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KAJIADO COUNTY BILLS, 2018

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**THE KAJIADO COUNTY ADMINISTRATIVE
STRUCTURES BILL, 2018**

A Bill for

AN ACT of the County Assembly of Kajiado to give effect to part VI of the county governments act; provide for the delineation and establishment of the village units; establish a framework for co-ordination of county government functions at the decentralized units; and to provide for powers and responsibilities of administrative officers and for connected purposes

ENACTED by the County Assembly of Kajiado, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Kajiado County Administrative Structures Act, 2018.

Short title

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

Interpretation

“administrative unit” means a decentralized unit which the county has been delineated into in accordance with Part VI of the county governments act 2012, Part II of the urban areas and cities act 2011, this Act and any other applicable law;

“administrative officer” means a person having been appointed and holding the office of a sub-county administrator, ward administrator or village administrator and “administrative officers” shall have the plural meaning;

“board” means Kajiado County Public Service Board;

“capital city” means an area conferred with the status of a capital city under the Urban Areas and Cities Act;

“city” means an area conferred with the status of a city under the urban areas and cities act;

“county” means the county government of Kajiado;

“county administrative structure” means the administrative units collectively as may be designated from time to time;

“county assembly” means the county assembly of Kajiado;

“county chief officer” shall have the same meaning assigned to it under the county governments act, 2012.

“county executive committee member” means the county executive committee member responsible for matters relating to administration;

“county governments act” means the county governments act, act number 17 of 2012 as amended from time to time;

“inspectorate service” means the inspectorate service of the county established by the Kajiado County Inspectorate Service Act, 2018.

“governor” means the governor of Kajiado County;

“urban area” means an area conferred with the status of a municipality or a town under the Urban Areas and Cities Act;

“urban areas and cities act” means the Urban Areas and Cities Act, Act, Number 13 of 2011 as amended from time to time;

“sub-county” means an administrative unit designated as such in accordance with section 48 (1) (b) of the County governments act and this Act;

“ward” means an Administrative Unit designated as such in accordance with section 48 (1) (c) of the county governments act and this Act;

“village unit” means an Administrative Unit designated as such in accordance with section 48 (1) (d) of the county governments act and this Act.

3. The object and purpose of this Act is to establish a legislative framework for—

Object and purpose
of the Act

- (a) establishment of village units in the county;
- (b) decentralization of county government functions to ensure access to county government services in all parts of the county;
- (c) effective co-ordination and administration of the county government functions prescribed in the constitution, county governments act or any other written law;

- (d) appointment, powers, functions and responsibilities of administrative officers;
- (e) co-operation between the county government and the national government; and
- (f) other matters for the attainment of the objects provided for in paragraphs (a) to (d).

4. In fulfilling the mandate provided under this Act, the administrative officers shall act in accordance with the national values and principles of governance set out in Articles 10 and 232 of the Constitution, the county governments act or any written law.

Guiding principles

5. Nothing in this Act shall be construed to—

- (a) limit the powers of the governor and the county assembly as conferred under the Constitution or any other written law; or
- (b) affect the co-ordination of county government functions as provided for under the Constitution or any other written law.

Powers of the Governor and county assembly remain unaffected

PART II — ADMINISTRATIVE UNITS OF THE COUNTY AND DECENTRALIZATION OF SERVICES

6. For purposes of coordinating the delivery of services and subject to county governments act, urban areas and cities act and any other applicable legislation, the county shall be delineated into the following administrative units—

Administrative units of the county

- (a) urban areas and cities within the county established in accordance with the Urban Areas and Cities Act;
- (b) Sub-counties corresponding to constituencies within the county established under Article 89 of the constitution;
- (c) Wards corresponding to wards within the county established under Article 89 of the constitution and section 26 of the County Governments Act;
- (d) Village units established under section 8 of this Act;
- (e) Any further structure of decentralization as may be provided for in county legislation.

7. The provision of services of the county government shall be decentralized insofar as it is practicable and appropriate, to the administrative units specified in section 6 above.

Decentralization of services of the county government

8. There shall be established in the county such number of village units as shall be determined by the county assembly from time to time in accordance with part VI of the County Governments Act and this Act.

Establishment of village units

9. The boundaries of every village unit shall be such that the number of inhabitants is, as nearly as possible, equal to the other village units but the number may vary taking into account population size, geographical features, community of interest, historical, economic and cultural ties and means of communication and any other considerations as prescribed or required by legislation.

Number and boundaries of village units

10. (1) The county assembly may review the number, names and boundaries of village units taking into account the considerations specified in section 8 above and any other consideration prescribed by applicable legislation.

Review of boundaries

(2) In reviewing the boundaries of village units, the county assembly shall ensure effective participation of all interested citizens as prescribed in accordance with part VIII of the County Governments Act.

(3) Any review of boundaries of village units shall accord with and respect the system of devolved government established under the Constitution.

11. There is established in each village unit a village council which shall be constituted in accordance with section 53 of the County Governments Act.

Village councils

PART III —ADMINISTRATIVE OFFICERS OF THE COUNTY

12. There shall be established the following offices which shall be offices in county public service—

Administrative officers of the county

- (a) at the level of each sub-county, the office of the sub-county administrator;
- (b) at the level of each ward, the office of the ward administrator;
- (c) at the level of each village unit, the office of the village administrator;

(d) at the level of the each city, municipality and town, the offices of city manager, municipality manager and town manager respectively as further provided by the Urban Areas and Cities Act and relevant county legislation; and

(2) The sub-county administrator, the ward administrator and village administrator shall be the administrative officers of the county.

13. The administrative officers of the county shall be competitively sourced and appointed by the board in accordance with part VI of the County Governments Act. Appointment of administrative officers

14. The administrative officers of the county shall have qualifications and knowledge as prescribed in part VI of the County Governments Act. Qualifications of administrative officers

15. The county executive committee member shall, on the recommendation of the Board, prescribe a scheme of service for administrative officers of the county. Scheme of service for administrative officers

PART IV — ROLES AND POWERS OF ADMINISTRATIVE OFFICERS

16. The sub-county administrator shall be responsible for the coordination, management and supervision of the general administrative functions in the sub-county unit as further provided under section 50 (3) and 50 (4) of the County Governments Act. Role of sub-county administrator

17. The ward administrator shall be responsible for the coordination, management and supervision of the general administrative functions in the ward unit as further provided under section 51 (3) and 51 (4) of the county governments act. Role of ward administrator

18. The village administrator shall be responsible for the coordination, management and supervision of the general administrative functions in the village unit as further provided under section 52 (3) and 52 (4) of the County Governments Act. Role of village administrator

19. (1) Subject to the Constitution, the County Governments Act, this Act or any other county and national legislation, an administrative officer shall have all the powers necessary for the proper performance of the functions prescribed by the county governments act, this Act or any other written law. Powers of an administrative officer

(2) Without prejudice to the generality of subsection (1), an administrative officer shall have the power to—

- (a) co-ordinate county government functions and delivery of services at the administrative unit level;
- (b) enforce any county legislation;
- (c) co-ordinate with other government departments, units or directorates including but not limited to the inspectorate service of the county, the national police service, and facilitate maintenance of law and order;
- (d) undertake any specific measures on behalf of the county government;
- (e) facilitate citizen participation and public consultation in policy formulation and other initiatives;
- (f) disseminate and implement county government policies;
- (g) mobilize county government agencies for national events and programmes;
- (h) initiate measures aimed at assisting the county government to achieve its goals at the administrative units;
- (i) perform any other lawful function which the administrative officer has by any written law or lawful instruction been mandated to do.

(3) In the performance of their duties and exercise of their powers under this Act, an administrative officer may issue orders to be obeyed by the persons residing or being within the administrative limits of the county.

(4) Any person who, without lawful excuse, disobeys or fails to comply with any lawful order issued or given by an administrative officer under this Act shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings and in default shall be subjected to imprisonment of a period not exceeding six months or both.

PART V — CO-ORDINATION OF COUNTY GOVERNMENT FUNCTIONS

20. (1) The governor shall have the overall responsibility for the co-ordination of functions of all departments, units, directorates, agencies and any other organ of the county government.

Power of the governor to establish committees

(2) In exercise of the powers conferred by sub-section 1, the governor may establish such committees, including without limitation committees comprising county chief officers, administrative officers or any other county public officers as well as any other mechanisms as may be necessary for the effective co-ordination of the county government functions under the constitution, county governments act, this Act or any other written law.

(3) The governor, through the county executive committee member, may decentralize, to the extent necessary, the committees or mechanisms referred to under subsection (2).

(4) The county executive committee member may, with the approval of the governor, make regulations to give effect to this section.

(5) The governor may assign such functions, as he or she considers necessary to the committees established under this section.

(6) The committees established under this section shall have all the necessary powers for the proper performance of their functions under this Act or any other written law.

21. (1) There is established at the county level a committee to be known as the county government interdepartmental services committee which shall be comprised of—

County government interdepartmental services committee

- (a) county secretary who shall be the chairperson of the committee;
- (b) all county chief officers of the county;
- (c) all sub-county administrators of the county;
- (d) any other officer of the county government co-opted by the committee.

(2) The meetings shall be held quarterly and at the

beginning of every quarter of the financial year and all meetings shall be convened and chaired by the head of county public service and the secretary shall be head of department of administration at the county.

(3) The quorum shall be two thirds (2/3) of the total number of members.

(4) The county chief officer responsible for administration matters of the county shall be the secretary of the committee.

22. (1) The county government interdepartmental services committee shall be responsible for—

Functions of the county government interdepartmental services committee

- (a) implementing county government policies within the county;
- (b) co-ordinating government services to ensure efficiency and effectiveness;
- (c) recommending priority on development to the county government;
- (d) advising the county government on cooperation with the national government.

(2) business and affairs of the committee shall be in accordance with the fourth schedule of the Constitution.

23. (1) There is established at each sub-county level, a committee to be known as the sub-county services committee which shall be comprised of—

Sub-county services committee

- (a) the sub-county administrator of the respective sub-county;
- (b) the heads of departments (HODs) at the respective sub-county;
- (c) any other officer of the county government co-opted by the committee.

(2) The meetings shall be held quarterly and at the beginning of every quarter of the financial year and all meetings shall be convened and chaired by the sub-county administrator.

(3) The quorum shall be two thirds (2/3) of the total number of members.

24. (1) The sub-county services committee shall be responsible for—

Functions of the sub-county services committee

- (a) co-ordinating the implementation of the county government policies at the sub-county level;
- (b) co-ordinating government services at the sub-county level to ensure efficiency and effectiveness;
- (c) recommending priority on development to the county government;
- (d) generate quarterly reports on the execution of its mandate under this Act for submission to the county assembly.

25. The administrative officers and committees established under this Part and this Act may conduct public hearings, receive written or oral submissions and consult with other relevant persons and stakeholders as they may consider appropriate to enable them carry out their functions specified under this Act.

Citizen and stakeholder participation

PART VI — COUNTY GOVERNMENT SERVICE DELIVERY UNITS

26. The county government shall ensure reasonable access to its services in all parts of the county, so far as it is appropriate to do so having regard to the nature of the service pursuant to Article 6(3) of the Constitution.

Accessibility of county government services

27. (1) The governor shall, by a notice in the Gazette, establish service delivery units in the style of county services centres in every Ward unit of the County.

Service delivery units of the county

(2) In establishing the service delivery units, the governor shall accord and respect the administrative units of the county established under section 6 of this Act or any other county legislation.

28. The service delivery units shall be headed by administrative officers appointed in accordance with Part III of this Act.

Administrative officers to head the service delivery units

29. (1) The location of the county services centres in every Ward unit shall be determined by the governor with the approval of the county assembly.

Location of service delivery units

(2) In determining the location of a county services centre, the following shall be taken into account—

- (a) Central location with respect to all areas of the Ward;

- (b) potential for growth of the area in view of growth and business expansion potential;
- (c) Affording other areas opportunity by stimulating growth through the opening up opportunities.

PART VII — COLLABORATION AND CO-OPERATION WITH NATIONAL GOVERNMENT

30. Subject to the Part 5 of the constitution, national legislation or other applicable law, the county government shall devise mechanisms for cooperation and collaboration between agencies and offices of the national government and county government in the performance of functions and exercise of powers and to enable effective delivery of government services.

Mechanisms for collaboration and cooperation

31. Without prejudice to the generality of section 30, the governor or the county executive committee member with the authority of the governor, may set up joint committees, forums and joint authorities of the county and national governments for the purposes of collaborating and cooperating in delivery of government services.

Joint committees, forums and authorities

32. (1) There is established a forum to be known as county intergovernmental forum which shall be chaired by the governor or in his absence, the deputy governor, or in the absence of both, the county executive committee member.

County intergovernmental forum

(2) The county intergovernmental forum shall comprise of—

- (a) the heads of all departments of the national government rendering services in the county;
- (b) the county executive committee members or their nominees appointed by them in writing.

33. (1) The county intergovernmental forum shall, subject to the Constitution and applicable law, be responsible for—

Functions of the county intergovernmental forum

- (a) harmonization of all government services rendered in the county;
- (b) co-ordination of development activities in the county;

- (c) co-ordination of intergovernmental functions in the county;
- (d) such other functions as may be provided for by or under any law.

PART VIII — PROTECTION FROM LIABILITY

34. An administrative officer shall not be liable in a civil court for an act done or omitted to be done or ordered to be done by them in discharge of their duties, if they acted under the law and direction given to them from time to time from the relevant county authorities.

Protection from liability

PART IX — REGULATIONS

35. The county executive committee member may make regulations for the better implementation of this Act, and in particular for the following—

Power to make regulations

- (a) regulating the co-ordination of services for the various county departments at the county, sub county, ward and village levels;
- (b) prescribing further duties to be performed by administrative officers;
- (c) prescribing procedures for providing co-ordination of the county government service delivery;
- (d) proper administration and coordination of the functions of the county government;
- (e) code of conduct for the administrative officers;
- (f) prescribing the model of the county services centres;
- (g) the description and issue uniform, accouterments and necessities to be supplied to the administrative officers; and
- (h) The good order and management of the county.

PART X — MISCELLANEOUS PROVISIONS

36. All persons who immediately before the commencement of this Act were serving as sub-county administrators and ward administrators in service of the county shall upon commencement of this Act be deemed to

Transitional clause

be administrative officers of the County and shall serve as administrative officers of the county on the same terms they were serving before the commencement of this Act.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The principal object of this Bill is to establish a legal framework for the establishment of administrative units of the county in line with the Constitution and the county governments act, 2012. The Bill provides for a legislative framework for the establishment of village units and make further provisions regarding the sub-county and ward units which have been established under the county governments act, 2012.

The Bill makes further provisions regarding how county government services shall be coordinated at each administrative unit and provides for the appointment, powers, functions and responsibilities of administrative officers of the county. In addition, the Bill provides for cooperation and collaboration between the county government and the national government in service delivery and matters of common concern to both governments.

This Bill is instructive in achieving the constitutional requirement to devolve all government services and functions to the extent possible to enable all citizens access county government services easier and faster.

Dated the 9th May, 2018.

ALAIS KISOTA,

CECM, Public Service, Administration and Citizen Participation.