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REPUBLIC OF KENYA

***NANDI COUNTY GAZETTE
SUPPLEMENT***

BILLS, 2016

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THE NANDI COUNTY SINGLE BUSINESS LICENCE BILL, 2016

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The Nandi County Single Business Licence Bill, 2016

**THE NANDI COUNTY SINGLE BUSINESS LICENCE
BILL, 2016**

A Bill for

**AN ACT of the County Assembly of Nandi to provide
for the grant of single business licences, and for
connected purposes**

ENACTED by the County Assembly of Nandi as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Nandi County Single Business Licence Act, 2016. Short title.

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

“Approved form” means a form set out in the Second Schedule or approved by the chief licensing officer;

“Authorized officer” has the meaning given by section 12;

“Business” includes a profession, business or occupation, but does not include regulation of a profession, business or occupation;

“Chief licensing officer” means the chief officer for the time being responsible for trade;

“County public officer” has the same meaning as in the County Governments Act, 2012; [No. 17 of 2012]

“Holder”, in relation to a single business licence, means the person to whom the single business licence is granted or to whom the single business licence is transferred or assigned;

“Licence fee” means the fee payable for the grant or renewal of a licence for a business, trade or premises;

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

“Receiver of revenue” has the same meaning as in the Public Finance Management Act, 2012, and the Nandi County Revenue Administration Act, 2016; [No. 18 of 2012]

“Single business licence”, in relation to this Act, means a licence granted under this Act to conduct the business; and

“Premises” means a house or building, together with its land and outbuildings, occupied by a business.

PART II – LICENCING PROCESS

3. (1) The Chief Licensing Officer may approve forms for the purposes of this Act and amend the forms in the Second Schedule.

Powers of the chief licensing officer.

(2) The Chief Licensing Officer may, by instrument in writing, delegate all or any of his or her functions or powers under this Act to a County Public Officer, except this power of delegation.

4. (1) A person shall not conduct a business within the county, unless the person is the holder of a single business licence for that business as per the Second Schedule.

Requirement for a single business licence.

(2) If a person contravenes sub-section (1), the person is guilty of an offence punishable on conviction by a fine not exceeding five hundred thousand shillings or imprisonment not exceeding one year.

5. (1) An application for the grant of a single business licence shall—

Application for licence.

- (a) be lodged with the Chief Licensing Officer;
- (b) be in the approved form set out in the Second Schedule;
- (c) contain such information and be accompanied by such documents as are required by the approved form;
- (d) be signed in a manner specified in the approved form; and
- (e) be accompanied by the prescribed application fee.

(2) An application may be made and paid for in an

electronic format approved by the Chief Licensing Officer.

(3) The Chief Licensing Officer may, before determining an application, require the applicant to provide such additional information or documents as is necessary to enable the application to be determined.

(4) The application fee is not refundable.

6. (1) The Chief Licensing Officer may grant an application for a single business licence if—

Grant of licence

(a) the Chief Licensing Officer is satisfied that the applicant has complied with all laws relating to health, public morality, hygiene and safety applicable to the single business licence applied for; and

(b) the licence fee has been paid to the Receiver of Revenue.

(2) A single business licence is to be in the approved form and is granted subject to such conditions (if any) as are specified in the single business licence.

(3) Subject to section 8, the initial term of a single business licence starts on the date on which the single business licence is granted and ends on 31st of December that year.

8. (1) The Chief Licensing Officer may suspend, for a specified period, or cancel a single business licence if he or she is satisfied that—

Cancellation or
suspension of
licence.

(a) the conduct of the business is endangering the health or safety of persons who live or work in the neighbourhood of the premises from which the business is conducted; or

(b) the holder of the single business licence has breached a condition of the single business licence.

(2) If the Chief Licensing Officer cancels or suspends a single business licence, or revokes any such suspension, he or she shall give the holder of the licence written notice of the cancellation or suspension, including

the period of the suspension, or revocation, together with a statement of the reasons for the decision.

(3) If a single business licence is cancelled or suspended, the holder of the licence shall immediately cease to conduct the business.

(4) If a person contravenes subsection (3), the person is guilty of an offence punishable on conviction by a fine not exceeding five hundred thousand shillings, or imprisonment not exceeding 1 year, or to both.

(5) If the Chief Licensing Officer revokes the suspension of a single business licence, the holder of the licence may resume conducting the business.

(6) The period specified under sub-section (1) shall be specified in regulations.

9. The holder of a single business licence may surrender the licence by returning it to the Chief Licensing Officer, but no refund of the licence fee is payable.

Surrender of
licence.

10. The holder of a single business licence may subject to the approval of the Chief Licensing Officer transfer or assign the licence upon giving written notice in the approved form.

Transfer or
assignment of
licence.

11. (1) A person aggrieved by a decision made pursuant to the provisions of this Act may in writing request the Chief Licensing Officer to review the decision.

Review and
appeals

(2) If a party is still aggrieved after pursuing the option under sub-section (1) above, the party may appeal to the County Executive Committee Member responsible for trade against the decision.

(3) The County Executive Committee Member responsible for trade may confirm, reverse or modify the decision appealed against, and give such directions to the Chief Licensing Officer as may be necessary to give effect to the member's decision.

(4) The Chief Licensing Officer shall comply with

any direction given under subsection (3).

(5) Nothing in this Section shall be construed to bar any aggrieved person from seeking any other legal redress.

(6) Notwithstanding the provisions of sub-section (5), such an aggrieved person shall first exploit administrative action before seeking judicial and/or arbitral redress.

PART III—AUTHORIZED OFFICERS AND ADMINISTRATIVE DUTIES

12. (1) The Chief Officer responsible for trade and industrial development may appoint persons as authorized officers for the purposes of Part III of this Act including trade development and regulation.

Authorized officers

(2) An authorized officer shall have the powers set out in the First Schedule.

13. (1) The Chief Licensing Officer shall establish and maintain a register of single business licences which is to be available for inspection by the public during usual government office hours.

Register.

(2) The register shall contain such information as is determined in writing by the Chief Licensing Officer, but shall not include commercial-in-confidence information.

(3) The Chief Licensing Officer shall supply details of the copy of the register to the Chief Officer responsible for trade and industrial development, and such information shall be crucial for trade development and regulation.

PART IV—PAYMENT

14. The County Executive Committee Member in charge of Finance and economic planning shall impose licence fees as provided for under the Third Schedule of this Act or any other Act of the County Assembly of Nandi in relation to the provisions of this Act, that are payable for the grant or renewal of single business

Determination of
licence fees and/or
additional fees.

licences, including any additional fees for the non-payment or late payment of such licence fees, and such fees shall form part of the County Government's revenue.

PART V—REPORTING

15. (1) At the end of each financial year, or in case of quarterly reports, at the end of every three months, the Receiver of Revenue shall prepare an account in respect of the single business licence revenue collected, Received and Recovered by the receiver of revenue during that financial term.

Quarterly and
annual reporting.

(2) The accounts under subsection (1) shall include—

- (a) a statement of receipts and disbursement in a form prescribed by the Accounting Standards Board from time to time; and
- (b) a statement of arrears of revenue.

(3) Not later than three months after the end of the financial year, the Receiver of Revenue shall—

- (a) submit the accounts to the Auditor-General; and
- (b) deliver a copy to the National Treasury, the Controller of Budget, County Treasury, County Assembly and the Commission on Revenue Allocation.

PART VI – ENFORCEMENT PROVISIONS

16. (1) A person shall not make a statement in connection with this Act which that person knows to be false or misleading—

False witness.

- (a) in connection with an application for the grant or renewal of a single business licence; or
- (b) when providing information required under this Act.

(2) If a person contravenes subsection (1), the person is guilty of an offence and is punishable on conviction by a fine not exceeding two hundred and fifty thousand shillings, or to imprisonment not exceeding six months, or

both.

17. For the purposes of enforceability of this Act, offences committed by authorized officers under this Act shall be punishable, on conviction as envisioned under Part VII of the Public Finance Management Act, 2012 of the Laws of Kenya.

Offences by
authorized officers.

[Act No. 18 of
2012]

18. (1) Every licence shall be displayed in a prominent position on the premises in respect of which it was issued and where any licence is not so displayed the licensee shall be guilty of an offence and liable to a fine not exceeding five thousand shillings.

Display of licences
and duplicates.

(2) Where, upon application in the prescribed manner, it is shown to the satisfaction of the Chief Licensing Officer that a licence has been lost, destroyed or defaced, such officer shall, upon payment of a fee of five hundred shillings by the licensee, issue a duplicate of such licence to the licensee.

19. (1) The Chief Licensing Officer, an administrative officer, a public health officer or a police officer of or above the rank of Inspector may, upon production of evidence of his authority to any person reasonably requiring it—

Power to enter
premises and
require
information.

- (a) at any reasonable time, enter any premises which he has reasonable grounds for believing to be occupied by a business, and inspect such premises and any book, document or other thing found therein for the purpose of ascertaining whether this Act is being complied with;
- (b) require any person appearing to be conducting the business or to be employed in it to give such information within his power as the officer may reasonably require to enable him to ascertain whether this Act is being complied with; and
- (c) within the confines of the law regarding arrest, make an arrest, and confiscate items therein which the officer reasonably believes will form part of evidence.

(2) Any person who hinders, interferes with or obstructs an officer acting under subsection (1) shall be guilty of an offence.

(3) Any person who refuses to give information or who gives false information shall be guilty of an offence.

(4) Any person who gives false information in order to be undercharged shall be guilty of an offence.

20. For the purposes of this Act, a person conducting a business shall be responsible for the acts or omissions of any partner, agent or servant of his in so far as they concern his business, and if such partner, agent or servant commits any act or makes any omission which is an offence under this Act, or which would be an offence if committed by the person conducting the business, such person and his partner, his agent or his servant, as the case may be, shall each be guilty of the offence and liable to the penalty prescribed under this Act: Provided that—

Acts of agent or servant.

- (a) where a person conducting a business is, by virtue of this section, charged with an offence under this Act, it shall be a defence to the charge to prove that he had reasonable ground to believe and did believe that a competent and reliable person was charged with the duty of seeing that the requirements of this Act were complied with and was in a position to discharge that duty; and
- (b) a person shall not be sentenced to imprisonment for such an offence unless, in the opinion of the court, the offence was committed wilfully.

21. (1) Where, in relation to this Act, it is alleged that a person is not a citizen of Kenya, it shall be presumed that that person is not a citizen of Kenya until the contrary is proved.

Presumption.

(2) Where, in relation to this Act, it is alleged that a person does not hold a current licence, it shall be presumed that that person does not hold a current licence until the contrary is proved.

22. Any person who is guilty of an offence under this Act for which no penalty is specifically provided shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding fifty thousand shillings, or to both.

General penalty.

PART VII—MISCELLANEOUS

23. (1) The County Executive Committee member responsible for Finance may make rules generally for the better carrying out of the provisions and purposes of this Act.

Power to make rules.

(2) Without prejudice to subsection (1), rules may be made for the following purposes—

- (a) the payment of licence fees, including additional fees for non-payment or late payment;
- (b) the exemption, waiver or reduction of licence fees;
- (c) prescribing fees for services;
- (d) prescribing forms;
- (e) publication and service of notices and other documents;
- (f) the transfer or assignment of single business licences; and
- (g) Different categories of single business licences.

(3) Notwithstanding the provisions of sub-section (1) and (2), the County Executive Committee member in charge of trade and industrial development may make regulations in relation to trade development and regulation.

24. (1) Any license issued before coming into force of the provisions of this Act, is deemed to have continued in force, on and after that date as if it were a single business licence granted under this Act.

Savings and transitional provisions.

(2) Any fees or charges payable to a local authority in accordance with the Local Government Act in respect

[Cap. 265]

of single business permits shall be payable to the County Government.

25. Neither the County Executive Committee members nor any other public officer or body of public officers shall be personally liable to any action or proceedings for or in respect of any act or thing done or omitted to be done in good faith in the performance or exercise or intended performance or exercise of any duty or power imposed or conferred by or under this Act.

No action
maintainable
against County
Executive
Members, etc.

26. (1) The County Executive Committee member responsible for Finance may from time to time vary license fees payable under this Act.

Variation of license
fees.

(2) The said variation of tax shall be in writing and published in the County Gazette and/or National Gazette.

27. (1) The county government shall liaise with the Office of the Director of Public Prosecution to have its authorized officers gazetted in order to prosecute matters for and on behalf of the county government under this Act.

Prosecution of
matters under this
Act.

(2) Offences created pursuant to this Act shall be cognizable offences.

28. (1) Fines imposed by this Act shall be payable to the County Revenue Fund.

Fines imposed by
this Act.

(2) The County Government shall make an arrangement with the National Treasury on the remittance of fines paid to it to the County Treasury in relation to this Act.

SCHEDULES

FIRST SCHEDULE (SECTION 5 (1) (b)) **APPROVED FORMS**

PART A **APPLICATION FORM**

APPLICATION FOR THE GRANT / RENEWAL* OF A SINGLE BUSINESS LICENCE

1. Applicant's name and description of business, profession, business or occupation to be conducted.
 2. Name under which business, profession, business or occupation is or is to be carried on.
 3. If business is a partnership, give full names and addresses of all partners.
 4. Give any registration details of the business, profession, business or occupation.
 5. Address at which the business, profession, business or occupation is or is to be carried on.
 6. List P. O. Box address of the business, profession, business or occupation, and email and telephone contacts.
 7. Provide a description of the premises including address to which the licence is to apply.
 8. Is the applicant a resident of Kenya?
 9. Is the applicant an undischarged bankrupt?
 10. If the property rates of the property upon which your business is situate have been fully paid? If not, how much arrears you have.
 11. State the date on which it is desired to begin conducting the business, profession, business or occupation* or the number of the previous licence.
 12. Any additional requirement
-
13. Application fee is attached* or no application fee applies

I, [...Name of Applicant...], hereby certify that the particulars given above herein are true and correct to the best of my knowledge and information.

DATED at [...Town...] this day of 2014

Signature of applicant

.....

PART B

BUSINESS LICENCE

A business 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 business 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 business licence is granted or for whom it is renewed]*.

The licence is granted or renewed* subject to the *Nandi County Single Business Licence Act, 2016* 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 the *Nandi County Chief Licensing Officer* under the *Nandi County Single Business Licence Act, 2016*.

DATED at[...Town...]..... this day of 20...

Chief licensing officer

Signature

.....

SECOND SCHEDULE (SECTION 12)

POWERS AND LIMITATIONS OF AUTHORIZED OFFICERS

Powers of an Authorized Officer

1. An authorized officer may in relation to this Act:
 - (a) Enter any premises for the purposes of;
 - (i) Granting or renewing a single business licence; or
 - (ii) Finding out whether the holder of a single business licence is complying with the conditions of the licence, or this Actor the rules made under this Act; and
 - (b) Search the premises or any part of the premises; and
 - (c) Inspect or examine anything in or on the premises; and
 - (d) Seize anything, within the legal bounds, that may afford evidence of the commission of an offence under this Act; and
 - (e) On reasonable grounds, take extracts from, and/or take copies of, any documents in or on the premises of a person conducting business; and
 - (f) Take into or onto the premises such persons, equipment and materials as the authorized officer reasonably requires for the purpose of exercising any of the powers mentioned in paragraphs (a) to (e); and
 - (g) Require the holder of the licence, or any person in or on the premises, to give to the authorized officer reasonable assistance in relation to the exercise of any of the powers mentioned in paragraphs (a) to (f).

Limitations of Powers of an Authorized Officer

2. (1) An authorized officer shall not enter upon a business premises unless:

- (a) The owner or occupier of the premises consents to the entry; or
- (b) The entry is made when the premises are open for the conduct of business or otherwise open for entry; or
- (c) The authorized officer suspects on reasonable grounds that the holder of a single business licence is not complying with the conditions of the single business licence, or this Actor the rules made under this Act.

(2) An authorized officer shall not enter upon a business premises on a public holiday or a weekend.

THIRD SCHEDULE

SECTION 14

LICENSING FEES

	KAPSABET	NANDI HILLS	SUB- COUNTIES
Hoarding licenses	4000	4000	4000
Slaughter man's license		5600	5600
1.Repairer's license fees;	Kshs.	Kshs.	Kshs.
Type 1	500	500	500
Type 3	800	800	800
Type 4	1,000	1,000	1,000
Type 5	800	800	800
Type 6	800	800	800
Type 7	1,000	1,000	1,000
Type 8	500	500	500
Type 9A –Electricity meter	500	500	500
9B-Taxi meter	500	500	500
9C-Airtime meter	500	500	500
Type 10 A-Speed gun	500	500	500
10 B-Alcohol Breath Analyzer	500	500	500
10C-Blood pressure machine	500	500	500
10D-Thermometers	500	500	500
<i>Special Categories</i>			
Type A-Precision balance class 'A'	1500	1500	1500

Type B-Precision balance class 'B'	1500	1500	1500
Plumbers license	1,000	1,000	
Pit empires license	5,000	5,000	
Hygiene license			
Lodging	3000	2000	2000
Saloon/ bar	2000	1000	1000
Hardwares	2000	1000	1000
Tourism clearance	3000	2000	2000
Liquor license	2000	1000	1000
Licensing of Abattoirs			
Category A	7000	6000	6000
Category B	5000	4000	4000
Category C	1500	1000	1000
Licensing of meat containers	200	100	100
Slaughter man's license	200	100	100
Meat inspection fees			
Cattle	200	100	100
Sheep	50	25	25
Goat	500	25	25
Pigs	70	50	50
Camels	150	100	100
Poultry	4	2	2
Certificate of transport	25	20	20
Livestock traders licenses	1000	800	800

The Nandi County Single Business Licence Bill, 2016

Hide & Skin 7 leather Improvement			
Licensing of Banda's	600	500	500

MEMORANDUM OF OBJECTS AND REASONS

Article 209 (4) and Part 2 of the Fourth Schedule of the Constitution of Kenya empowers counties to impose fees and charges for services provided and for regulatory purposes in respect of certain licensed activities. Examples include the power to licence undertakings that sell food (item 2 (d)) and to issue business and liquor licences (items 7 (b) and 4 (c)). These licensing powers are not taxing powers, but authority to charge fees for services rendered.

The Bill provides for the grant of single business licences by County Governments to conduct businesses in the County in accordance with the powers mentioned above in Part 2 of the Fourth Schedule of the Constitution of Kenya.

Part I of the Bill provides for preliminary provisions consisting of the short title and interpretation clauses.

Part II of the Bill outlines the licensing process. Clause 5 of the Bill establishes the office of the Chief Licensing Officer who shall be in charge of approving forms under the First Schedule. That Part provides that a person shall not carry out business unless they are holders of a single business license. An application for a business license shall be lodged with the Chief Licensing Officer upon payment of the requisite fees and may be made in an electronic format approved by the Chief Licensing Officer. If the Chief Licensing Officer is satisfied with the application, he shall grant the business license. The Chief Licensing Officer may also cancel or suspend a license for specific reason which must be outlined in writing and addressed to the applicant. The term of a single business license shall expire on 31st December of every year. A person may transfer a single business license to another proprietor upon the approval of the Chief Licensing Officer.

That Part also provides that persons aggrieved by the decision of the Chief Licensing Officer may appeal in writing to the County Executive Member for trade against the decision, who may confirm, vary or overturn the decision of the Chief Licensing Officer.

Part III of the Bill provides for authorized officers and administrative duties. The authorized officers under this part shall perform trade development and regulatory authority. Powers of authorized officers shall be as set out in the Second Schedule of the Bill. A copy of register of single business licenses shall be kept by the Chief Licensing Officer.

Part IV of the Bill concerns payment provisions. Determination of license fees shall be made by the County Executive Committee Member

for finance as provided for under the Third Schedule or other Act of County Assembly.

Part V of the Bill relates to annual and quarterly reporting by the Receiver of Revenue. That part provides that such reports shall be lodged with the National Treasury, Controller of Budgets, County Treasury, and Commission on Revenue Allocation, Auditor-General and the County Assembly.

Part VI of the Bill provides for enforcement provisions. That part makes it an offence for a person to lie while filling an application form for a single business license. It also subjects authorized officers to punishment for misappropriation of public funds offences committed as per Part VII of the Public Finance Management Act, 2012. That part also provides that each business owner shall display their single business license and penalizes those who do not comply with this provision. That Part also gives the Chief Licensing Officer power to enter premises and require information.

Part VII of the Bill outlines miscellaneous provisions such as power of the County Executive Committee Member for finance to make regulations. Powers to make regulations regarding trade regulation and development shall be the reserve of the County Executive Committee Member for Trade and Industrial Development. That part also saves the collection of single business license revenue in the absence of the Act.

JOHN KETER,
Chairperson, Budget and Appropriation Committee

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