

SPECIAL ISSUE

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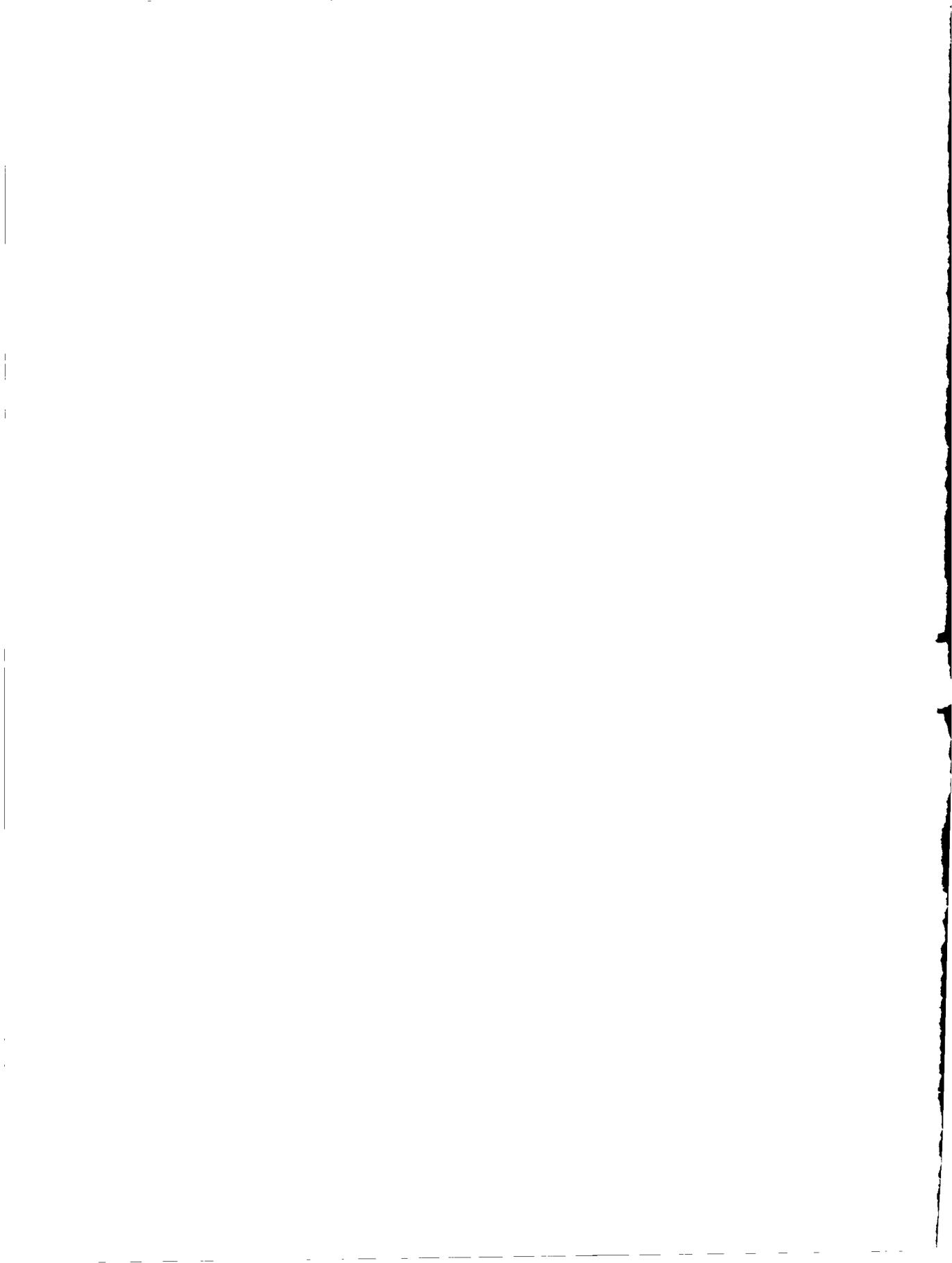
KENYA GAZETTE SUPPLEMENT

MACHAKOS COUNTY ACTS, 2016

NAIROBI, 12th April, 2017

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THE MACHAKOS COUNTY PUBLIC MARKET AND STALLS

ACT, 2016

No. 3 of 2016

Date of Assent: 25th November, 2016

Date of Commencement: 26th April, 2017

ARRANGEMENT OF CLAUSES

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**THE MACHAKOS COUNTY PUBLIC MARKET AND STALLS
ACT, 2016**

AN ACT 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 Stalls Act, 2016.

Interpretation

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

“authorized officer” has the meaning assigned under in section 2 of the County Governments Act;

“director” means the Director responsible for matters relating to public market and stalls;

“executive committee member” means the County Executive Committee Member responsible for matters relating to public market and stalls;

“livestock” includes cattle, sheep, horses, goats, and other domestic animals ordinarily raised or used on the farm;

“market master” means an officer appointed under section 5;

“public market” means a public building or structure, open ground managed by the county government where goods are bought and sold and designated as such under section 4; and

“stall” means a stand, booth or compartment used for the sale of goods in a market.

Object and purpose of the Act

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

PART II—MANAGEMENT OF PUBLIC MARKETS AND STALLS

Management of Public Market

4. (1) The Director shall oversee the management of public markets and stalls.

- (2) In managing public markets and stalls, the Director shall—
- (a) designate public markets and stalls;
 - (b) develop market rules;
 - (c) issue guidelines for the establishment of market committee for the formation of market committees;
 - (d) ensure a clean and safe environment for public market and stalls;
 - (e) advise the executive committee member on matters relating to public market and stalls;
 - (f) ensure the provision of essential services and utilities in public markets and stalls;
 - (g) liaise with the other authorized officer to ensure effective revenue collection; and
 - (h) perform any other function as may be necessary for the implementation of this Act.

Staff

5. (1) There shall be such number of staff as are necessary for the discharge of the functions under this Act.

(2) The Board may upon the request by the Director, second such number of public officers as may be necessary for the implementation of this Act.

(3) A public officer seconded shall during the period of secondment be answerable to the Director.

Market master

6. (1) There shall be a market master for every public market.

(2) The market master shall be competitively recruited by the Board.

(3) A person shall qualify for appointment as a market master if—

(a) He or she has experience in matters relating to trade and business management.

(4) The functions of the market master shall be to—

(a) manage the designated public market;

(b) ensure registration of traders in the market;

(c) assign trading space in the market;

- (d) coordinate and liaise with 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 other authorized officer to ensure effective revenue collection;
- (i) display the market rules in conspicuous places within the market; and
- (j) perform any other function as may be assigned by the Director.

(5) In carrying out the functions and obligations in sub section (4), the market master shall be responsible to the Director.

Market Committee

7. The traders in a public market may form a committee for purposes of advocating for their welfare.

Open Forum

8. The market master shall hold monthly open forums for traders in the market for purposes of participatory management and smooth running of the public market.

Designate Markets

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

(2) A person who contravenes with the provisions of sub section (1) commits an offence and shall be liable upon conviction to a fine not exceeding ten thousands shillings or a term not less than three months or to both.

Opening Hours and Days

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

Kind of Business

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

Remaining in the Market when Closed

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

General Nuisance

13 (1) A person shall not while within a public market—

- (a) commit any nuisance;
- (b) hawk any un-authorized goods;
- (c) interfere with or molest any other person;
- (d) tout, or shouts, or calls out for customers;
- (e) cause any disturbance or use any offensive, abusive, obscene, or unbecoming language;
- (f) damage, deface, misuse or interfere with any equipment, fittings or fixtures provided therein;
- (g) deposit or throw on the floor or ground any refuse, fruit peel or vegetable substances;
- (h) attempt to procure customers except by means of display of goods;
- (i) take or permit any dog to be let loose, roam or loiter; or
- (j) ride a bicycle or motorcycle.

(2) A person who contravenes sub section (1) commits an offence and shall upon conviction be liable to an imprisonment for a term not exceeding six months or a fine not exceeding twenty thousand shillings or both.

Sale of Contaminated Food

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

(2) An authorized officer 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

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

(2) The Public Health Officer shall upon notification inspect the goods and certify if the goods are contaminated.

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

Prohibited Sales

16. (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 drain.

Livestock not be Brought into Market

17. No livestock other than poultry shall be brought into any public market other than a livestock yard.

Hiring of Stalls

18. (1) Upon application, the Director may let or hire out a stall on such conditions as may be prescribed.

(2) An application under sub section (1) shall be—

(a) be lodged with the Director;

(b) be in the approved form;

(c) contain such information and be accompanied by such documents as are required by the approved form;

(d) be signed in a manner specified in the approved form; and

(e) be accompanied by the prescribed application fee.

(3) The Director may, before determining an application, require the applicant to provide additional information or documents necessary to enable the application to be determined.

(4) An application fee once paid shall not be refundable.

Stall Holders

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

(a) keep his or her stall clean and in good order; and

(b) dispose of all refuse, including solid and liquid waste from the stall into designated dumping site through the channels provided.

(2) A market master may order the closure of any stall if the stall holder contravenes the provision of sub section (1).

Entry and Exit Points

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

Power to Evict

21. An authorized officer may remove from the public markets or stalls any person who disobeys any order given under this Act.

PART V—MISCELLENEOUS PROVISIONS**Public Participation**

22. In implementing the provision of this Act, the Director shall ensure that there is public participation.

Savings

23. (1) Upon the commencement of this Act, all public officers working in the management of public markets shall become corresponding officers of the public market and, subject to the provisions of any rules made under this Act, continue in office for the period for which they were appointed as officers.

(2) As far as is practicable, the staff who shall work in the management public markets and stalls shall be redeployed from the County Public Service.

Appeal

24. A person aggrieved by any order made under this Act may petition the Director within seven days of the order.

(2) A person not satisfied by the decision of the Director may within fourteen of the Directors' decision make a further appeal to the executive committee member.

Penalties

25. A person who commits an offence under this Act for which no penalty is provided, shall, on conviction, be liable to an imprisonment for a term of three years or to a fine not exceeding ten hundred thousand shillings or to both.

Regulations

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

(2) Notwithstanding the generality of this Act, Regulations may provide for the—

- (a) prescribed forms;
- (b) procedure the formation of market committee;
- (c) prescribed fees;
- (d) anything required to be prescribed under this act; and
- (e) any other matter necessary for the implementation of this act

