

SPECIAL ISSUE

Machakos County Gazette Supplement No. 14 (Bills No. 12)



REPUBLIC OF KENYA

**MACHAKOS COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2016

NAIROBI, 27th July, 2016

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**THE MACHAKOS COUNTY PUBLIC MARKET AND STALL
BILL, 2016**

A Bill for

**AN ACT of the County Assembly of Machakos to provide for the
management of public markets and stalls; and for connected
purposes**

ENACTED by the County Assembly of Machakos as follows—

PART I—PRELIMINARY

Short Title

1. This Act may be cited as the Machakos County Public Markets and Stall Act, 2016.

Interpretation

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

“authorized persons” mean a person acting under the authority of the Director;

“executive committee member” means the county executive committee member responsible for matters relating to trade;

“director” means the person responsible for the time for matters relating to trade;

“market manager” means the officer appointed under section 5; and

“public markets” means is a public, building or structures operated and managed by the county government where goods are bought and sold and designated as such under sect. Stalls means a stand, booth or compartment for the sale of goods in a market or large covered area.

Objectives of the Act

3. The purpose and object of this purpose of this Act is to provide for the management of public stalls and markets.

PART II—PUBLIC MARKETS AND STALLS

Management of Public market

4. (1) The Director responsible for matter relating to trade shall oversee the implementation of this Act.

(2) In implementing the provisions of this Act the Director shall—

- (a) develop market rules; and
- (b) designate public markets and stalls.

Establishment of Market Manager

5. (1) The Executive Committee Member shall appoint a market manager for every market.

(2) A person shall qualify for appointment as a market manager if—

(a) has experience in matters relating to trade and business management;

(3) The market manager shall be competitively recruited by the County Public Service Board.

(4) There shall be such number of market manager as the Executive Committee Member may from time to time determine.

(5) The duties and responsibilities of the market manager are to—

(a) manage public market;

(b) ensure registration of traders in the market;

(c) assign trading space in the market;

(d) co-ordinate and liaise with the other government agencies on trading in the market;

(e) ensure security within the market;

(f) ensure that the market is in good condition;

(g) ensure cleanliness in the market;

(h) liaise with the other County Government Officer to ensure effective revenue collection;

(i) display the market rules in conspicuous places within the market.

(6) The County Public Service Board may upon request by the Director second such number of officers from the county public service as may be necessary for the proper discharge of the functions under this Act.

Establishment of Markets Stall

6. (1) The Executive Committee Member shall designate public markets and stalls.

(2) Public markets shall be managed by market managers appointed by the Executive Committee Member.

Designate Markets

7. (1) No person shall sell goods other than at designated public markets and stalls.

(2) A person who contravenes with the provisions of subsection (1) commits an offence.

Opening Hours and Days

8. Public markets shall be opened on such days and during such hours as the Director shall determine.

Prohibited Sales

9. The Director shall prescribe the kind of business to be carried out in a public market or stall.

Remaining in the Market when Closed

10. A person shall not remain in a public market or stall during closing hours unless with express permission from the market manager.

General Nuisance

11. Any person who within a public market—

- (a) commits any nuisance;
- (b) hawks any un-authorized goods;
- (c) interferes with or molests any other person;
- (d) touts, or shouts, or calls out for customers;
- (e) causes any disturbance or uses any offensive, abusive, obscene, or unbecoming language;
- (f) damages, defaces, misuses or interferes with any equipment, fittings or fixtures provided therein;
- (g) deposits or throws on the floor or ground any refuse, fruit peel or vegetable substances;
- (h) attempts to procure customers except by means of display of goods;
- (i) takes or permits any dog to be let loose, roam or loiter; or
- (j) ride a bicycle or motorcycle commits an offence.

Sale of Contaminated Food

12. (1) Any person who sells or offers or displays for sale in a public market any contaminated food commits an offence.

(2) An authorized person shall take possession of and detain goods which are offered or displayed for sale in a public market which are contaminated or appears to be contaminated.

Inspection

13. (1) If in the opinion of the Market Manager, certain goods sold in the market are contaminated, he or she shall notify a public health officer.

(2) The public health officer shall after being notified inspect the goods and certify if the goods contaminated.

(3) The market manager shall dispose or destroy any food that has been certified as contaminated.

Prohibited Sales

14. (1) No goods shall be exhibited for sale on the pathways, or over any drain within a public market.

(2) No board, box, basket or other containers shall be left in or upon any such drain.

Livestock not be Brought into Market

15. No livestock or animals other than poultry shall be brought into any public market other than a livestock yard.

Numbering of Stalls

16. (1) The Director may let or hire out public markets or stall upon such conditions as may be set out in the permit.

(2) Stalls provided in public market shall be used only for the business authorized in the permit.

(3) A stall may only be hired out only with the written consent of a market manager.

Stall Holders

17. (1) Any person to whom a stall is leased shall—

(a) keep his or her stall clean and in good order dispose of all refuse, including solid and liquid waste from the stall into designated dumping site through the channels provided.

(2) An authorized officer may order a stall holder to close they business if they contravene the provision of this section.

Authorized Agents

18. A person shall only enter or exist a public market through the authorized entry and exit points.

Suspension

19. The Director may suspend or revoke the permit of any person who contravenes the condition set out in the permit.

Power to Evict

20. (1) An authorized officer may remove from the public markets or stall any person who commits an offence under this Act.

Market Committee

21. (1) The traders in a public market may form a committee for purposes of advocating for their welfare.

(2) The Market Manager shall hold monthly open forums for traders in the market for purposes of participatory management and smooth running of the public market.

PART V—MISCELLANEOUS PROVISIONS**Penalties**

22. Any person who contravenes the provisions of this part commits an offence and shall be liable upon conviction to a fine not exceeding twenty thousand shillings or imprisonment for a term not exceeding three months or both.

Regulations

23. (1) The Executive Committee Member shall make Regulations generally for the better carrying out the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), such Regulations may provide for the—

- (a) prescribed forms;
- (b) payment of license fees;
- (c) prescribed fees;
- (d) collection of rates;
- (e) exemption, waiver or reduction of rates;

MEMORANDUM OF OBJECTS AND REASONS

The object and purpose of this Bill is to establish a legal framework for the management and control of public market and stalls.

The structure of the Bill is as follows—

Part 1 (Clauses 1-3) of the Bill contains preliminary provisions. These include the title of the Bill, interpretation of terms as used in the Bill and objects of the Bill.

Part II (Clauses 4-21) of the Bill contains provisions on how the public markets should be managed. It also establishes market stalls and the office of the market manager, sets hours and days when public market shall be opened, nuisance and prohibition of sale of contaminated food in the market for and respective penalty for those who are held liable. It also makes provisions for the establishment of market committee.

Part III (Clauses 22-23) contains provisions for miscellaneous provisions. This part delegates legislative authority to the executive committee member to make Regulations. It also contains penalties for offences created in this Bill.

The enactment of this Bill will occasion additional expenditure on the county.

Dated the 5th May, 2016.

GIDEON KAVUU,
Member of County Assembly.