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EMBU COUNTY BILLS, 2018

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THE EMBU COUNTY TOURISM BILL, 2018

A Bill for

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—

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

“Board” means the Embu Tourism Board as established under section 10;

“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;

“Executive Committee Member” shall have the same meaning as assigned to it by the County Government Act 2012;

“Inter-Departmental Committee” means the Interdepartmental Tourism Development Co-ordinating Committee established under section 9;

“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; and
- (e) promotion of sustainable local tourism led economic development.
- (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 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— SUSTAINABLE 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 with external;
- (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.

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.

Tourism master plan.

(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 17 and 18;
- (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 may 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 the Inter-departmental Tourism development coordinating Committee.

Interdepartmental tourism development coordinating committee

(2) The Inter-departmental development coordinating Committee shall consist of—

- (a) the chief officer for the time being responsible for tourism; and
- (b) representatives from the departments of Culture, Agriculture, Health, environment and Infrastructure nominated and appointed by the Executive Member.

(3) The Chief Officer for the time being responsible for tourism shall be the chairperson of the Interdepartmental development Committee and the county director in charge of tourism in the department shall be the Secretary.

(4) The Inter-departmental Committee shall be responsible for—

- (a) co-ordinating development and implementation of inter sectoral policies, plans and programs related to tourism;
- (b) developing of common strategy for tourism promotion and development;
- (c) advising the County Executive Committee on appropriate policies and programs for promoting and facilitating tourism promotion and development including promotion of investment and business climate in the tourism industry;
- (d) co-ordinating implementation of inter sectoral policies and programs related to tourism;
- (e) facilitating collaboration with national government on tourism development; and
- (f) carrying out any other function as may be assigned by the County Executive Committee.

(5) The Department shall provide the secretariat services to the Inter-departmental Committee.

(6) The Inter-departmental Committee shall submit progress reports of its operations to the County Executive Committee

9. (1) There is established the Embu Tourism Board.

Embu tourism
board

(2) The Embu Tourism Board (the 'Board') shall consist of—

- (a) chairperson appointed by the Executive member in consultation with the Governor in the prescribed procedure;
- (b) the Chief Officer for the time being responsible for tourism;
- (c) director for the time being responsible for tourism

who shall be an *exofficio* member and the secretary to the Board;

- (d) three 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 in consultation with the Governor:

Provided that at least one person shall be nominated by the hotel industry; and

- (e) two professionals who are qualified and experienced in matters related to tourism appointed by the Executive Member in consultation with the Governor:

Provided that one person shall be of either gender;

(3) A person shall be qualified for appointment as a chairperson of the Board 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 ten years, in case of the Chairperson or five years in the case of a member, in matters relating to any of the following fields :
 - (i) Economics
 - (ii) Law
 - (iii) Finance
 - (iv) Accounting or
 - (v) Business studies
 - (vi) Tourism
 - (vii) Public administration
 - (viii) Any other relevant field.
- (d) meets the requirements of chapter six of the Constitution; and
- (e) has had a distinguished career in their respective fields.

- (4) The Board 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;
 - (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 forums;
 - (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 Board shall sit on a quarterly basis or as may be prescribed by the county Executive Member as required from time to time.
 - (m) the department at the time responsible for tourism promotion shall provide secretariat services to the board;
- (5) The board shall formulate committees to execute specific functions as may be necessary from time to time.
- (6) A member of the Board may—

- (a) at any time resign from office by issuing notice in writing to the chairperson of the Board 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) (d) (e), other than *ex officio* members, shall serve for a term of three years and shall be eligible for reappointment once only.

(8) The Chairperson and members of the Board shall hold office for a period of three years and shall be eligible for re-appointment for a further and final term of three years.

10. The office of the Chairperson or a member of the Board shall become vacant if—

Vacancy in the
office of the Board

- (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 office in accordance with Section 10 (4) (b); or
- (c) the term of the office holder expires.

11. (1) The Chairperson, member or members of the Board 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 Board without justifiable cause;
- (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 Board under Section 10 the appointment procedure provided for under this Act shall apply.

12. (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.

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

Inter-agency
collaboration

14. (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

15. 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.

16. (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.

17. (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.

18. Notwithstanding section 16 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;
- (e) sports;
- (f) natural sceneries;
- (g) medical tourism;
- (h) research tourism;
- (i) agro tourism;
- (j) homestays;
- (k) holiday home;s
- (l) 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.

19. (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.

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.

20. 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.

21. The County Assembly shall enact legislation establishing a Fund to be known as Embu Tourism Fund to achieve the purposes this Act.

Funding

PART V— 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 Board;
- (c) procedure for nominating private sector members to the Board; and
- (d) prescribe the amount of earnings to be retained from each county managed tourism attraction.

MEMORANDUM OF OBJECTS AND REASONS

Firstly, this Bill seeks to implement section 7 (d) of Part 2 of the Fourth Schedule to the Constitution on promotion of local tourism.

Secondly, this Bill seeks to provide for a legal framework for promoting development of local tourism in the County.

Thirdly, this Bill seeks to emphasize sustainable tourism as both the goal of Embu County tourism development and the guidance by which we develop tourism products. The criteria for sustainable tourism development in Embu are drawn from the Global Sustainable Tourism

PART I of the Bill provides for preliminary matters such as interpretation and the purpose of the Bill.

PART II of the Bill provides for administration matters. The Part assigns functions to the Department responsible for tourism, which include promoting development and growth of tourism development in the sector, facilitating and promoting local and external investment in tourism sector, promoting local tourism and promoting community and private sector participation in tourism development.

The Part provides for the preparation of annual tourism status report, which will cover matters related to extent of implementation of this Act and tourism development and growth during the year.

PART III of the Bill provides for tourism promotion and development. The Part obligates the Department responsible for tourism to provide technical support and advisory services to tourism service providers, carrying out regular investment climate in tourism sector and providing sectoral linkages among private sector players within and outside the county.

The Part provides for the development of tourism master plan, which would provide for investment strategy for promoting development of tourism sector and specific strategies for facilitating investment in the tourism sector.

The Part provides for establishment of the Inter-Departmental Tourism Development Coordinating Committee, which consists of all Chief Officers who are responsible for administering policy matters affecting tourism and any officer of national government responsible matters related to tourism in the county. The Committee is obligated to coordinate implementation of inter sectoral policies related to tourism as well as coordinating program implementation and advising the County Executive Committee on appropriate tourism sector policies.

The Part provides for establishment of the Embu Tourism Board, which consists of members drawn from public and private sector. The Board is responsible for coordination and collaboration between county government and the private sector and facilitating implementation of tourism policies and programs and advising the private sector on appropriate measures to be adopted in development of tourism sector.

The Part also provides for establishment of tourism sectoral committees in liaison with the Board. It also provides for setting up of training and skills development programs and economic participation by local communities in economic activities related to tourism.

PART IV of the Bill provides for provision of tourism services. It provides for registration of tourism service providers, establishment of tourism information dissemination mechanisms, tourism mapping and branding, establishment of tourism circuits and linking them with the regional tourism circuit and promotion of standardization and classification of hotels operating within the county.

PART V of the Bill provides for general provisions. It provides for the powers of the Executive Member to make Regulations for better implementation of the Act.

Enactment of this Bill shall occasion additional expenditure of Public funds.

Dated the 4th January, 2018.

PAUL M. NJIRU,
Chairperson,
Investment, Industrialization, Trade and Tourism Committee.