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SPECIAL ISSUE

Kenya Gazette Supplement No. 13 (Embu County Acts No. 5)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

EMBU COUNTY ACTS, 2018

NAIROBI, 31st December, 2018

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THE EMBU COUNTY TOURISM ACT, 2018

No. 5 of 2018

Date of Assent: 24th December, 2018

Date of Commencement: 31st December, 2018

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THE EMBU COUNTY TOURISM ACT, 2018

**AN ACT of the County Assembly of Embu to provide
for the promotion and development of tourism in
the County and for connected purposes**

ENACTED by the County Assembly of Embu as follows—

PART I— PRELIMINARY

1. This Act may be cited as the Embu County Tourism Act, 2018. Short title.

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

“Committee” means the Embu Tourism Committee as established under section 8;

“County Government ” means the County Government of Embu;

“Department” means the County Department responsible for tourism promotion and development as established by the County Executive Committee;

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

“County Executive Committee ” means Embu County Executive Committee established in accordance with Article 176 of the Constitution;

“Tourism circuit” means a route on which major tourism destinations are located, with well-defined entry and exit points;

“Local tourism” means any form of tourism activity that takes place in Embu County, notwithstanding the provisions of existing national laws and policies.

3. The purpose of this Act is to provide for the implementation of section 7 (d) of Part 2 of the Fourth Schedule to the Constitution and to provide for— Purpose of the Act.

- (a) promotion and facilitation of growth and development of tourism sector and tourism related businesses;
- (b) promotion of the county as a sustainable tourism destination;

- (c) promotion of sustainable local tourism;
- (d) promotion and facilitation of development of a conducive investment and business operating climate in the sustainable tourism sector;
- (e) promotion of sustainable local tourism led economic development; and
- (f) to safeguard against negative impacts associated with tourism in Embu County as identified in relevant tourism laws and policies in Kenya.

PART II—ADMINISTRATION

4. The Department shall be responsible for—

Functions of the
Department.

- (a) promoting the growth and development of a sustainable tourism sector;
- (b) facilitating and promoting local and external investment in the tourism sector;
- (c) promoting development of sustainable local tourism;
- (d) acting as liaison with the National Government on promotion and development of sustainable tourism;
- (e) facilitating community and private sector participation in tourism development;
- (f) in collaboration with other stakeholders, facilitating the development of policies, strategies and plans for tourism promotion and development;
- (g) carrying out research and maintaining such data and statistics related to tourism;
- (h) facilitating public-private engagement;
- (i) initiating and facilitating projects for providing linkages between the tourism sector and local communities;
- (j) monitoring and evaluating the implementation of this Act; and
- (k) carrying out any other functions as may be

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assigned by the Executive Member.

5. (1) The Department shall, within three months after the end of each financial year, prepare and submit to the Executive Member a tourism status report for the immediate preceding year which shall consist of—

Tourism status report.

- (a) the status of the implementation of the Act;
- (b) the growth in the tourism sector characterized by number of visitors visiting the county for tourism purposes whether from within or outside the county;
- (c) the number of new facilities, programs or activities set up or initiated to promote sustainable tourism;
- (d) measures taken to promote tourism in regard to various forms of tourism specified under this Act;
- (e) challenges faced in implementing the Act;
- (f) the level of participation of the private sector in promoting sustainable tourism; and
- (g) any other matter as the Executive Member may deem necessary.

(2) The Executive Member shall, within fourteen days of receiving the report, submit it to the County Executive Committee and thereafter within twenty one days transmit it to the Clerk of the County Assembly for tabling before the County Assembly for consideration and approval.

(3) The Department shall—

- (a) publish the report prepared under subsection (1);
- (b) publicize the report to the private sector and stakeholders in the county; and
- (c) facilitate the collation of views and feedback from county stakeholders in relation to the report.

PART III—TOURISM PROMOTION AND DEVELOPMENT

6. The Department shall promote and facilitate sustainable tourism development through—

Tourism promotion and Development.

- (a) providing technical support and advisory services

to tourism service providers in accordance with existing County Government policies and plans on tourism promotion and sustainable tourism.

- (b) carrying out regular assessments on investment climate in the tourism sector and proposing to the Executive Member the necessary policy and legislative measures for development of favourable sustainable tourism investment and operational climate;
- (c) reviewing policies and practices that affect investment climate in tourism and advising the County Executive Committee on appropriate measures to be adopted for promoting tourism development;
- (d) in collaboration with tourism stakeholders, initiate programs for developing a sustainable tourism sector and marketing the county as a tourist destination;
- (e) providing sectoral and inter sectoral linkages among private sector within and outside the county;
- (f) promoting and facilitating linkages and partnerships between operators or stakeholders in the tourism sector in the county;
- (g) facilitating training and capacity building of players on sustainable tourism;
- (h) mobilizing local communities and residents to participate in the tourism industry with an emphasis on sustainable tourism;
- (i) in collaboration with relevant private and public stakeholders, facilitate the development and promotion of specific tourism products;
- (j) promote and ensure environmental conservation and sustainable development in the tourism sector; and
- (k) carry out any other function as may be assigned by the Executive Member.

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Tourism Master Plan.

7. (1) The Department shall, in collaboration with county public and private sector stakeholders, prepare a ten-year sustainable tourism master plan which shall be a sectoral plan for the purposes of the County Governments Act.

(2) The tourism master plan shall provide among others for—

- (a) matters related to the implementation of this Act;
- (b) investment strategy for promotion and development of a sustainable tourism sector;
- (c) development of infrastructure necessary for the growth and development of the tourism sector;
- (d) specific strategies for facilitating growth and sustainability of each tourism sub sector;
- (e) specific strategies for implementing section 16 and 17 of this Act;
- (f) estimated financial costs for implementing the plan; and
- (g) any other matter as the Executive Member may deem necessary.

(3) The sustainable tourism master plan shall be the basis of service delivery, planning and budgeting for the tourism sector in the department.

(4) In accordance with the County Governments Act, the tourism master plan shall be reviewed every five years but updated annually in order to address emerging trends and policies in the tourism sector.

8. (1) There is established a Committee to be known as Embu Tourism Committee.

Embu Tourism Committee

(2) The Embu Tourism Committee (the 'Committee') consists of—

- (a) the County Chief Officer for the time being responsible for tourism;
- (b) director for the time being responsible for tourism who shall be an *ex-officio* member and the secretary to the Committee;

- (c) four persons nominated from the various tourism sectors existing and operational in the county in accordance with the prescribed procedure and appointed by the Executive Member; and
- (d) two professionals who are qualified and experienced in matters related to tourism appointed by the Executive Member.

(3) The Chairperson shall be elected from amongst the members appointed under sub-section (2) (c) and (d).

(4) The appointment of the members mentioned in (2) (c) and (d) above, shall reflect the diversity of the residents in the County, Gender, Youth, Persons with disability and regional balance.

(5) A person shall be qualified for appointment as a member of the Committee under sub-section (2) (c) and (d) if that person—

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognized in Kenya;
- (c) has knowledge and experience either in the public or private sector of at least five years in matters relating to tourism; and
- (d) meets the requirements of Chapter Six of the Constitution.

(6) The members of the Committee shall be paid such remuneration as the Executive Member may determine upon advice of the Salaries and Remuneration Commission

(7) The Committee shall be responsible for—

- (a) facilitating collaboration and partnership between the county government and the private sector in the county on sustainable tourism promotion and development matters;
- (b) collating issues affecting the private sector in the county on sustainable tourism development that require to be addressed by the county government;

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- (c) advising the County Executive Committee on appropriate measures to be adopted in promoting sustainable tourism sector development;
 - (d) facilitating the formation of representative organizations of tourism sub sectors;
 - (e) participating in promotion and development of a sustainable tourism sector;
 - (f) facilitating implementation of county policies and programs related to sustainable tourism sector development;
 - (g) facilitating the planning of county public-private tourism sector consultative fora;
 - (h) advising the Executive Member on policies and matters related to the specific sub sectors;
 - (i) facilitating mobilization, development and capacity building for the operators in the various sectors;
 - (j) facilitating implementation of county policies, plans and programs related to tourism matters;
 - (k) carrying out any other function as may be assigned by the Executive Member;
 - (l) the Committee shall sit on a quarterly basis or as may be prescribed by the Executive Member as required from time to time; and
 - (m) the department at the time responsible for tourism promotion shall provide secretariat services to the Committee.
- (5) The Committee shall formulate committees to execute specific functions as may be necessary from time to time.
- (6) A member of the Committee may—
- (a) at any time resign from office by issuing notice in writing to the chairperson of the Committee for a period of not less than three months;
 - (b) be removed from office by the Executive Member, for—

- (i) serious violation of the Constitution or any other written law;
- (ii) gross misconduct,
- (iii) incapacity to perform the functions of the office;
- (iv) incompetence; or
- (v) bankruptcy.

(7) All members appointed under subsection (2) (c) and (d), shall serve for a term of three years and shall be eligible for re-appointment for a further and final term of three years. .

9. The Position of the Chairperson or a member of the Committee shall become vacant if—

Vacancy in the position of the Committee.

(a) the holder—

- (i) dies;
- (ii) by notice in writing addressed to the executive member resigns from office;
- (iii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months without an option of a fine.

(b) is removed from the position in accordance with Section 10 ; or

(c) the term of the office holder expires.

10. (1) The Chairperson, member or members of the Committee shall be removed from office on any of the following grounds—

Removal from office.

- (a) violation of the Constitution or any other written law;
- (b) gross misconduct;
- (c) physical or mental incapacity that leads to inability to perform the functions of office;
- (d) incompetence and neglect of duty;
- (e) bankruptcy;
- (f) absence from three consecutive meetings of the

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Committee without justifiable cause; and

- (h) if the chairperson or member is convicted of a criminal offence and sentenced to imprisonment for a period of more than six months without the option of a fine.

(2) Where there is an allegation on any of the grounds listed in subsection (1) the Executive Member shall appoint a committee to investigate and recommend the possible measure to be taken.

(3) Where a vacancy occurs in the membership of the Committee under Section 9 the appointment procedure provided for under this Act shall apply.

11. (1) The Department shall in collaboration with relevant stakeholders initiate, promote or facilitate the establishment and provision of training programs on the various fields of practice and operation in the tourism sector.

Training and skills development.

(2) The training described under subsection (1) may be accredited or non-accredited.

12. The Department shall collaborate or facilitate collaboration with national government and other county governments in promotion and development of tourism.

Inter-agency collaboration.

13. (1) The Department shall, in collaboration with other stakeholders, develop and implement programs, plans and strategies so as to integrate and facilitate the participation of local communities in economic activities related to tourism.

Economic participation.

(2) The economic activities shall include—

- (a) community based enterprises targeting the tourism sector;
- (b) supply of goods and services related to tourism sector with an emphasis on sustainable tourism; and market linkages within the tourism sector.

(3) The Department shall promote and facilitate capacity development of local communities and residents in order to participate in the implementation of this section.

PART IV—PROVISION OF TOURISM SERVICES

14. The Department shall register all service providers in the tourism industry for the purposes of effectiveness and efficiency in service delivery.

Registration of service providers.

15. (1) The Department, in collaboration with the private sector and other relevant stakeholders, shall establish tourist information dissemination mechanisms.

Tourist information.

(2) A tourist information dissemination mechanism shall facilitate access to information and communication related to tourism in any prescribed manner and shall—

- (a) be a repository of all information related to tourism in the sub county, the county; and
- (b) utilize all available means including websites, electronic mail, telephone, physical offices, or any other mechanism as the Department may deem fit from time to time.

16. (1) The Department, in collaboration with other public and private agencies, shall map and identify all tourism attraction sites, features or activities and shall maintain an inventory of all the sites, features or activities identified under this section.

Tourism mapping and branding.

(2) The Department shall, in collaboration with other private and public sector agencies, facilitate branding of the tourism sites, features or activities identified under section (1) for marketing purposes.

(3) The County Executive Committee shall, in collaboration with other public and private sector entities ensure that there is adequate and appropriate physical infrastructure for facilitating implementation of this section.

17. (1) Notwithstanding section 15 the Department shall in collaboration with other national and county government agencies or departments develop, promote or facilitate the development of tourism focusing on—

Forms of tourism.

- (a) conference and business;
- (b) cultural activities;
- (c) wildlife;
- (d) ecological features;

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- (e) sports;
- (f) natural sceneries;
- (g) medical tourism;
- (h) research tourism;
- (i) agro tourism;
- (j) homestays;
- (k) holiday homes;
- (l) urban tourism; and
- (m) any other form as may be prescribed by the Committee.

(2) The County Executive Committee shall within three months adopt measures and plans for facilitating the branding and promotion of the forms of tourism described under sub section (1) as appropriate and which shall include the development of tourism products related to each form of tourism.

(3) The Executive Member shall within nine months upon the coming into force of this Act, submit to the County Executive Committee, a status report outlining the progress taken in implementing this section.

18. (1) The Department shall in collaboration with the national government, county governments, the private sector and other relevant stakeholders develop and promote tourism circuits and such tourism routes as shall be appropriate with reference to the provisions of section 16.

Tourism circuits.

(2) The tourism circuits established under this section shall be integrated with the tourism circuits established by the national government for the region.

19. The Department shall, in collaboration with the national government and the operators in hotel industry, ensure that there is a proper system for standardization and classification of hotels in accordance with the standards established by the national government.

Hotel standardization and classification.

PART V—FINANCIAL PROVISIONS

20. The funds and assets of the Department shall consist of—

Funds of the Department.

- (a) such monies as may be appropriated by the County Assembly;

- (b) any grants, gifts, donations, loans or other endowments;
- (c) such funds as may vest in or accrue to the Department in the course of the Department's exercise or performance of its functions under this Act; and
- (d) monies from any other lawful sources accruing to the Department.

21. The Executive Member may request the County Executive Committee Member for Finance, pursuant to provisions of Public Finance Management Act, 2012 and the Regulations thereunder to establish a Tourism Fund.

Tourism Fund.

PART VI— GENERAL PROVISIONS

22. (1) The Executive Member may make Regulations generally for the better carrying out of the objects of this Act.

Regulations.

(2) Without prejudice to the generality of subsection (1), the Regulations may—

- (a) prescribe the classification of tourism sectors under this Act;
- (b) prescribe the procedure for establishing tourism sector committees in liaison with the Committee;
- (c) procedure for nominating private sector members to the Committee;
- (d) prescribe the amount of earnings to be retained from each county managed tourism attraction;
- (e) prescribe the procedure for conduct of business for the Committee; and
- (f) prescribe anything required to be prescribed under this Act.

