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MACHAKOS COUNTY BILLS, 2023

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**THE MACHAKOS COUNTY FIRE AND RESCUE SERVICES
BILL, 2023**

A Bill for

AN ACT of the County Assembly of Machakos to provide for fire and rescue services, to provide for the establishment of the Fire and Rescue Department and for connected purposes

ENACTED by the County Assembly of Machakos, as follows—

PART I — PRELIMINARY

Short title

1. This Act may be cited as the Machakos County Fire and Rescue Services Act, 2023.

Interpretation

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

“Authorized officer” has the meaning assigned under section 2 of the County Governments Act No. 17 of 2012;

“Chief Officer” means the Chief Officer responsible for matters relating to fire and rescue services;

“County” means the County of Machakos;

“Department” means the Machakos County Fire and Rescue Department;

“Director” means the Director responsible for fire and rescue services appointed under section 5;

“disaster” means a sudden calamitous event or a natural catastrophe that causes great damage, destruction loss of life or great misfortune or failure;

“Executive Committee Member” means the County Executive Committee Member responsible for matters relating to fire and rescue services;

“Fire and rescue services” includes the prevention, fighting and investigation of fires; and

“Firefighting equipment” means any apparatus, vehicle, machine or other objects used by the Department or authorized by it, to deal with fire outbreaks.

Object and purpose

3. The object and purpose of this Act are to provide for—

- (a) the legal and institutional framework for the provision of fire and rescue services;
- (b) the mode of fighting fires;
- (c) the employment of members of the fire brigade;
- (d) awareness creation on the prevention of fire; and
- (e) certification for fire safety compliance.

PART II —MACHAKOS COUNTY FIRE AND RESCUE DEPARTMENT

Machakos County Fire and Rescue Department

4. (1) There is established a department to be known as the Machakos County Fire and Rescue Department.

(2) The functions of the Department are to—

- (a) promote fire safety in the County;
- (b) protect life and property in the event of fire outbreaks;
- (c) advise the County government on modalities of preventing and controlling fires;
- (d) issue fire compliance certificates;
- (e) conduct periodical inspection of premises for fire compliance;
- (f) ensure that the necessary equipment and services for fire and rescue services are available within the Department;
- (g) identify and facilitate means of escape from buildings and other property in the event of fire;
- (h) provide rescue services in case of a disaster;
- (i) ensure the safety of members of the public in the event of a disaster;
- (j) provide rescue services for animals;
- (k) facilitate the training of fire fighters and rescue personnel;
- (l) create awareness among the public on fire safety and disaster preparedness; and
- (m) do such other thing necessary for the discharge of its functions under this Act.

(3) The Director may, in writing, assign any officer to carry out any function under this Act in any area within the County.

(4) In carrying out the duties under this Section, the Director or an assistant shall liaise with officers from other county Departments and the relevant national agencies.

County Director of Fire and Rescue Services

5. (1) There shall be the County Director of Fire and Rescue Services who shall be competitively recruited by the County Public Service Board.

(2) The Director shall be responsible for—

- (a) the management of the day-to-day affairs of the Department;
- (b) ensuring compliance with fire safety standards as prescribed by Regulations;
- (c) the closure of any premises which does not comply with this Act; and
- (d) the issuing of instructions and directives as may be necessary for the enforcement of this Act;

Appointment of officers.

6. (1) For purposes of this Act, the County Public Service Board shall appoint such officers as may be necessary for the provision of fire and rescue services.

(2) The officers appointed under subsection (1) shall include—

- (a) the Director of the Fire and Rescue Department;
- (b) fire fighters;
- (c) Fire Safety Officers;
- (d) inspectors on fire safety compliance; and
- (e) such other officers as may be necessary for the implementation of this Act.

PART III —FIRE SAFETY COMPLIANCE

Fire Compliance Certificate

7. (1) The Director shall issue a fire compliance certificate to the owner or occupier of premises which adhere to the requirements prescribed under this Act.

(2) For purposes of issuing a fire compliance certificate, the Director may inspect any premises to assess its compliance with fire safety requirements and to provide for the installation of firefighting equipment.

Application for fire compliance certificate

8. (1) An applicant for a fire compliance certificate shall make the application in the prescribed form and pay the prescribed fees.

(2) Upon receipt of an application for a fire compliance certificate, the Director may require the applicant—

- (a) to submit such plans of the premises as the Director may specify; and
- (b) to give information concerning the rest of the building if the premises consist part of a building.

(3) If the applicant fails to furnish the required plans within the prescribed time, the application shall be deemed to have been withdrawn.

(4) Where an application for a fire compliance certificate has been duly made, the Director shall inspect the premises in question and issue a fire compliance certificate if satisfied that—

- (a) the means of escape from the premises in case of fire is provided;
- (b) the means of escape in case of fire other than means of fighting fire can be safely and effectively used at all material times; and
- (c) the means of giving warning in case of fire is provided.

(5) Where after inspection on the premises is carried out according to subsection (4), the Director shall issue a notice to the applicant to inform the applicant on the steps to be taken to satisfy the requirements as regards that use.

Contents of a fire compliance certificate

9. (1) A fire compliance certificate shall specify—

- (a) the particular use of the premises with which the certificate relates to;
- (b) the means of escape from the premises in case of fire;
- (c) the means of escape in case of fire other than means of fighting fire can be safely and effectively used at all material times;
- (d) the type, number and location of the means for firefighting whether in the premises or effecting the means of escape provided for use in case of fire by persons in the building; and
- (e) the type, number and location of the means provided for giving warning to persons in the premises in case of fire.

(2) A fire compliance certificate may contain such conditions as the Director considers appropriate—

- (a) for ensuring that the means of escape in case of fire that are provided are properly maintained and kept free from obstruction;
- (b) for ensuring that the persons working in the premises receive the relevant training on fire safety;
- (c) for limiting the number of persons who may be in the premises at any one time; and;
- (d) so as to take other precaution in case of fire.

(3) The conditions imposed under sub-section (2)—

- (a) may apply to the whole or part of the premises;
- (b) may impose different conditions for different parts of the same premises.

(4) The Director shall send the fire compliance certificate issued under this part to the owner or occupier of the premises.

(5) The owner or occupier of premises issued with a fire compliance certificate shall conspicuously display such certificate in the premises during the certificate's validity period.

(6) A fire compliance certificate shall be valid for one year and shall expire on the 31st December every year.

Change of conditions of a fire compliance certificate

10. (1) An occupier of any premises with a valid fire compliance certificate who intends to make changes to the premises shall, before the carrying out of the changes, give notice to the Director:

(2) The changes in subsection (1) may include—

- (a) making material structural alterations to the premises;
- (b) making a material alteration to internal arrangements of the premises or equipment with which the premises are provided; or
- (c) beginning to keep explosive or highly flammable materials of any prescribed kind anywhere under, in or on the relevant premises.

(3) Upon receipt of the notice under subsection (1), the Director shall inform the occupier of the steps to take in order to ensure fire safety compliance according to the proposed changes to the premises.

(4) If in the opinion of the Director the occupier meets all the requirements regarding the changes under subsection (1), the Director shall issue an amended fire compliance certificate or issue a new one.

Notice on highly flammable substances

11. (1) The Director may issue a notice to the occupier or owner of premises where explosives or highly inflammable materials are kept.

(2) The notice issued in subsection (1) shall specify the premises to which it relates and the particulars of the person to whom the notice applies.

(3) The Director may issue a notice to a person in respect of premises if the person to whom the notice had prior been issued has ceased to occupy the premises.

Appeal on Notice on highly flammable substances

12. (1) A person to whom a notice on flammable substances has been served may, within twenty-one days from the date of service of such notice; appeal to the Director.

(2) A notice issued under this part shall come into force provided that—

(a) no appeal is brought within twenty-one days from the expiration of that time; or

(b) where an appeal so brought is withdrawn or dismissed and is finally determined by the confirmation at the end of twenty-one days from the date of the final determination of the appeal.

Storage of combustible materials

13. (1) A person shall not store, cause or permit to be stored any combustible materials in such a quantity, in such a situation or in such a manner as to cause danger of fire to any building.

(2) Inflammables, explosives, or poisonous substances, gases, or fluids, or celluloid shall be stored or kept only in such quantity and in such situation as may be contained in guidelines issued by the Director.

(3) No quantity of celluloid shall be stored or kept in any premises used in whole or in part for purposes of human habitation or in any premises, used for any other purpose unless the store is separated from other parts of the premises by fire resisting partitions, floors, and ceilings constructed to the satisfaction of the Director.

(4) No quantity of inflammable cinema-to-graphic film shall be stored or kept in any premises used in whole or part for purposes of human

habitation or in any premises in which any other combustible material is stored or kept or which is used for any other purposes unless the store is separated from other parts of the premises by fire resisting partitions, floors and ceilings constructed to the satisfaction of the Director provided with an outlet gas vent to the open air so placed as to constitute a fire or explosion risk to any other building.

(5) The films in subsection (4) shall be stored in closed metal boxes and shelving shall be of non-combustible material.

(6) The Director may, by notice require any person storing or causing or permitting to be stored any flammable materials to remove them or to take within a period to be fixed in such a notice such reasonable precautions against fire as it may deem necessary.

(7) A person shall not use or permit to be used any building or other premises or place for storage of any inflammable, explosive or poisonous substances, gases or fluids or any celluloid unless that person has been issued with a license to do so by the Director.

(8) Calcium Carbide shall not be stored or kept except in a strong hermetically sealed metal containers placed in a position not exposed to moisture.

(9) No quantity of calcium carbide in excess of thirteen kilograms shall be stored or kept except in isolated and well-ventilated building set apart for that purpose in which no artificial light or heat is used and in which no material of a combustible nature is kept or stored.

Fire safety license fees

14. (1) An applicant for a fire compliance license under this Act shall pay such fees as is detailed in the First Schedule or as may be prescribed from time to time.

(2) All licenses shall expire on the 31st day of December next following the date of issue.

(3) A license may only be transferred with the permission of the Director and upon payment of the prescribed fees.

(4) Despite subsection (3), a fire compliance license issued in respect to one premises is not transferable to apply to another premises.

Fire safety Guidelines

15. (1) The Director may issue guidelines concerning—

(a) the provision, maintenance and keeping free from obstructions and means of escape in case of fire in respect of any premises issued with a fire compliance license;

