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KAJIADO COUNTY BILLS, 2020

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**THE KAJIADO COUNTY SAND HARVESTING AND QUARRY
BILL, 2020**

A Bill for

AN ACT of the County Assembly of Kajiado to provide for the registration, licensing, control and coordination of sand harvesting and quarrying activities, to ensure sustainable exploitation and utilization of land in the county and for other connected purposes

ENACTED by the County Assembly of Kajiado as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Kajiado county sand harvesting and quarry Act, 2020.

Interpretation

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

“county” means the County government of Kajiado;

“Committee” means the sand harvesting and quarry management committee established under section 5;

“Chief officer” means the chief officer responsible for environment and natural resources;

“community projects” means work undertaken by the county for the benefit of the community;

“County Public Service Board” means the Kajiado County Public Service Board;

“executive committee member” means the person responsible for matters relating to environment and natural resources;

“licence” means a permit to harvest sand or undertake quarrying activities as issued by the Committee under this Act;

“quarrying” includes the removal of stone, rock, construction aggregate, murrum, riprap, gravel, lime, sand, slate, shingle, brine, diatomite, kaolin, ornamental stone, sodium and potassium compounds and surface stone;

“harvesting” includes the removal, extraction, harvesting or scooping of sand or quarrying from sites; and

“site” means an area designated by the Committee as a sand harvesting or quarrying site.

Objects

3. The object of this Act is to provide for—

- (a) a framework for the licensing, registration, regulation, control and coordination of sand harvesting and quarrying in the county; and
- (b) the designation of sand harvesting and quarrying areas, hours and transportation methods.

Guiding principles.

3 4. The Committee shall in the discharge of its functions under this Act, be guided by the national values and principles set out in Article 10 and 232 of the Constitution.

PART II—ESTABLISHMENT AND ADMINISTRATION

County sand harvesting and quarry and management committee

5 (1) There is established a committee to be known as the Kajiado county sand harvesting and quarry management committee.

(2) The committee shall consist of the following members appointed by the executive committee member—

- (a) the Chief Officer responsible for environment and natural resources or a representative nominated in writing, who shall be the chairperson;
- (b) the Chief Officer responsible for finance or a representative nominated in writing;
- (c) two persons nominated by the registered association involved in sand harvesting and quarrying activities;
- (d) a representative of the—
 - (i) youth,
 - (ii) persons with disabilities; and
 - (iii) women; and
- (e) the Director responsible for natural resources who shall be the Secretary and *ex-officio* member of the committee;

(3) The persons appointed under paragraph 2(c) and (d) shall serve for a term of three years renewable once.

(4) The quorum for the Committee meetings shall be five members present in the meeting.

(5) The Chairperson shall convene and preside over all Committee meetings, in his or her absence, a member appointed by the members for that purpose shall preside.

Functions of the Committee

6. The Committee shall be responsible for the—

- (a) registration and licensing of sand harvesters and quarry dealers in the county;
- (b) maintenance of a register of sand harvesters and quarry dealers in the county;
- (c) offering advice to the executive committee member on the structures and operations of sand harvesting and quarrying activities;
- (d) ensuring of a sustainable exploitation and utilization of sand resource, quarrying and other excavated material; and
- (e) performance any other function as may from time to time be assigned by the executive committee member.

Staff of the Committee.

7. The Chief Officer may from time to time request the County Public Service Board to second such number of staff to assist the Committee perform its functions under this Act.

Allowances

8. The Committee and staff may be paid such allowances as the executive committee member in consultation with the executive member for Finance and the Salary and Remuneration Commission determine.

PART III—SAND HARVESTING AND QUARRYING REQUIREMENTS

Sand harvesting and quarrying sites

9. (1) The Committee may from time to time designate and document a sand harvesting and quarrying site.

(2) Every sand harvesting and quarrying site shall be clearly demarcated and documented by the Committee.

(3) A person shall not harvest sand or quarrying from an area not designated as a harvesting site by the Committee.

(4) Each designated sand harvesting or quarrying site shall have an environmental management plan to guide in the rehabilitation of the site.

On-farm Sand Harvesting

10. On-farm sand harvesting and quarrying shall be carried out subject to—

- (a) sand harvesting or scooping shall not exceed six feet in depth;
- (b) a designated sand harvesting and quarrying site shall be at least seventy meters from the nearest riverbanks or dykes for on-farm sand harvesting;
- (c) sand and quarrying harvesting shall not be undertaken concurrently with rehabilitation of the site; and
- (d) on-farm sand harvesting shall only be undertaken by open-cast harvesting method and no underground tunneling or extraction of sand shall be undertaken unless some approved extraction technology is applied to safeguard human safety.

Riverbed harvesting

11.(1) Sand harvesting and quarrying from any riverbed shall be undertaken in a manner that ensures adequate reserve of the sand or quarrying is retained to allow water retention.

(2) No sand harvesting shall take place within one hundred meters of either side of any physical infrastructure including bridges, roads, railway lines, dykes, among others.

Sand harvesting and quarrying and transportation

12. (1) A person shall not harvest, extract, transport or scoop sand or quarrying before the hours of 7:00 a.m. and after the hours of 6:00 pm.

(2) Transportation of sand, quarrying or other minerals within the county shall be through designated roads for such transportation.

(3) The Committee may upon according a person an opportunity to be heard, impose a fine or cancel the license of a person who contravenes the provisions of sub section (1). → enhance the provision.

Sale of sand and quarrying

13. The Committee shall provide minimum pricing guidelines for sale of sand and quarrying within the county, taking into consideration the current market forces.

PART IV—LICENSING

Application for a license.

✓ 14. (1) A person who wishes to transport or harvest sand or quarrying shall make an application to the Committee in the prescribed manner accompanied by such relevant supporting documents and prescribed fee.

(2) A license issued under this Act, shall contain such terms and conditions as may be determined by the Committee.

(3) Despite section (2), the license issued under this Act, may—

- (a) contain an obligation to rehabilitate the site and surrounding areas upon closure; and
- (b) specify the category or categories of business activity specified in the license.

License

✓ 15. (1) No person shall use, cause or permit to remove sand or quarrying from any designated site without a valid license issued by the Committee under this Act.

(2) A person who removes or cause to be removed any sand or quarrying from a designated site without a permit issued by the Committee, commits an offense.

(3) A person who contravenes the provisions of this section, commits an offense and may upon being heard by the Committee, and found liable, be fined such penalty commensurate to the offense.

Transfer of a license

✗ 16. (1) A license issued under this Act, is non-transferable, without an application in a prescribed manner to transfer the license.

(2) An application to transfer a license under sub section (1), shall be made to the committee accompanied by such prescribed fee and relevant documents. → list

(3) A person who contravenes the provisions of sub section (1), commits an offense.

Ceaseure of Sand Harvesting or Quarrying.

17. The Committee may order a licensee to cease any sand harvesting or quarrying activity incase of breach of any of the conditions imposed on the license or where it appears to the Committee that the quarrying is in a

condition dangerous to human life or detrimental to public health or safety.

PART V—MISCELLANEOUS PROVISIONS

Protection from liability

18. A person shall not be held personally liable for any action, claim or demand done in good faith while executing the official functions, powers or duties under this Act.

Sources of funds

19. (1) The funds for the Committee shall be consist of—

- (a) appropriations from the county Assembly;
- (b) fees chargeable on registration and licensing; and
- (c) grants or donations to the Committee.

(2) The Committee shall set aside at least twenty percent of the total revenue collected for community projects.

Offenses

20. A person who—

- (a) carries out sand harvesting or quarrying or other quarrying activities without a valid license;
- (b) carries out sand harvesting or quarrying harvesting outside designated sites;
- (c) loads sand or quarrying to a vehicle for transportation contrary to prescribed requirements,

commits an offense.

General penalty

21. A person who contravenes any provisions of this Act, for which no penalty is provided shall, on conviction, be liable to a fine not exceeding two hundred thousand shillings or to an imprisonment term not exceeding two years or to both.

Regulations

22. The Executive Committee member may make regulations generally for the better carrying out of the provisions of this Act.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to regulate sand harvesting and quarrying activities in the county and to ensure sustainable exploitation and utilization of land. The Bill requires that sand dealers be registered and licensed in accordance with the Bill. It establishes the institutional framework and provides for the involvement of communities in regulating sand harvesting.

Part I (clauses 1-4) of the Bill contains preliminary provisions. These include the title of the Bill, interpretation of terms and a statement of objects of the Bill. One of the objects is the requirement to register and license sand harvesters and quarry dealers including sellers and transporters. It also provides for the designation of sand harvesting areas and provides a network of institutions to regulate the industry. Clause 4 provides for the guiding principles which are the national values and principle of governance as set out in Article 10 and 232 of the Constitution.

Part II (clauses 5-8) of the Bill establishes the county sand harvesting and quarrying management Committee comprising of senior county officials as well as stakeholders in the industry. The mandate of this Committee is to register sand dealers and advise the Executive Committee member on sand harvesting and quarrying matters.

Part III (clauses 9-13) the Bill provides for the sand harvesting and quarrying requirements which includes designating sand harvesting sites, on-farm sand harvesting and riverbed sand harvesting. This Part also provides for the hours of harvesting and transporting sand and quarrying.

Part IV (clauses 14-17) sets out the licensing requirements for sand harvesters and quarry dealers, manner of applying for the license, license fees, transfer of license, cancellation of license.

PART V (clause 18-22) sets out the miscellaneous provisions. These includes protection from liability, sources of funds for the Committee, offences, general penalty and the power of the County Executive Committee member to make regulations.

The Enactment of this Bill shall occasion additional expenditure of public funds which shall be provided through the budgetary estimates.

Dated the 16th March, 2020.

JAMES WAICHANGURU,

*Chairperson, Water, Irrigation,
Environment and Natural Resources Committee.*