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LAIKIPIA COUNTY TRADE BILL, 2014

A Bill for

AN ACT of County of Assembly of Laikipia to provide for the promotion, development and regulation of trade and for connected purposes.

ENACTED by the County Assembly of Laikipia, as follows—

PART I — PRELIMINARY

1. This Act may be cited as the Laikipia County Trade Act, 2014. Short title.

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

“business climate” means the general economic development within the society of business enterprises and includes the attitude and practice of government, political leadership, labour organizations and financial institutions toward businesses and business activity, the taxation regime and other economic indicators affecting business enterprises;

“Department” means the county department responsible for trade as established by the County Executive Committee;

“Exectuive Member” means the County Executive Committee Member responsible for trade;

“licence” means a license 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.

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 –

Purpose of the Act.

- (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

4. The Department shall be responsible for–

Functions of the Department.

- (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 the implementation of this Act; and
- (n) carrying out any other functions as may be assigned by the Executive Member.

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 Governments Act, 2012.

Staff.

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—

Trade status report.

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

7. (1) The Department shall promote and facilitate trade development through—

Trade promotion and development.

- (a) providing business support and advisory services;
- (b) carrying out regular assessment on business climate;
- (c) reviewing policies and practices that affect business climate and advising the County Executive Committee on appropriate measures to be adopted for promoting trade development;
- (d) facilitating access to markets for goods and services produced in the county;
- (e) facilitating and promoting cross border trade with other neighbouring counties;
- (f) in collaboration with other stakeholders organizing trade and market fairs for promoting products;
- (g) providing sectoral and inter sectoral

linkages among private sector players
within and outside the county; and

- (h) carrying out any other function as may be
assigned by the Executive Member.

8. (1) There is established the Interdepartmental
Trade Development Committee.

Interdepartmental Trade
Development
Coordinating
Committee.

(2) The Interdepartmental Committee shall consist
of –

- (a) all chief officers responsible for
administering policy matters affecting
trade as designated by the County
Executive Committee; and
- (b) any officer responsible for a department
of national government in the county
that is responsible for policy matters
affecting trade in the county.

(3) The Chief Officer responsible for trade shall be
the chairperson of the Interdepartmental Committee and
the county officer in charge of trade in the department
shall be the Secretary.

(4) The Interdepartmental Committee shall be
responsible for –

- (a) coordinating implementation of inter
sectoral policies and programs related to
trade;
- (b) developing of common strategy for trade
development;
- (c) advising the County Executive
Committee on appropriate policies and
programs for promoting and facilitating
trade development;

- (d) coordinating implementation of inter sectoral policies and programs related to trade;
- (e) facilitating collaboration with national government on trade development; and
- (f) carrying any other function as may be assigned by the County Executive Committee.

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

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

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

County Public-Private
Trade Sector Committee.

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

- (a) the Executive Member who shall be the chairperson;
- (b) three persons, one from each sub county appointed by the Executive Member in consultation with the Governor to represent the private sector;
- (c) the Chief Officer responsible for trade who shall be an *ex-officio* member and the secretary to the Committee;
- (d) one person representing micro and small enterprises appointed by the Executive Member in consultation with

the Governor; and

- (e) not more than two Executive Members designated by the County Executive Committee as *ex officio* members.

(3) A person shall not be appointed under –

- (a) subsection (2) (a), unless the person–
 - (i) possesses 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.

- (b) subsection (2) (b) and (d) unless the person –
 - (i) possess a secondary education certificate; 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 functions of the office or otherwise;

(iii) physical or mental incapacity to perform the functions of office;

(iv) incompetence; or

(v) bankruptcy.

10. (1) The Executive Member may establish in each town the Public-Private Trade Sector Committee.

Town Public-Private
Trade Sector
Committees.

(2) The Executive Member shall prescribe the procedure of establishment of the town committee.

(3) The functions of a town Committee shall be similar to the functions of the County Public-Private Sector Committee with the necessary modifications.

11. (1) There is established the county public—private sector consultative forum.

County public-private
sector forum.

(2) The Governor shall be the convenor of the forum.

(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 related to trade and private sector development; and

(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.

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

Business and industrial parks or centers.

(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 specific 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 business and industrial parks established under this section.

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

(5) The County Assembly shall in each year appropriate such funds as shall be appropriate for providing essential infrastructure described under this

section.

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.

Micro and small enterprises development.

PART IV—TRADE LICENSING

14. 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.

Licensing officers.

15. A licensing officer shall have powers to-

Powers of the licensing officers.

- (a) issue a licence under this Act;
- (b) withdraw or cancel a licence issued under this Act; and
- (c) impose such conditions on a licence issued under this Act.

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

Requirement for licence.

(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 twenty thousand shillings in the first instance and fifty 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.

17. (1) A person intending to carry out any trade or

Application for licence.

business 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) The licensing officer shall review and consider the application for a license within fourteen 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 a 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; and

(d) any other matter as may be prescribed.

(4) The licensing officer 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.

18. (1) Where the licensing officer is satisfied that an applicant meets the requirements of this Act, the officer shall, upon the applicant paying the prescribed licence fee, grant the licence in the prescribed form.

Grant of licence.

(2) Where the licensing officer is not satisfied that the application meets the requirements of this Act, the officer shall reject the application and shall within fourteen days of such rejection and shall communicate to the applicant giving reasons for the rejection of the

application.

(3) An applicant whose application for a licence is rejected under subsection (2), the applicant may re-submit an application upon meeting the requirements of this Act.

19. Where an application for a licence meets requirement of this Act but the licence under which the applicant has been carrying out business or trade with has expired, the licensing officer 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.

Provisional licence.

20. (1) The licensing officer may impose such conditions on a licence which shall be endorsed on the licence as the licensing officer deems necessary in order to ensure compliance with this Act or any other written law.

Conditions of a licence.

(2) The licensing officer shall sufficiently specify on the licence the conditions imposed under this section.

21. A licence granted under this Act shall not apply to more than one business.

Licence to apply to only one premises.

22. The license fees payable under this Act shall be established on principles of equity and fairness.

Licence fees.

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

Validity of a licence.

(2) Notwithstanding subsection (1), the Department shall classify the licences to be valid for one day, one week, one month, six months or one year depending on the nature of business or trade.

24. The licensing officer may withdraw or cancel a licence where the licensee fails to comply with the requirements of this Act.

Cancellation or withdrawal of licence.

25. (1) Where a licensee sells or leases or otherwise disposes of the premises or business specified in the licence, the licensee may apply in writing to the Department for the transfer of the licence to the purchaser or lessee or otherwise of such premises, and the licensing

Transfer of licence.

officer may, if the officer deems fit, grant a transfer of such licence.

26. (1) A licensee under this Act shall—

Licence to be displayed.

(a) where a licence is granted in respect of premises, prominently and conspicuously display on the premises to which it relates; or

(b) where the licence is granted in respect of an individual without premises, be in possession of the licence at all times and shall produce the licence to a licensing officer whenever required.

(2) A licensee who fails or neglects so to display the licence commits an offence and shall be liable to a fine not exceeding five thousand shillings.

27. An applicant whose application for a new licence, to renew or transfer a licence has been refused or cancelled may within twenty-one days of such refusal appeal against such refusal to the High Court.

Appeal to Court.

PART V—TRADE REGULATION

28. (1) The Executive Member shall, with the approval of the County Executive Committee classify trades and business for the purposes of administration of this Act and any other written law or matter that requires classification of businesses.

Classification of trades and businesses.

(2) The classification under subsection (1) shall be in accordance with the established standard or practice in the classification of businesses.

Trading areas

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

Designation of trading areas.

(2) The designation of the trading areas shall

accord 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.

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

Trading in a non designated area.

(2) A person who contravenes this section commits an offence and shall be liable to a fine not exceeding ten thousand shillings.

31. (1) A person may carry out a trade or business in a designated street as may be prescribed.

Street trading.

(2) A person shall not carry out any trade or business in a non designated street or sell any goods or supply services that are prohibited to be sold or supplied in a street.

(3) A person who contravenes this section commits an offence and shall be liable to a fine not exceeding five thousand.

Public markets

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

Public markets.

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

occasional.

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

Market days.

34. (1) Each public market established under this Act shall be managed by a management committee which shall be appointed in accordance with the prescribed procedure.

Market management committee.

(2) The market management committee shall be responsible for—

- (a) assigning trading space or market stalls to traders operating in the market;
- (b) coordinating the operations of the market;
- (c) providing liaison between the traders and the Department;
- (d) managing disputes between traders operating in the market; and
- (e) carrying out any other function as may be assigned by the Executive Member.

35. (1) The Executive Member shall prescribe the guidelines for managing the allocation of trading space or operating area within a market.

Allocation of trading space within market.

(2) The guidelines shall ensure that —

- (a) only persons operating trade in the market are allocated trading space;
- (b) allocation of trading space is conducted in a transparent manner;

(c) that persons with disabilities are accorded preferential treatment; and

(d) there is gender balance in allocation of trading space.

(3) The allocation of trading space shall not promote anti-competitive behavior or tendencies in the market.

36. The Department shall ensure that each public market complies with public health and environmental health requirements.

Compliance with public and environmental health requirements.

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

Collaboration on compliance with standards and anti-counterfeit requirements.

PART VI- ENFORCEMENT

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

Principles of enforcement.

(a) recognizes and respects the private nature of persons or businesses licenced 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.

39. (1) The Executive Member shall appoint such persons to be authorized officers for the purposes of this Act.

Authorized officers.

(2) The Executive Member shall issue a certificate of appointment to a person appointed under this

section in the prescribed form.

(3) Notwithstanding the provisions of this section, the county public health officers shall be authorized officers for the purposes of this Act.

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

Roles of authorized officers.

41. (1) An authorised officer may enter any premises licensed under this Act or carrying out any trade or business, whether such premises are licenced or not for the purposes of carrying out inspections in compliance with this Act.

Inspections.

(2) An authorised officer entering any premises for the purposes of carrying out an inspection under this section shall, if so required, produce for inspection by the person who is or appears to be in charge of the premises the certificate issued to him under section 40(2).

42. In carrying out an inspection under this Act, an authorized officer shall have power to—

Powers of an authorized officer.

- (a) enter any premises licenced under this Act or carrying out any trade or business whether such premises are licenced or not;
- (b) carry out an inspection of the premises or any documentation required under paragraph (c); or
- (c) require any person in such place to produce for inspection any document or information related to compliance with the Act.

43. The inspections carried out under this Act may be scheduled or non-scheduled.

Forms of inspections.

44. A person who refuses to produce information as required by an authorized officer under section 39

Failure to produce information.

commits an offence and is liable to a fine not exceeding five thousand shillings.

PART VII- GENERAL PROVISIONS

45. (1) The Executive Member may make Regulations. Regulations generally for the better carrying out of the objects of this Act.

(2) Without prejudice to the generality of subsection (1), the Regulations may—

- (a) prescribe the establishment of town public-private sector town committees;
- (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 market's management committees;
- (j) prescribe the guidelines for allocation of

trading space in public markets; and

- (k) prescribe the form of certificate for authorized officers.

46. A trade licence or a business permit issued and Savings.
is valid prior to the coming in to force of this Act, shall have effect at the coming into force of this Act as if granted under this Act and on such terms and conditions applicable at the time of issuing the trade licence or the permit.

MEMORANDUM OF OBJECTS AND REASONS

Firstly, this Bill seeks to implement section 7 of Part 2 of the Fourth Schedule to the Constitution on trade development and regulation of trade.

Secondly, this Bill seeks to provide for a framework for developing and promoting trade and local economic development.

Part I of the Bill provides for preliminary matters such as interpretation and the object of the Bill.

Part II of the Bill provides for administration matters. The Part assigns functions to the Department responsible for trade which include promoting development of trade, regulating issuing licences, facilitating private sector development, facilitating public-private sector engagement and facilitating acquisition of technology as well as carrying out research and data collection.

The Part provides for the preparation of annual trade status report, which will cover matters related to trade development and growth during the year.

Part III of the Bill provides for trade promotion and development. The Part obligates the Department responsible for trade to promote and

facilitate trade development through matters such as providing business support and advisory services, carrying out regular assessment on business climate and facilitating access to markets for goods and services produced in the county.

The Part provides for establishment of the Inter-departmental Trade Development Coordinating Committee which consists of all Chief Officers who are responsible for administering policy matters affecting trade and any officer of national government responsible matters related to trade in the county. The Committee is obligated to coordinate implementation of inter sectoral policies related to trade as well as coordinating program implementation.

The Part provides for establishment of the County Public-Private Trade Sector Committee, which consists of members drawn from public and private sector. The Committee is responsible for coordination collaboration between county government and the private sector and facilitating implementation of the policies and programs.

The Part also provides for establishment town public-private sector trade committees, the county public-private sector forum, development of industrial and business parks, trade supportive infrastructure and development of micro and small enterprises.

Part IV of the Bill provides for trade licensing. The Part provides for appointment of trade officers as well as their powers and duties. The Part also provides for process for application and grant of trade licences and consequential matters.

Part V of the Bill provides for trade regulation. The Part provides for classification of trades and businesses, designation of trading areas, regulation of street trading, establishment and regulation of markets including establishment of market management committees. It also provides for collaboration with national government in promoting compliance with national standards.

Part VI of the Bill provides for enforcement provisions. It provides for the principles to be adopted in enforcing the law, for appointment of authorized officers and the process of carrying out inspections.

Part VII of the Bill provides for general provisions. It provides for the powers of the Executive Member to make Regulations and provides for savings provision on the licences and permits issued prior to the coming into force of the Act.

Dated the 22nd September 2014.

JANE PUTUNOI,
*County Executive Member, Trade, Commerce,
Tourism and Enterprise Development.*