

Kisii County Gazette Supplement No. 25 (Acts No. 9)



REPUBLIC OF KENYA

**KISII COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2014

NAIROBI, 14th November, 2014

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COUNTY ASSEMBLIES FORUM (CAF)
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NAIROBI, KENYA

THE KISHI COUNTY OUTDOOR ADVERTISING ACT, 2014

No. 9 of 2014

Date of Assent: 8th November, 2014

Date of Commencement: 14th November, 2014

ARRANGEMENT OF SECTIONS

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THE KISII COUNTY OUTDOOR ADVERTISING ACT, 2014

AN ACT of the Kisii County Assembly to provide for the regulation and management of outdoor advertisings and for connected purposes—

ENACTED by the County Assembly of Kisii as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Kisii County Outdoor Advertising Act, 2014.

Short Title.

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

Interpretation.

“county executive committee member” means the county executive committee member responsible for matters relating to air pollution, noise pollution, nuisances;

“department” means the Department, of the County responsible for matters relating to outdoor advertising;

“owner” means the person in control of a building, premises or site;

“protected area” means an area declared to be a protected area under section 8 of this Act.

3. The objective of this Act is to empower a county to take all lawful, necessary and reasonably practicable measures—

Objectives.

- (a) to eliminate the danger posed to the public through erection of unregulated outdoor advertisements;
- (b) to maintain the county ambience in a safe, clean and pleasant condition at all times;
- (c) to remedy or cause to be remedied, any damage caused through unauthorized outdoor advertising.

4. This Act is applicable to all urban areas within the county and all areas adjacent to any road, railway or aerodrome.

Application.

PART II—ADMINISTRATIVE PROVISIONS

5. This Act shall be administered by the county department responsible for matters relating to outdoor advertising (in this Act referred to as the Department).

Administration of this Act.

6. It is the responsibility of the Department to implement the objectives of this Act and to this end the Department shall—

Functions and powers of the Department.

- (a) formulate county policy and legislation on outdoor advertising;
- (b) subject to relevant legislation, receive any grant or donation;
- (c) issue, renew, suspend or revoke licenses and permits;
- (d) impose fines for breach of any conditions imposed in any license or permit issued under this Act;
- (e) charge fees for any services the county may render under this Act;
- (f) declare any area to be a protected area;
- (g) perform any other function as may be directed by the County Executive Committee Member, for the effective implementation of this Act.

7. (1) The Department may, on behalf of the county government, enter into agreements for the mutual benefit of the county and any company on outdoor advertising.

Department may enter agreements.

(2) The Department may provide selected infrastructure such as street light poles, street or park benches, litter bins among others to a company in exchange for investment opportunities.

(3) At the expiry of an agreement, under paragraph (2), a company shall surrender the infrastructure provided under subsection (2) to the county government.

(4) An agreement made under this section shall not exceed three years.

8. (1) The Department may declare an area to be a protected for purposes of this Act.

Protected areas.

(2) Without prejudice to subsection (1) the following are deemed to be protected areas—

- (a) natural recreational spaces and urban conservation areas;
- (b) cultural and national heritage areas and sites;
- (c) *gazetted* buildings and historical monuments.

PART III—LICENCES AND PERMITS

9. (1) Any person desiring to display an outdoor advertisement shall make an application to the department which shall be accompanied by a plan or sketch showing, to the satisfaction of the department—

Application for
outdoor advertising
licence.

- (a) the dimensions of the intended advertisement;
- (b) the material of which it is to be composed or it is constructed;
- (c) the position of the proposal advertising device or notice where the advert is intended to be displayed;
- (d) the method of execution;
- (e) its colour;
- (f) a planning brief submitted by a registered physical planner;
- (g) the period for which the advertisement is intended to be displayed.

(2) The Department may on receipt of the application under subsection (1) request the applicant for any other relevant information.

(3) If the department is satisfied the advertisement meets the requirements under this Act and poses no danger or obstruction, it shall issue a permit within thirty days subject to any conditions it may impose.

(4) If the department does not approve the application, it shall notify the applicant of its reasons, in writing, within thirty days from the date of receipt of the application.

(5) Notwithstanding subsection (2) no advertisement shall be displayed—

- (a) without the consent of the owner of the land or building on which it is proposed to be displayed;
- (b) in a manner that it would endanger anyone using any road, railway, or aerodrome; or
- (c) in a place or in a manner that would obscure or hinder the ready interpretation of any traffic sign, railway signal, or air navigation aid or other navigation aid; or
- (d) in a manner that would hinder the operation of any

device used for the purpose of security or surveillance;

(6) The applicant shall, on the expiry of the licensed period remove the advertisement and return the site as reasonably close to the condition it was before the advertisement was displayed.

10. (1) A licence shall be in force for the period specified in the licence but shall not exceed 12 months from the date of its issue or renewal.

Period and renewal
of licences.

(2) A licence may be renewed from time to time if the department approves an application for renewal and on payment of the prescribed fee.

11. (1) The advertisements specified in subsection (2) are exempted from the application of this Act.

Exempted
advertisements.

(2) An advertisement placed—

- (i) in the interior of a shopping mall or arcade;
- (ii) in an enclosed bus or railway station;
- (iii) in the interior of a sports stadium;
- (b) a non-illuminated advertisement or sign not exceeding 0.3m relating to the premises such as notices or signs to be displayed on buildings or land as means of identification, direction or warning (e.g. shut the gate, beware of dogs);
- (c) non-illuminated notices or signs not exceeding 0.3m affixed and indicating the name, address and telephone number of—
 - (i) a security company contracted to protect the property;
 - (ii) a landscape company or sponsor contracted to landscape a public open space;

provided that only one sign per premises shall be permitted and such sign shall be firmly affixed to the boundary wall fence or gates on the street frontage.

(d) a non-illuminated advertisement or notice relating to religious activity as follows—

- (i) one advertisement or notice per premise on the road frontage;

- (ii) the height at which the advertisement or notice does not exceed 2.0m above ground level;
- (e) a non-illuminated advertisement or notice relating to foreign diplomatic and political activity including—
 - (i) the national flag of any country, or a United Nations organization provided nothing is added to the design of the flag or, if the flag is flown from a flagstaff and no advertising material is added to the flagstaff;
 - (ii) posters pending civic, parliamentary or presidential election campaigns;
 - (iii) functional advertisements of government ministries, departments and their agencies, county governments and statutory utility services undertakers.

12. Any person who in or in view of any street or public place, erects, fixes places, maintains, displays or uses or permits to be erected, fixed, placed, maintained, displayed or used; any advertisement devise without first obtaining a permit, otherwise than in accordance with this Act shall be guilty of an offence.

Illegal outdoor advertisement.

13. No person shall erect or cause or permit to be erected or maintained—

Prohibited signs.

- (a) any advertisement or sign, other than an exempted sign, for which neither a permit nor approval has been obtained or which does not comply with the requirements of, or which is not permitted by this Act, or any other written law;
- (b) any sign suspended across a street unless otherwise approved by county government;
- (c) any sign which may either obscure a road traffic sign, be mistaken for or interfere with the functioning of a road traffic sign;
- (d) any sign which may obscure traffic by restricting motorists' vision and lines of sight thus endangering motorists' safety ;
- (e) any sign which is indecent or suggestive of indecency, prejudicial to public morals or is reasonably objectionable;

- (f) any sign which will obstruct any window or opening provided for the ventilation of a building or which obstructs any stairway or doorway or other means of exit from a building or which will prevent the movement of persons from one part of a roof to another part thereof;
- (g) any animated or flashing sign the frequency of the animations or flashes or other intermittent alternations of which disturbs the residents or occupants of any building or is a source of nuisance to the public or impairs road traffic safety;
- (h) any illuminated sign, the level of illumination of which unreasonably disturbs the residents or occupants of any building or is a source of nuisance to the public;
- (i) any sign referring to a price or change in price of merchandise except in a shop window, or on the article itself;
- (j) any poster otherwise than on a hoarding legally erected for the purpose of accommodating such poster;
- (k) any sign or signs the total area of which exceeds 30m², painted or fixed on a wall of a building not being a front wall of such building, unless approved in terms of the policy for the promotion of outdoor advertising;
- (l) any sign painted on any fence or boundary wall, not being an approved sign;
- (m) any sign which may obstruct pedestrian or vehicular traffic;
- (n) any transit advertising sign that is parked irrespective of whether it is attached to a vehicle or not;
- (o) any poster or sign attached to a tree;
- (p) any temporary sign for commercial or third-party advertising erected on Council land or land vested in the Council, unless by prior signed encroachment agreement or contract with the

Council;

- (q) any sign or poster attached to a road traffic sign.

PART IV—MISCELLANEOUS PROVISIONS

14. The Department shall liaise with the Committee on Public participation when making a decision under section 8 on the declaration of protected areas.

Public participation.

15. (1) A person who—

Offences.

- (a) commits a breach of any condition imposed by any licence or permit issued under this Act;
- (b) aids or abets another person a person to commit a breach of any condition imposed by under any licence or permit issued under this Act;
- (c) forges or through fraud obtains any document with intent to have a licence or permit issued or renewed;
- (d) erects or attempts to erect an outdoor advertisement contrary to the provisions of this Act;

commits an offence and on conviction shall be liable to a fine of not more than shillings five hundred thousand or to imprisonment for a period not exceeding two years or both such fine and imprisonment.

(2) The county may, by law, further prescribe that, in addition to any penalty, any expenses incurred by the county—

- (a) in consequence of the breach of any law by any person; or
- (b) in the execution of any work directed by any such law to be executed by any person and not executed by him;

shall be paid by the person committing such breach or failing to execute such work.

16. Every person who violates or fails to comply with any provision of this Act for which no other penalty is provided, commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or imprisonment of a term not exceeding six months.

General penalty.

17. The County Executive Committee Member may make regulations—

Regulations.

- (a) to prohibit or regulate the display of advertisements and advertising devices in or in view of any street or other public place or in such places or in such manner or by such means as would, in the opinion of the department, be likely to affect injuriously the amenities of or to disfigure any neighbourhood; and
- (b) to regulate the use and passage of advertising vans, sandwich boards, lanterns, flags, screens or other moveable advertising devices, and
- (c) to regulate the distribution of handbills in or along any street or other public place;
- (d) to regulate street decorations;
- (e) to prohibit or regulate the erection and removal of temporary platforms, seats and other structures for the use of the public at any meeting or entertainment or for the accommodation of spectators at any procession;
- (f) regulate the shape, form and size of the billboards and the number that may be erected within a specific area; (including tri-vision panels, sky signs, billboards, wall wraps, light emitting diodes(LED) screens etc.

18. All licenses, permits, certificates and other issued under any municipal legislation shall continue in operation for the remaining period of their validity and on passing of this Act shall be deemed to have been issued under this Act.

Saving provisions.

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