

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY



OFFICE OF THE CLERK

SECOND ASSEMBLY-FOURTH SESSION

NBI CA. PLC. 2020 / (60)

12th November, 2020

PAPER LAID

Pursuant to Standing Order 191, I beg to lay the following Paper on the Table of the Assembly, today Thursday 12th November, 2020.

THE REPORT OF THE SECTORAL COMMITTEE ON TRADE, TOURISM AND COOPERATIVES ON NAIROBI CITY COUNTY POP-UP MARKETS AND STREET VENDORS BILL, 2019.

(Chairperson, Sectoral Committee on Trade, Tourism and Cooperatives)

Copies to:
The Speaker
The Clerk
Hansard Editor
Hansard Reporters
The Press

*Paper laid by
Hon. Ngengi
on 12th Nov 2020.
[Signature]
2:30 PM*

APPROVED
15 NOV 2020
HON. SPEAKER

(SECOND ASSEMBLY- FOURTH SESSION)

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**NAIROBI CITY COUNTY ASSEMBLY
SECOND ASSEMBLY – FOURTH SESSION**

**REPORT OF THE SECTORAL
COMMITTEE ON TRADE, TOURISM AND COOPERATIVES ON THE
CONSIDERATION OF THE NAIROBI CITY COUNTY POP-UP MARKETS AND
STREET VENDORS BILL, 2019**

*Paper laid by Hon Ngengi
on 12/Nov/2020.
2.30 pm
[Signature]*

**Clerks Chambers
Nairobi City County Assembly
City Hall Buildings
Nairobi**

Nov, 2020

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1.0 PREFACE

1.1 Committee Mandate

Mr. Speaker Sir,

The Sectoral Committee on Trade, Tourism and Cooperatives is established under Standing Order No. 203. Its mandate pursuant to Standing Order 203(6) is to:-

- a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;*
- b) study the programme and policy objectives of departments and the effectiveness of the implementation;*
- c) study and review all county legislation referred to it;*
- d) study, assess and analyse the relative success of the departments as measured by the results obtained as compared with its stated objectives;*
- e) investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;*
- f) vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 185(Committee on Appointments); and*
- g) make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.*

1.2 Committee Membership

The Committee comprises the following Members:-

- | | |
|------------------------------------|---------------------------|
| 1. Hon. Daniel Ngengi, MCA | - Chairperson |
| 2. Hon. Clarence Munga, MCA | - Vice Chairperson |
| 3. Hon. Anthony Gatune, MCA | |
| 4. Hon. Benson Mwangi, MCA | |
| 5. Hon. Charles Thuo, MCA | |

6. Hon. Doris Kanario, MCA
7. Hon. Chege Mwaura MCA
8. Hon. Elias Okumu, MCA
9. Hon. Geoffrey Ng'ang'a, MCA
10. Hon. Jane Muasya, MCA
11. Hon. Jayendra Malde, MCA
12. Hon. Jeremiah Themendu, MCA
13. Hon. Joseph Ndonji MCA
14. Hon. Lawrence Otieno, MCA
15. Hon. Maina Njoka, MCA
16. Hon. Mary Arivisa, MCA
17. Hon. Mary Njambi, MCA
18. Hon. Maurice Ochien'g, MCA
19. Hon. Millicent Jagero, MCA
20. Hon. Naftaly Mathenge, MCA
21. Hon. Nicholas Okumu, MCA
22. Hon. Rose Kulla, MCA
23. Hon. Patrick Musili, MCA
24. Hon. Paul Shilaho, MCA
25. Hon. Anita Thumbi, MCA

Mr. Speaker Sir,

The Committee also exercises its oversight role on all matters related to trade development and regulation including markets.

In accordance with the Third Schedule of the Standing Orders, the Sectoral Committee is mandated to consider all matters relating to:-

- a) Trade development and regulation including markets, trade licenses (excluding regulation of professions);***
- b) Fair trading practices;***
- c) Local tourism; and***
- d) Cooperative societies.***

1.3 Consideration of The Nairobi City County Pop-up Markets and Street Vendors Bill, 2019

Mr. Speaker Sir,

The Nairobi City County Pop-up Markets and Street Vendors Bill, 2019 was read a First Time on Tuesday 10th December, 2019 and thereafter committed to the Sectoral Committee on Trade, Tourism and Cooperatives for consideration pursuant to Standing Order 131.

Mr. Speaker Sir,

Pursuant to Article 196(b) of the Constitution of Kenya and Standing Order 131(3) which require public participation in the legislative and other business of the Assembly and its Committees, the Committee placed a notice in the local dailies on Tuesday 4th February, 2020 calling for any representations and amendments from the public on the Bill. The Committee also identified key stakeholders to the Bill and invited them to either submit their comments or attend Committee meetings where they could give their views on the Bill. Following the notice and the invitations, the Committee received written memoranda from the following stakeholders;

- i) Nairobi City County;
- ii) The Nairobi Hawkers Association;
- iii) Kenya National Hawkers Association, Nairobi County (KENHA);
- iv) Micro and Small Enterprises Authority (MSEA); and
- v) Nairobi Informal Sector Confederation (NISCOF)

The Committee held two (2) meetings and a retreat to consider the Bill and all representations received. The retreat included a meeting held with the County Executive Committee Member responsible for Trade, Commerce and Industrialization, and the sponsor of the Bill Hon. Kabiro Mbugua MCA. The stakeholders who presented memoranda were agreeable in principle with the Bill although they proposed amendments to various clauses.

Mr. Speaker Sir,

The Committee will propose amendments to the Bill in Clauses 2, 3, 7, 9, 10, 20, and 26. The amendments are aimed at ensuring that all aspects of pop-up markets and street vending in the County are covered, execution of the Bill is easily attained and the concerns of the stakeholders are catered for.

Mr. Speaker Sir;

The Committee thanks the Offices of the Speaker and the Clerk of the County Assembly for the support and services extended to Members of the Committee while considering the Bill. I am grateful to the Members of the Committee whose support and commitment enabled the Committee to accomplish this task. The Committee also extends its appreciations to all stakeholders who submitted their views on the Bill. Special thanks to the County Executive for their views and the Secretariat for the technical support provided.

On behalf of the Committee, I now have the honor and pleasure to present this report of the Committee on the consideration of the Nairobi City County Pop-up Markets and Street Vendors Bill, 2020 for adoption.

Thank You.

Signed

Hon. Daniel Ngengi MCA

(Chairperson)

Sectoral Committee on Trade, Tourism and Cooperatives

Dated this 1st day of July, 2020

2.0 COMMITTEE CONSIDERATION OF THE NAIROBI CITY COUNTY POP-UP MARKETS AND STREET VENDORS BILL, 2019

1. While examining the Bill, the Committee noted the following:

- i. The principle objective of the Bill is 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 County.

The Committee observed that Part two of the Fourth Schedule to the Constitution devolves the role of trade development and regulation including markets, trade licenses, fair trading practices, local tourism and cooperative societies to the County Governments. The Committee fully supports the enactment of the proposed law for it seeks to establish, regulate and recognize pop-up markets and street vending in the County.

- ii. **Part I** of the Bill sets out the preliminary matters with regards to the Bill. Clause 1 sets out the short title. Clause 2 sets out the definition of terms used in the Bill, while Clause 3 outlines the object and purposes of the proposed law.

The County Executive recommended that the Bill should be referred to as 'The Nairobi County Trade and Markets Bill 2019'. The Committee disagreed because the purpose of the Bill is different from the objectives of the Proposed Trade and Markets Bill, 2019.

The Committee noted that under interpretation in Clause 2, "disorderly manner", "public space", and "informal trade" ought to be defined for clarity and as such, it has proposed amendments to that effect. The Committee proposes insertion of a new clause, 3(a) (i) on the values and principles to guide the operation, regulation and management of pop-up markets.

The Institute of Social Accountability (TISA) opined that the following terms be defined- 'Public space', 'informal trade', 'street vending', 'vending' 'Authorized officer' and 'Harassment'. The Committee agreed to define

public space and informal trade. The others were rejected as they are verbs. In addition, TISA proposed addition of a sub-clause in the objectives as follows;

(e) for public participation in the designation of vending zones and regulation of informal traders citing that public participation is a constitutional right. The Committee disagreed with the proposal citing that designation of vending zones was a preserve of the CECM in accordance with the Bill.

- iii. **Part II** of the Bill provide for the establishment and management of pop – up markets and street vendors, establishment the Department, its functions, location of pop-up markets and the operating hours.

Committee agrees with Clause 4 and 5 which establishes a department within the Trade Sector for matters relating to pop-up markets and street vendors and states its functions respectively.

For the purpose of inclusion and accountability, the Nairobi Informal Sector Confederation (NISCOF) proposed that diverse stakeholders including youths and people living with disabilities be part of the proposed department. The stakeholder also proposed that signage be provided in the designated places where pop-up markets are allowed. The Committee disagreed to the proposed amendments.

The Nairobi Hawkers Association opined that clause 6 should state how often the CECM should gazette the streets for Pop-up markets and that an obligation should be imposed on the CECM to come up with regulations on how the streets shall be allocated to all the street vendors in Nairobi. The Committee disagreed with the Nairobi Hawkers Association proposals noting that the Proposed Regulations to be drafted by the CECM under clause 26 shall contain the modalities of operation.

- iv. **Part III** of the Bill 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 licenses, the register of street vendors, vending zones and plans, seizure of prescribed goods and power to arrest by authorized officers.

The Nairobi Hawkers Association proposed that a Committee comprising of seven (7) members be established to hear and address issues raised by the Street Vendors and also participate in developing policies and programmes for hawking activities and that the Committee be given powers to vet the street vendors and update data of the names of the street vendors in the database of street vendors. The Committee disagreed with the proposal to establish the committee. It noted the difficult financial times in the Republic and proposed that the Department proposed under to be established under Clause 5 will be sufficient for administration.

Micro and Small Enterprises Authority (MSEA) proposed deletion of Clause 8 however the Committee disagreed and held that the said Clause was proper, as it provides mechanisms of licensing vendors. MSEA also proposed that under Clause 9 the bill to allow street vendors to carry out business through agents. The committee found it a good proposal but not a solution to registration of all parties involved. For instance, the registered hawkers may opt to hire and fire their staff. The committee noted that this pop-up markets being seasonal the registered street vendors needed not to register third parties. As such, the committee disagreed to the amendment of Clause 9(a) as proposed. Another proposal was that a list of prohibited goods be added through a schedule to alleviate the unconstitutional arbitrary seizure of goods. The Committee disagreed with the proposed amendment. The Committee noted that the term- prohibited goods was sufficiently defined. Finally MSEA proposed that the entire bill be streamlined to set up and protect operations within pop-up markets. Accordingly the Committee agreed that the proposed Regulations under Clause 26 should cater for the concern raised by the stakeholder.

The Nairobi Informal Sector Confederation (NISCOF) proposed the deletion of Clause 18 detailing on the seizure of prescribed goods. The Committee

disagreed with the proposal to delete the clause on confiscation of goods.

It noted that mechanisms have been put in place in the clause to ensure confiscated goods can be traced.

The Institute of Social Accountability proposed a right of fair hearing before revocation of license and arbitration in case of dissatisfaction should be captured. The Committee was of the opinion that Clause 11(2) provides for an opportunity of the street vendor to be heard before cancellation or suspension thus disagreed with the proposal as it was sufficiently catered for under the provisions of Clause 11(2). In addition, TISA proposed that description of the process of selection of vending zones be added. The Committee rejected the proposal since under Clause 6, power is granted to the CECM to choose which vending zones shall be gazetted and for how many hours and on which days.

TISA further proposes deletion of Clause 18 and inclusion of a legal process like that which is used for formal businesses. The Committee disagreed as the clause provides for proper mechanisms for seizure and issuance of a receipt for goods seized.

2. The Committee deliberated on the Bill as follows;

Clause 1	- agreed to
Clause 2	- proposed amendments.
Clause 3	- proposed amendments
Clause 4 to 6	- agreed to
Clause 7	- proposed amendments
Clause 8	- agreed to
Clause 9 and 10	- proposed amendments
Clause 11 to 19	- agreed to
Clause 20	- proposed amendments
Clause 21 to 25	- agreed to
Clause 26	- agreed to

3.0 COMMITTEE STAGE AMMENDMENTS

NOTICE is given that the chairperson of the Sectoral Committee on Trade, Tourism and Cooperatives, Hon. Daniel Ngengi, MCA intends to move the following amendments to the Nairobi City County Pop-up Markets and Street Vendors Bill, 2019 at the Committee Stage—

CLAUSE 2

THAT CLAUSE 2 of the Bill be amended;

1. By inserting the following definitions in their alphabetical sequence:-
 - i. **‘disorderly manner’** means **“involving or contributing to a breakdown of peaceful and law-abiding behavior”**
 - ii. **‘public space’** includes **“every place to which the public are entitled or permitted to have access whether on payment or otherwise in accordance with Section 3 of The Interpretation and General Provisions Act, CAP 2 of the Laws of Kenya”**
 - iii. **‘informal trade’** means **“unorganized small scale, self-employment creating activities which might involve individuals or unremunerated relatives of the business owner, small number of hired workers or totally without any hired workers which the street vendors engage in for the purpose of increasing income generation”**.

CLAUSE 3

THAT Clause 3 of the Bill be amended as follows;

1. By inserting a new **Clause 3A** immediately after Clause 3 as follows; -

Values Principles	and	“3 A ”(1) The operation, regulation and management of pop-up markets shall be guided by the following values and principles :- <ol style="list-style-type: none">(a) Right of access by registered street vendors to trade within the designated pop-up market as gazetted(b) Equitable access for registered street vendors to the
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pop-up markets

- (c) Protection of the street vendors within the pop-up markets
- (d) Right to a fair hearing before revocation of licenses of registered street vendors
- (e) Ensuring human dignity and integrity of persons engaged in the management of the pop-up markets.

CLAUSE 7

THAT Clause 7 of the Bill be amended as follows; -

- (i) In sub-clause 4 by inserting the words **‘a manual and digitized’** immediately after the word **‘maintain’** and by inserting the words **‘and such register shall be made available on request to members of the public’** immediately after the word **‘county’**.

CLAUSE 9

THAT Clause 9 of the Bill be amended as follows; -

- i. In sub-clause (1) paragraph (b) by deleting the paragraph and substituting thereof with **“a street vending licence issued under this Act shall be valid for one year from the date it is issued or such period as may be specified in the licence; and”**
- ii. In sub- clause 1 by inserting a new paragraph (c a) as follows;

NEW PARAGRAPH

“c a” ‘the street vendor carrying on business as provided in the license shall not sub-let, transfer, assign or otherwise alienate any vending space, stall or property allocated to them for carrying out vending activities’

CLAUSE 10

THAT Clause 10 of the Bill be amended as follows;

In Sub-clause 1 by inserting the words '**annually or**' immediately after the word renewed.

CLAUSE 20

THAT Clause 20 of the Bill be amended as follows;

- i. In Sub-clause 2 by deleting the words '**not**' immediately after the word '**shall**'.

CLAUSE 26

THAT Clause 26 of the Bill be amended as follows;

- i. By inserting the words '**6 months after enactment of this Bill**' immediately after the words this Act.

Signed

Hon. Daniel Ngengi MCA

(Chairperson)

Sectoral Committee on Trade, Tourism and Cooperatives

Dated this ^{11th}.....day of.....^{Nov}....., 2020

MATRIX OF STAKEHOLDER COMMENTS AND FINAL COMMITTEE PROPOSED AMENDMENTS TO THE NAIROBI CITY
COUNTY POP-UP MARKETS AND STREET VENDORS BILL, 2019

STAKEHOLDER	CLAUSE	PROPOSED AMENDMENT	RATIONALE	COMMITTEE CONCLUSION
1. Nairobi City County.		<ul style="list-style-type: none"> The Bill should be referred to as 'The Nairobi County Trade and Markets Bill 2019 	<ul style="list-style-type: none"> The content of the Bill is extensively covered in the Trade Licensing Act 2019 and the Proposed Trade and Markets Bill 2019 	The Committee disagreed because the purpose of the Bill is different from the objectives of the Proposed Trade and Markets Bill, 2019
2. The Nairobi Hawkers Association	6	<ul style="list-style-type: none"> The clause should state how often the CECM should gazette the streets for Pop-up markets. An obligation should be imposed on the CECM to come up with regulations on how the streets shall be allocated to all the street 	<ul style="list-style-type: none"> The clause is vague in terms of how often these markets will be set up and on which 	The committee disagreed with the proposal and reiterated that the Proposed Regulations to be drafted by the CECM under clause 26 shall contain the modalities of operation.

		<ul style="list-style-type: none"> vendors in Nairobi. The Clause should propose where the traders should conduct business on days that are not gazetted by the CECM. 	<ul style="list-style-type: none"> streets. The Bill doesn't state the mechanism s the County intends to employ to accommodate all the 5,400 street vendors on the said designated areas 	
	Part III	<ul style="list-style-type: none"> The Bill to establish a Committee comprising of 7 members to hear and address issues raised by the Street Vendors and also participate in developing policies and programmes for hawking activities. The Committee to be given powers to vet the street vendors and update data of the names of the street vendors in the database of street vendors. The Committee to make 	<ul style="list-style-type: none"> The CECM and the department cannot fully facilitate the registration and administrative on of the needs of the Street vendors. 	<p>The Committee disagreed with the proposal to establish the committee. It noted the difficult financial times in the Republic and proposed that the Department proposed under to be established under Clause 5 will be sufficient for administration.</p>

		public a list of names of the street vendors through the county government website.		
	8	<ul style="list-style-type: none"> ▪ The clause should prescribe in verbatim, the fees to be paid for the license. ▪ Traders with vehicles should not be required to register the vehicles. 	<ul style="list-style-type: none"> ▪ To avoid exploitation. ▪ To avoid congestion on the designated market days due to the limited space to accommodate the over 5,000 traders. 	<p>The Committee noted that for purpose of identification of the registered traders, and regulation of the markets, the vehicle registration Number is important during such pop-up markets for identification.</p> <p>Committee agreed on digitization of the register. It was proposed that these traders registration be done with Bio-metrics for security and guidance during the Pop-up markets.</p> <p>On deletion of the suggested non-disclosure being limited the committee found the proposal misplaced as there were no such words as 'a reasonable period' in the provisions as contained under clause 8.</p>
		<ul style="list-style-type: none"> ▪ The licenses should be digitized and the Committee to be established under Part III should be responsible for vetting of the traders before such registration. ▪ Deletion of the language suggesting that the non-disclosure can be limited to 	<ul style="list-style-type: none"> ▪ Proprietary information does not 	

		<p>“a reasonable period.”</p> <ul style="list-style-type: none"> • 	<p>cease being confidential after any specific period.</p>	
9		<ul style="list-style-type: none"> ▪ The vendors be allowed to forward the names of their agents/employees as third parties to the vendors. • • 	<ul style="list-style-type: none"> ▪ Traders often work with employees and may be required to leave the employees running the business as they restock among other reasons. 	<p>The committee found it a good proposal but not a solution to registration of all parties involved. For instance, the registered hawkers may opt to hire and fire their staff. The committee noted that this pop-up markets being seasonal the registered street vendors needed not to register third parties. As such, the committee disagreed to the amendment of Clause 9(a).</p>
10		<ul style="list-style-type: none"> ▪ Renewal of the license be done annually • 	<ul style="list-style-type: none"> ▪ The clause is vague and does not guarantee renewal of such licenses and for what period. 	<p>The committee agreed with the proposal and resolved that Clause 10 (1) be amended to read: “<i>A street vendor’s license may be renewed annually or such further period as the CECM may determine</i>”.</p>
11		<ul style="list-style-type: none"> ▪ The Committee to be 		<p>The Committee having</p>

		established under Part III should be involved before cancellation or suspension of licenses			disagreed with the establishment of a committee under the Bill, the proposal was rejected by the Committee.
	2	<ul style="list-style-type: none"> A better definition be given specifying some of the prohibited goods. 	<ul style="list-style-type: none"> The definition of 'prohibited goods' is vague. 		The Committee rejected the proposal siting the definition was extensive to include any other legislated prohibited goods.
3. Kenya National Hawkers Association Nairobi County (KENHA)		<ul style="list-style-type: none"> The Bill should establish a Board as opposed to a Department of Pop up markets and street vendors 	<ul style="list-style-type: none"> The board will incorporate representatives from stakeholder s for accountability and transparency. 		The Committee rejected the proposal and noted that in the interest of the ballooning wage bill, it was prudent to have the Department administer over the provisions of the Bill as the legislation grants it capacity to administer.
		<ul style="list-style-type: none"> A markets committee should be established. 	<ul style="list-style-type: none"> Fairness in the allocation of spaces 		The Committee resolved that the establishment of a Board, tribunal or Committee may be brought later upon failure of the department to meet its objectives.
		<ul style="list-style-type: none"> The Board Secretary be the oversight authority and the Markets Committee should stem from Nairobi City County. 			
		<ul style="list-style-type: none"> A tribunal should be established to decide cases as 	<ul style="list-style-type: none"> To ensure fairness and 		

		opposed to the Executive Committee Member	prevent arbitrary decision making.	
4. Micro and Small Enterprises Authority (MSEA)	4 & 5	<ul style="list-style-type: none"> The clauses should establish Town Vendors Committees based within the designated pop-up markets and comprising of members from stakeholders in the informal sector including street vendors and County officers. 		
	7	<ul style="list-style-type: none"> Deletion of this section . 	<ul style="list-style-type: none"> Amounts to multiple registration of enterprises being that informal traders and enterprises are registered under other legislations 	The Committee rejected the proposal that the registration contained there-in Under Clause 7 amounted to double registration. The MSEA's suggestion as first registration was on registration of Business entities as opposed to licensing as proposed under the Bill.
	8	<ul style="list-style-type: none"> Total deletion . 	<ul style="list-style-type: none"> Curtails job sustenance for start-up businesses Licensing 	The Committee resolved that the provision of Clause 8 was proper as it provides mechanisms of licensing vendors. The Committee noted this was in order for Revenue

			<ul style="list-style-type: none">• will also confine mobile vendors to a specific vending location.• Stationary vendors already require permits/licenses.	Collection and regulation of these markets as often gazetted by the CECM. The Committee rejected the proposal.
9	<ul style="list-style-type: none">▪ Allow street vendors to carry out business through agents	<ul style="list-style-type: none">▪ Restriction curtails capacity building and employment	The committee found it a good proposal but not a solution to registration of all parties involved. For instance, the registered hawkers may opt to hire and fire their staff. The committee noted that this pop-up markets being seasonal the registered street vendors needed not to register third parties. As such, the committee disagreed to the amendment of Clause 9(a).	
15	<ul style="list-style-type: none">▪ The proposed committee comprising of stakeholders be involved in the disciplinary and decision making process for street vendors.	<ul style="list-style-type: none">▪ It is punitive for the County Executive Member to make	Disagreed establishment of the committee	

			solitary decisions on eviction	
18	<ul style="list-style-type: none">A list of prohibited goods be added through a schedule	<ul style="list-style-type: none">To alleviate the unconstitutional arbitrary seizure of goods	The Committee disagreed with the proposed amendment. The Committee noted that the term-prohibited goods was sufficiently defined.	
21	<ul style="list-style-type: none">The term 'disorderly manner' should be defined	<ul style="list-style-type: none">To alleviate arbitrary and unconstitutional arrests based on the passing discretionary decision of County officers	The Committee agreed to have the term defined under the Bill. Amend Clause 2 by adding the following definition immediately after the definition of the word "county Assembly" "disorderly manner,....."	
Entire Bill	<ul style="list-style-type: none">Be streamlined to set up and protect operations within pop-up markets.	<ul style="list-style-type: none">Registration, licensing and other operation requirements seem to curtail entrepreneurship, and job	The Committee agreed that the proposed Regulations under Clause 26 should cater for the concern raised by the stakeholder.	

			creation	
5. Nairobi Informal Sector Confederation (NISCOF)		<ul style="list-style-type: none"> The following terms should be defined- <ul style="list-style-type: none"> ✓ Public space ✓ Informal trade ✓ Street vending ✓ Vending 		<p>The Committee agreed to define the terms “public space” and “informal trade”.</p> <p>The Committee rejected the definition of the words “street vending” and “vending” as they are doing words.</p> <p>Add values and principles of operation of the bill</p>
		<ul style="list-style-type: none"> The Bill ought to have express principles and values such as devolution of power and authority, environmental sustainability etc 		
		<ul style="list-style-type: none"> Diverse stakeholders including youths and people living with disabilities be part of the proposed department <ul style="list-style-type: none"> Signage be provided in the designated places where pop-up markets are allowed. Designation of vending zones be done in conjunction with the Physical Planning Department based on the local area plans. 	<ul style="list-style-type: none"> Inclusion and accountability 	<p>The Committee disagreed to the proposed amendments.</p>

		<ul style="list-style-type: none"> ▪ For vending zones plans, the surveys should be published. ▪ A provision for relocation of vendors by the County be added ▪ The manner and period of relocation should be specified. 	<ul style="list-style-type: none"> ▪ To protect vendors in case of designation of zones ▪ To avoid indefinite relocation periods and arbitrary relocations 	
		<ul style="list-style-type: none"> ▪ Delete the clause allowing confiscation of goods, 	<ul style="list-style-type: none"> ▪ Goes against the right of private property and is unconstitutional ▪ Authorities have a history of abusing this process 	<p>The Committee disagreed with the proposal to delete the clause on confiscation of goods. It noted that mechanisms have been put in place in the clause to ensure confiscated goods can be traced.</p>

		<ul style="list-style-type: none"> ▪ 'Disorderly behavior' be defined 		Agreed	
		<ul style="list-style-type: none"> ▪ Spatial jurisdiction of officers in the department be defined 	<ul style="list-style-type: none"> ▪ To avoid harassment and anonymity 	To Consult further	
		<ul style="list-style-type: none"> ▪ A tribunal and liaison Committee be established. 	<ul style="list-style-type: none"> ▪ Where aggrieved members can appeal when dissatisfied with decisions of the Department 	The proposal was rejected siting the ballooning wage Bill.	
6. The Institute of Social Accountability	2	<ul style="list-style-type: none"> ▪ The following terms be defined- 'Public space', 'informal trade', 'street vending', 'vending', 'Authorized officer' and 'Harassment' 		The Committee agreed to define public space and informal trade. The others were rejected as they are verbs	
	3	<ul style="list-style-type: none"> ▪ Add a sub-clause in the objectives as follows; (e) for public participation in the designation of vending zones and regulation of informal traders. 	<ul style="list-style-type: none"> ▪ Public participation is a constitutional right 	Committee disagreed with the proposal siting that designation of vending zones was a preserve of the CECM in accordance with the Bill.	
	6	<ul style="list-style-type: none"> ▪ A diverse oversight Committee at the Sub- 		Disagreed	

		County level be established		
5		<ul style="list-style-type: none"> The department ought to have representation from residents' associations, youths, persons with disabilities and other stakeholders 		Committee disagreed as this is a department to be established from the staff of the trade sector.
		<ul style="list-style-type: none"> Signage in the designated places for pop-up markets Frequent meetings for all stakeholders. 		
11		<ul style="list-style-type: none"> A right of fair hearing before revocation of license and arbitration in case of dissatisfaction should be captured 		Clause 11(2) provides for an opportunity of the street vendor to be heard before cancellation or suspension. The committee disagreed with the proposal as if was sufficiently catered for under the provision of Clause 11(2).
13		<ul style="list-style-type: none"> Description of the process of selection of vending zones should be added. 		Rejected as power is granted to the CECM to choose which vending zones shall be gazetted and for how many hours and on which days under Clause 6.
		<ul style="list-style-type: none"> Provisions of the Street Vendors (Protection of livelihood) Bill 2019 on vending centers and periodic markets should be incorporated. 		
14		<ul style="list-style-type: none"> Add a clause describing a participatory vending zones 		To consult further

		process		
15		<ul style="list-style-type: none"> ▪ The Bill ought to expressly provide that the county will be responsible for identifying a new zone for relocation of vendors during evictions and for how long the eviction will last. 		The committee rejected the proposal siting it is important for the CECM to maintain such power so as to create order in the operations of the pop-up markets.
18		<ul style="list-style-type: none"> ▪ Deletion of entire clause and inclusion of a legal process like that which is used for formal businesses 		Disagreed as the clause provides for proper mechanisms for seizure and issuance of a receipt for goods seized.
		<ul style="list-style-type: none"> ▪ A clear definition of 'disorderly behavior' and actions/omissions amounting to the same is key. 		Agreed- in accordance with penal code
		<ul style="list-style-type: none"> ▪ The Bill ought to prohibit sub-letting, transfer, assigning or otherwise alienating any vending space, stall or property allocated to them for carrying out vending activities 	<ul style="list-style-type: none"> ▪ So as to have appropriate representatives in the committee 	Agreed to be incorporated as clause 9(d) to read "the street vendor carrying on business as provided in the license shall not sub-let, transfer, assign or otherwise alienate any vending space, stall or property allocated to them for carrying out vending activities"

		<ul style="list-style-type: none"> ▪ The Bill ought to designate clear rules and guidelines for each category/sector of vendors • • ▪ A clause addressing rights and obligations of street vendors be added including; right to carry on the business of street vending, right to adequate facilities, public hygiene and protection from harassment. • 	<ul style="list-style-type: none"> ▪ Informal vending takes different forms of which blanket rules cannot be effective. 	<p>Disagreed- rules of operations to be provided under the regulations</p> <p>The committee agreed to add the Clause addressing rights and obligations of street vendors to be added.</p>
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		<ul style="list-style-type: none"> ▪ Add a provision for the use of biometrics in the licensing and allocation of spaces should be added 	<ul style="list-style-type: none"> ▪ To avoid duplication and other forms of mischief 	<p>Agreed to be added under Clause 7(4) to make the register to be maintain by the CECM to be a digital register.</p>
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Let the
Chairperson

4th October, 2020

The Ag. Clerk
Nairobi City County Assembly
City Hall Buildings
NAIROBI.

RE: COMMITTEE STAGE AMENDMENTS TO THE NAIROBI CITY COUNTY POP-UP
MARKETS AND STREET VENDORS BILL, 2020

NOTICE is given that the Chairperson of the Sectorial Committee on Trade, Tourism and Co-operatives intends to move the following amendments to the Nairobi City County Pop-up Markets and Street Vendors Bill, 2020, at the Committee Stage.

CLAUSE 2

THAT CLAUSE 2 of the Bill be amended;

1. By inserting the following definitions in their alphabetical sequence:-
 - i. 'disorderly manner' means "involving or contributing to a breakdown of peaceful and law-abiding behavior"
 - ii. 'public space' includes "every place to which the public are entitled or permitted to have access whether on payment or otherwise in accordance with Section 3 of The Interpretation and General Provisions Act, CAP 2 of the Laws of Kenya"
 - iii. 'informal trade' means "unorganized small scale, self-employment creating activities which might involve individuals or unremunerated relatives of the business owner, small number of hired workers or totally without any hired workers which the street vendors engage in for the purpose of increasing income generation".

CLAUSE 3

THAT Clause 3 of the Bill be amended as follows;

1. By inserting a new Clause 3A immediately after Clause 3 as follows; -

Values and Principles

“3 A ”(1) The operation, regulation and management of pop-up markets shall be guided by the following values and principles :-

- (a) Right of access by registered street vendors to trade within the designated pop-up market as gazetted
- (b) Equitable access for registered street vendors to the pop-up markets
- (c) Protection of the street vendors within the pop-up markets
- (d) Right to a fair hearing before revocation of licenses of registered street vendors
- (e) Ensuring human dignity and integrity of persons engaged in the management of the pop-up markets.

CLAUSE 7

THAT Clause 7 of the Bill be amended as follows; -

- (i) In sub-clause 4 by inserting the words ‘a manual and digitized’ immediately after the word ‘maintain’ and by inserting the words ‘and such register shall be made available on request to members of the public’ immediately after the word ‘county’.

CLAUSE 9

THAT Clause 9 of the Bill be amended as follows; -

- i. In sub-clause (1) paragraph (b) by deleting the paragraph and substituting thereof with “a street vending licence issued under this Act shall be valid for one year from the date it is issued or such period as may be specified in the licence; and”
- ii. In sub- clause 1 by inserting a new paragraph (c a) as follows;

NEW PARAGRAPH

“c a” ‘the street vendor carrying on business as provided in the license shall not sub-let, transfer, assign or otherwise alienate any vending space, stall or property allocated to them for carrying out vending activities’

CLAUSE 10

THAT Clause 10 of the Bill be amended as follows;

- i. In Sub-clause 1 by inserting the words ‘annually or’ immediately after the word renewed.

CLAUSE 20

THAT Clause 20 of the Bill be amended as follows;

- i. In Sub-clause 2 by deleting the words ‘not’ immediately after the word ‘shall’.

CLAUSE 26

THAT Clause 26 of the Bill be amended as follows;

- i. By inserting the words ‘6 months after enactment of this Bill’ immediately after the words this Act.

DATED This..... day of..... 2020

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CHAIRPERSON

SECTORAL COMMITTEE ON TRADE, TOURISM AND COOPERATIVES

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