

SPECIAL ISSUE

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BUNGOMA COUNTY ACTS, 2017

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THE BUNGOMA COUNTY TRADE LICENSING ACT, 2017

No. 1 of 2017

Date of Assent: 17th April, 2017

Date of Commencement: See Section 1

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**THE BUNGOMA COUNTY TRADE LICENSING ACT,
2017**

AN ACT of the County Assembly of Bungoma to establish a framework and provide a mechanism for the imposition of certain taxes, charges, fees and for the grant of trade and related licenses and for connected matters and incidental purposes

ENACTED by the County Assembly of Bungoma as follows—

PART I— PRELIMINARY

1. This Act may be cited as the Bungoma County Trade Licensing Act, 2017 and shall come into force thirty days from the date of assent. Short title and date of commencement

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

“Approved form” means a form approved by the County Licensing Officer or form set out in Schedule 1;

“Authorized officer” has the meaning given by section 6;

“Business” includes a profession, trade or occupation but excludes the regulation of professionals;

“County ” means County Government of Bungoma

“County Assembly” means County Assembly of Bungoma

“County Government” means the County Government of Bungoma

“Executive Member” means County Executive Committee Member responsible for Trade in the County

“Holder” in relation to a trade license, means the person to whom the license is granted or to whom a trade licence is transferred or assigned to

“license fee” means the fee payable for the grant or renewal of a trade license as prescribed in Schedule 2 of this Act

“County Licensing Officer ” means an officer of the county government appointment under section 4;

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

“Receiver of revenue” has the same meaning as in the

No. 1

Section 157 of Public Finance Management (PFM) Act, 2012.

“Trade license” means a license granted under this Act to conduct a business within the County and shall be in the prescribed form in Schedule 3.

3. Objective and purpose of the Act is to—

Object and purpose of the Act.

- (a) provide a framework within which the County Government may perform its functions and exercise its powers under the Constitution to license certain business activities;
- (b) establish a framework for the conduct and regulation of business in the County; and
- (c) establish a mechanism to reliably raise revenue in the County to enable the County Government to govern and deliver services effectively.

PART II—ADMINISTRATION

4. (1) There shall be in the public service of the County an officer designated as the County Licensing Officer who shall be responsible for the administration of this Act in respect whereof he or she shall be answerable to CECM-Trade.

Designation of the County Licensing Officer

(2) The County Government may designate and appoint trade licencing officers as it may deem necessary.

(3) A person designated as County Licensing Officer or a licencing officer shall be a degree holder and experienced in matters relating to business administration, economics, trade, public affairs or other related fields.

5. (1) Without prejudice to the generality of section 4, a County Licensing Officer shall be responsible for granting of business and or trading licenses in the County and shall-grant and issue licenses under this Act;

Functions of the County licencing Officer

(2) Perform any other functions provided for by or under this Act.

6. (1) The County Licensing Officer may, whenever necessary, delegate any of his or her functions under this section to any other person or institution as authorized officers who shall perform the functions and exercise powers set out in this Section.

The power of licencing officer

(2) An authorized officer may enter any premises for

the purposes of—

- (a) granting or renewing a trade license; or
- (b) finding out whether the holder of a trade license is complying with the license, this Act or the rules made under this Act; and
- (c) searching the premises or any part of the premises;
- (d) inspecting or examining anything in or on the premises ;and
- (e) seizing anything that may afford evidence of the commission of an offence against this Act; and
- (f) taking extracts from, and take copies of, any documents in or on the premises; and
- (g) taking 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); and
- (h) requiring the holder of the license or any person in or the premises to give to the inspector reasonable assistance in relation to the exercise of the powers mentioned in paragraphs (a) to (e).

(3) Nothing in sub-section 2 of this section shall permit the authorized officer to enter the premises unless—

- (a) the owner or occupier 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 an offence is being committed against this act in or on the premises.

PART III—LICENSING PROCEDURE

7. (1) Save and except as may be provided otherwise in any other written law, any person intending to carry on or conduct any business or trade in the County shall first apply and obtain a license in that behalf as provided in this Act or other written law of the County.

Businesses to be licensed.

(2) Every person carrying on or conducting a business or trade in the County shall take out a business or trade license in respect thereof which shall be renewable every year on such terms and conditions as may be imposed.

(3) No person shall conduct a business or carry on a business or trade within the County, unless the person is the holder of a valid business or trade license in accordance with this Bill and other laws.

8. (1) An application under section 7 for a grant of a business or trade license shall— Form of application for a license.

- (a) be in the approved form in the first schedule;
- (b) contain such information and accompanied by such documents as may be required by the approved form;
- (c) be signed in a manner specified in approved form as provided in the first schedule;
- (d) be lodged with the County licensing Officer ; and
- (e) No fee shall be charged on the application

(2) It shall be lawful for an application to be made in an electronic format approved by the County licensing Officer.

9. Before determining an application for a grant of a business or trade license, the County Licensing Officer may require the applicant to furnish him or her with such or additional information or documents as may necessary to enable the application to be determined. Determination of application for grant of a license

10. (1) On consideration of the application, the County Licensing Officer may grant the license applied for if satisfied that— Grant of trade license

- (a) the applicant has complied with the requirements for a grant of the license, including any requirements as to health, hygiene, safety and any other applicable to the trade license applied for; and
 - (b) the license fee has been paid to the receiver of revenue.
- (2) trade license granted under this section shall be in

the form approved by the County Licensing Officer and shall be granted subject to such conditions (if any) as may be specified therein.

11. (1) A trade license granted under this Act shall run from the date of grant thereof and be valid for the remainder of the calendar year and shall expire at mid-night on the thirty first day of December in the same year.

Duration and
validity of a trade
license

(2) License fees payable for a trade license granted in the first phase of the year, being the first six months of the same shall be the full amount as if it was granted on the first day of that calendar year and a half the amount for a grant done at any time thereafter.

12. (1) A holder of a trade license who wishes to continue to carry on or conduct the same business or trade in the County shall, before the expiry of the business or trade license issued earlier, apply in the prescribed form for the renewal of the license.

Renewal of
licenses

(2) Upon consideration of the application under subsection (1), the County Licensing Officer may grant the application for the renewal if:

- (a) the applicant has complied with all laws relating to health, hygiene and safety applicable to the trade license;
- (b) the applicant has not been in breach of the conditions or any of the conditions in the expiring license; and
- (c) the license fees payable for the renewal of the trade license have been paid to the receiver of revenue.

(3) The County licensing Officer may, before determining an application for renewal, require the applicant to furnish to the County licensing Officer such additional information or documents as is necessary to enable the application to be determined.

13. (1) The County licensing Officer may cancel or suspend a business for a specified period or cancel trade license granted under this Act if satisfied that—

Cancellation of a
license

- (a) the conduct of the business is endangering the health or safety of persons who live or work in

the neighborhood of the premises from which the business is conducted; or

- (b) the holder of the business or trade license has breached a condition of the license.

(2) If the County licensing Officer cancels or suspends a license (or after cancelling or suspending the license , revokes the cancellation or suspension), the County licensing Officer shall give the holder of the license a written notice of the cancellation, suspension or revocation, together with a statement of the reasons for the decision.

(3) On the suspension or cancellation of a business or trade license, the holder thereof shall immediately cease to conduct in the County the business the license in respect whereof shall have been suspended or cancelled.

(4) If the County licensing Officer revokes the cancellation or suspension of a license, the holder of the license shall be at liberty to resume the business in respect thereof upon compliance with the requirements of issuing a licence.

14. A holder of a trade license may surrender the license by returning it to the County Licensing Officer provided that the surrender shall not entitle the holder to a refund of any fees or part fees paid in respect thereof

surrender of trade license

15. A holder of a trade license may, with the consent of the County licensing Officer, transfer or assign a business or trade license to another person.

Transfer of license

16. A trade licence shall be displayed in a conspicuous place in or at the licensee's principal place of business.

Display of trade licence

17. (1) If a business or trade licence does not specify a place or premises at which the licensee shall carry on the business activity, the licensee may carry on the business activity in any part of the County.

Location of business activity

(2) If a business or trade licence specifies a place or premises at which the licensee shall carry on the business activity, the licensee shall carry on the business activity at that place or those premises.

18. The County licensing Officer shall, establish and maintain a register of business and trade licenses or a separate register in respect of each type of business or trade

Register of licenses

license issued in the County containing information as may be prescribed and which shall, at a reasonable fee, be available for public inspection during usual government office hours.

19. (1) A person aggrieved by any decision of the County licensing Officer may appeal against the decision to the CECM-Trade.

Appeals against
decision

(2) The CECM-Trade shall consider the appeal and may confirm, reverse or modify the decision appealed against or may make such orders and give such directions as may be necessary to give effect to his or her decision.

PART IV—OFFENCES

20. (1) Any person who contravenes any provision of Part III of this Act commits an offence and is liable, upon conviction, to a fine not exceeding Kenya Shillings fifty thousand (Kshs.50,000/=) or to imprisonment for a term not exceeding six months or both.

Penalty for
offences under Part
III

(2) A public officer who aids or abets the commission of an offence under Part III of this Act by any person commits an offence for which he or she shall, on conviction, be liable to a fine not exceeding Kenya Shillings one hundred thousand (Kshs100,000/=) or to imprisonment for a term not exceeding twelve months or both.

21. (1) No person shall make or give to the County licensing Officer or authorized officer any statement in relation to a trade license or other matter under this Act, which the person knows to be false or misleading.

Offence to give
false or misleading
statement

(2) Any person who knowingly contravenes the provisions of this section commits an offence and is liable, upon conviction, to a fine not exceeding Kenya shillings one hundred thousand (Kshs. 100,000/=) or to imprisonment for a term not exceeding twelve months or to both such a fine and term of imprisonment.

(3) A public officer aids or abets the commission of an offence under this Bill commits an offence and is liable, upon conviction, to a fine not exceeding Kenya shillings one hundred thousand (Kshs. 100,000/=) or to imprisonment for a term not exceeding twelve months or to both such a fine and term of imprisonment.

22. Where a person contravenes or fails to comply with any provision of this Act and a penalty there-of is not expressly provided by this Act, that person shall, upon conviction, be liable to a fine not exceeding Kenya shillings one hundred thousand (Kshs. 100,000/=) or to imprisonment to a term not exceeding twelve months or both.

Penalty where non is provided

PART V—MISCELLANEOUS PROVISIONS

23. (1) The County Executive Member for Finance may waive the trade license fee payable under this Act to any business to which this Act apply.

Waiver of trade license fees

(2) A waiver of trade license fee under this Act shall be for a determinate period not exceeding one year.

(3) Where such waiver is made, the County Executive Member for Finance shall give reasons for such waiver and table before the Assembly the list of businesses to which payment of trade license fee is waived and the reasons thereof

(4) The Assembly may overturn any such waiver if it is of view that no sufficient grounds exist for the waiver of trade license fee as made by the County Executive Member for Finance

24. (1) The license fees that are payable under this act for grant or renewal of licenses including any additional fees for the nonpayment or late payment of such license fees, are to be determined each year by the current County Finance Act.

County Assembly to approve fees payable

(2) Where the County Assembly does not approve the fee payable for a particular year in accordance with subsection 1 of this section, then the fee payable for that year shall be deemed to be the fee that was payable immediately the preceding year.

25. The County Executive Member responsible for trade may make rules and regulations generally for the better carrying out of the provisions and purposes of this Act with the approval of the County Assembly.

Rules and regulations

26. (1) Notwithstanding the repeal of the Local Government Act (Cap 265) and the County Governments Public Finance Management Transition Act, 2013—

Savings

- (a) any business permit that was in force on 30 September 2013 issued by a local authority under section 163A of the Local Government Act(Cap 265) is deemed to have continued in force after that date as if it were a trade license granted under this Act; and
- (b) any fees or charges payable to a local authority in respect of the single business permit are deemed to have been payable to the County Government.

(2) The single business permit referred to in subsection (1) continues in force—

- (a) for 3 months from the date of commencement of this Act; or
- (b) if the holder of the single business permit applies for trade license under this Act within that period, until the license is granted or refused or the application is withdrawn.

FIRST SCHEDULE**Section 8(1)(a)****COUNTY GOVERNMENT OF BUNGOMA****TRADE LICENCE APPLICATION/REGISTRATION FORM**

SERIAL NO.....

Before completing the form, please read carefully the attached instructions.
Complete the form in BLOCK LETTERS with indelible ink.

Please note that giving false information is an offence liable for a fine of up to Kshs.100,000 or to imprisonment for a term not exceeding twelve months or to both

BUSINESS INFORMATION

PIN No. Business Name.....

Postal Address.....Postal Code.....Town.....

NAME OF BUILDING

Title No./LR. No./Plot No.....Floor No.And

Rm/Door No.....Street.....

Tel No..... Cell Phone.....Email Address.....

Business Activity Description..... Activity Code.....

Total Area Of Business Premise(M2).....No. of Employees.....

No. of Officers.....No. of Students/Interns.....No.

of Vehicles (If Transport Company).....

No. of Beds/ Room Capacity (Hospitality/Industries).....No.

of Rooms..... No. of Machines.....

(Dependent on the kind of business/Industry) No. of Pumps.....

PERSONAL INFORMATION

Name of Applicant.....

ID No./ Passport No.....Pin No.....

Designation.....

I,, the applicant herein, certify that the information provided in this form is true and accurate to the best of my knowledge

.....

Name and Designation of Applicant

.....

Signature

.....

Date

I,, the licensing officer, certify that the information provided in this form reflect the true position of the business mentioned above.

.....

Name of Licensing officer

.....

Stamp and Signature

.....

Date

Approved

Not approved

Licence No..... Date.....

Receipt No..... Amount Paid

KSh.....

(Application fee is Non-Refundable)

SECOND SCHEDULE

Section 10(2)

BUNGOMA COUNTY BUSINESS AND TRADE LICENCE ACT,

2015

LICENCE NO.....

ISSUED TO:.....(Name Of Business)

A Trade Licence to Conduct.....(Nature of Business)

At the Premises (Physical location)

Is granted for the period starting and ending on
31st December Or is renewed for the period from 1st January
to 31st December

The licence is granted or renewed subject to the BUNGOMA County
Trade License Act and the rules made thereunder and the conditions set out
below.

Conditions (set out the conditions relating to the particular business/trade)

Granted by the BUNGOMA County Licensing Officer under the
BUNGOMA County Trade License Act 2015

Date:.....

County licensing Officer

Seal and signature