

SPECIAL ISSUE

Mombasa County Gazette Supplement No. 5 (Acts, No. 3)

MOMBASA COUNTY ASSEMBLY
LIBRARY
P.O. Box 90440 - 80300
MOMBASA



REPUBLIC OF KENYA

**MOMBASA COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2016

NAIROBI, 27th May, 2016

CONTENT

Act—

PAGE

The Mombasa County Outdoor Advertising Act, 2016 1

**THE MOMBASA COUNTY OUTDOOR ADVERTISING
ACT, 2016**

No. 3 of 2016

Date of Assent: 3rd May, 2016

Date of Commencement: See Section I

ARRANGEMENT OF SECTIONS

Section

PART I—PRELIMINARY

- 1—Short title and commencement.
- 2—Interpretation.
- 3—Objectives.
- 4— Application of Act.

PART II—ADMINISTRATIVE PROVISIONS

- 5—Administration of this Act.
- 6—Fees and charges.
- 7—Functions and powers of the County Executive Member.
- 8— Protected areas.

PART III—LICENCES AND PERMITS

- 9— Application for outdoor advertisement.
- 10— Period and renewal of licences.
- 11 — Exempted advertisements.
- 12— Prohibited sign.
- 13—Cancellation of Permits.

PART IV—OFFENCES AND PENALTIES

- 14— Offences.
- 15 — Offences.

PART V —MISCELLANEOUS PROVISIONS

- 16— Removal of advertising devices.
- 17 — Regulations.
- 18— Transition.

**THE MOMBASA COUNTY OUTDOOR
ADVERTISING ACT, 2016**

**AN ACT of the County Assembly of Mombasa to
provide for regulation and management of
outdoor advertising and for connected purposes**

ENACTED by the County Assembly of Mombasa as
follows—

PART I—PRELIMINARY

1. This Act may be cited as the Mombasa County
Outdoor Advertising Act, 2016 and shall come into effect
upon being published in the *Gazette*.

Short title and
commencement

2. In this Act—

Interpretation

“Advertising device” includes any board, framework
screen, signboard, flag, banner or lamp, neon signs,
pamphlets, leaflets, flyers, bulletins, digital displays,
murals, vehicles or any other fixture or device used or
constructed for the purpose of advertisements;

“County” means the County Government of Mombasa;

“County Secretary” means the person for the time
being holding the office of the County Secretary in the
County Government of Mombasa;

“County Executive Committee Member” means the
county executive committee member responsible for
matters relating to advertising;

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

“Fees and charges” shall be the most recent gazetted at
any point of time by the County;

“Outdoor advertising” means any advertising done
outdoors that publicizes a business product or service;

“Owner” means the person in control of a building,
premises or site or with legal and equitable right to an
advertising device;

“Permit” means a permit issued under section 10 (3) of
this Act;

“Protected area” means an area declared to be a
protected area under section 9 of this Act and any

2016

Mombasa County Outdoor Advertising

applicable law and no outdoor advertising shall be permitted in such area.

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

- (a) eliminate the danger posed to the public through erection of unregulated outdoor advertisements;
- (b) maintain the County ambience in a safe, clean and pleasant condition at all times;
- (c) collect revenue from outdoor advertising;
- (d) allow the promotion of information, industry and trade through outdoor advertising; and
- (e) regulate and manage outdoor advertising.

4. This Act shall apply within the geographical boundaries of Mombasa County. Application

PART II—ADMINISTRATIVE PROVISIONS

5. This Act shall be administered by the Department Administration of this Act.

6. There shall be paid to the County in respect of every permit issued under this Act appropriate fees and charges as may be determined by the County from time to time. Fees and charges

7. It is the responsibility of the County Executive Committee Member to implement the objectives of this Act and to this end he or she shall— Functions and powers of the County Executive Member.

- (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) in consultation with the County Executive Committee, declare any area to be a protected area as provided for under this Act;
- (g) enter into agreements, public private partnerships for the purposes of advertising;

- (h) perform any other function as may be required for the effective implementation of this Act.

8. (1) The County Executive Committee Member may in consultation with the County Executive committee declare or undeclared an area to be protected for purposes of this Act and subject to any other applicable law on protected areas.

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 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 that the advertisement application meets the requirements under this Act and poses no danger or obstruction, within thirty days, it shall issue a permit subject to any conditions it may impose.

(4) The County may decline to issue a permit in any case where, in its opinion, the display of an advertisement or the use of an advertisement device would be likely to inflict injuries to the amenities of, or to disfigure, any neighbourhood or for any other reason it may think proper, or may grant a permit subject to such terms and conditions relating to the construction, nature and erection of advertising device as it may think fit.

(5) 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.

(6) 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, canal or waterway; 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.

(7) The applicant shall, on the revocation or 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) Every permit issued under this Act shall be for a period of one calendar year unless cancelled prior to such expiration.

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 payment of fees chargeable under this Act.

Exempted
advertisements

No. 3

Mombasa County Outdoor Advertising

- (2) An advertisement placed—
- (a) (i) in the interior of a shopping mall or arcade;
(ii) in an enclosed bus or railway station;
 - (b) a non-illuminated advertisement or sign not exceeding 0.3m² 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 0.3m², 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 a place of worship, public schools, public hospitals and police stations;
 - (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. No person shall erect or cause or permit to be erected or maintained— Prohibited signs

- (a) any advertising device, other than an exempted

sign, which is not permitted by this Act or any other written law;

- (b) any sign suspended across a street unless otherwise approved by the County;
- (c) any sign which may either obscure a road traffic sign, be mistaken for with 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 advertising device that prevents access or exit from a building;
- (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 poster otherwise than on a hoarding legally erected for the purpose of accommodating such poster;
- (i) 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;
- (j) any sign painted on any fence or boundary wall, not being an approved sign;
- (k) any sign which may obstruct pedestrian or vehicular traffic;
- (l) any poster or sign attached to a tree;
- (m) any sign or poster attached to a road traffic sign.

13. The County may at any time by notice to holder thereof, cancel a permit for contravention of any of the terms and conditions thereof or any of the provision of this

Cancellation of
permit.

Act or where it is of the opinion that continued display of any advertisement or use of any advertisement device would likely damage the amenities or to deface any neighbourhood or for any reason it may think fit.

PART IV—OFFENCES AND PENALTIES

14. Any 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 to commit a breach of any condition imposed on any licence or permit issued under this Act;
- (c) obtains any document with an intent to have a licence or permit issued or renewed by forgery or fraud;
- (d) erects or attempts to erect an outdoor advertisement contrary to the provisions of this Act;
- (e) being the holder of a permit fails to maintain in good repair and in a proper and safe condition any advertising device authorized in this Act.

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

15. Any person who commits an offence under this Act for which no other punishment is given is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding two years or to both.

PART V—MISCELLANEOUS PROVISIONS

16. The County Executive Committee Member may without notice cause to be removed or put down and disposed of any advertising device erected, fixed, placed, maintained, display or used in contravention of this Act.

Removal of
advertising devices

17. The County Executive Committee Member may make regulations not inconsistent with this Act respecting any matter that is necessary or convenient to be prescribed under this Act or for the carrying out or giving effect to this Act.

Regulations

2016

Mombasa County Outdoor Advertising

18. Any outdoor advertising permit or license issued at the commencement of this Act, shall be operational for the remaining duration of the permit or license and thereafter any subsequent application shall be in accordance with the provisions of this Act. Transition