

SPECIAL ISSUE

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LAIKIPIA COUNTY DEVELOPMENT
AUTHORITY
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REPUBLIC OF KENYA

***LAIKIPIA COUNTY GAZETTE
SUPPLEMENT***

ACTS, 2014

NAIROBI, 19th June, 2014

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COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA

**THE LAIKIPIA COUNTY DEVELOPMENT
AUTHORITY ACT, 2014
(No. 3 of 2014)**

Date of Assent: 21st May, 2014

Commencement Date: 3rd July, 2014

ARRANGEMENT OF CLAUSES

Clause

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THE LAIKIPIA COUNTY DEVELOPMENT AUTHORITY ACT, 2014

**AN ACT of the County Assembly of Laikipia to
provide for the establishment of institutional
framework for coordination and promotion
of county development and for connected
purposes.**

ENACTED by the County Assembly of Laikipia, as
follows—

PART I – PRELIMINARY

1. This Act may be cited as the Laikipia County Development Authority Act, 2014 Short title.

2. In this Act, unless the context otherwise requires— Interpretation.
“Authority” means the County Development Authority established under section 4;

“County Executive Committee” means the County Executive Committee of the County Government of Laikipia

“Board” means the County Development Authority Board established under section 7;

“Executive Member” means the county executive committee member responsible for county planning and development;

3. The purpose of this Act is to provide for the legal and institutional framework for coordination and promotion of county development, in order to — Purpose of Act.

- (a) promote sustainable development in the County;
- (b) promote household economic empowerment;
- (c) coordinate and harmonize development initiatives;
- (d) promote local economic growth and development;
- (e) ensure equitable distribution of development programs throughout the County;
- (f) facilitate access to local and external resources for County development.

PART II – COUNTY DEVELOPEMNT AUTHORITY

4. (1) There is established the Laikipia County Development Authority.

Establishment of the Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of-

- (a) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (b) borrowing money or making investments;
- (c) entering into contracts; and
- (d) doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

5. The functions of the Authority shall be to-

Functions of the Authority.

- (a) advise the county government on the appropriate policies, laws, plans and programs necessary for county development;
- (b) coordinate development programs and initiatives and provide liaison between county and national government on implementation of development programs and projects;
- (c) initiate and implement in collaboration with other county government departments targeted development programs and projects;
- (d) source locally or internationally resources required for promoting county development;
- (e) promote and facilitate establishment of public private partnerships targeting county development;
- (f) support other county departments in preparing and implementing development plans and programs;
- (g) mobilize and support residents to initiate or participate in development initiatives, programs and projects;

- (h) monitor and evaluate development policies, laws, plans and programs and advise the county government on appropriate measures to be adopted;
- (i) carry out such other roles necessary for the implementation of the objects and purpose of this Act and perform such other functions as may, from time to time, be assigned by the executive member.

6. In carrying out the functions under this Act, the Authority shall ensure that—

Principles of
Development.
No. 13 of 2011.

- (a) there is equitable distribution of development projects in all Sub-counties and Wards;
- (b) development programs, plans and projects fall within the stipulated plans and framework developed under the Urban Areas and Cities Act, Public Financial Management Act, County Governments Act, or any other relevant written law;
- (c) projects implemented are relevant to the specific locality, innovative and contribute to sustainable development on the area;
- (d) there is no duplication of projects implemented by either county government departments or national government in the specific locality;
- (e) there is public participation in identification and implementation, monitoring and evaluation of projects in accordance to framework established under the County Governments Act or any other relevant written law;
- (f) there is value for money and economic efficiency in implementation of any project;
- (g) there is effective collaboration and coordination with other county or national government departments and non state actors.

No 17 of 2012.

No 18 of 2012.

No 17 of 2012

7. (1) The management of the Authority shall vest in the Board which shall consist of—

Board of the
Authority.

- (a) a non-executive chairperson appointed by the Governor with the approval of the County Assembly;

- (b) Chief officer for the time being responsible for county planning and development;
 - (c) the Chief officer for the time being responsible for finance or chief officer responsible for county administration where the chief officer responsible for finance is also responsible for county planning and development;
 - (d) five persons appointed by the executive member through a competitive recruitment process, provided that there shall be representation from persons with disability and youth
 - (e) one person who is an expert in matters related to development, planning and management appointed by the Executive Member.
 - (f) the chief executive officer who shall be an ex officio member and secretary to the Board;
provided that not more than two thirds of the people appointed under paragraph (a), (d) and (e) shall be of the same gender
- (2) A person shall be qualified for appointment as chairperson or a member appointed under subsection (1) (e) if the person—
- (a) holds a degree from a recognized university;
 - (b) has knowledge and experience of at least five years in matters relating to development, public administration and management or any other related field;
 - (c) meets the requirements of Chapter Six of the Constitution; and
- (3) A person shall be qualified for appointment as a member under sub section (1) (d) if the person—
- (a) holds a degree from a recognized institution;
 - (b) has knowledge and experience of at least five years in matters relating to local development, administration, community mobilization or any other relevant field;
 - (c) meets the requirements of Chapter Six of the Constitution; and
 - (d) is a resident of the county.

Notwithstanding sub section 3 (a), a person who holds a diploma from a recognized institution may qualify for appointment under subsection (1) (d) if that person has at least 10 years' experience in matters relating to local development, administration, community mobilization, and management or any other related field;

8. The functions of the Board shall be to—

Functions of the Board.

- (a) ensure proper and efficient exercise of the powers and performance of the functions of the Authority;
- (b) advise the management of the Authority generally on the exercise of the powers and the performance of the functions of the Authority;
- (c) approve the estimates of the revenue and expenditure of the Authority; and
- (d) perform such other functions as are provided for under this Act or any other written law.

9. (1) The conduct and regulation of the business and affairs of the Board shall be as set out in the Schedule.

Conduct of Business.

(2) Except as provided in the Schedule, the Board may regulate its own procedure.

10. The remuneration of the members of the Board shall be as determined by the county Treasury.

Remuneration of the Board.

11. (1) There shall be a chief executive officer of the Authority.

Chief Executive Officer.

(2) The chief executive officer shall be recruited through a competitive process and appointed by the executive member in consultation with the Board

(3) To qualify for appointment as a chief executive officer, a person must—

- (a) possess a degree from a recognized university; and
- (b) have at least five years experience in management.

(4) The chief executive officer shall hold office for a period of three years, on such terms and conditions of employment as the Board may determine, and shall be eligible for re-appointment for a further and final term of three years.

(6) The chief executive officer shall—

- (a) in consultation with the Board, be responsible for the direction of the affairs and transactions of the Authority, the exercise, discharge and performance of its objectives, functions and duties and the general administration of the Authority;
- (b) carry out any other function as may from time to time be assigned by the Board.

(7) The chief executive officer may—

- (a) at any time resign from office by issuing a notice in writing to the chairperson of the Board;
- (b) be removed from office by the executive member on recommendation of the Board, for-
 - (i) serious violation of the Constitution or any other written law;
 - (ii) gross misconduct, whether in the performance of the functions of the office or otherwise;
 - (iii) physical or mental incapacity to perform the functions of office;
 - (iv) incompetence;
 - (v) bankruptcy.

12. The County Public service Board may appoint such officers and other staff as are necessary for the proper discharge of the board's functions under this Act, upon such terms and conditions of service as it may determine.

Staff of the
Authority.

13. (1) The common seal of the Authority shall be kept in the custody of the chief executive officer or of such other person as the Board may direct, and shall not be used except upon the order of the Board.

The Common Seal of
the Authority.

(2) The common seal of the Authority, when affixed to a document and duly authenticated, shall be judicially and officially noticed, and unless the contrary is proved, any necessary order or authorisation by the Board under this section shall be presumed to have been duly given.

(3) The common seal of the Authority shall be authenticated by the signature of the chairperson of the Board or the chief executive officer.

(4) The Board shall, in the absence of either the chairperson or the chief executive officer, in any particular matter, nominate one member of the Board to authenticate the seal of the Authority on behalf of either the chairperson or the chief executive officer.

14. (1) No matter or thing done by a member of the Board or by any officer, member of staff, or agent of the Authority shall, if the matter or thing is done bona fide for executing the functions, powers or duties of the Authority under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

Protection from
Personal Liability.

(2) Any expenses incurred by any person in any suit or prosecution brought against him or her in any court, in respect of any, act which is done or purported to be done by him or her under the direction of the Board, shall, if the court holds that such act was done bona fide be paid out of the funds of the Authority, unless such expenses are recovered by him or her in such suit or prosecution.

15. The provisions of section 13 shall not relieve the Authority of the liability to pay compensation or damages to any person for any injury to him or her, his or her property or any of his or her interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially, of any works.

Liability for
Damages.

16. (1) The Authority shall, within three months after the end of each financial year, prepare and submit to the executive member a report of the operations of the Authority for the immediately preceding year.

Annual Report.

(2) The annual report shall provide information regarding the activities and plans of the Authority during the year to which it relates sufficient to impart an accurate understanding of the nature and scope of its activities and its plans and priorities and, without limitation, shall include—

- (a) details of the performance of the Authority against its key performance indicators;
- (b) report on the overall status, progress, impact and challenges or impediments in the implementation of the Act as well as the appropriate measures to address any challenges that should be taken by the various county government departments including the Authority's projections;

- (c) a report on the local development in each sub-county;
- (d) such information and other material as the Authority may be required by this Act or regulations made thereunder to include in the annual report; and
- (e) financial reports prepared under section 20;
- (f) such additional information or other material as the executive member may request in writing.

(4) The executive member shall, within fourteen days of receiving the annual report submit it to the county executive and thereafter within twenty one days transmit it to the Clerk of the County Assembly for tabling before the county assembly for consideration.

(5) The county assembly may after considering the report make recommendations to the executive member on appropriate ways of effectively implementing the Act.

PART III—FINANCES OF THE AUTHORITY

17. (1) The funds and assets of the Authority shall consist of—

Funds of the Authority.

- (a) such moneys as may be appropriated by county assembly for the purposes of the Authority;
- (b) such gifts or monies received from any lawful source the Authority;
- (c) all moneys provided, donated or lent to the Authority.

(2) The Authority shall apply the money received under this section for the furtherance of the objects and performance of the functions of the Authority.

18. The financial year of the Authority shall be the period of twelve months ending on the thirtieth June in each year.

Financial Year.

19. (1) At least three months before the commencement of each financial year, the Authority shall cause to be prepared estimates of the revenue and expenditure of the Authority for that year.

Annual Estimates.

(2) The annual estimates shall make provision for all estimated expenditure of the Authority for the financial year and in particular, the estimates shall provide for the—

- (a) payment of the salaries, allowances and other charges in respect of the staff of the Authority;
- (b) payment of allowances and other charges in respect of members of the Board;
- (c) payment of pensions, gratuities and other charges in respect of members of the Board and staff of the Authority;
- (d) proper maintenance of the buildings and grounds of the Authority;
- (e) maintenance, repair and replacement of the equipment and other property of the Authority; and
- (f) creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the Board may deem appropriate.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and, once approved, the sum provided in the estimates shall be submitted to the County Executive Committee for final approval.

(4) No expenditure shall be incurred for the purposes of the Authority except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorisation of the Board given with prior written approval of the executive member.

20. (1) The Board shall cause to be kept proper books and records of accounts of the income, expenditure and assets of the Authority.

Accounts and Audit.

(2) Within a period of three months after the end of each financial year, the Board shall submit to the Auditor-General, the accounts of the Authority together with—

- (a) a statement of the income and expenditure of the Authority during that year; and
- (b) a balance sheet of the Authority on the last day of that year.

(3) The accounts of the Authority shall be audited and reported upon in accordance with the provisions of the Public Audit Act.

No. 12 of 2003.

21. (1) The Board may invest any of the funds of the Authority in securities in which, for the time being, trustees may by law invest trust funds, or in any other securities or banks which the county Treasury may, from time to time, approve for that purpose.

Investment of Funds.

(2) The Board may place on deposit, with such bank or banks as it may determine, any moneys not immediately required for the purpose of the Authority.

PART IV— MISCELLANEOUS

22. The executive member may, in consultation with the Authority make Regulations prescribing anything which under the Act may be prescribed, and generally to the better carrying out the objects of this Act.

Regulations.

SCHEDULE

(s. 9)

**PROVISIONS AS TO THE CONDUCT OF
BUSINESS AND AFFAIRS OF THE BOARD**

1. Any member of the Board, other than chief officers shall, subject to the provisions of this Schedule, hold office for a term of three years, on such terms and conditions as may be specified in the instrument of appointment, and shall be eligible for re-appointment for a further and final term of three years.

Tenure of Office.

2. A member of the Board may—

Vacation of Office.

- (a) at any time resign from office by notice in writing to the executive member;
- (b) be removed from office by the executive member if the member—
 - (i) has been absent from three consecutive meetings of the Board without the permission of the chairperson;
 - (ii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;
 - (iii) is convicted of an offence involving dishonesty or fraud;
 - (iv) is adjudged bankrupt or enters into a composition scheme of arrangement with his creditors;
 - (v) is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit to discharge his duties as a member of the Authority; or
 - (vi) fails to comply with the provisions of this Act relating to disclosure.

3. (1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

Meetings.

(2) Notwithstanding the provisions of subparagraph (1), the chairperson may, and upon requisition in writing by at least seven members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.

(3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.

(4) The quorum for the conduct of the business of the Board shall be five members including the chairperson or the person presiding.

(5) The chairperson shall preside at every meeting of the Board at which he is present but, in his absence, the members present shall elect one of their members to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(6) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members present and voting and, in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

(7) Subject to subparagraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

4. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter:

Conflict of Interest.

Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Board may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.

(2) A member of the Board shall be considered to have a conflict of interest for the purposes of this Act if he acquires any pecuniary or other interest that could conflict with the proper performance of his duties as a member or employee of the Board.

(3) Where the Board becomes aware that a member has a conflict of interest in relation to any matter before the Board, the Board shall direct the member to refrain from taking part, or taking any further part, in the consideration or determination of the matter.

(4) If the chairperson has a conflict of interest he shall, in addition to complying with the other provisions of this section, disclose the conflict that exists to the executive member in writing.

(5) Upon the Board becoming aware of any conflict of interest, it shall make a determination as to whether in future the conflict is likely to interfere significantly with the proper and effective performance of the functions and duties of the member or the Board and the member with the conflict of interest shall not vote on this determination.

(6) Where the Board determines that the conflict is likely to interfere significantly with the member's proper and effective performance as provided for in subparagraph (1), the member shall resign unless the member has eliminated the conflict to the satisfaction of the Board within thirty days.

(7) The Board shall report to the executive member any determination by the Board that a conflict is likely to interfere significantly with performance as above and whether or not the conflict has been eliminated to the satisfaction of the Board.

(8) The annual report of the Board shall disclose details of all conflicts of interest and determinations arising during the period covered by the report.

(9) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

(10) A member of the Board who contravenes subparagraph (1) commits an offence and is liable to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings, or both.

5. (1) Within twelve months of the commencement of this Act, the Board shall adopt a code of conduct prescribing standards of behaviour to be observed by the members and staff of the Board in the performance of their duties.

Code of Conduct.

(2) Subject to sub-paragraph (1), before adopting any code of conduct or making any substantial amendments to an existing code of conduct, the Board shall publish the proposed code or amendments in the Gazette and in a newspaper circulating nationally, inviting public comments.

(3) The Board shall include in its annual report a report on compliance with the code during the period covered by the annual report.

(4) The code of conduct adopted or prescribed under this paragraph shall be binding on the Board and its staff.

6. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Board by any person generally

Execution of Interest.

7. The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose.

Minutes.

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