GOVERNMENT NOTICE NO. 99

LOCAL GOVERNMENT ACT

(CAP 22:01)

LOCAL GOVERNMENT (LILONGWE CITY COUNCIL) (MARKET AND VENDING) BY-LAWS, 2018

ARRANGEMENT OF BY-LAWS

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IN EXERCISE of the powers conferred by section 103 of the Local Government Act, the Lilongwe City Councilmake the following By-laws—

PART I—PRELIMINARY

Citation

1. These By-laws may be cited as the Local Government (Lilongwe City Council) (Market and Vending) By-laws, 2018.

Interpretation

2. In these By-laws, unless the context otherwise requires—

"animal" bears the meaning as ascribed to that term under the Cap.66:02 Control and Diseases of Animals Act;

"Council" means the Lilongwe City Council;

"goods" includes any fish, animal, produce, meat, provisions, merchandise and wares;

"infectious disease" means any disease which can be communicated directly or indirectly by a person or animal;

"market master" means a person appointed by the Council to be responsible for the management and control of a public market and for the maintenance of proper sanitary practices therein;

"market supervisor" means a person appointed by the Council to have general supervision of all public markets;

"private market" means a market other than a public market;

"public market" means a market designated as such under the First Schedule hereto; and

"sell" includes barter, exchange, offer to sell, expose for sale and make any other disposition for money or money's worth and any similar expression shall bear a corresponding meaning.

Application

3.—These By-laws shall apply within the area of jurisdiction of Lilongwe City Council.

PART II—GENERAL PROVISIONS

Designation of public markets

4.—(1) The Council shall have the power to designate public markets within the city of Lilongwe.

(2) The markets listed in the First Schedule are hereby designated as public markets.

Private market and street vending

5. A person shall not establish a private market or engage in street vending within the City of Lilongwe, unless he has obtained prior written permission from the Council.

Market fees and rent

6.—(1) A person shall not sell goods of any description in a public market, unless he has paid the appropriate market fees set out in the Second Schedule.

(2) The Council shall, for the use of a public market stall, shop, room or place therein for the purpose of selling any goods, charge rent or fees, as set out in the Second Schedule.

(3) A person shall not sell goods of any description unless he pays to the Council, in respect of use of its property in a public market—

(*a*) rent payable in advance; or

(*b*) an appropriate fee on the spot, as the case may be.

Failure to pay market fees or rent

7.—(1) Where a person fails or refuses to pay the requisite fee in a public market, the Council shall—

(*a*) impound his goods, articles or produce;

(*b*) impose a surcharge, as prescribed under by-law 27 (3); and

(*c*) evict the person from the market if he fails to pay both the fee and the surcharge.

(2) Where a person fails or refuses to pay rent as prescribed under by-law 6 (2) and (3), the Council shall—

(*a*) seal the stall, shop, room or place;

(*b*) impose a surcharge, as prescribed under by-law 27 (3);

(*c*) if he fails to pay both the rentals and surcharge, impound his goods, articles or produce; and

(*d*) if he fails to redeem the goods, articles or produce as provided under paragraph (3), reposes the stall, shop, room or place and reallocate to another deserving person.

(3) A person whose goods, articles or produce are impounded under paragraph (1) or (2) shall, within seven days, redeem the goods, articles or produce, upon payment of the fee or rentals and surcharge.

(4) Where the goods, articles or produce remain unredeemed for a period of more than seven days, the market supervisor or market master, as the case may be, shall—

(*a*) in the case of perishable goods, destroy the goods, articles or produce; or

(*b*) in the case of other goods, dispose of the goods as if they were unclaimed or abandoned in a public market as provided under by-law 24.

(5) Where the proceeds realised from the sale of the impounded goods, articles or produce are not adequate to cover the fees or rentals and surcharge due, the Council shall recover the balance as a debt due and payable to the Council.

Hours of opening a public market

8.—(1) Public markets shall be open every day, from 6:00am to 6:00pm or such other time as the Council may, from time to time, determine.

(2) A person shall not sell any goods in a public market other than during such hours of opening as determined by the Council under paragraph (1).

(3) A person shall not enter, remain, sleep or reside in a public market without the authority of the Council during any time when it is closed:

Provided that Councillors, Council officers or any public officer may do so whilst engaged on Council duty.

Restriction on sale
Cap. 14:08
Cap. 14:09
Cap. 50:03

9.—(1) The sale of the following goods in any market is prohibited —

(*a*) firearm or ammunition as defined in the Firearms Act;

(*b*) any explosive as defined in the Explosives Act;

(*c*) petroleum or other inflammable liquids as defined in the Liquid Fuels and Gas (Production and Supply) Act;

(*d*) any form of liquor or intoxicating substance; and

(*e*) any pharmaceutical product, by an unauthorized person.

(2) The Council shall have power, by resolution, to prohibit the sale, in any public market, of any specific type of goods and, in particular, to prohibit the sale of any specific item of food or produce in a public market, in which reasonably adequate facilities are not available for the protection of such food or produce from contamination or deterioration.

Use and erection of stalls and shops

10.—(1) In any public market where stalls and shops have been provided, each stall or shop shall be numbered and the Council may let or hire out such stalls and shops, upon such terms and conditions as it shall think fit, and upon payment of a fee, as specified in the Second Schedule:

Provided that no vendor shall be allocated more than one stall or shop.

(2) A stall holder or shop tenant shall not transfer or sub-let his stall or shop to any other person or allow any other person to use the stall or shop on any arrangement between him and the other person.

(3) Subject to paragraph (1), a person shall, unless authorised by the Council, not erect, place or construct any kiosk, shed, counter, stall or other structure of any kind in, or within the precincts of a public market in which structures are provided.

(4) Where structures are not provided in a public market, the Council may allow a vendor to construct a kiosk or other structure to the specification of the Council:

Provided that no vendor shall be allocated more than one plot.

(5) A fee for the use of such kiosk or other structure referred to in paragraph (4) shall be payable by the vendor at the relevant rate specified in the Second Schedule.

(6) An owner of a kiosk or other structure constructed under paragraph (4) shall not sub-let, sale, transfer or in any other way part with possession thereof without the approval of the Council.

Insurance cover for merchandise

11.—(1) A person trading in a public market shall ensure that his merchandise are insured against any eventualities, such as fire and theft.

(2) The Council shall not compensate any person as a result of any loss arising from any eventuality referred to in paragraph (1).

Control of fires and cooking

12.—(1) A person shall not light an open fire in any public market.

(2) A person shall not cook or prepare or permit to be cooked or prepared any cooked food for sale in a public market except in a designated place, room or area and subject to such conditions as the Council may prescribe.

Produce to be cleaned or prepared in specified areas

13. A person shall not wash, clean or prepare for sale any vegetables, meat, animal, fish, fruit or other produce in a public market otherwise than in such basins, sinks or other receptacles, as may be provided by the Council for the particular purpose in question.

Person suffering from an infectious disease

14. A person suffering from an infectious disease shall not be engaged in trading or be employed or enter a public market for any other purpose:

Provided that it shall be a defence for a person charged with contravening this by-law if he proves that he did not know or suspect, and had no reasonable means of knowing or suspecting that he was suffering from an infectious disease.

Sale of unwholesome food

15.—(1) A person shall not sell, in a public market, any article of food which is diseased, tainted, unwholesome or otherwise unfit for human consumption.

(2) The Market Supervisor or Market Master shall detain and take possession of any food item which is suspected of being diseased, tainted, unwholesome or otherwise unfit for human consumption.

(3) Where a Market Supervisor or Market Master has taken possession of any food item as provided under paragraph (2), he shall hand over such food item to a Medical Officer, Health Officer, Veterinary Officer, Health Inspector or Police Officer of or above the rank of Sub-Inspector to whom he shall immediately report that he has detained such food.

(4) The Medical Officer, Health Officer, Veterinary Officer, Health Inspector or Police Officer referred to in paragraph (3), shall inspect the detained food to determine whether the food is diseased, tainted, unwholesome or otherwise unfit for human consumption.

(5) Where the food inspected under paragraph (4) is found to be—

(*a*) undiseased, untainted, wholesome or otherwise fit for human consumption, such food shall be returned to the owner; or

(*b*) diseased, tainted, unwholesome or otherwise unfit for human consumption, such food shall be condemned, confiscated and disposed of as if it was unclaimed or abandoned in a public market as provided under by-law 24.

(6) No compensation shall be payable by the Council in respect of any food item which is detained or disposed of in accordance with paragraphs (2) and (5).

Obstruction of pathways prohibited

16. Goods shall not be exhibited for sale on a roadway, pathway, stairway or passage or over any drain within a public market and a board, box, basket, tin, sack or other container shall not be left in, over or upon such roadway, stairway, passage or drain.

Livestock prohibited in public market

17. A person shall not bring an animal or bird, other than a live domestic fowl, into a public market, or part thereof, which has not been set aside for the sale of such animal or bird.

Sanitation and hygiene

18. A shopkeeper or stall holder within a public market shall—

(*a*) keep his stall or shop and all fittings and utensils therein or thereon thoroughly clean and in good order to the satisfaction of the Council; and

(*b*) dispose of all refuse, sweepings, garbage, offal and waste liquid or solid from his stall or shop into receptacles, channels or drains provided for that purpose.

Weights and measures

Act No. 10 of 2016

19.—(1) A person selling goods, articles or produce by weight or measure shall use the standard weights and measures prescribed under the Metrology Act and provide and maintain such scales and measures at his own expense.

(2) A person using equipment prescribed under paragraph (1) shall ensure that the equipment is calibrated at least once a year.

Compliance with directions

20. A person who is within the precincts of a public market shall comply with all reasonable directions given by the Council.

Separate areas for specified food or goods

21. The Council may set aside, allocate or provide parts of a public market for the sale therein of such type of goods as specified only and no goods or food items of any other type, other than those specified, shall be sold or displayed for sale in that part of the market.

Public access to by-laws

22. The Council shall ensure that every Market Master keeps in his office, for access by users of the market, a copy of these By-laws.

Storage of goods

23.—(1) A person shall not leave any goods in a public market during any period when the market is closed to the public.

(2) No compensation shall be payable by the Council in respect of any loss or damage to any goods left in a public market contrary to the provision of paragraph (1).

24. Where goods are— Disposal of impounded or abandoned goods

(*a*) impounded, left unclaimed or abandoned in any place in a public market for a period exceeding, in case of non-perishable goods seven (7) days, or in case of perishable goods one (1) day; or

(*b*) left unclaimed or abandoned in a general storeroom of a public market for a period exceeding, in case of non-perishable goods twenty one (21) days, or in case of perishable goods one (1) day, the Council shall have power to dispose of such goods by auction sale or otherwise as the Council may determine.

25. A person entering or attempting to enter a public market for the purpose of selling any goods shall enter the market through such entrance as shall be designated for the purpose by the Council. Use of authorized entrance

26.—(1) A person who is found committing or who is reasonably suspected of having committed any offence against these By-laws, shall be liable to eviction from a public market by the Market Supervisor, Market Master or by any public officer duly authorized to take such action by the Council. Eviction and refusal of admittance

(2) A person who has been convicted on more than two occasions of any offence against these By-laws may be barred from entering any public market by the Council.

(3) The Council shall maintain a register of persons who have been convicted of any offence under these By-laws.

(4) A person who, having been lawfully evicted from a public market or having been barred from entering any or all public markets under paragraph (2), shall not enter or attempt to enter any public market for the purpose of selling any goods or produce.

PART III—OFFENCES AND PENALTIES

27.—(1) A person who, in any public market — Offences and penalties

(*a*) commits any nuisance or expectorates;

(*b*) peddles any goods;

(*c*) sells any goods from any place other than an authorized stall, selling space, shop, kiosk or other place approved by the Council;

(*d*) wilfully or negligently prevent, obstruct, hinder or interrupt the free passage of any person into, out of or within the market;

(*e*) causes any disturbance by quarrelling with any other person within sight or hearing of persons within the market or by interfering with or molesting any other person;

(*f*) uses any offensive or obscene language or makes excessive noise to the annoyance or irritation of another person;

(*g*) deposits or throws on the floor or ground any refuse or waste or offensive offal, fruit or vegetable substance or matter;

(*h*) damages, defaces, fouls, misuses or interferes with part of the market or any equipment, fittings or fixtures therein; or

(*i*) plays any game, gambles or takes any bets,

commits an offence and the Council shall evict him from the market or confiscate his merchandise.

(2) Where a person fails to comply with by-law 5, the Council shall impound his merchandise.

(3) Where a person fails to comply with by-law 6, he shall be liable to pay 100 percent surcharge of the fees or rentals payable.

(4) A person who contravenes by-law 10 (1) or (2), or fails to comply with any condition set by the Council, shall be liable to eviction from the market and the tenancy agreement shall be terminated forthwith.

(5) Where a person contravenes by-law 10 (3), the Council shall demolish or remove the structure and no compensation shall be payable.

(6) A person who contravenes by-law 10 (6) shall be liable to eviction from the market and the Council shall reposes the plot and no compensation shall be payable for the development thereof.

(7) A person who contravenes by-laws 8, 9, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 or 25 shall be evicted from the market precincts by the Council.

(8) A person who commits any offence for which no penalty is provided, shall be liable to—

(*a*) a fine of K2,000.00, payable to the Council, upon being notified of the contravention for the first time by an official of the Council; and

(*b*) where the contravention continues, to a further penalty of K200.00 for each day during which the offence continues or confiscation of his merchandise and eviction from the market.

FIRST SCHEDULE (by-laws 4(2)

LILONGWE CITY COUNCIL

LOCAL GOVERNMENT (LILONGWE CITY COUNCIL) (MARKET AND VENDING) BY-LAWS

DESIGNATED PUBLIC MARKETS IN THE CITY OF LILONGWE

1. Central Market
2. Tsoka Flea Market
3. Kawale Market
4. Mchesi Market
5. Area 3 Market

6. Kawale II Market A
7. Kawale II Market B
8. Area 13 Market
9. Chilinde Market
10. Chilinde II Market
11. Area 23 Market A
12. Biwi Market
13. Area 25 A Market
14. Area 25 B Market
15. Area 25 C Market
16. Kanengo Market
17. Area 29 Market
18. Ngwenya Market
19. Area 18A Market
20. Area 18B Market
21. Phwetekere Market
22. Lumbadzi Market
23. Gulliver Market
24. Mwenyekondo Market
25. Majiga Market
26. Kaliyeka Market
27. Area 22 Market
28. Kauma Market
29. Mgona Market
30. Nsungwi Market
31. Chinsapo 1 Market
32. Namichimba Market
33. Bwandilo Market
34. Chigoneka Market
35. Mtandile Market
36. Mtsiliza Market
37. Dubai Market
38. Senti Market
39. Area 49 (Proper) Market
40. Tadala Market

41. Gologota Market
42. Mathanki Market
43. Area 36 Market
44. Ngomani Market

SECOND SCHEDULE by-laws 6(1&2) & 10 (1&5))

LILONGWE CITY COUNCIL

LOCAL GOVERNMENT (LILONGWE CITY COUNCIL) (MARKET AND VENDING) BY-LAWS, 2018

MARKET FEES AND RENT

1.	Market fee—	
	(*a*) open space or bench	K100.00 per day
	(*b*) shop/kiosk/hawker	K200.00 per day
	(*c*) Fish and agricultural Produce, wholesaler—	
	(i) up to 3 tonnes vehicle	K500.00
	(ii) > 3 to 7 tonnes vehicle . .	K1,000.00
	(iii) above 7 tonnes vehicle . .	K1,500.00
2.	Rent (Council owned property)—	
	(*a*) central business district	K750.00 per square metre per month
	(*b*) township	K500.00 per square metre per month
3.	Ground rent (vendor constructed property)	K5,000.00 per year

Made this13th day of July, 2018.

M. M. ZELEZA
Chief Executive Officer

COUNCILLOR D. BIKOKO (PhD)
Mayor

Approved this 10th day of December, 2018.

K. NANKHUMWA
Minister of Local Government and Rural Development

(FILE NO: LG/1/13/25)