

THE KILIFI COUNTY TOURISM ACT, 2016

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THE KILIFI COUNTY TOURISM ACT, 2016

AN ACT of the County Assembly of Kilifi to provide for the development, management, marketing and regulation of sustainable tourism and tourism-related activities and services; and for connected purposes

ENACTED by the County Assembly of Kilifi, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Kilifi County Tourism Act, 2016. Short title

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

“Eco-tourism” means responsible travel to natural areas to view the flora and fauna without disturbance to the economical, ecological and cultural status of the areas and be beneficial to the local community;

“Environmental impact assessment” means a systematic examination conducted to determine whether or not a program, activity or project will have any adverse impact on the environment;

“Executive Committee Member” means the County Executive Committee Member for the time being responsible for matters relating to tourism;

“harassment” means the act of systematic or continued unwanted and annoying actions of one party or a group, including threats and demands to tourists;

“hawking” means the act of following visitors while pestering them to buy goods and or services on the beach or tourist attraction sites;

“host” means a resident of a tourism destination or member of the community in a tourism destination area;

“hotel” includes a facility used for the reception of guests and travellers desirous of dwelling or sleeping therein;

“restaurant” means any premises on which the business of supplying food or drink for reward is carried on;

“sustainable tourism” means tourism development

that meets the needs of present visitors and hosts while protecting and enhancing opportunity for the future;

“Tourism agencies” means the Tourism Board, the Convention and Exhibition Centre and other tourism and hospitality organizations established by this Act;

“Tourism Board” means the Kilifi County Tourism Board established under section 3 of this Act;

“tourist” means a person travelling to and staying in a place outside his or her usual abode for more than twenty-four hours, but not more than one consecutive year, for leisure, business or other purpose, not being a work-related activity remunerated from within the place visited;

“tourism product” means a good or service which contributes to the total visitor or tourist experience in a tourism destination area; and

“visitor” means a person travelling to a place outside his or her usual abode for not more than one consecutive year for leisure, business or other purposes, not being a work-related activity remunerated from the place visited.

PART II—ESTABLISHMENT OF TOURISM BOARD

3. (1) There is established a board to be known as the Kilifi County Tourism Board. Establishment of
Kilifi County
Tourism Board.

(2) The Tourism Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing and disposing of movable and immovable property;
- (c) borrowing money;
- (d) entering into contracts; and
- (e) doing such other things necessary for the proper discharge of its functions under this Act, which may be lawfully done or performed by a body corporate.

4. The object and purpose of the Tourism Board shall be to market Kilifi County as a tourist destination and to promote business meetings, conferences and exhibitions. Object and Purpose
of the Tourism
Board.

5. The Tourism Board shall—

Functions of the
Tourism Board.

- (a) develop, implement and co-ordinate a county tourism marketing strategy;
- (b) market Kilifi County at National, Regional and International levels as a premier tourism and filming destination;
- (c) identify market needs and advise tourism stakeholders on the tourism market trends;
- (d) develop and manage the Kilifi County Convention and Cultural Exhibition Centre for hosting conferences and marketing cultural products and services;
- (e) organize and host meetings and provide incentives for conferences and exhibitions at the Convention and Exhibition Centre;
- (f) develop and implement, incentives for conferences and exhibitions strategy, upon consultation with the relevant stakeholders;
- (g) develop and implement County Integrated Beach and forest Management Plans
- (h) establish and develop a County tourist health facility;
- (i) develop and promote water sports and big game fishing activities and wildlife/safari;
- (j) perform any other functions that are ancillary to the object and purpose for which the Tourism Board is established.
- (k) develop a benefit sharing mechanism policy to benefit the community living around the tourist attraction sites.
- (l) Promote and market Eco-Tourism facilities in Kilifi County e.g Gede Ruins, Mida Creek, Hells-Kitchen among others.
- (m) develop and implement a County Tourism Development plan for Kilifi County.

6. (1) There shall be a Board of Directors of the Board of Directors. Tourism Board which shall consist of—

- (a) a chairperson appointed by the Governor with the

approval of the County Assembly;

- (b) the Chief officer of the Department for the time being responsible for matters relating to tourism or his representative;
- (c) the Chief Officer of the Department for the time being responsible for matters relating to finance or a representative duly nominated in writing;
- (d) the Chief Executive Officer of the Tourism Board, who shall be the secretary appointed according to section 12; and
- (e) five other members nominated through a vote by registered Tourism Associations and appointed by the County Executive Member of whom—
 - (i) two shall represent the umbrella county tourism association; and
 - (ii) three shall be persons with knowledge or experience in matters relating to domestic and international tourism or marketing.

(2) The members of the Board of Directors shall be appointed at different times so that the respective expiry dates of their terms of office shall fall at different times.

(3) The Board of Directors shall ensure the proper and effective performance of the functions of the Tourism Board.

(4) The Board of Directors may enter into partnership with another body or organization within or outside Kenya as it may consider appropriate, in furtherance of the objects of the Tourism Board.

7. (1) A member of the Board of Directors appointed under section 6(1) (a) and (e) shall hold office for a term of three years but shall be eligible for re-appointment for one further term of three years.

Tenure and vacation of office.

(2) A member of the Board of Directors, other than an ex officio member may, at any time, resign from office by giving notice, in writing, addressed to the Executive Committee Member.

(3) A member of the Board of Directors, other than an

ex-officio member, who is absent for three consecutive meetings of the Board of Directors without sufficient cause shall cease to be a member of the Board of Directors.

(4) Where a member of the Board of Directors is, for sufficient cause, unable to act as a member, the Executive Committee Member shall determine whether the inability would result in the declaration of a vacancy.

(5) Where there is a vacancy—

- (a) under subsection (2) or (3) or section 10(2), or
- (b) as a result of declaration under subsection (4), or
- (c) by reason of the death of a member,

the Executive Committee Member shall appoint another person in accordance with the provisions of section 7 (1) to fill that vacancy.

8. The conduct of the meetings of the Board of Directors shall be in accordance with the first Schedule.

Establishment of the Unit.

9. (1) A member of the Board of Directors who has an interest in a matter for consideration by the Board of Directors shall disclose, in writing, the nature of that interest and shall be disqualified from participating in any deliberations of the Board of Directors relating to that matter.

Disclosure of interest.

(2) A member who fails to disclose interest in a matter in accordance with subsection (1) shall cease to be a member of the Board of Directors.

(3) The Board of Directors shall ensure the proper and effective performance of the functions of the Tourism Board.

(4) The Board of Directors may enter into partnership with another body or organization within or outside Kilifi County and Kenya as it may consider appropriate, in furtherance of the objects of the Tourism Board.

10. Subject to this Act, the Board of Directors may, by resolution either generally or in any particular case, delegate to any committee of the Board of Directors or to any member, officer, employee or agent of the Tourism Board, the exercise of any of the powers or, the performance of any of the functions or duties of the Board

Delegation of functions.

of Directors under this Act.

11. (1) The County Public Service Board shall, in consultation with the Board of Directors and subject to subsection (2), competitively recruit and appoint a person to be the Chief Executive Officer of the Tourism Board.

Appointment of the Chief Executive Officer and other staff.

(2) A person shall not be qualified for appointment as the Chief Executive Officer under subsection (1) unless that person has a degree in marketing, business administration or related discipline and has at least ten years' experience at senior management level in tourism or hospitality or related sector.

(3) The Chief Executive Officer shall hold office for a term of three years but shall be eligible for re-appointment for one further term of three years.

(4) The Board of Directors may appoint such officers and other staff as may be necessary for the proper and effective performance of the functions of the Tourism Board.

12. (1) The Chief Executive Officer shall be responsible for the day to day administration of the affairs of the Tourism Board and the performance of its functions under this Act.

Functions of the Chief Executive Officer.

(2) The Chief Executive Officer shall perform any other functions determined by the Board of Directors.

13. (1) There shall be a general fund of the Tourism Board which shall vest in the Board of Directors and into which shall be paid—

Funds of the Tourism Board.

- (a) monies appropriated by County Assembly of Kilifi for the purposes of the Tourism Board;
- (b) monies that may accrue to or vest in the Tourism Board in course of the performance of its functions under this Act or any other law and approved by County Assembly;
- (c) monies that may accrue to or vest in the Tourism Board in course of the performance of its functions under this Act or any other law and approved by County Assembly;
- (d) monies provided to the Tourism Board from the Fund;

- (e) donations, grants and gifts made to the Tourism Board, and
- (f) monies from any other source approved by the Executive Committee Member for the time being responsible for matters relating to finance.

(2) There shall be paid out of the general fund of the Tourism Board any expenditure incurred by the Tourism Board in the exercise of its powers or the performance of its functions under this Act.

(3) The Tourism Board may, subject to the approval of the Executive Committee Member for the time being responsible for finance, invest any funds not immediately required for its purposes, as it may determine.

(4) The headquarters of the Tourism Board shall be in Kilifi Town.

PART III—PROVISION AS TO TAXES, FEES AND CHARGES

14. (1) Subject to the provisions of national law ,the Executive Committee Member responsible for finance may, on the recommendation of the Executive Committee Member, provide fees to promote the development of sustainable tourism including—

Taxes, Fees and Charges.

- (a) licence and permits fees;
- (b) disincentives to deter bad tourism activities and services;
- (c) user fees for the tourism products and services rendered.

PART IV— ANNUAL ESTIMATES, ACCOUNTS AND AUDIT

15. The financial year of the respective tourism agencies established under this Act shall be the period of twelve months ending on the thirtieth day of June in each year.

Financial Year.

16. (1) At least three months before the commencement of each financial year, the respective tourism agencies established under this Act shall cause to be prepared estimates of the revenue and expenditures for that year.

Annual Estimates.

(2) The annual estimates shall make provision for all

the estimated expenditure of the respective tourism agency for the financial year and in particular, the estimates shall provide for—

- (a) the payment of the salaries, allowances and other charges in respect of the staff;
- (b) the payment of pensions, gratuities and other charges in respect of the staff;
- (c) the proper maintenance of the buildings and grounds;
- (d) the maintenance, repair and replacement of the equipment and other property; and
- (e) the creation of reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of any other matters.

(3) The annual estimates shall be approved by the Tourism Board before the commencement of the financial year to which they relate, and shall be submitted to the Executive Committee Member for approval, and after the department has given approval, the respective tourism agency shall not increase any sum provided in the estimates without the written consent of the Executive Committee Member.

(4) No expenditure shall be incurred for the purposes of a tourism agency except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorization of the respective tourism agency given with the prior approval of the Executive Committee Member.

17. (1) The respective tourism agencies shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the respective tourism agencies.

Accounts, audit and annual reports.

(2) The respective tourism agency shall cause accounts of each respective tourism agency to be prepared and be reported in accordance with the Public Audit Act, 2003.

No. 12 of 2003

PART V — OFFENCES, PENALTIES AND ENFORCEMENT

18. The Provisions of PART IX of the National

Part IX of Tourism Act No 28 of 2011

Tourism Act, 2011 relating to offences, penalties and enforcement shall apply mutatis mutandis as PART V in this Act. ^{to apply.}

PART VI—GENERAL PROVISIONS

19. (1) The Executive Committee Member may, on his own motion or on the recommendation of the Tourism Board, make regulations which shall be approved/adopted by the County Assembly prescribing all matters which by this Act are required to be prescribed or which are necessary for the better carrying out of, or giving effect to, the provisions of this Act. ^{Regulations.}

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

- (a) levies and other charges required to be paid under the Act;
- (b) the restriction, regulation or other control of tourism activities and services within the county;
- (c) beach management;
- (d) the training of personnel for the tourism agencies and the tourism; and hospitality sector in general; and
- (e) the Code of Standards and Practice for the tourism and hospitality sector.

(3) Regulations made under this section may require acts or things to be performed or done to the satisfaction of the Executive Committee Member, and may empower the Board to issue orders imposing conditions and dates upon, within or before which the acts or things shall be performed or done.

FIRST SCHEDULE

(s.8)

PROVISIONS RELATING TO THE MEETINGS OF THE BOARD OF DIRECTORS OF THE TOURISM BOARD

1. The Board of Directors shall meet at least once every three months to conduct the business of the Board of Directors.

2. The Chairperson may call a special meeting of the

Board of Directors at any time, where he or she considers it expedient for the transaction of the business of the Board of Directors.

3. Other than a special meeting, or unless three quarters of members agree, at least fourteen days' written notice of every meeting of the Board of Directors shall be given to every member of the Board of Directors by the secretary.

4. The quorum at a meeting shall be half of the members or a greater number determined by the Board of Directors, in respect of an important matter.

5. The Chairperson shall preside at every meeting of the Board of Directors and in the absence of the chairperson, the Vice-Chairperson shall preside. In the absence of both the Chairperson and the Vice-Chairperson, a member of the Board of Directors elected by the members present from among their number shall preside.

6. The matters of the Board of Directors shall be decided by a majority of the members present and voting and in the event of equality of votes, the person presiding shall have a casting vote.

7. The proceedings of the Board of Directors shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member.

8. At the first meeting of the Board of Directors, the members shall elect a vice-chairperson, not being an ex-officio member, from among its members.

9. Subject to the provisions of this Schedule, the Board of the Directors may determine its own procedure and the procedure for any committee of the Board of Directors and for attendance of any other persons at the meetings and may make standing orders in respect thereof.

BONIFACE K. MWINGO,
Leader of Majority.

