

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 6 (Murang'a County Bills No. 4)*



REPUBLIC OF KENYA

**KENYA GAZETTE SUPPLEMENT**

**MURANG'A COUNTY BILLS, 2020**

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**NAIROBI, 26th August, 2020**

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**THE MURANGA COUNTY HAWKERS, INFORMAL AND  
SMALL TRADERS (PROTECTION OF LIVELIHOOD AND  
EMPOWERMENT) BILL, 2020**

**A Bill for**

**AN ACT of Murang'a County Assembly to provide a legal framework for the recognition, protection and regulation of small vending in Murang'a County, the identification of minimum standards for small vending to provide for the general empowerment of the residents of Murang'a generally; and for connected purposes**

**ENACTED** by the Murang'a County Assembly, as follows —

**PART I — PRELIMINARY**

**Short Title**

1. This Act may be cited as the Murang'a County Hawkers, Informal and Small Traders (Protection of Livelihood and Empowerment) Act, 2020.

**Interpretation**

2. In this Act —

“County Executive Committee Member” means the County Executive Committee Member for the time being responsible for matters related to trade;

“committee” means a committee of the County Assembly mandated to consider matters related to trade within the County;

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

“harassment” means conduct, or action, which is usually repeated or persistent, that, being directed at a small trader, alarms, causes substantial emotional distress in that person, damages goods or property and serves no legitimate purpose;

“informal trader” 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 small, lane, sidewalk, footpath, pavement, public park or any other public place or private area, from a temporary built-up structure, and includes a hawker, peddler and all synonymous terms of the word;



“market” means a place where sellers and buyers have traditionally congregated for the sale and purchase of goods and services and has been determined as such by the relevant County government;

“small trader” means a small scale trader who carries out vending activities in a vending area by moving from one place to another place vending their goods, services or a combination thereof, it also means all those small traders usually referred to as hawkers or Wachuuzi in Swahili language;

“registry” means the registry established under section 14 of this Act;

“stationary trader” means a small trader who carries out small trading activities on a regular basis at a specific location;

“Directorate” means the County Small Traders Directorate established under section 4 of this Act;

“Trading zone” means an area, place or location designated as such by Muranga County government for the specific use by small traders for small vending and includes a footpath, sidewalk, pavement, embankment, portions of a small, or any such place considered suitable for vending activities and providing services to the general public.

### **Object and Purposes**

3. The objects and purpose of this Act are to provide a standard framework—

- (a) to entrench the right to informal trading;
- (b) for the regulation of informal trading including areas for the conduct of such trade and licensing by the County government;
- (c) for the designation and use of public space for informal trading;
- (d) for the effective organization and regulation of informal traders; and
- (e) for public participation in the designation of vending zones and regulation of informal traders;
- (f) to ensure County government support to the small traders.

## **PART II – REGULATION OF SMALL TRADERS**

### **Small Traders Directorate**

4. (1) The County Government shall, by notice in the Gazette, designate a section or department within the Ministry responsible for matters relating to small traders and hawkers and shall be known as a Small Traders Directorate for purposes of this Act.



- (2) The functions of the Directorate shall be to —
- (a) maintain a registry of small traders and hawkers in Murang'a County;
  - (b) prescribe, in consultation with relevant stakeholders, the minimum standards for the conduct of small vending, hawking of wares and regulation of small traders in Murang'a County;
  - (c) collect and utilize data relating to small vending and small traders in Murang'a County for planning and efficient management of small traders;
  - (d) prescribe fees and other charges payable by small traders under this Act;
  - (e) liaise with all relevant bodies responsible for planning and infrastructure for the proper planning and design of small vending zones within major infrastructure areas in the county;
  - (f) advise the County Executive Committee Member on matters relating to hawkers, informal and small traders in Murang'a County; and
  - (g) carry out any other activity incidental or conducive to the carrying out of its functions under the Act or regulations made under the Act.

#### **Offices of the Directorate**

5. The County Executive Committee Member may establish such other offices of the Directorate anywhere in Muranga County as may be necessary for the discharge of the provisions of this Act.

#### **Director and Staff of the Directorate**

6. (1) The Directorate shall be headed by the Director responsible for Trade within the Ministry.

(2) The County Executive Committee Member shall designate such public officers, as are necessary to serve in the Directorate for the proper and efficient discharge of the functions of the Directorate under this Act.

### **PART III—VENDING ZONES**

#### **Designation of vending zones**

7. (1) The County Government shall, by notice in the County Gazette, demarcate and designate the County into vending zones as follows —

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



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

(3) A restricted vending zone shall be a zone in which a validly licensed small trader may conduct vending activities subject to special permission granted by the County government pursuant to applicable County laws.

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

(5) The County Executive Committee Member shall not designate a market as a no-vending zone.

#### **Vending Zones Plan**

8. (1) The County Executive Committee Member shall be responsible for the effective management of small vending activities within the County.

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

(3) The County Executive Committee Member shall, within twelve months of the commencement of this Act, conduct a survey of all existing small traders 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 County 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 executive for approval.

#### **Vending Centres**

9. (1) Murang'a County government shall progressively provide for the construction and maintenance of vending centres to enable the carrying out of small vending activities in a fair, transparent and safe manner.

(2) The County vending zones plan shall set out the location and optimal structure of vending centers to accommodate small traders in the County.

(3) The relevant Murang'a County Government agencies shall take into account the adequate provision for vending zones and vending centres as proposed or identified in the County vending plan in the enactment of



any physical planning legislation at County or national level.

**Period markets**

10. (1) The County Executive Committee Member may designate a specific mall, building or zone to be a vending zone for a specified period.

(2) The County government shall ensure essential facilities prior to the designation of periodic market under subsection (1), including but not limited to security, solid waste disposal, water, lighting and parking facilities where necessary.

**Relocation of small traders.**

11. (1) The County government may, upon the recommendation of the County Executive Committee Member, declare a zone or part of a zone to be a no- vending zone for any public purpose and relocate any small traders vending in that area.

(2) The County government shall evict any small trader whose vending licence has been revoked under section 18 or who does not have a vending licence and carries out vending activities without such licence.

(3) No licenced small trader, vendor or hawker shall be evicted or relocated from the location specified in their licence unless the small trader has been given thirty days' notice of such eviction in such manner as shall be prescribed by the County executive committee member.

(4) A small trader, vendor or hawker shall be relocated or evicted by the County government in such manner as may be prescribed by the County Executive Committee Member after the small trader has failed to vacate the place specified in their vending licence after the expiry of the notice period under subsection (3).

**Obligations of County Executive Committee Member**

12. (1) The County Executive Committee Member shall within six months of the commencement of this Act —

- (a) initiate such subsidiary legislation as may be necessary for the implementation of this Act and the effective regulation of small traders in the County;
- (b) monitor the implementation of this Act and any relevant County legislation on small traders, vending and hawkers;
- (c) periodically survey and assess the small vending activities in the County for policy- making purposes;
- (d) formulate and implement the County vending plan; and
- (e) Designate vending zones and periodic markets within the County,



subject to the provisions of this Act, the regulations hereunder and any applicable County legislation.

#### **PART IV—REGISTRATION AND LICENSING OF SMALL TRADERS**

##### **Register of small traders**

13. (1) The Director of the directorate shall be responsible for the registration of validly licenced traders within the respective County.

(2) For purposes of subsection (1) the County Executive Committee Member shall maintain an up to date register of all validly licenced small traders and hawkers in the County.

(3) The Director shall be the Registrar for the purpose of maintenance of the Muranga County registry of small traders.

(4) The County Executive Committee Member may make regulations to govern the day-to-day operations of the County registry.

##### **Registration of Small traders**

14. (1) A person conducting small vending activities in any place in Murang'a shall register as a small trader or as a hawker with the County executive committee member.

(2) A certificate of registration signed by the Director shall be conclusive evidence of registration as a small trader or as a hawker.

##### **Licensing of Small traders**

15. (1) A person shall not engage small vending activities unless they are registered as a small trader and in possession of a valid vending card.

(2) The County government shall grant a vending licence to a small trader upon payment of the prescribed fees and satisfaction of any prescribed requirements.

(3) A vending licence under this Act shall classify a small trader as—

(a) a stationary trader;

(b) a mobile trader; 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 locations;
- (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 prescribed by the County government.

(5) Every licenced and registered hawker, informal and small trader shall be issued with a vending card by the directorate free of charge.

#### **Terms and Conditions of the licence**

16. (1) A stationary small trader shall not sub-let, transfer, assign or otherwise alienate any vending space, stall or property allocated to them for the purpose of carrying out vending activities under this Act.

(2) A vending card 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 card.

(3) A licensed small trader shall not transfer or assign any rights accruing to them in a valid card issued under this Act unless the trader has applied for and obtained the approval of the County Executive Committee Member.

#### **Renewal of a Licence**

17. (1) Upon expiry, a vending licence may be renewed for such further period not exceeding one year.

(2) A registered small trader issued with a vending licence shall apply for renewal of the card in the prescribed manner at least thirty days before the date of expiry of the card.

(3) The County government may extend the period within which an application for the renewal of a card may be made, whether or not the period has ended or the card has expired.

#### **Revocation of a Licence**

18. (1) The County government shall have the power to renew any vending card and may decline to renew, revoke or suspend a card for a period not exceeding twelve months if it is satisfied that the small trader is in breach of any provisions of this Act or any other written law.

(2) Before declining to renew, revoke or suspend a card under subsection (3), the County government shall notify the holder of the card



to show cause, within fourteen days, why such card should not be revoked, suspended or denied renewal.

(3) The County government shall consider the application under subsection (4) within seven days and inform the holder of the card of the County government's decision in writing and shall give reasons for the revocation or suspension.

(4) A small trader or a hawker aggrieved by the decision of the County government in the exercise of its powers under subsection (5) may appeal to the relevant County tribunal against the decision within thirty days of receipt of the decision.

#### **Handling of Food**

19. (1) Any licensed small trader and all persons working for the small trader who are involved in handling of food shall be in compliance with Public Health Act.

(2) The County Executive Committee Member may from time to time, prescribe regulations relating to the proper handling of food by hawkers and small traders.

### **PART V – RIGHTS AND OBLIGATIONS OF SMALL TRADERS**

#### **Right to carry of business of vending activities**

20. (1) Every registered and licenced small trader has the right to carry on the business of vending activities in accordance with the terms and conditions specified in their vending licence.

(2) Despite the provisions of subsection (1), a small trader or a hawker shall not carry on any vending activities in an area designated as a no-vending zone.

#### **Right to adequate facilities**

21. (1) Every small trader has the right, within vending zones and adjacent areas, to access essential facilities of reasonable quality including but not limited to security, lighting, sanitation services and parking facilities where necessary.

(2) The County government shall provide essential facilities for the carrying out of vending activities taking into consideration —

- (a) the vending activity being conducted in a specific vending zone;
- (b) applicable health and safety standards;
- (c) the public interest; and
- (d) any applicable County legislation.



**Protection against confiscation of goods**

22. (1) No county government officer or any other government official shall confiscate goods of any registered and licensed hawker, informal and small trader under this act.

(2) The county executive member shall ensure conducive mechanisms for enforcement of fees and charges as per the finance act or the relevant county legislation prescribing such fees and charges.

**Protection from Harassment**

23. No office of the National or County government shall harass a small trader in the course of conducting their vending activity.

**Right to Association**

24. (1) Every small trader has the right to be a member of an of association small traders in the type of trade in which the small trader is licensed to conduct the business of small vending business.

(2) It shall not be mandatory for a small trader to be a member of any traders' association under this Act.

**Public Hygiene**

25. (1) Every small trader shall maintain the cleanliness and public hygiene of vending zones and adjoining areas.

(2) An individual stationary small trader shall continue to maintain their allocated space in a clean and hygienic condition as a condition of their vending licence.

(3) All mobile small traders shall be required to dispose of their waste responsibly.

(4) Each small traders' association shall, in collaboration with the County authorities be responsible for the maintenance of the general cleanliness and public hygiene of their respective vending zones.

**Access to Public Utilities**

26. (1) A small trader shall conduct vending activities in a manner that does not unreasonably impede the public's right of way.

(2) Notwithstanding the generality of subsection (1), a small trader shall not conduct small vending activities in a manner that is likely to impede access to fire hydrants, emergency services, building entrances, bus stops, roads or other public amenities is prohibited.



## **PART VI — REGULATIONS TO IMPLEMENT THIS ACT**

### **Regulations**

27. (1) The County Executive Committee Member may make regulations for the better carrying out of the provisions of this Act. \*

(2) The Regulations under subsection (1) shall set out –

- (a) a fund for the empowerment of small traders and hawkers;
- (b) support programs and policies for the general empowerment of the livelihood of the small traders of the County;
- (c) the terms and conditions for the issuance of vending licenses;
- (d) the conditions for the maintenance of the register of hawkers, informal and small traders in the County;
- (e) process of determination of an application for a small vending licence;
- (f) the conditions for the issuance or renewal of a licence under this Act;
- (g) process of application for the renewal of licences, de-registration and revocation of a licence issued to an applicant under this Act; and
- (h) such other matters that may be necessary for the effective management of small vending activities in the County.

(3) Legislation enacted pursuant to the provisions of subsection (1) shall conform to the provisions of this Act.

(4) County Executive Committee member may delegate his/her responsibilities under this act.

## **PART VII — MURANG'A COUNTY GOVERNMENT SMALL TRADERS SUPPORT PROGRAMME**

### **Annual Development Plans**

28. The County Government shall in its annual development programmes prioritize support to hawkers and small traders.

### **Funds for Support Programs**

29. (1) The County Assembly shall each financial year appropriate funds towards small traders' support program in the County Budget.

(2) The County Government shall work with other financial institutions to source funding for the Small Traders Support Program.



(3) The County Treasury may with the approval of the County Executive Committee Member for Finance and Economic Planning provide grants, subsidies and loans to formally registered small traders' cooperative societies, associations and groups.

(4) The county budget vote meant for small traders' support shall be administered by the county treasury as a support program. the county executive committee member in-charge of finance will create an authority.

(5) The county executive committee member in charge of finance and economic planning may create a hawkers, informal and small traders Authority for the implementation of this Act.

#### **Support Programs and Concept Papers**

**30.** (1) The County Executive Member shall with the approval of the County Executive Committee prepare annual concept papers and plans for smooth implementation of this support programme.

(2) The support programme shall provide simple, precise, accountable and transparent financial support to hawkers and small traders within Murang'a County.

(3) For the smooth operationalization of the Small Traders Support program, the County Executive Committee Member shall identify a County-Wide registered Small Traders cooperative society to be the Special Purpose Vehicle which the county government will use to dispense support to hawkers, informal and small traders.

(4) The County Government shall gazette Special Purpose Vehicles such as cooperative societies and associations formed by hawkers and traders.

(5) The County Government shall promote and create adequate awareness about the identified Special Purpose Vehicle in subsection (4) above.

(6) The day to day management and running of the special purpose vehicle shall be by both the officials of the special purpose vehicle and appointed officers of the County Government.

(7) The County Executive Committee Member for Finance and Economic Planning shall approve procedures for dispensing support to the hawkers, informal and small traders.

#### **Operations of the Small Traders Support Program**

**31.** (1) The special purpose vehicle shall have a board and a secretariat.



- (2) The Special Purpose vehicle identified in Section 30 shall—
- (a) reflect countywide membership;
  - (b) have a membership of its board of management to demonstrate the role of the county government;
  - (c) have its main objective as empowerment of its members through savings and credit services;
  - (d) be open to membership of hawkers, informal and small traders.
- (3) The Board shall be gazetted and shall—
- (a) be made of nine members drawn from the county government officials relevant to this program;
  - (b) provide policy direction for the smooth running of the program;
  - (c) engage the county government, relevant financial institutions and donor to source funding for the program.
- (4) The secretariat shall be in charge of day to day running of the special purpose vehicle.
- (5) The secretariat shall be headed by General Manager who shall—
- (a) be the chief executive of the special purpose vehicle;
  - (b) lead the timely implementation and execution of the small traders' support program;
  - (c) ensure timely presentation of progress, financial, management, and compliance reports to the Board;
  - (d) carry out any other duties as may be assigned from time to time.
- (6) The County Government shall support the special purpose vehicle with human resources who may be seconded to it to discharge the duties of the secretariat.
- (7) The appointment of the secretariat shall be done jointly by both the county executive committee member in charge of finance and the county executive committee member in charge of trade.



**SCHEDULE**

**(s.9(2))**

**CRITERIA FOR THE FORMULATION OF THE COUNTY  
VENDING PLAN**

1. The vending zones plan shall —

- (a) ensure that any public right of way is not impeded;
- (b) ensure that the provisions of space or area for small vending is reasonable and consistent with existing natural markets;
- (c) take into account the civic facilities for the appropriate use of identified spaces or areas as vending zones;
- (d) promote convenient, efficient and cost effective distribution of goods and provision of services;
- (e) ensure a balance between the interests of formal retailers and other stakeholders in the private sector to promote coexistence of hawkers and small traders; and
- (f) such other matters as may be specified in County legislation to give effect to the small vending plan.

2. The vending plan shall contain —

- (a) determination of spatial planning norms for small vending;
- (b) designation of space or areas as vending zones;
- (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 small traders in the County and accounting for future population growth or other norms as may be necessary;
- (e) consequential changes needed in the physical planning of the urban area or city to accommodate hawkers and small traders in the designated vending zones.

3. Declaration of a no-vending zone shall be designated in the vending plan, subject to the following principles —

- (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 small traders;
- (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 small traders and cannot be resolved through appropriate action by the County government;
- (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 this Bill is to provide a framework to regulate the business of small vending in Murang'a County. Small scale trade contributes significantly to the growth of trade in Murang'a County and the Country in general. Currently, there is no legal framework governing the business of small vending thus the challenges being experience by the both the small traders and the County government in the undertaking of the business.

The regulation of the trade will therefore ensure that small traders are able to transact business in favourable conditions.

**Part I** of the Bill deals with Preliminary issues; **Part II** of the Bill deals with the regulation of Small traders including the creation of a unit headed by a director.

**Part III** of the Bill clauses 7-12, provides for vending zones, in particular the designation of vending zones, centers and markets.

**Part IV** deals with Registration and licensing of small traders in particular the registration of traders, the renewal of licenses, the revocation of licences and the handling of food by traders.

**Part V** (Clauses 20-26) of the Bill is on the rights and obligations including the rights to carry on business, the right to adequate facilities, right to quiet possession of goods, protection from harassment and public hygiene.

**Part VI** (Clause 27) is on donation of power to the County Executive Committee member to implement the Act.

**Part VII** (Clause 28-31) of the Bill provides for the County to make annual development plans, as well as programs, policies and concept papers for support.

The Bill does not limit fundamental rights and freedoms.

Dated the 23rd August, 2020.

**PAUL MACHARIA,**  
*County Executive Member for Trade.*