

**NANDI COUNTY TRADE LICENCE BILL, 2015**

REPUBLIC OF KENYA



THE COUNTY GOVERNMENT OF NANDI

NANDI COUNTY TRADE LICENCE BILL, 2015

ACT NO. .... OF 2015

**NANDI COUNTY TRADE LICENCE BILL, 2015**

**NANDI COUNTY TRADE LICENCE BILL, 2015**

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**NANDI COUNTY TRADE LICENCE BILL, 2015**

**NANDI COUNTY TRADE LICENCE BILL, 2015**

**A BILL for-**

An Act of the County Assembly of Nandi to provide for the grant of trade licences, and for connected purposes.

**ENACTED** by the County Assembly of Nandi as follows—

**PART I - PRELIMINARY**

- Short title.** 1. This Bill may be cited as the Nandi County Trade Licence Bill, 2015.
- Interpretation.** 2. In this Bill, unless the context otherwise requires;
- “Approved form” means a form set out in Schedule 2 or approved by the chief licensing officer;
- “Authorized officer” has the meaning given by section 12;
- “Business” includes a profession, trade or occupation, other than a prescribed business, but does not include regulation of the profession, trade or occupation;
- “Chief licensing officer” means the chief licensing officer appointed under section 3;
- “County public officer” has the same meaning as in the County Governments Act, 2012;
- [Act No. 17 of 2012] “Holder”, in relation to a trade licence, means the person to whom the trade licence is granted or to whom the trade licence is transferred or assigned;
- “Licence fee” means the fee payable for the grant or renewal of a trade licence;
- “Prescribed” means prescribed by the rules made under this Bill;
- [Act No. 18 of 2012] “Receiver of revenue” has the same meaning as in the Public Finance Management Act 2012 and the Nandi County Revenue Administration Act, 2014; and
- “Trade licence”, in relation to a business, means a licence granted under this Bill to conduct the business.

**PART II – LICENCING PROCESS**

- Chief licensing officer.** 3. (1) The County Executive Committee Member responsible for

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Trade shall appoint an officer of the County Government who shall be the Chief Licensing Officer.

(2) The Chief Licensing Officer has the functions and powers provided for by or under this Act.

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

(4) 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.

### **Requirement for a trade licence.**

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

(2) If a person contravenes sub-section (1), the person is guilty of an offence punishable on conviction by a fine not exceeding Kshs. 500,000/= shillings or imprisonment not exceeding one year.

### **Application for licence.**

5. (1) An application for the grant of a trade licence must:

- (a) be lodged with the Chief Licensing Officer;
- (b) be in the approved form;
- (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 (if any).

(2) An application may be made 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 (if any) is not refundable.

### **Grant of licence.**

6. (1) The chief licensing officer must grant an application for a trade licence if:

- (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 trade licence applied for;

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and

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

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

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

### **Renewal of licence.**

7. (1) The holder of a trade licence may, before the expiry of the trade licence or such other prescribed date, apply in the prescribed form for the renewal of the trade licence.

(2) The Chief Licensing Officer must grant an application for the renewal of a trade licence if:

(a) the Chief Licensing Officer is satisfied that the applicant has complied with all laws relating to health, hygiene and safety applicable to the trade licence; and

(b) the licence fee payable for the renewal of the trade licence has been paid to the Receiver of Revenue.

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

(4) Subject to section 8, a trade licence is to be renewed for each calendar year.

### **Cancellation or suspension of licence.**

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

(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 trade licence has breached a condition of the trade licence.

(2) If the Chief Licensing Officer cancels or suspends a trade licence (or revokes any such suspension), he or she must 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 trade licence is cancelled or suspended, the holder of the

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licence must 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 Kshs. 500, 000/= shillings, or imprisonment not exceeding 1 year, or to both.

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

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

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

**Appeals.** 11. (1) A person aggrieved by a decision of the Chief Licensing Officer may appeal to the county executive committee member responsible for trade against the decision.

(2) 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.

(3) The Chief Licensing Officer must comply with any direction given under subsection (2).

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

### **PART III – AUTHORIZED OFFICERS, ADMINISTRATIVE DUTIES AND OFFENCES**

**Authorized officers.** 12. (1) The County Executive Committee Member responsible for Trade may appoint persons as authorized officers for the purposes of this Bill.

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

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

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

### **Offences.**

14.(1) A person must not make a statement in connection with this Act which that person knows to be false or misleading:

- (a) in connection with an application for the grant or renewal of a trade 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 KShs. 250, 000/= shillings, or an imprisonment of one year term, or both.

### **Enforcement Provision.**

15. 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.

[Act No. 18 of 2012 ]

## **PART IV – PAYMENT**

### **Determination of licence fees and/or additional fees.**

16. The County Executive Member in charge of Finance may impose licence fees that are payable for the grant or renewal of trade 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 revenues.

## **PART V – MISCELLANEOUS**

### **Power to make rules.**

17.(1) The County Executive Committee member responsible for Finance with approval of the County Executive committee may make rules generally for the better carrying out of the provisions and purposes of this Bill.

(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;



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- (f) The transfer or assignment of trade licences; and
- (g) Different categories of trade licences.

**Savings and transitional provisions.**  
[CAP 265]

18.(1) Despite the repeal of the Local Government Act [CAP 265] and the County Governments Public Finance Management Transition Act 2013, any single business permit issued by a local authority under section 163 A of the Local Government Act that was in force on 30 September 2013 is deemed to have continued in force, subject to subsection (2), on and after that date as if it were a trade licence granted under this Bill and any fees or charges payable to a local authority in respect of the single business permit were payable to the county government.

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

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

**No action maintainable against Minister, etc.**

19. Neither the County Executive Members nor any other person or body of persons 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.

**Variation of license fees.**

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

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

**Prosecution of matters under this Act.**

21. The county government shall liaise with the Office of the Director of Public Prosecution to provide a special prosecutor to prosecute matters for and on behalf of the county government under this Act.

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## SCHEDULES

### FIRST 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 trade licence; or
  - (ii) Finding out whether the holder of a trade licence is complying with the conditions of the licence, or this Bill or the rules made under this Bill; 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 Bill; 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 trade licence is not complying with the conditions of the trade licence, or this Bill or the rules made under this Bill.

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

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**SECOND SCHEDULE**

**(SECTION 2)**

**APPROVED FORMS**

**PART A**

**APPLICATION FORM**

**APPLICATION FOR THE GRANT / RENEWAL\* OF A TRADE LICENCE**

1. Applicant's name and description of business, profession, trade or occupation to be conducted.
2. Name under which business, profession, trade 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, trade or occupation.
5. Address at which the business, profession, trade or occupation is or is to be carried on.
6. List P. O. Box address of the business, profession, trade 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, trade 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*

.....

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**PART B**

**TRADE LICENCE**

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

The licence is granted or renewed\* subject to the *Nandi County* Trade Licence Bill, 2014 and the rules made under that Bill, 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* Trade Licence Bill, 2014.

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

***Chief licensing officer***

***Signature***

.....

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## THIRD SCHEDULE

## SECTION 4 (1)

### 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			
Type 3	500	500	500
Type 4			
Type 5	800	800	800
Type 6			
Type 7	1,000	1,000	1,000
Type 8			
Type 9A –Electricity meter	800	800	800
9B-Taxi meter	800	800	800
9C-Airtime meter			
Type 10 A-Speed gun	1,000	1,000	1,000
10 B-Alcohol Breath Analyzer	500	500	500
10C-Blood pressure machine			
10D-Thermometers	500	500	500
<i>Special Categories</i>	500	500	500
Type A-Precision balance class 'A'	500	500	500
Type B-Precision balance class 'B'	500	500	500
	500	500	500
	1,500	1,500	1,500
	1,500	1,500	1,500
Plumbers license	1,000	1,000	
Pit empires license	5,000	5,000	
<b>Hygiene license</b>			
Lodging	3000	2000	2000
Saloon/ bar	2000	1000	1000
Hardwares	2000	1000	1000
Tourism clearance	3000	2000	2000
Liquor license	2000	1000	1000
<b>Licensing of Abattoirs</b>			
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
<b>Hide &amp; Skin 7 leather Improvement</b>			
Licensing of Banda's	600	500	500

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### **MEMORANDUM OF OBJECTS AND REASONS**

Article 209(4) of the Constitution together with Part 2 of the Fourth Schedule of the Constitution gives counties the power 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 trade and liquor licences (items 7(b) and 4(c)). These licensing powers are not taxing powers, but are a power to charge fees for services.

The Bill provides for the grant of trade 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.