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THE UASIN GISHU COUNTY TRADE LICENSING ACT

No. 1 of 2016

Date of Assent: 19th June, 2014

Date of Commencement: 14th March, 2016

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THE UASIN GISHU COUNTY TRADE LICENSING ACT

AN ACT of the County Assembly of Uasin Gishu County to provide for the licensing of traders and businesses, control and licensing of business premises and for connected purposes

ENACTED by the County Assembly of Uasin Gishu as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as Uasin Gishu County Trade Licensing Act, 2016.

Interpretation

2. In this Act—

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

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

“licence” means a licence that allows the licensee to carry out trade;

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

“trade” means to carry on the business of selling goods or services.

PART II—ESTABLISHMENT OF LICENCING DIVISION

Establishment of a Division

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

PART III—TRADE LICENCING

Licenses

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

Classification of Licenses

5. (1) For the purposes of this Act the following licenses may be issued under this Act—

- (a) a trading (wholesale) licence;
- (b) a trading (retail) licence;
- (c) a hawker's licence;

- (d) an agent's licence;
- (e) a manufacturing licence.
- (f) a consolidated businesses licence.
- (2) No trading licence 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 of persons normally residing with them or who are their employees or members of their family;
 - (c) the trade carried on in any market established under this Act;
 - (d) any other trade which the Executive member may, by Regulation, declare to be a trade for which no trading licence is required under this Act; or
 - (e) any trade or business in respect of which a separate licence is required by or under any written law.

Application for grant or renewal of a trading licence

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

(2) The application must be made to the Directorate in the county where the applicant intends to carry on the trade or business.

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

Determination of application for grant of a license

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

- (a) the applicant is at least 18 years old,
- (b) no trading licence held by the applicant has been forfeited in the period of five years ending with the day the application was made, and
- (c) the applicant has not been convicted of any relevant offence.
- (d) Where applicable, the applicant has obtained all other consents and/or approval to carry on the trade for which the license is sought.

Refusal to issue or renew licence

8. (1) The Directorate may refuse to renew or issue a licence—

- (a) to a person who is serving a conviction of an offence under the *Penal Code* or 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 an undischarged bankrupt;
- (c) to a person who within the preceding ten (10) years has committed an offence of bankruptcy or has been adjudged bankrupt or has been a director of a corporation that became bankrupt while that person was a director, unless, in each case, the creditors in the bankruptcy have been paid in full;
- (d) to a person whose licence under this Act has been cancelled or is, at the time of application, under suspension; or
- (e) if it appears to it that the applicant fails to meet the condition in paragraph (a), (b), (c) or (d) of section 7 (2).

(2) The directorate shall refuse to renew a licence if the directorate has become aware of any circumstances that would require it to refuse to issue a licence 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 Nema until such objection has been successfully appealed against or the Complaint remedied.

(4) Where the directorate refuses to issue or to renew a licence, 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 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.

Assignment of licence

9. A licence under this Act is not assignable.

Requirement to keep a register

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

- (a) a record of each trading or business licence 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).

Conditions of a licence

11. (1) The directorate or the Executive Member may impose conditions and restrictions on a license when issuing or renewing a licence.

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

(3) A trade licence issued under this Act shall not be transferrable unless with a prior written consent of the Licensing Manager 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 licence 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.

Duration and operation of licence

12. Except while it is suspended by or pursuant to this Part, a trader's licence continues in force for a period of one calendar year from the date of issue until—

- (a) it is cancelled by, or revoked or surrendered pursuant to, this Part; or
- (b) the dealer, being an individual, dies; or
- (c) the dealer, being a body corporate, is dissolved.

Exhibition of trading licence

13. Every holder of a trading licence shall keep his or her licence exhibited in a conspicuous place of his or her trading premises.

Annual fee

14. (i) A licensed trader shall, not later than the prescribed date in each year pay to the directorate the prescribed annual license fee.
- (ii) 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 of 50% of the License fee and accrual of 3% monthly thereafter.
- (iii) 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 Kes: 1,000.00 (one thousand Kenya shillings).
- (iv) The Executive member shall determine and publish the license fees for each businesses and trades and review the same from time to time.

Revocation, suspension and variation of licence

15. (1) Where there is a breach of any condition imposed under this Act, the Directorate may revoke or suspend a licence.

(2) Subject to subsection (1), the Directorate may suspend or revoke a licence 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) Any person who carries on any trade or business within the Uasin Gishu County before first obtaining a Licence under this Act shall be guilty of an offence and liable for arrest without warrant and liable for a fine of 30% of the actual License fee or Permit or in default imprisonment for a period not exceeding Six months.

PART IV—REGULATIONS

Regulations

16. The County Executive Member may from time to time make regulations prescribing—

- (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 licence 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 licence 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.

PART V—TRADE LICENSE FEES

17. Trade License fees shall be levied in respect of businesses described in the Uasin Gishu County Finance Act in force at any given time and any other Act of Uasin Gishu County Assembly or Regulations made under such Acts.