insert Name of County) Trade Licence Act (year).

SECOND SCHEDULE**(SECTION 61 & 62 PROHIBITED GOODS AND PRESCRIBED GOODS****Prohibited goods**

These include but are not limited to—

- (a) Hides and skins;
- (b) Live animals other than poultry and fish within stalls provided;
- (c) Fresh meats and offal except within a market stall or shop licensed as a butcher's shop
- (d) Fresh fish except within a fish stall or shop licensed;
- (e) Food which has been cooked or otherwise prepared for

- (j) Weaponry
- (k) Poison or other toxic substance
- (l) Quarantined crops and seeds

2. Prescribed goods Prescribed goods include but not limited to—

- (i) Dairy
- (ii) fish
- (iii) plants and plant products
- (iv) eggs
- (v) meat and meat products
- (vi) grains
- (vii) animal food
- (viii) organic produce
- (ix) fresh fruits and vegetables
- (x) dried fruits
- (xi) pharmaceuticals (raw animal material)
- (xii) charcoal

- (a) A trader shall maintain with respect to the prescribed goods sold or offered for sale by the vendor the information and for the period prescribed by the regulations.
- (b) Before a trader sells or offers for sale prescribed goods at a public market the trader shall provide to the operator of the public market the information required to be maintained pursuant to subsection (a).
- (c) A market operator shall not operate a public market at which prescribed goods are sold or offered for sale unless the information required to be maintained by a trader pursuant to this section has been provided to the operator.
- (d) A trader or market operator shall not falsify, obliterate or destroy the information required to be maintained pursuant to this schedule.