SPECIAL ISSUE

Kenya Gazette Supplement No. 6 (Nakuru County Bills No. 4)

REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NAKURU COUNTY BILLS, 2019

NAIROBI, 4th February, 2019

CONTENT

Bill for Introduction into the County Assembly of Nakuru—

The Nakuru County Tourism and Marketing Bill, 2019 ................................................................. 1
THE NAKURU COUNTY TOURISM AND MARKETING
BILL, 2019
ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY

1—Short title.
2—Interpretation.

PART II—ESTABLISHMENT OF TOURISM DEVELOPMENT
AND MARKETING BODY

3—Establishment of the Nakuru County Tourism and Marketing Board.
4—Objects of the Tourism and Marketing Board.
5—Functions and Purpose of the Tourism and Marketing Board.
6—Board of Directors.
7—Tenure and Vacation of Office.
8—Meetings of the Board of Directors.
9—Disclosure of Interest.
10—Delegation of Functions.
11—Appointment of the Chief Executive Officer and other Staff.
12—Functions of the Chief Executive Officer.
13—Funds of the Tourism and Marketing Board.

PART III—PROVISION OF TOURISM SERVICES

14—Registration of service providers.
15—Tourist information.
16—Tourism mapping and branding.
17—Department’s collaboration with other national and county
government agencies.
18—Tourism circuits.
19—Hotel standardization and classification.
20—Standardization of Taxis and cabs offering taxis and tour services.

PART III—PROVISIONS AS TO TAXES, FEES AND CHARGES

21—Taxes, Fees and Charges.
PART IV—ANNUAL ESTIMATES, ACCOUNTS AND AUDIT PROVISIONS

22—Financial Year.
23—Annual estimates.
24—Accounts, audit and annual reports.

PART V—OFFENCES, PENALTIES AND ENFORCEMENT


PART VI—GENERAL PROVISIONS

26—Regulations.

FIRST SCHEDULE—Provisions relating to the meetings of the Board of Directors of the Nakuru County Tourism and Marketing Board.
THE NAKURU COUNTY TOURISM AND MARKETING BILL, 2019

A Bill for

AN ACT of the County Assembly of Nakuru 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 Nakuru, as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Nakuru County Tourism and Marketing Act, 2019 and shall come into operation on such date as the Member of the Executive Committee responsible for tourism, with the concurrence of the Governor, may appoint.

Interpretation

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

"ecotourism" means responsible travel to natural areas to view the flora and fauna without disturbance to the economical, ecological and cultural status of the areas;

"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 Nakuru County Tourism and Marketing Board established under section 4 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;

“tourist circuit” unless the context otherwise provides shall mean a route on which major tourism destinations are located with well-defined entry and exit points;

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

“youth” unless the context otherwise provides, shall mean anyone between the age of 18-35 years; 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 AND MARKETING BOARD

Establishment of the Nakuru County Tourism and Marketing Board

3. (1) There is established a board to be known as the Nakuru County Tourism and Marketing 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.

**Objects of the Tourism and Marketing Board**

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

**Functions and Purpose of the Tourism and Marketing Board**

5. The Tourism Board shall —

(a) develop, implement and co-ordinate a county tourism and marketing strategy;

(b) market Nakuru 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 a Nakuru 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) recommend tourism areas that have significance culturally, archaeologically, ecologically sensitive or spiritually to the County Executive Member for gazettement;

(h) establish and develop a county tourist health facility;

(i) promote water sports and big game fishing activities; and

(j) perform any other functions that are ancillary to the object and purpose for which the Tourism and Marketing Board is established.

**Board of Directors**

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

(a) a chairperson appointed by the Governor;

(b) the County Executive Committee member responsible for tourism;
(c) the Director of the Department for the time being responsible for matters relating to tourism or his representative;

(d) the Chief Officer of the Department for the time being responsible for matters relating to finance or his representative;

(e) the Chief Executive Officer of the Tourism and Marketing Board, who shall be the secretary appointed according to section 12;

(f) five other members nominated through a vote by registered Tourism and Marketing Associations, Kenya Wildlife Service, the Nakuru Chamber of Commerce, the Nakuru Tour Operators Association, Nakuru Tourism and Hospitality Association and appointed by the County Executive Committee 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 manufacturing, commerce and domestic and international tourism or marketing.

(h) two youth professionals who are qualified and experienced in matters related to tourism appointed by the County Executive Committee Member in consultation with the Governor: provided that one person shall be of either gender;

(i) one person representing persons with disabilities appointed by the County Executive Committee Member in consultation with the Governor by virtue of the person’s experience and involvement of the tourism sector.

(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 and Marketing 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.

(5) The members of the Board of Directors shall be paid sitting allowances as the prescribed rates by the Nakuru County Public Service Management Board.
Tenure and vacation of office

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.

(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 from 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.

Meetings of the Board of Directors

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

Disclosure of Interest

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.

(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 and Marketing Board.

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

Delegation of Functions

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 of Directors under this Act.

Appointment of the Chief Executive Officer and other staff

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 and Marketing Board.

(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 and Marketing Board.

Functions of the Chief Executive Officer

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

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

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

(a) monies appropriated by County Assembly of Nakuru for the purposes of the Tourism and Marketing Board;

(b) monies that may accrue to or vest in the Tourism and Marketing 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 and Marketing 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 and Marketing Board from the Fund;

(e) donations, grants and gifts made to the Tourism and Marketing 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 and Marketing Board in the exercise of its powers or the performance of its functions under this Act.

(3) The Tourism and Marketing 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.

PART III—PROVISION OF TOURISM SERVICES

Registration of service providers

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

Tourist information

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

Tourism mapping and branding

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.

(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.

Department’s collaboration with other national and county government agencies

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

(a) conference and business;
(b) cultural activities;
(c) wildlife;
(d) ecological features;
(e) sports;
(f) natural sceneries;
(g) medical tourism;
(h) research tourism;
(i) agricultural tourism;
(j) homestays;
(k) holiday homes;
(1) urban tourism; and

(m) any other form as may be prescribed by the Board.

(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 and section 17.

Tourism circuits

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

Hotel standardization and classification

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.

Standardization of Taxis and cabs offering taxis and tour services

20. The Department shall in collaboration with the national government, county governments and the private sector shall ensure that the cabs or Taxis offering taxis service or tour operation are branded with the appropriate logo that will market Nakuru County and also enhance security.

PART IV—PROVISION AS TO TAXES, FEES AND CHARGES

21. (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—

(a) licence and permits fees;

(b) disincentives to deter bad tourism activities and services; and

(c) user fees for the tourism products and services rendered.
PART V—ANNUAL ESTIMATES, ACCOUNTS AND AUDIT

Financial Year

22. The financial year of the Tourism and Marketing Board established under this Act shall be the period of twelve months ending on the thirtieth day of June in each year.

Annual estimates

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

(2) The annual estimates shall make provision for all the estimated expenditure of the board.

(3) The annual estimates shall be approved by the Tourism and Marketing 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 board 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 the board except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorization of the board given with the prior approval of the Executive Committee Member.

Accounts, audit and annual reports

24. (1) the board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities.

PART VI—OFFENCES, PENALTIES AND ENFORCEMENT

25. The Provisions of PART IX of the National Tourism Act, 2011 relating to offences, penalties and enforcement shall apply mutatis mutandis as PART V in this Act.

PART VII—GENERAL PROVISIONS

26. (1) The Executive Committee Member may, on his own motion or on the recommendation of the Tourism and Marketing Board, make regulations 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.
(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) the training of personnel for the tourism agencies and the tourism; and hospitality sector in general; and

(d) 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

PROVISIONS RELATING TO THE MEETINGS OF THE BOARD OF DIRECTORS OF THE TOURISM AND MARKETING 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.

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 the meetings of the Board of Directors and in the absence the vice-chairperson, and in his absence, 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.
MEMORANDUM OF OBJECTS AND REASONS

The main object of this Bill is to provide a comprehensive legal framework for the development, management, marketing and regulation of sustainable tourism and tourism related activities and services in Nakuru County.

Part I—relates to preliminary matters.

Part II—provides for the establishment of the Tourism and Marketing Board. Clause 3 creates the Nakuru County Tourism Board with mandate to market Nakuru County at all levels.

Part III—provides for the levying of fees and charges.

Part IV—provides for Annual Estimates, Accounts and Audit Provisions.

Part V—provides for Offences, Penalties and Enforcement.

Part VI—provides for General Provisions.

Dated the 13th December, 2018.

PETER KIBE MBAE,
Vice Chairperson, Trade, Tourism and Co-operatives Committee.