

SPECIAL ISSUE

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA

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REPUBLIC OF KENYA

**KISUMU COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2015

NAIROBI, 29th June, 2015

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**THE KISUMU COUNTY TRADE LICENSING ACT,
2015**

No. 6 of 2015

Date of Assent: 24th June, 2015

Date of Commencement: 29th June, 2015

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**THE KISUMU COUNTY TRADE LICENSING ACT,
2015**

**AN ACT of the County Assembly of Kisumu to provide
for the grant of trade license, control and licensing
of business premises**

ENACTED by the County Assembly of Kisumu as
follows—

1. This Act may be cited as the Kisumu County Trade Act, 2015. Short title

2. In this Act, unless the context otherwise requires; Interpretation.

“County Executive Member” means the County Executive Member for the time being in charge of trade/Commerce;

“directorate” means the directorate of Trade/Commerce established in section 3 of County Trade and Markets Act;

“Trade License” means a license granted to conduct business.

“licensee” means a person or personal entity to whom a License has been issued under this Act; and

“Trade” means to carry on the business of selling goods or services. In this Act, Trade and Commerce will be used interchangeably.

“approved form” means a form approved by the licensing authority

“authorized officer” is an officer authorized to perform any action under this Act

“business” includes a profession, trade or occupation’

“holder” in relation to the trade license, means the person to whom the license is granted”

“license fee” means the fee payable for grant or renewal of trade license”

“licensing authority” means an officer of the county government appointed under section 5 (1);

“prescribed” means prescribed by the rules made under this Act;

“receiver of revenue” has the same meaning as in the Kisumu County Revenue Administration Act 2014.

PART II—TRADE LICENSES

Section A

3. There shall be within the Directorate of Trade a division to be known as the Licensing Division. Establishment of a Division.

Section B

4. No person shall carry out any type of trade or business within the County under this Act without a License issued by the Trade licensing Division of the County Government. Licenses.

5. (1) The county Executive Member responsible for trade must appoint an officer of the County Government as the licensing authority Licensing Authority

(2) The licensing authority has the functions and powers provided for by or under this Act.

6. (1) For the purposes of this Act the following Licenses may be issued under this Act— Classification of Licenses.

- (a) a trading (wholesale) License;
- (b) a trading (retail) License;
- (c) a hawker's License;
- (d) an agent's License;
- (e) a manufacturing License.
- (f) a consolidated/ Single businesses License for all types of businesses carried out within the County of Kisumu.
- (g) license for professional services
- (h) any other license issuable to a person carrying out any business or trade within the precincts of the County jurisdiction

(2) No trading License shall be required in any event for—

- (a) the trade of a planter, farmer, gardener, dairyperson or agriculturist in respect of the sale of their own dairy or agricultural produce;
- (b) the trade of a person in respect of goods made by them by their handicraft in or on any premises where they normally resides, or by the handicraft

their employees or members of their family;

- (c) any other trade which the Executive Member may, by Regulation, declare to be a trade for which no trading License is required under this Act; or

7. Requirement for a trade license

Requirement for
Trade Licence.

(1) A person must not conduct a business within the County, unless the person is the holder of trade license for that business

(2) Any person who contravenes the provisions of section 7 (1) shall be liable to a fine not exceeding One Hundred Thousand Kenya Shillings or to imprisonment not exceeding six months or to both.

8. (1) A person may apply for the grant or renewal of a trading License in a prescribed form.

Application for
grant or Renewal of
a Trading Licence.

(2) The application must be made to the licensing authority in the County.

(3) The application must contain such information and be accompanied by such documents as are required by the prescribed form.

(4) Application must be accompanied by the prescribed application fee (if any)

(5) An application may be made in an electronic format approved by the licensing authority.

(6) The licensing authority may before determining an application, require the applicant to furnish to the licensing authority such additional information or documents as is necessary to enable the application to be determined.

(7) If any application fee has been prescribed, the fee is not refundable.

(8) Where the application is for the renewal of a trading or business License, the application must be accompanied by the trading or business License or, if that is not practicable, by a statement of the reasons for the failure to provide the License.

9. (1) where an application for the grant of a trading License is made to the directorate in accordance with this section, directorate must grant the License if it appears to the Directorate that —

Determination of
Application for a
grant or renewal of
a Trade License.

- (a) the applicant is at least 18 years old,
- (b) the licensing authority is satisfied that the applicant has complied with all laws relating to health, Environment hygiene and safety applicable to the trade license applied for
- (c) no trading License held by the applicant has been forfeited in the period of five years ending with the day the application was made, and
- (d) the applicant has not been convicted of any relevant offence.
- (e) Where applicable, the applicant has obtained all other consents and/or approval to carry on the trade for which the license is sought.

(2)

Grant of a license

- (a) The license fee must be paid to the receiver of revenue
- (b) The trade license is to be in an approved form and is granted subject to such conditions (if any) as are specified in the trade license.
- (c) All licenses expire as at 31st December of the Year of issue.
- (d) The annual license fee to be paid in full as prescribed for the license applied irrespective of the time of the application.

(3)

Renewal of license

- (a) The holder of a trade license may, before the expiry of the trade license apply in the prescribed form for the renewal of the trade license
- (b) The licensing authority must grant an application for renewal of a trade license if—
 - (i) the application has complied with all laws relating to health, Environment hygiene and safety applicable to the trade license and
 - (ii) The license fee payable for the renewal of the trade license has been paid to the receiver of revenue.
 - (iii) The licensing authority may, before determining

to furnish to the licensing authority such additional information or documents as is necessary to enable the application to be determined

(iv) A trade license is to be renewed for a calendar year.

10. (1) The Directorate may refuse to renew or issue a License—

Refusal to issue or
renew License.

- (a) to a person who is serving a conviction of an offence under this Act, or of any other offence that, in the opinion of the directorate, involves a dishonest act or intent on the part of the offender;
- (b) to a person whose License under this Act has been cancelled or is, at the time of application, under suspension; or
- (c) if it appears to it that the applicant fails to meet the condition in paragraph (a) and (b) of section 10

(2) The directorate shall refuse to renew a License if the directorate has become aware of any circumstances that would require it to refuse to issue a License to the applicant.

(3) No License may be issued under this act if there is an objection by the Public Health Department, Kenya Police or any National Security Agency, or National Environment Management Authority until such objection has been successfully appealed against or the Complaint remedied.

(4) Where the directorate refuses to issue or to renew a License, the directorate shall state in writing its reasons for the refusal.

(5) Any person who is dissatisfied with the decision of the Licensing division may appeal to the Executive Member in writing who will hear the appeal and make a final determination.

(6) Any person who feels aggrieved by the decision of the Executive Member may by petition apply to the High Court for review.

11. A License under this Act is not assignable.

Assignment of
License.

12. (1) The directorate of trade must keep a register containing—

Requirement to
keep a Register.

- (a) a record of each trading or business License issued by it;
- (b) a record of each temporary event notice received by it;
- (c) such other information as may be prescribed.

(2) Regulations may require a register kept under this section to be in a prescribed form and kept in a prescribed manner.

(3) Each directorate must provide facilities for making the information contained in the entries in its register available for inspection, in a legible form, by any person during office hours and without payment.

(4) The directorate must supply them a copy of the information contained in any entry in its register in legible form if requested to do so by any person.

(5) The directorate may charge such reasonable fee as it may determine in respect of any copy supplied under subsection (4).

13. (1) The directorate or the Executive Member may impose conditions and restrictions on a license when issuing or renewing a License. Conditions of a License.

(2) The conditions in respect of licenses must be reasonable and in accordance with the law.

(3) A trade License issued under this Act shall not be transferrable unless with a prior written consent of the Licensing Officer on application in a prescribed form and approval of the Directorate and subject to supply of further information related to the said transfer and payment of requisite fees.

(4) The Directorate shall issue a Consolidated/ single Business License to a trader who conducts different trades within the same premises which are accessed through one door but the same does not apply to exhibitions.

14. Except while it is suspended by or pursuant to this Part, a trader's License continues in force for a period of one calendar year unless— Duration and operation of License

- (a) it is cancelled , or revoked or surrendered pursuant to, this Part; or

(c) The dealer, being a body corporate, is dissolved.

15. Every holder of a trading License shall keep his or her License exhibited in a conspicuous place of his or her trading premises. Exhibition of Trade License.

16. (1) A Licensed trader shall, not later than the prescribed date in each year pay to the directorate the prescribed annual License fee. Annual Fee.

(2) Any trader who shall not have taken out a trade License by 31st March of each succeeding year commits an offence and shall be liable to pay a fine as is provided for under the County Finance Act.

(3) Any Licensed trader who fails to display a trade License issued under this Act in the business premises commits an offence and shall be liable to a fine of Three Thousand Kenya shillings or to a term of imprisonment not exceeding one month or both.

(4) The Executive Member shall determine and publish the license fees with the approval of the County Assembly for each businesses and trades and review the same from time to time.

17. (1) Where there is a breach of any condition imposed under this Act, the Directorate may revoke or suspend a License. Cancellation and suspension of License.

(2) Subject to subsection (1), the Directorate may suspend or revoke a License if there is a good reason or cause for such action either by petition by any resident of the County or on its own motion.

(3) The licensing authority may cancel or suspend a trade license if it is satisfied that; the conduct of the business is endangering the health or safety of persons who live or work in the neighbourhood of premises from which the business is conducted.

(4) If a trade license is cancelled or suspended, the holder of the license must immediately cease to conduct the business

Penalty : A fine not exceeding 100,000 shillings

(5) If the licensing authority revokes the suspension of the trade license, the holder may resume conducting the business.

(6) Any person who carries on any trade or business within the Kisumu County before first obtaining a License under this Act shall be guilty of an offence and shall be liable to a fine not exceeding One Hundred Thousand Kenya Shillings or to a term of imprisonment not exceeding six months or to both.

18. The holder of a trade license may surrender the license by returning it to the licensing authority, but no refund of the license fee is payable. Surrender of Licenses.

19. (1) A person aggrieved by a decision of the licensing authority may appeal by writing to the County Executive Member responsible for trade against the decision. Transfer of Licenses.

Section C

20. The County Executive Member may from time to time make regulations prescribing - Regulations.

- (a) the form and contents of an application for a license;
- (b) the manner of application for a license;
- (c) the form and contents of a license;
- (d) the fees to be paid for each trading license;
- (e) the procedure for granting a License of any other businesses not specified under this Act;
- (f) manner in which a license is to be displayed;
- (g) Ways to vary any term or condition to which a License is subject or impose new terms or conditions.
- (h) Requirements of and conditions of business premises.
- (i) Places of establishment of various businesses.
- (j) Rules for and Control of Kiosks and prohibited businesses.

21. (1) An authorized officer may —

- (i) enter any premise for the purpose of Granting or renewing a trade license; or
- (ii) Finding out whether the holder of a trade license is complying with the license, or this Act or the

Powers of
Authorized
Officers.

- (a) Search the premises or any part of the premises ;
and
- (b) Inspect or examine anything in or on the premises;
and
- (c) Seize anything that may afford evidence of
commission of an offence against this Act; and
- (d) Take extracts from, and take copies of, any
documents in or on the premises; and
- (e) Take into or onto the premises such persons,
equipment and materials as the inspector
reasonably requires for the purpose of exercising
any of the powers mentioned in paragraphs (a) to
(e)
- (f) Require the holder of the license, or any person in
or on the premises to give the inspector reasonable
assistance on relation to exercise of the powers
mentioned in paragraphs (a) to (f).
- (g) However, an authorized officer must not enter
premises unless—
 - (i) The owner or occupier consents to the entry; or
 - (ii) The entry is made when the premises are open
for the conduct of business otherwise open for
entry ; or
 - (iii) The authorized officer suspects on reasonable
grounds that an offence is being committed
against this Act in the premises.

SECTION D

22. The following fees shall be levied in respect of
businesses described hereunder in the County Finance Bill
2015.

Trade Licenses.

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