

SPECIAL ISSUE

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LEGAL NOTICE NO. 1

THE NYERI COUNTY ALCOHOLIC DRINKS CONTROL ACT, 2024

NYERI COUNTY ALCOHOLIC DRINKS CONTROL (LICENSING)
REGULATIONS, 2024

In EXERCISE of the powers conferred by section 81 of The Nyeri County Alcoholic Drinks Control Act, 2024, the County Executive Member for Public Administration issues and publishes the following Regulations for the better carrying out of the objects of this Act.

PART I—PRELIMINARY

Citation

1. These Regulations may be cited as the Nyeri County Alcoholic Drinks Control (Licensing) Regulations, 2024.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“Alcohol Free Zone” means a geographic area, location or establishment where public consumption and sale of alcoholic beverages is prohibited.

“Bar and Restaurant” means any business premises whose primary revenue generating business is the preparation and sale of food for consumption in the premises. Where an alcoholic drink is to be consumed on the premises, the same shall only be served to a customer as part of a meal.

“Directorate”, “County Committee” and “Sub-county Committee”: has the meaning assigned under Section 4 of the Act;

“Hotel” means premises on which accommodation is supplied or available for supply, with or without food or services, in exchange for money or money’s worth, and includes premises known as—

- (a) service flats;
- (b) service apartments;
- (c) holiday cottages;
- (d) game lodges;
- (e) safari camps;
- (f) bandas;
- (g) holiday villas; and

Provided that such bed capacity in the said premises shall be at least fifteen (15).

“Lane” means any narrow or well-defined passage, track, channel, or course between walls and buildings;

“Learning institution” means an institution of learning for pre-primary, primary, junior secondary and secondary school as assigned by the Basic Education Act and the Early Childhood Education Act;

“Licence” means a licence issued under these Regulations;

“Licensee” has the meaning assigned to it under Section 2 of the Act;

“Off-licence” means a licence for the sale of alcoholic drink to be consumed elsewhere than on the premises;

“Road” means a public road as defined under the Public Roads and Roads of Access Act; and

“Street” means a public passageway including sidewalks and being wider than a lane.

Eligibility for Membership of County and Sub-county Committees

3. No person shall be eligible for appointment as a Member of the County Liquor Committee or the Sub-county Alcoholic Drinks Control Regulation Committee, if such person—

- (a) is the holder of any license for the sale, manufacturing or distribution of an alcoholic drink;
- (b) has pecuniary interest in a partnership, company or society which is a licensee under the Act;
- (c) is a paid officer or agent of a partnership, company or society interested in the sale or prevention of the sale, of an alcoholic drink;
- (d) is a person employed directly or indirectly as an agent for the purpose of making an application for license under the Act;
- (e) is an agent of, manager of or a partner in any trade or calling carried upon a licensed premise, or in respect of which a license has been applied for, or the owner, lessor or mortgagee of those premises;
- (f) is an undischarged bankrupt; and
- (g) has, in Kenya or in any other jurisdiction, been sentenced to imprisonment without the option of a fine and who has not received a pardon thereof.

Establishment of the Technical Committee

4. (1) The Committee may delegate any of its work to one or more of Technical Committees created for that purpose from its membership.

(2) The following Technical Committees are hereby established—

- (a) Legal Advisory, Finance and administration technical committee;
- (b) Civic Education and Advocacy Technical Committee;
- (c) Health, Sanitation and Physical Planning Technical Committee.

(3) The Technical Committees shall comprise of at least 3 members.

(4) The Technical committees' meetings shall be held on need basis and the sittings shall be approved by the Committee.

(5) The Technical Committees shall elect from among themselves a chairperson.

(6) Notwithstanding the provisions of sub-rule 4(4), meetings of technical committees shall not exceed one per every quarter of a financial year unless approved by the Executive Member in accordance with sub-section 3 of the First Schedule in the Nyeri County Alcoholic Drinks Control Act, 2024.

Applications for License

5. (1) A person who wishes to manufacture or otherwise produce, sell, dispose of, or deal with any alcoholic drink under the Act, shall apply to the Sub-county Committee for a license.

(2) The application under Sub-rule (1) shall contain—

- (a) a copy of the Identity card of the applicant in case of an individual and in the case of a company, the Certificate of incorporation;
- (b) KRA pin certificate
- (c) Receipt of payment of application fee
- (d) In the case of a renewal, a copy of the previous licence.
- (e) In the case of a manufacturer or distributor, certification from the Kenya Bureau of Standards;
- (f) In the case of a manufacturer, clearance from the National Alcohol Control Committee;
- (g) a comprehensive information on the nature, orientation and other justification for the establishment of the manufacturing plant or establishment for sale;
- (h) an indication as to whether the manufacture or sale of the alcoholic drink is licensed in another county and if so the evidence of such licensing;
- (i) such other matters as may be prescribed;
- (j) At its own discretion and where the need so arises, the Sub-County Committee may require the area chief within which the applicant's premises is located to confirm that the said premises is within their jurisdiction or such other matters as may be prescribed.

(3) The Sub-county Committee shall, within twenty-one (21) days after receiving applications for licences, prepare a notice setting forth the names of all applicants, the types of licences applied for, the premises in respect of which the licences are applied for and the time, date and place of the meeting, and shall forthwith cause a copy of the notice to be—

- (a) published at the office of the Sub-county and Ward administrators for a period of not less than twenty-one consecutive days;
- (b) published at the offices of the Assistant and Deputy County Commissioners;
- (c) posted in some conspicuous place at or near the applicant's premises;
- (d) sent to the sub-county public health officer in the sub-county in which the premises in respect of which the licences are applied for are situated; and

(e) sent to the sub-county physical planning officer.

(4) The sub-county public health officer; and the sub-county physical planning officer shall, before the hearing of any application under this section, report in a prescribed form to the Sub-county Committee on all matters which may be relevant to the consideration of the application.

Objections to applications

6. (1) Any person may lodge objection to an application.

(2) Every objection to an application shall be made in writing to the Secretary to the Sub-county Committee, and the objector shall serve notice of the grounds of the objection on the applicant, personally or by post, at least seven days before the hearing of the application and the onus of proof of such service shall be on the objector.

(3) A Sub-county Committee may of its motion take notice of any matter or thing which, in the opinion of the Committee, constitutes an objection to an application, whether or not any objection has been otherwise lodged.

(4) Where in respect of an application a Sub-county Committee acts in pursuance of sub rule (7), the Committee shall inform the applicant of the nature of the objection, and shall, if the applicant so requests, adjourn the hearing for such period, not being less than seven days, as the Sub-county Committee considers necessary to enable the applicant to reply thereto.

(5) Every person making an application and whose application has been objected to under sub rules 6 or 7 shall, save as otherwise provided, appear in person or by an advocate before the Sub-county Committee, and shall satisfy the Sub-county Committee that there is need for the grant of a licence of the type applied for in the particular locality in respect of which the application is made.

(6) A Sub-county Committee may require the personal appearance before it of the applicant, or of the manager of the premises to which the application relates, or of both of them and of any other person whose attendance is considered by the committee to be necessary.

(7) Any objector may appear personally or by an advocate at the hearing of the application.

Residents may be represented at hearings for objection

7. (1) A Sub-county may authorize, in writing, any person to appear before any Sub-county Committee having jurisdiction in any part of the area within the jurisdiction of the sub-county for the purpose of representing the inhabitants of that part in respect of any objection lodged to an application.

Proceedings

8. (1) Every Sub-county Committee shall maintain records of all its proceedings, and, in particular, of the purpose for which an application was made, and notes of the evidence given and of the arguments adduced and the decision of the court thereon:

Provided that no decision shall be quashed on appeal solely by reason of any omission or error in such record, unless it appears that a substantial miscarriage of justice has thereby been occasioned.

Record of recommendations of the Sub-county Committee

9. (1) The Sub-county Committee shall, within twenty-one (21) days of receipt of the application under sub-section (1), record the application and assess the same on the basis of the objections received if any and the interests of the Sub-county, and shall ensure that—

- (a) the available premises are suitable with regard to the nature of the licence being sought;
- (b) the premises conform to the prescribed requirements of the occupational health and safety regulations;
- (c) the applicant possesses the infrastructure and equipment necessary to carry out the business applied for;
- (d) the applicant for a licence to brew, distill, bottle or manufacture an alcoholic drink possesses necessary qualifications and relevant requirements stipulated under Standards Act or any other relevant written law.

(2) Applications for review of decisions of the Sub County Committee shall be to the County committee.

Applications

10. (1) An application for a grant or renewal of an alcoholic retail drinks license shall be in Form 1 as set out in the First Schedule.

(2) An application for a grant or renewal of a license to manufacture or otherwise produce; sell, dispose of, or deal with an alcoholic drink shall be in Form 2 specified in the First Schedule.

(3) An application for the transfer or removal of a license shall be made in triplicate in Form 3 set out in the First Schedule.

(4) An application for a temporary alcoholic drink license or a temporary extension alcoholic drink license shall be made in Form 4 set out in the First Schedule.

(5) An application for a members/proprietary club license shall be made in triplicate in Form 5 set out in the First Schedule.

(6) An application for a license shall be accompanied by an inspection checklist under Form 10 as set out in the First Schedule.

Documents to accompany applications

11. Any application submitted under Regulation 4 shall be accompanied by—

- (a) such registration or identification documents as may be required by the Sub-County Committee;
- (b) certificates of good conduct for the proprietor and/or manager of the premises;
- (c) a detailed physical address (to include copies of maps/title), telephone number, and email address of the applicant;
- (d) detailed information relating the proposed services to be provided;
- (e) where applicable, the nature and types of alcoholic drinks to be sold, produced or manufactured;

- (f) where applicable, information relating to the previous experience in the provision of the services for which a license is sought; and
- (g) and any other information that the Sub-county or County Committee may require.

Failure to submit documents or information

12. (1) Where an applicant fails to submit all documents or information required under these Regulations, the Sub-County and/or County Committee may reject the application and inform the applicant, in writing, of the rejection.

(2) Where the Sub-county or County Committee rejects an application due to incomplete or insufficient information, the rejection shall not bar the applicant from resubmitting the application.

Granting of licenses

13. Upon the completion of the application process, the Sub-county Committee shall—

- (a) if it is satisfied that the applicant has complied with the requirements under these regulations, recommend for approval to the County Committee;
- (b) reject the application giving reasons and notify the applicant accordingly within thirty (30) days of the decision to reject; or
- (c) make comments and recommendations thereon and return it to the applicant within fourteen (14) days.

(2) A license issued under these Regulations shall be in Form 6, 7 and 8 set out in the First Schedule.

License terms and conditions

14. (1) The County Committee may specify the terms and conditions of a licence consistent with the provisions of the Act and these Regulations.

(2) A licensee shall comply with all terms and conditions of his license.

Alcohol free zones

15. (1) The County Liquor Committee shall not grant licenses where premises are located within alcohol free zones.

(2) Subject to the provision in (1) above the Director may, by Gazette Notice and through public participation classify alcohol free zones.

(3) For the purposes of the Act, the following areas have been classified as alcohol free zones—

- (a) bus stations/parks;
- (b) libraries;
- (c) learning Institutions;
- (d) health facilities; and
- (e) County social halls.

Notification of change of particulars

16. A licensee shall—

- (a) notify the Sub-County Committee of his intention to change the name or contact address he filed with the Sub-County Committee at least thirty days before effecting such change;
- (b) notify the Sub-County Committee and the public of any trade or brand name he intends to use at least thirty days prior to using the trade or brand name; and
- (c) pay requisite fees for change of particulars of business as required by the county government.

Renewal of a licence

17. (1) A licensee shall make an application for the renewal of his licence in accordance with the procedure set out in Regulation 4.

(2) When considering an application for renewal of a licence, the Sub- County Committee shall consider the extent of compliance, by the licensee, with the terms and conditions contained in the licence in the previous licence period.

(3) If the renewal of a licence is refused, the licensee shall, on payment of the proportionate part of the fee for the appropriate licence, be entitled to a licence of such description and for such period, not exceeding three months, as the County Liquor Committee may consider necessary for the purpose of disposing of the alcoholic drink or apparatus on the premises. Such period to commence on the day after the last sitting of the County Liquor Committee at which the renewal of the licence has been refused, or on the day after the termination of the existing licence, whichever day is the later.

Cancellation of licences

18. (1) Subject to section 32 of the Act the County Liquor Committee may cancel a licence.

(2) Upon receipt of a report made under the Act, the sub-county committee shall—

- (a) send, by registered post or other verifiable mode of dispatch, a copy of the report to the licensee concerned therewith, informing him that at a meeting of the Sub-County Committee to be held on a date to be specified, but not less than thirty (30) days therefrom, the report will be considered by the Sub-County Committee;
- (b) send a copy of the report to every member of the Sub-County Committee and to the Officer Commanding Police Services in the Sub-county; and
- (c) inform the Sub-County public health officer or the police officer, as the case may be, of the date upon which the Sub-County committee will consider the report, and require him to attend on the date specified.

(3) Any licensee concerning whom a report is to be considered may appear in person or by advocate before the Sub-County Committee.

(4) The Sub-County Committee may make recommendations to the County Liquor Committee in respect of such licence or the licensed premises specified within the report.

(5) The County Liquor Committee may make such an order in respect of such licence or the licensed premises specified therein as, in the opinion of the County Liquor Committee, is necessary.

(6) A person who is aggrieved by the decision of the County Liquor Committee may appeal in accordance with the Act.

Obligations of a licensee to provide quality service

19. A licensee shall, in addition to the terms and conditions of the licence—

- (a) improve service quality, by identifying service deficiencies and making appropriate changes;
- (b) maintain service quality and hygiene while considering environmental and operating conditions;

- (c) ensure that practices increasing consumer satisfaction and safety and decreasing user complaints are encouraged;
- (d) avoid discrimination relating to the quality of the service offered between consumers;
- (e) ensure special needs of disabled consumers are also considered when developing quality of service parameters.

Inspections and investigations

20. The Directorate may inspect or investigate matters relating to the quality of service, of a licensee from time to time to ensure compliance or carry out any other visits or inspections pursuant to the Act.

Approvals from other authorities

21. Notwithstanding that a licence has been issued by the County Committee, a licensee shall bear the responsibility of obtaining the approvals of other Government agencies, or other relevant authorities that may be required for the provision of the licensed services or premises, or maintenance there-of of any premises on, through, under or across any land.

Fees

22. The Fourth Schedule shall have effect in relation to the fees payable in accordance with these Regulations.

Hours

23. (1) The Alcoholic Drink Licence hours shall be as specified in the Third Schedule.

(2) Each establishment shall prominently display the Hours of operation on the outside wall next to the main entrance of the establishment in a conspicuous location.

(3) Any proprietor of any establishment that fails to display the Hours of Operation as prescribed is guilty of an offence and liable to punishment under the Act.

Transportation of Alcoholic Drinks

24. (1) In accordance with the provisions of section 43 of the Act, every vehicle transporting alcoholic drinks shall have the trade name inscribed in large font bearing this message "vehicle transporting alcoholic drinks"; the message should be legible from a minimum distance of thirty (30) metres.

(2) Any proprietor of a motor vehicle transporting alcoholic drinks who fails to brand the vehicles as prescribed is guilty of an offence and liable to punishment under Act.

FIRST SCHEDULE

FORM 1(r.4(16))



COUNTY GOVERNMENT OF NYERI
NYERI COUNTY ALCOHOLIC DRINKS LICENSES'
APPLICATION FORM



APPLICATION No.

KINDLY FILL THE FORM IN TRIPLICATE

(Please Fill the Application in BLOCK LETTERS and Tick where applicable)

☐

TYPE OF LICENCE APPLIED FOR:

RETAIL []

WHOLESALE []

DISTRIBUTOR [] MANUFACTURER []

1. NAME OF APPLICANT				
TITLE:	SURNAME:		FIRST NAME:	MIDDLE NAME:
Mr./Mrs.M/s.				
ID/PASSPORT No.:			PHONE No.:	
KRA PIN No.:			ALTERNATIVE PHONE No.:	
GENDER	M		EMAIL ADDRESS:	
	F			
DESIGNATION OF APPLICANT. (Owner, Director, Manager etc)				
IF IT IS AN ENTITY:				
NAME OF THE ENTITY:				

PHONE No.:		ENTITY KRA PIN No.:	
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ALTERNATIVE PHONE No.:		EMAIL ADDRESS:	
2. APPLICANTS POSTAL ADDRESS:			
P.O.BOX:		CODE:	
PLOT No.:			

3. PHYSICAL ADDRESS WHERE THE PREMISES IS LOCATED (Give sufficient details to adequately identify the premises)			
SUB-COUNTY			
WARD			
VILLAGE/TOWN			
STREET/ROAD			
NAME OF BUILDING WHERE THE PREMISES IS LOCATED			
PLOT No.			
4. NAME OF THE BUSINESS PREMISES (Business Name)			
5. PREMISES DETAILS			
(i) Size of the premises			
Length in fts		Width in fts	
(ii) Type of structure			
Temporary	☐	Semi- permanent	☐
		Permanent	☐
(iii) Type of floor			
Tiled	☐	Not tiled	☐
If not tiled, describe the type of floor			

iv. Distance from a nursery, primary or secondary school: Metres:.....	
When was the alcoholic drinks premises established? (Date/Month/Year) / /.....	
If the premises is new, enclose approvals for building plans	
Has the business location changed since it was established? Yes ☐ No ☐	
6. FOR RENEWAL, INDICATE YOUR EXPIRING LICENCE NUMBER	
7. PERIOD OF YOUR LICENCE; (DATE/MONTH/YEAR)	
Date Month Year From: / /.....	Date Month Year To: /..... /.....
8. IS THE BUSINESS LICENCED IN ANOTHER COUNTY? Yes ☐ No ☐ If YES attach a copy of the licence/s	
10. IS THE BUSINESS CERTIFIED BY THE KENYA BUREAU OF STANDARDS? Yes ☐ No ☐	
11. ARE YOU ABOVE THE AGE OF EIGHTEEN (18)? Yes ☐ No ☐	

12. HAVE YOU BEEN DECLARED BANKRUPTCY?	
Yes <input style="width: 40px; height: 20px; margin-left: 10px;" type="checkbox"/>	No <input style="width: 40px; height: 20px; margin-left: 10px;" type="checkbox"/>
13. HAVE YOU EVER BEEN CONVICTED OF ANY OFFENCE UNDER THIS ACT?	
Yes <input style="width: 40px; height: 20px; margin-left: 10px;" type="checkbox"/>	No <input style="width: 40px; height: 20px; margin-left: 10px;" type="checkbox"/>
14. Origin of product e.g Kenya Breweries	

Attach a copy of the following documents:

- (a) Certificate of incorporation / Identity card of the applicant.
- (b) KRA pin certificate.
- (c) Receipt of payment of application fee.
- (d) If renewal, previous licence.
- (e) If manufacturer or distributor -Kenya Bureau of Standards Certificate.
- (f) If manufacturer -NEMA Certificate.
- (g) Certificate of good conduct.

Note:

- For applicants with more than one premises, please fill in an application form for each premises.
- The County Government reserves the right to deny issuance of an alcoholic drink licence if an applicant does not meet the required conditions as per the legal requirement.
- Late applications will not be considered.
- Misrepresentation of facts during application will lead to automatic disqualification and it amounts to a criminal offence.

For official use only

Application received by:

Name.....Signature
Date.....

Designation.....

Official stamp.....

COUNTY GOVERNMENT OF NYERI

NYERI COUNTY ALCOHOLIC DRINKS CONTROL
ACT, 2024APPLICATION FOR THE GRANT OF A NEW OR
RENEWAL OF A LICENCE TO MANUFACTURE OR
PRODUCE AN ALCOHOLIC DRINK

1. Name of applicant
2. Type of business.....
Sole proprietorship (the business is owned by one person).....
Personal Identification Number (PIN).....
Partnership.....
Names, Postal Addresses, Phone Contacts and Copies of Identity Documents (IDs) for
partners,.....
.....
.....
.....
Contact Person
- Limited Liability Company
Attach a copy of updated form CR.12
Name, a copy of the ID of each director, Postal Address and Phone Contacts of the
Directors
.....
.....
.....
Contact Person
- Postal Address.....
3. Physical Address (exact place of manufacture) (Land Parcel No.)
.....
.....
4. Tel.....
5. E-mail.....
6. Municipality, Town or Village
7. Business Registration No* or Certificate of Incorporation No*.....
8. Is this a New/Renewal application?
- If Renewal, provide details of License No.....

9. Do you have manufacturer's certification? Yes* No

10. List the type and brands of alcoholic drinks to be manufactured

Alcoholic Drink Standards

Certification Number

.....
.....
.....
.....

11. Brief description of alcoholic drink(s)

(a) Unit Capacity in millilitres.....

(b) Cost in Shillings of the alcoholic drink(s).....

(c) Alcoholic content.....

(d) Mode of transportation and storage conditions.....

(e) Tick where appropriate

Do you have a license from another county YES [] NO []

Have you been undischarged bankrupt currently YES [] NO []

Have you been convicted for offenses under this act YES [] NO []

12. Declaration by Applicant:

Signature of Applicant Date

I..... hereby declare that the information provided herein is true, to the best of my belief, and knowledge. I am further aware that if any verifiable information is found to be untrue, the directorate reserves the right to cancel my license without further reference to me.

SWORN by the said.....)

at.....)

)

) DEPONENT

This _____ day of _____ 20

)

Before me

)

COMMISSIONER OF OATHS

)



COUNTY GOVERNMENT OF NYERI
NYERI COUNTY ALCOHOLIC DRINKS
CONTROL ACT, 2024

APPLICATION FOR TRANSFER/
WITHDRAWAL OF ALCOHOLIC DRINK
LICENCE



[To be completed in triplicate]

1. Name of applicant

2. Kindly tick transfer type:-

Transfer of license []

Transfer of business location []

Change of business name []

3. Applicant's postal address.....

4. Type and number of licence held

5. Address of premises specified therein

6. Name of transferee/address of premises to which it is desired to withdraw license.

.....

.....

.....

7. Reasons for transfer/ withdrawal of license

.....

.....

Signature of Applicant Date

8. Approval/ Disapproval by both sub-county and county committees

Sub-County Committee Chairperson Minute Number.....

Signature and stamp.....

Chair of County- Committee Minute Number.....

Signature and stamp