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TAITA TAVETA COUNTY BILLS, 2018

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**THE TAITA TAVETA COUNTY VILLAGE ADMINISTRATION
UNITS BILL, 2018**

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**SCHEDULE 1—VILLAGE UNITS OF THE TAITA TAVETA
COUNTY**

**THE TAITA TAVETA COUNTY VILLAGE
ADMINISTRATION UNITS BILL, 2018**

A Bill for

**AN ACT of Taita Taveta County Assembly to provide for the
establishment and delineation of the village administration units
in the county and for connected purposes.**

ENACTED by Taita Taveta County Assembly as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Taita Taveta County Village Administration Units Act, 2018, and shall come into operation upon the expiry of thirty days from the date of publication.

Interpretation

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

“County Assembly” means the Taita Taveta County Assembly;

“County Government” means the Taita Taveta County Government;

“Ward” means an electoral area within a county delimited in accordance with Article 89 of the Constitution and section 26 of the County Governments Act, 2012;

“Village unit” means the decentralized, unit of the County Government delimited in accordance with section 48 of the County Governments Act, 2012.

“Village council” means the council established under section 53(1) of The County Governments Act, 2012; and

“County Executive Committee Member” means the County Executive Committee Member in charge of Administration and Devolution.

“Sub-county administrator” means the person responsible for coordination and administration of county affairs in any one of the 4 sub-counties in Taita Taveta County;

“Ward administrator” means the person responsible for overall coordination and management of county affairs in a particular ward in Taita Taveta County;

“Qualification” means any prescribed factor of eligibility or ineligibility attached to holding or acting in a county public office;

“Village administrator” means the person responsible for overall coordination and management of county affairs in a particular village in the county;

Objects and purpose of the Act

3. The object and purpose of this Act is to provide for the delineation and establishment of the Village Administration Units in Taita Taveta County so as to provide for the further decentralization of the functions and provision of services by the Taita Taveta County Government in accordance with Article 176(2) of the Constitution.

PART II—ESTABLISHMENT AND ADMINISTRATION OF VILLAGE UNITS

Establishment of the Village administration Units

4. (1) There shall be established in Taita Taveta County, Village Administration Units for the proper co-ordination and facilitation of citizen participation in the development of policies, plans and delivery of services.

(2) The establishment of the villages shall give effect to Section 52 of the County Governments Act, 2012.

(3) In formulating the villages, the Taita Taveta County Government will take cognizance of the following considerations:

- (a) the area in square kilometers;
- (b) the demographic trends (population);
- (c) geographical characteristics;
- (d) historical disadvantages and the communities of interest; and
- (e) economic and cultural ties

Village Units Delineation Committee

5. There shall be established the Village Units Delineation Committee for purposes of:

- (a) Establishing the Village Units in accordance with Article 89 of the Constitution and Section 48 of the County Governments Act.
- (b) Reviewing the number, names and boundaries of Village Units at intervals of not less than eight years, and not more than twelve years.

- (c) The boundaries of each Village Unit shall be such that the number of inhabitants in the unit is, as nearly as possible equal to the population quota to take account of;
 - (i) Geographical features and urban centres;
 - (ii) Community of interest, historical, economic and cultural ties;
 - (iii) Means of communication
 - (d) In reviewing the boundaries, the Committee shall:
 - (i) Consult all interested parties; and
 - (ii) Progressively work towards ensuring that the number of inhabitants in each unit is, as nearly as possible, equal to the population quota
 - (e) If possible the Committee shall alter the names and boundaries of the units.
 - (f) For the purposes of this Section, “population quota” means the number obtained by dividing the number of inhabitants of Kenya by the number of constituencies or wards, as applicable, into which Kenya is divided under this Section.
- (2) In establishing a Village Unit under this Subsection, the Committee shall take into account the-
- (a) population size;
 - (b) geographical features;
 - (c) community of interest, historical, economic and cultural ties; and
 - (d) means of communication.
- (3) The Committee shall be comprised of the following persons—
- (a) County Chief Land Officer;
 - (b) County surveyor;
 - (c) County Chief Officer for administration and devolution;
 - (d) Executive member in charge of administration and devolution;
 - (e) An advocate of the high court of Kenya.
 - (f) Two officials from the office of registrar of persons;

Rights of persons living in a Village Unit

6.(a) Rights of persons residing in the Village Units

- (b) The right to safety of premises and property;
- (c) The right to carry out matters relating to religion;
- (d) The right to compile and nurture literature, culture, fine arts and customs
- (e) The right relating to education;
- (f) The right relating to health;
- (g) The right relating to socio—economic development.

Establishment of office of the Village Administrator

7. (1) There shall be established the office of the Village Administrator for each established Village Administration unit in Taita Taveta County, in line with Section 52(1) of the County Governments Act, 2012.

(2) Each of the Village Units referred to in Section 4 shall be administered by a Village Administrator.

Qualifications and appointment of Village Administrators

8. (1) The Village Administrator shall possess professional and technical qualifications and shall be appointed by Taita Taveta County Public Service Board in accordance with the County Government Act.

(2) No person shall be appointed as a Village Administrator unless such person:

- (a) meets the requirements of Chapter Six of the Constitution;
- (b) has attained a post-secondary education;
- (c) has technical knowledge and experience in administration.
- (d) is a resident of Taita Taveta County.

Functions of the Village Administrator

9. (1) The Village Administrator shall be responsible to the respective Ward Administrator and shall be responsible for the following-

- (a) co-ordinating, managing and supervising the general administrative functions in the village;
- (b) facilitating development of policies and plans;
- (c) ensuring effective service delivery;

- (d) coordinating development activities to empower the community;
- (e) providing and maintaining infrastructure and facilities for effective public service;
- (f) exercising any functions and powers delegated by the County Public Service Board under Section 86 of The County Governments Act, 2012.

Ethics to be obeyed and upheld

10. The Village Administrator shall exercise and carry out its functions in accordance with the following ethics;

- (a) Carrying out the functions and duties in accordance with laws, rules and regulations, procedures, orders and directives;
- (b) Refraining from abuse of power, using influence, doing malpractice and using undue influence;
- (c) Reforming the functions and duties efficiently assigned in accordance with the laws.

Basic principles of functions:

11. The Village Administrator shall carry out the functions and duties according to the following basic principles:

- (a) Obeying and upholding the non-disintegration of the Village Unit;
- (b) Safeguarding the fundamental rights of the citizens contained in the Constitution, the County Governments Act and this Act;
- (c) Causing to enable to work and live the people in the Village Units peacefully;
- (d) Respecting the customs and traditions of the Village and customs and tradition of the People in so far as they are not repugnant to justice and morality;
- (e) Every function carried out in cooperation with the local people shall be caused to be important and directly beneficial to them and in doing so shall not be a heavy burden on the local people;
- (f) Taking responsibility and bearing responsibility in respect of his work performances;
- (g) Taking advice of the relevant departments and organizations in respect of the functions and duties contained in this law and cooperation with them.

Establishment of Village Councils

12. (1) With effect from the date of coming into force of this Act, every Village Administrator shall ensure that the village under his jurisdiction shall constitute a Village Council.

(2) The village council in each Village Unit shall comprise of:

- (a) the Village Administrator who shall be the chairperson of the Village Council;
- (b) not less than three and not more than five Village Elders competitively appointed by the Village Administrator with the approval of the County Assembly, taking into account gender balance as provided in Article (81)b of the Constitution.

Qualification and appointment of Council Members

13. A person shall be eligible for appointment as a council member if the person:

- (a) is a citizen of Kenya;
- (b) has been a resident of or has been the owner of property in the respective village unit for a continuous period of not less than five years prior to the appointment date;
- (c) meets the requirements of Chapter Six of the Constitution;
- (d) is not disqualified for appointment to office by the County Government Act or any other law.

Remuneration of Council Members

14. A council member shall be paid such allowance as shall be determined by the County Assembly

Functions of the Village Council

15. The Village Councils shall be responsible for the following:

- (a) Ensuring and coordinating the participation of the Village Unit in governance; security, prevalence of law and order, community peace and tranquility and carrying out the benefit of the public;
- (b) Carrying out the functions and duties relating to the disciplinary matters of the persons who live in the Village Units;
- (c) Safeguarding the right of persons who live in the Village Units;
- (d) Helping and assisting in implementing the works relating to the rural development and poverty reduction;

- (e) Informing and assisting the relevant government departments and organizations in respect to revealing, informing and taking actions against crimes and vices;
- (f) Arresting and informing to take action the notorious lawless persons and thieves who have to been caught in the very act;
- (g) Prohibiting illegal activities meant to cause harm or disturb, endanger and injure the public;
- (h) Ensuring that all inhabitants of the village be given equal treatment and fair share in all respects including welfare and socio—economic development;
- (i) To assist and provide local information as may be required by the County Government or any other authority the through Executive Committee;
- (j) To bring any matters concerning acts of violence against any inhabitants or households of the village to the County Commander and the police;
- (k) To protect and preserve all community lands and forestlands or any other village resources for the interests of the village;
- (l) Maintain population register in the village where the name of each household and its residents are recorded;
- (m) Assisting the village unit to develop administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level;
- (n) Monitoring the implementation of policies at the Village Unit
- (o) Advising the Ward Administrator and sub-county administrator on matters pertaining to the village; and
- (p) Any other function necessary for the better administration of the Village Unit as may be prescribed by the County Executive Committee member in charge of devolution and administration.

Term of office of Village Council

16. Subject to the rules as may be prescribed by the County Executive Committee member in charge of Devolution and Administration, the duration of the members of the Village Council shall be for five (5) years.

Meetings of the Village Council

17. The Chairperson and the secretary shall organize the general meeting of the Village Council at least once monthly or as and when required or demanded by the villagers.

Vacancies; Forfeiture of Office; Filling of Vacancies.

18. Vacancies

The office of a Council Member shall become vacant upon his/her death, resignation, disability, suspension or removal from office in any manner authorized by law or by forfeiture of his/her office.

19. Forfeiture of Office

(1) Forfeiture by disqualification. A Council Member shall forfeit his/her office if at any time during his/her term s/he:

- (a) ceases to maintain his/her permanent residence in the Village.
- (b) in the case of a Residential Area Council Member, upon his/her ceasing to reside in his/her respective Residential Area; a Residential Area Council member shall not forfeit his/her office under this paragraph if, in the process of relocating within a Residential Area, she/he lives outside of his/her Residential Area but within the Village for a period of no more than 90 calendar days.

(2) Forfeiture by absence. A Council member shall be subject to forfeiture of his/her office, in the discretion of the remaining Council members, if s/he is absent without good cause from any three regular meetings of the Council during any calendar year or if s/he is absent without good cause from any three consecutive regular meetings of the Council, whether or not during the same calendar year.

(3) Procedures. The Council shall be the sole judge of all questions relating to forfeiture of a Council Member's office, including whether or not good cause for absence has been or may be established. The burden of establishing good cause shall be on the Council member in question; provided, however, that any Council member may at any time during any duly held meeting move to establish good cause for the absence of him/herself or the absence of any other Council Member, from any past, present or future meeting(s), which motion, if carried, shall be conclusive. A Council Member who is subject to forfeiture of his/her office, shall not vote on any such matters. The Council member in question shall be entitled to a public hearing upon request regarding an alleged forfeiture of office. If a public hearing is requested, notice thereof shall be published in

one or more newspapers of general circulation in the Village at least one week in advance of the hearing. Any final determination by the Council that a Council member has forfeited his/her office shall be made by a majority of the Council by resolution. All votes and other acts of the Council member in question prior to the effective date of such resolution shall be valid regardless of the grounds of forfeiture.

20. Filling of vacancies.

(1) A vacancy on the Council shall be filled as follows:

(a) If less than six months remain in the unexpired term, the vacancy shall be filled by a nomination of the Village Administrator made within 30 calendar days following the occurrence of the vacancy, subject to confirmation by the Council.

(2) However, if the Council is unable to confirm a nominee, a special election to fill that vacancy shall be held no later than 90 calendar days following the occurrence of the vacancy.

(3) Persons filling vacancies shall meet the qualifications specified in this Act and the County Governments Act.

PART III — MISCELLANEOUS PROVISIONS

Rules

21. (1) The County Executive Committee Member in charge of devolution and administration may make Rules for the better carrying out of this Act.

(2) Such rules when published in the Official County gazette shall have the force of law.

(3) Without prejudice to the generality of subsection(1), the Rules shall provide for the boundaries of the Village units in line with the requirements of the Constitution, the County Governments Act, 2012 and this Act.

(4) Subject to the Rules made by the County Executive Committee member, the Village Council may make rules for the purposes of carrying out the duties and responsibilities under this Act.

(5) Such rules shall be forwarded by the Village Administrator for approval by the County Executive Committee member and until approved, they shall not have the force of law.

Complementarity

22. The provisions of this Act shall be complimentary to the provisions of the

County Governments Act in relation to the establishment and administration of the Village units within the County.

SCHEDULE 1

Village Units of the TaitaTaveta County

<i>Sub-County</i>	<i>Ward</i>	<i>No. of Village Units</i>	<i>Name of Village Units</i>
Wundanyi	Wundanyi/Mbale		Wundanyi, Shigharo, Mteni, Mlechi, Choke, Mbale central, Mogho and Mlondo.
	Werugha		Werugha, Saghasa, Marumange, Mlondo
	Wumingu/Kishushu		Nyache, Paranga, Mghambonyi, Wumingu, Mwarungu, Kishushu
	Mwanda/Mghange		Njawuli, Kishamba, Mghange Nyika, Mghange Dawida, Lushangoni. Mwaroko.
Total		24	
Mwatate	Ronge		Rong'e, Nyika, Kighombo/Marumbenyi, Msau Rahai, Kishau/Kiweto, Ndembonyi/Baghau, Kironge/Mwakaleri, Mengo.
	Mwatate		Mwatate, Modambogho, Sembe, Sokoya Zamani
	Bura		Mwakitau, godoma. Nyolo, Iole, Mnamu, Mrughuwa, Saghaighu, Mluchi/Mwashuma
	Chawia		Chawia, Mwachabo, Wumari/Sechu, Mruru/Manganga
	Wusi/Kishamba		Kishamba, Kayailole, Mwachawaza, Wusi, Kidayangerenyi.
Total		28	
Voi	Mbololo		Kariokor, Mwangea, Mruru, Tausa
	Saghala		Teri, Ndara, Talio, Kishamba
	Kaloleni		Tanzania, Railway, Kaloleni, Kasarani
	Marungu		Maungu, Miasenyi, Marungu + 1

	Kasigau		Rukanga, Makwasinyi, Bughuta + 1
	Ngolia		Ghazi, Ndoime, Wongonyi, Manyani
Total		24	
Taveta	Challa		Lumi, Mahandikini, Njukini, Chumvini, Challa
	Mahoo		Mahoo, Malukiloriti, Nakuruto, Msemgonia, Kidong, Lessisia
	Bomani		Mjini, Njoro
	Mboghoni		Mboghoni, Mrabani, Kitobo, Eldoro, Kimorigho
	Mata		Kachero, Mata, Kimala, Rekeke, Ndilidau.
Total		25	

MEMORANDUM OF OBJECTS AND RESONS

This bill seeks to provide for the delineation and establishment of the Village Administration Units in Taita Taveta County to give effect for further decentralization of the functions and provision of services by the Taita Taveta County Government in accordance with Article 176(2) of the Constitution

Its enactment will establish a legal frame for the establishment of provision of full and accurate information to the public, to promote efficient administration management, to make the County Government more accountable, and to ensure to all persons fair and equitable treatment thereby ensuring the following to the people of Taita Taveta County:

(a) Convenient access:

Every person has the right to transact Village business with a minimum of personal inconvenience.

(b) Truth in Government:

No member of the Village Council or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public.

(c) Public Records:

All audits, reports, minutes, documents and other public records of the Village and its boards, agencies, departments and authorities shall be open for inspection at reasonable times and places convenient to the public.

(d) Right to be heard:

As long as the orderly conduct of public business may be maintained, any interested person has the right to appear before the Village Council for the presentation, adjustment or determination of an issue, request, or controversy within the jurisdiction of the Village. Matters shall be scheduled for the convenience of the public. The Village Council shall adopt agenda procedure and schedule hearings in a manner that will enhance the opportunity for public participation. Nothing herein shall prohibit any governmental entity or agency from imposing reasonable time limits and procedures for the presentation of a matter.

(e) Representation of Public.

The Village Council shall endeavour to designate one or more individuals to represent the Village at all proceedings before the County or

any other regulatory or administrative body whose actions may significantly affect the Village and its residents.

The foregoing vests large and pervasive powers in the citizenry of the Village. Such power necessarily carries with it responsibility of equal magnitude for the successful operation of the County Government in the Village. The orderly, efficient and fair operation of County Government requires the participation of individual citizens exercising their rights with dignity and restraint so as to avoid any sweeping acceleration in the cost of government because of the exercise of individual prerogatives, and for individual citizens to grant respect for the dignity of public office.

Dated the 17th July, 2018

JOHNES FUNDI MASKUJI,

*Chairperson, Administration, Security, Devolution, Public Participation,
Community Services and Drug Control Committee*