SPECIAL ISSUE

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MOMBASA COUNTY ASSEMBLY
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REPUBLIC OF KENYA

MOMBASA COUNTY GAZETTE SUPPLEMENT

COUNTY ASSEMBLY BILLS, 2013

NAIROBI, 22nd July, 2013

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THE MOMBASA COUNTY FLAG AND EMBLEMS BILL, 2013

A Bill of the County Assembly of Mombasa to prevent the improper use of the County Flag and of certain emblems and likenesses for professional and commercial purposes, and to prohibit the display of certain flags

1. Short title

This bill may be cited as the County Flag and Emblems Bill.

2. Interpretation

In this Bill—

“specified emblem” means any emblem, seal, flag, pennant, insignia, ensign or coat-of-arms of a kind specified in Part I of the First Schedule to this Bill;

“specified likeness” means any photograph, drawing or other pictorial representation of the person for the time being holding any of the offices or dignities specified in Part III of the First Schedule to this Bill;

3. County Flag, Armorial Ensigns/Coat of Arms and Public Seal declared

(1) The flag of which the design and description are set out in Part I of the Second Schedule to this bill is hereby declared to be the County Flag of Mombasa (in this Bill referred to as the County Flag).

(2) The heraldic device of which the blazon and description are set out in Part II of the Second Schedule to this Bill is hereby declared to be the Armorial Ensigns of Mombasa County (in this Bill referred to as the Armorial Ensigns).

(3) The seal of which the design is set out in Part III of the Second Schedule to this Bill is hereby declared to be the Public Seal of Mombasa County.

4. Prohibition of improper use of emblems and likenesses

(1) Notwithstanding anything contained in any law for the time being in force, no person shall, except with the written permission of the Governor’s office—
(a) use any specified emblem or specified likeness, or any colourable imitation thereof, in furtherance of, or display the same as an advertisement for, any trade, business, calling, or profession; or

(b) Use any specified emblem, or specified likeness, or any colourable imitation thereof, in the title of any patent, or in any trade mark or design; or

(c) Manufacture or import any article or goods bearing any specified emblem or specified likeness, or any article or goods on which any title, trade mark or design is used in contravention of paragraph (b) of this subsection.

(2) The provisions of subsection (1) (a) of this section relating to the use of a specified likeness shall not apply to the publication of a bona fide news item (whether in a newspaper or by any other medium) or to the publication in a newspaper of any article connected with any bona fide news item other than a news item in the furtherance of, or as advertisement for, any trade, business, calling or profession.

(3) Any permission given under subsection (1) of this section may be given subject to such conditions as the office of the Governor may deem fit.

(4) Any person who contravenes the provisions of this section shall be guilty of an offence and liable to a fine not exceeding five thousand shillings, or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

5. **Prohibition of registration of certain companies, etc.**

Notwithstanding anything contained in any law for the time being in force, no authority empowered or required by law to register any company, firm or other body of persons, or any trade mark or design, or to grant a patent, shall—

(a) Register any company, firm or other body of persons under any name; or
(b) Register a trade mark or design which bears any emblem or likeness; or

(c) Grant a patent in respect of an invention which bears a title containing any emblem if the use of such name, emblem, word or likeness would be in contravention of section 5 of this Bill, and any purported registration or grant made contrary to this section shall be absolutely void and ineffective for all purposes.

6. Prohibition of display of certain flags

(1) No person shall display at any place or on any premises any flag or banner or permit any flag or banner to be so displayed, being in either case a flag or banner (other than a specified emblem) which is reputed to belong, or is held out by any authority as belonging, to the territory of Mombasa County or of any particular part thereof (other than the area of a local authority).

(2) Any person who contravenes subsection (1) of this section shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

(3) This section shall bind the County Government.

7. Sanction for prosecution

No prosecution for any offence punishable under this Bill shall be instituted except with the previous sanction in writing of the Attorney-General.

8. Power of seizure

(1) If a police officer has reasonable cause to believe that something which has been used, displayed, manufactured or imported contrary to this bill is to be found on any premises, he may require the person in charge or appearing to be in charge of the premises to allow him to enter the premises and to afford him all reasonable facilities for a search thereof, and if entry cannot within a reasonable period be so obtained the officer may without warrant enter the premises (using force if necessary) and search therein.
(2) If a police officer finds on any premises anything in respect of which he has reasonable cause to believe that an offence under this Bill has been committed by any person, he may seize that thing, and where he does so shall bring it before a magistrate, who shall order it to be forfeited if he is satisfied that it has been used, displayed, manufactured or imported contrary to this Bill, or else shall order it to be restored to the person from whom it was seized.

9. Power to amend First Schedule

The office of the Governor's may, by notice in the Gazette, amend the First Schedule to this Bill.

10. Regulations

The office of the Governor may make regulations—

(a) Prescribing the occasions upon which, the persons by whom and the manner in which the County Flag or the Armorial Ensigns may be flown or displayed, as the case may be;

(b) Prohibiting, controlling or restricting the use of any specified emblem, specified likeness or specified name;

(c) Regulating the manner in which application may be made to him for his permission under section 5 of this Bill, prescribing the form of any license by which such permission may be given and fixing any fee for such application and license;

(d) Generally for carrying this Bill into effect.

SECOND SCHEDULE

PART I – EMBLEMS

1. The County Flag of Mombasa County,
2. Armorial Ensigns/ Coat of Arms.
3. The Public Seal of Mombasa County.
SECOND SCHEDULE DESCRIPTION OF THE FLAG

Three major columns of with the outer two of equal width while the middle is bigger, colored from right to left, blue, white and blue with two sea horses. In between the sea horses are two elephant tusks with a scroll binding them at the top. The middle of the tusks has the sun and steering wheel while the base of the tusks has the flag of Kenya, a scroll with the motto, the sea and a twisted rope with leaves.

PART I – COUNTY FLAG

Note.—All dimensions given do not necessarily represent any particular measurements and are merely proportional.
PART II  COAT OF ARMS (with color specifications)

symbolises rebirth and the source of life, light and humanity.

scroll
main scroll housing the name of the County.

elephant husks symbolises defence and gateway into the County via land.

seahorse symbolises defence of the county via sea.

equally the golden seahorse symbolises wealth.

sun symbolises rebirth and the source of life, light and humanity.

seahorse symbolises defence of the county via sea.

equally the golden seahorse symbolises wealth.

kec Flag symbolises unity between County and National government.

motto addresses each individual effort to harness the unity between thought and action.

twisted rope symbolises pursuit of knowledge.

cosmopolitan nature of the population of the County.

the leaves symbolise fertility of the land.

sea symbolises trade and the source of life for the inhabitants of the County.

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PART III MOMBASA COUNTY PUBLIC SEAL
COLOUR SPECIFICATIONS

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