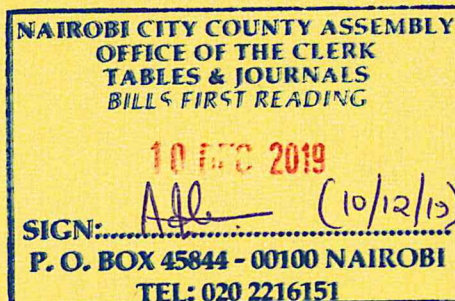


**SPECIAL ISSUE**

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REPUBLIC OF KENYA



**KENYA GAZETTE SUPPLEMENT**

**NAIROBI CITY COUNTY BILLS, 2019**

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**NAIROBI, 5th December, 2019**

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## **THE NAIROBI CITY COUNTY POP-UP MARKETS AND STREET VENDORS BILL, 2019**

### **A Bill for**

**AN ACT of the County Assembly of Nairobi City to create a legal framework for establishment, regulation and recognition of pop-up markets and street vending in Nairobi County and for the identification of minimum standards for pop-up markets and street vendors and for related purposes.**

**ENACTED** by the County Assembly of Nairobi City as follows—

### **PART I— PRELIMINARY**

**1.** This Act may be cited as the Nairobi City County Pop-Up Markets and Street Vendors Act, 2019

Short title

**2.** In this Act—

Interpretation

“authorised officer” means a person authorised to enforce the provisions of this Act and appointed as such by the County Executive Committee Member;

“county” means the Nairobi City County;

“county assembly” means Nairobi City County Assembly;

“Executive Committee Member” means the County Executive Committee Member responsible for matters relating to trade and markets in Nairobi City County;

“department” means the department within the Directorate of Trade in the County responsible for matters relating to pop-up markets and street vending;

“essential facilities” includes clean water, lighting, security, waste disposal, shades, warehousing and storage, awnings, paved roads and vehicle parking spaces where necessary

“market” means a pop-up market established under this Act;

“mobile vendors” means street vendors who carry out vending activities in designated areas by moving from one



place to another place selling their goods and services;

“pop-up market” means an outdoor market utilized by vendors to exchange discounted, new or used merchandise for money that is opened temporarily to take advantage of seasonal demand;

“Prohibited goods” are those goods for which sale in a pop-up market has been completely banned by the Executive Committee Member for reasons linked to health, environment, protection of endangered species of flora and fauna, security, legislation etc.

“street vendor” means a person engaged in vending of articles, goods, wares, food items or merchandise of everyday use or offering services to the general public, in a street, lane, sidewalk, footpath, pavement, public park or any other public place or private area, from a temporary built up structure or by moving from place to place and includes a hawker, peddler, squatter and all other synonymous terms which may be local or region specific; and the words “street vending” with their grammatical variations and cognate expressions, shall be construed accordingly;

“stationary vendor” means a street vendor who carries out street vending activities on a regular basis at a specific location;

“trade” means carrying on the business of selling goods or services;

“vending zone” means an area, place or location designated as such by the County Executive Committee Member for the specific use by street vendors for street vending and includes a footpath, sidewalk, pavement, embankment, portions of a street, or any such place considered suitable for vending activities and providing services to the general public.

**3.** The object and purpose of this Act is to provide a standard framework for —

Object and purpose

- (a) the designation and use of public space for informal trading;
- (b) the establishment of a department to regulate pop-up markets and street vendors;
- (c) the effective organization and regulation of



informal traders;

- (d) to entrench the right to informal trading;
- (e) to establish areas for the conduct of such trade and licensing by the county government.

## **PART II—ESTABLISHMENT OF THE DEPARTMENT OF POP UP MARKETS**

4. The Executive Committee Member shall, by notice in the *Kenya Gazette*, designate a department within the Trade Sector for matters relating to pop-up markets and street vendors and for the purposes of this Act.

Establishment of the Department of pop-up markets and street vendors

5. The Department shall —

Functions of the Department

- (a) develop market rules;
- (b) ensure maintenance of markets;
- (c) liaise with other authorised officers to ensure effective revenue collection;
- (d) provide a strategic approach to develop trade in the county;
- (e) advice the county government on all matters pertaining to pop-up markets and street vendors;
- (f) supervise sanitation work;
- (g) collect and utilize data relating to pop-up markets and street vendors in the County; and
- (h) perform any other function as may be necessary for the implementation of this Act.

6. (1) The Executive Committee Member shall, by notice in the *Kenya Gazette and County Gazette* and at least two newspapers of nationwide circulation, demarcate and designate a specific street, building or parking area to be the location a pop up market and designate the operating hours and days;

Location and operating hours and days of pop-up markets

(2) The county government shall provide essential facilities prior to the designation of pop-up markets under subsection (a), including but not limited to security, solid waste disposal, water, lighting and parking facilities where necessary.

## **PART III—ADMINISTRATION OF POP-UP MARKETS AND STREET VENDORS**

7. (1) The County department responsible for the

Registration of street vendors



markets shall be responsible for the administration of pop-up markets and street vendors

(2) A person conducting street vending activities in any place within the county shall register as a street vendor.

(3) A certificate of registration signed by the Executive Committee Member shall be conclusive evidence of registration as a street vendor.

(4) The Executive Committee Member shall maintain a register of all street vendors operating within the county.

**8.** (1) No person shall conduct a business of street vending activities unless they are registered as such and in possession of a valid licence.

Licensing of pop-up  
markets and street  
vendors

(2) The Executive Committee Member shall grant a licence upon payment of the prescribed fees and satisfaction of any prescribed requirements.

(3) A vending licence under this Act shall classify a street vendor as —

- (a) a stationary vendor;
- (b) a mobile vendor; or
- (c) any other category as may be specified by the county executive committee member.

(4) A vending licence issued under this section shall include the following particulars —

- (a) name of applicant;
- (b) type of licence;
- (c) vending location;
- (d) contact details of the applicant;
- (e) type of goods or services to be sold;
- (f) time and date of vending activities, where applicable;
- (g) type and registration number of vehicle, where applicable; and
- (h) any other details as may be prescribed.

(5) Any person who contravenes the provision of this section commits an offence and is liable, upon conviction



to a fine not exceeding Kenya Shillings fifty thousand or to imprisonment for a term not exceeding six months or to both.

**9.** (1) The Executive Committee Member shall ensure the following conditions are met before issuing a licence —

Conditions for  
issuance of licence

- (a) the street vendor carries on the business as provided in the licence in person and not through a third party;
- (b) a street vending licence issued under this Act shall be valid from the date it is issued and shall expire on such a date as may be specified in the licence; and
- (c) the street vendor's licence shall not be transferable in any manner.

**10.** (1) A street vendor's licence may be renewed for such further period as the Executive Committee Member may determine.

Renewal of a licence

(2) A licensed street vendor may apply for renewal of the licence in the prescribed manner at least thirty days before the date of expiry of the licence.

**11.** (1) The Executive Committee Member may cancel or suspend a street vending licence in the following circumstances—

Cancellation or  
suspension of licence

- (a) where a street vendor commits breach of any of the conditions under section 9 or any other terms and conditions specified or
- (b) where he is satisfied that such vending licence has been secured by the street vendor through misrepresentation or fraud.

(2) Provided that no such cancellation or suspension shall be made unless an opportunity of hearing has been given to the street vendor.

**12.** (1) The Executive Committee Member shall be responsible for the registration of validly licenced street vendors within the county.

Register of street  
vendors

(2) For purposes of sub-section (1) the Executive Committee Member shall maintain an up to date



register of all validly licenced street vendors in the county.

13. (1) The Executive Committee Member shall, by notice in the county Gazette and in at least one newspaper of wider circulation in the county, demarcate and designate the county into vending zones as follows—

Designation of  
vending zones

- (a) restriction-free vending zones;
- (b) restricted vending zones; or
- (c) no-vending zones.

(2) A restriction-free vending zone shall be an area in which a validly licenced street vendor may conduct vending activities.

(3) A restricted vending zone shall be a zone in which a validly licensed street vendor may conduct vending activities subject to special permission granted by the county government pursuant to this Act.

(4) A no-vending zones shall be a zone in which vending activities are prohibited.

(6) A person who conducts vending activities in a restricted vending zone without a special permit or in a no-vending zone commits an offence.

14. (1) The Executive Committee Member shall be responsible for the effective management of pop up markets within the county.

Vending zones plan

(2) For purposes of sub-section (1) the Executive Committee Member shall develop a county vending zone plan setting out information on the matters specified in Schedule 1 and taking into account the results of the survey carried out under subsection (3).

(3) The Executive Committee Member shall, within twelve months of the commencement of this Act, conduct a survey of all existing street vendors and potential vending zones within the area under its jurisdiction and subsequent surveys shall be carried out at least once in every three years.

(4) The Executive Committee Member shall, within nine months of the conduct of the survey under subsection (3), submit the results analysis and recommendations with



respect to the survey and the vending zone plan to the county assembly for approval.

(5) In considering the vending zone plan under subsection (4), the county assembly shall conduct public participation.

(6) Upon approval of the plan the Executive Committee Member shall publish the details of the county vending zone plan in the Kenya Gazette and at least two newspaper of wider circulation within the county.

(7) The transition period shall be six months from the time of publication of county vending zone plan.

**15.** (1) The county executive committee member shall declare a zone or part of a zone to be a no-vending zone for any public purpose and relocate any street vendors vending in that area.

Relocation or  
eviction of street  
vendors

(2) The authorized officers shall evict any street vendor whose vending licence has been revoked under section 12 or who does not have a vending licence and carries out vending activities without such licence.

(3) No licenced street vendor shall be evicted or relocated from the location specified in their licence unless the street vendor has been given thirty days' notice of such eviction in such manner as shall be prescribed by the Executive Committee Member.

(4) A street vendor shall be relocated or evicted by the county government after the street vendor has failed to vacate the place specified in their vending licence after the expiry of the notice period under subsection (3).

(5) Relocation under this section shall not take place unless the county government has installed or provided essential facilities including water, lighting, security and waste disposal facilities in the area to which the vendor is to be relocated.

**16.** No vendor shall sell or offer for sale prohibited goods at a pop up market.

Prohibited goods

**17.** A street vendor shall, upon request, produce their goods or provide access to their goods to the authorised officer for the purposes of inspection.

Access to prescribed  
goods

**18.** (1) Where an enforcement officer, finds goods at

Seizure of prescribed  
goods



a pop-up market and the officer is satisfied, on reasonable grounds, that the goods are —

- a) prohibited goods; and
- b) being sold by an unregistered street vendor or a third party, the officer may, without laying any information or obtaining any warrant, seize and remove those goods.

(2) Where a street vendor's goods or assets utilised for their street vending activities are confiscated under this Act, the officer confiscating the goods shall issue the street vendor with a receipt detailing —

- (a) the specific goods confiscated;
- (b) the location from which the goods may be recovered;
- (c) the time within which the confiscated goods must be recovered; and
- (d) such other information as may be prescribed this Act or regulations thereof.

**19.** Every registered and licensed street vendor has the right to quiet possession of their goods, subject to the provisions of this Act and the terms and conditions of their vending licence.

Right to quiet  
possession of goods

**20.** (1) Every street vendor has the right to be a member of an association of street vendors within the county.

Right to association

(2) It shall not be mandatory for a street vendor to be a member of any street vendor's association under this Act.

**21.** (1) A person, who in a pop-up market behaves in a disorderly manner, commits an offence and is liable on conviction to a fine not exceeding thirty thousand or to a term of imprisonment not exceeding six months or both.

Disorderly behavior  
in pop-up markets

(2) An authorised officer or any other person in charge of a pop-up market may remove any person who behaves in a disorderly or offensive manner or who misconducts himself in a pop up market.

**22.** Inspection of any matter related to this Act shall be carried by authorised officers appointed by the

Authorised officers  
to carry out  
inspection



Executive Committee Member for the purposes of this Act.

**23.** A person who assaults or obstructs an authorised officers in a pop up market while executing their duty is liable on conviction to a fine not exceeding fifty thousand or to a term of imprisonment not exceeding six months or both.

Assaulting or obstructing officers performing their duties

#### **PART IV: MISCELLANEOUS PROVISIONS**

**24.** A person who—

Offences

- (a) Sells any article in the market, otherwise than in accordance with this Act;
- (b) Obstructs or opposes any officer in the execution of their duty under this Act; or
- (c) Creates or causes any disturbance in the market commits an offence

And is liable on conviction to a fine not exceeding Kenya Shillings fifty thousand or to imprisonment for a term not exceeding six months or to both.

**25.** All penalties imposed under this Act are recoverable in a summary manner and any person committing an offence against and provision in this Act commits an offence and is liable on conviction to a fine not exceeding fifty thousand shilling or to imprisonment for a term not exceeding six months or both.

General penalty

**26.** The Executive Committee Member may make regulations for the better carrying out of the provisions of this Act.

Regulations



## **FIRST SCHEDULE**

### **Section 15**

#### **PLAN FOR STREET VENDING**

**1. The vending zones plan shall —**

- (a) ensure that the provision of space or area for street vending is reasonable and consistent with existing natural markets;
- (b) promote convenient, efficient and cost effective distribution of goods and provision of services ;
- (c) ensure the right of commuters to move freely and use the roads without any impediment;
- (d) take into account the civic facilities for the appropriate use of identified spaces or areas as vending zones;
- (e) ensure a balance between the interests of formal retailers and other stakeholders in the private sector to promote coexistence of hawkers and street vendors; and
- (f) such other matters as may be specified in county legislation to give effect to the street vending plan.

**2. The plan for street vending shall contain all of the following matters, namely —**

- (a) designation of space or areas as vending zones;
- (b) determination of spatial planning norms for street vending;
- (c) classification of vending zones as non-vending, restricted and restriction-free vending zones;
- (d) making of spatial plans adequately conducive for the number of hawkers and street vendors in the county and accounting for future population growth or other norms as may be necessary and
- (e) consequential changes needed in the physical planning of the city to accommodate hawkers and street vendors in the designated vending zones.

**3. Declaration of no-vending zone shall be carried out by the plan for street vending, subject to the following principles, namely —**

- (a) any existing market or a natural market as identified in the survey shall not be declared as a no-vending zone;



- (b) declaration of a no-vending zone shall be done in a manner which displaces the minimum percentage of hawkers and street vendors;
- (c) overcrowding of any place shall not be a basis for declaring any area as a no-vending zone provided that restrictions may be placed on the issuance of vending licences in such areas;
- (d) sanitary concerns shall not be the basis for declaring any area as a no-vending zone unless such concerns can solely be attributed to street vendors and cannot be resolved through appropriate action by the county government and
- (e) until such time as the results of the survey have been derived, and the county vending plan formulated, no zone shall be declared as a no-vending zone.



## **MEMORANDUM OF OBJECTS AND REASONS**

The principal object of the Bill is for the establishment of pop-up markets to provide an opportunity to the registered vendors to trade on certain approved locations on certain days and to provide a framework to regulate the business of street vending in the in the county.

The structure of the Bill is as follows:

**Part I (Clauses 1-3):** Contains preliminary provisions including the short title, interpretation of terms, objects and purpose of the Bill.

**Part II (Clauses 4-7):** provide for establishment and management of pop-up markets and street vendors, establishment of the Department, its functions, location of pop-up markets and the operating hours.

**Part III (Clauses 8-25)** details the administration of pop-up markets and street vendors, which include the registration and licensing of street vendors, procedure for renewal and cancellation of licences, the register of street vendors, vending zones and vending plans, seizure of prescribed goods and power of arrest by authorised officers.

**Part IV (Clauses 26-28)** provide miscellaneous matters including offences, general penalty and regulations.

### **Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms**

The Bill provides for the power of the County Executive Committee Member to make Regulations for the better carrying into effect of the provisions. The Bill does not limit fundamental rights and freedoms.

### **Statement that the Bill concerns county governments**

The Bill concerns counties governments in terms of Article 110 (1) (a) of the Constitution as it affects the functions and powers of County Government set out in the Fourth Schedule.

KABIRO MBUGUA,  
*Member of County Assembly.*