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*Machakos County Gazette Supplement No. 20 (Acts No. 4)*



REPUBLIC OF KENYA

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**MACHAKOS COUNTY GAZETTE  
SUPPLEMENT**

**ACTS, 2016**

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**NAIROBI, 30th December, 2016**

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**THE MACHAKOS COUNTY FINANCE ACT, 2016**

**No. 4 of 2016**

*Date of Assent: 11th October, 2016*

*Date of Commencement: 30th December, 2016*

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**THE MACHAKOS COUNTY FINANCE ACT, 2016**

**AN ACT of Machakos County Assembly to regulate and govern taxes, duties, levies, charges and fees; to amend and align certain written laws relating to the collection and management of county revenues; to give effect to article 209(3) and (4) of the Constitution and Section 132 of the Public Finance Management Act; to set out county revenue raising measures; and connected purposes**

**ENACTED** by the Machakos County Assembly, as follows—

**PART 1—PRELIMINARY**

1. This Act may be cited as the Machakos County Finance Act, 2016.

Short Title

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

Interpretation

“advertisement” means the use and or display of any word, letter, model, sign, placard, board, notice or representation whether illuminated or not in the nature and employed wholly or in parts for the purpose of promotion of a product or article by a proprietor and includes any hoarding or similar structure used or adapted for use for the display of sale promotions accordingly; provided that any advertisement put inside a building or private properties shall not be included;

“advertisement device” means—

(1) bill boards including large outdoor advertising structures in high traffic areas such as alongside busy roads and roundabouts;

(2) business advertising which involves placing promotional material, commercial brands, campaign messages on public places including transport vehicles;

(3) banners placed on lamp columns or erected posts across the roads;

(4) mobile bill boards;

(5) posters placed on walls and other permitted structures;

(6) street advertising done on pavements and on street furniture;

(7) taxi advertising done on taxis

- (8) walls cape advertising done on walls;
- (9) digital signage on LCD or projected images on public environment; and
- (10) neon light advertising which includes the use of electrified, luminous tube lights.

“authorized officer” has the meaning assigned under section 2 of the County Governments Act;

“building” means any structure or part of any structure whether permanent, temporary immovable or movable, and whether completed or uncompleted and includes any boundary wall, screen wall, fence, hoarding or water or drainage work and any part thereof;

“building operations” includes putting up buildings partly or in whole, rebuilding operations, structural alterations or additions to buildings and other similar operations and the making of access roads, railways, water works, sewerage and drainage works, electrical and telephone installations and any road works preliminary to, or incidental to the erection of buildings;

"business" means a concern carrying on the occupation of—

- (1) a regulated trade;
- (2) importing or exporting goods;
- (3) commission agent or indent agent;
- (4) manufacturer's representatives;
- (5) produce dealer or produce broker;
- (6) business broker or management consultant;
- (7) insurance agent;
- (8) estate agent; or
- (9) any other occupation, whether similar to any of the foregoing or not, which the County Executive Committee Member may, by order, declare to be an occupation for the purposes of this definition;

“business permit” means any authorisation issued to any business or trade;

“charge” an amount of money payable to the county government;

“county fire officer” means the person appointed by the County Public Service Board as the county fire officer;

“clamp” means device used to lock wheels of a parked vehicle;

“clinical waste” includes any waste which consists wholly or partly of human or animal tissue, blood or other body fluids, excretions, drugs or other pharmaceutical products, swabs or dressings or syringes, needles or other sharp instruments and any other waste arising from medical, nursing, dental, veterinary, pharmaceutical or similar practice or the collection of blood for transfusion being waste which may be hazardous to any person coming into contact with it;

“company” means body corporate registered in Kenya;

“vehicle” includes any engine propelled automobile, motor car, motor cycle, tractor, trailer, wagon or cart whether for public service or private;

“county motor vehicle” means a vehicle owned by the county or for the time being leased by the county government for sole and exclusive use of the county;

“county” means county government of Machakos—

“county chief engineer” means the holder of the office of chief county engineer and includes any other authorised officer;

“county physical planner” means the holder of the office of chief county physical planner and includes any other authorised officer;

“development” has the meaning assigned under section 3 of the physical planning Act;

“Director of Environment” means the holder of the office of director of environment and includes any other authorised officer;

“domestic waste” means normal household waste produced in a residential building used wholly as a private dwelling;

“dwelling” means a building or any part or portion of a building used or constructed, adapted or designed to be used for human habitation as a separate tenancy or by one family only, whether detached, semi-detached or separated by walls or by floors from adjoining buildings, together with such out buildings as are reasonably required to be used and enjoyed therewith, and shall include any residential flat or apartment;



“erection of any building” means —

- (1) the putting up of any addition to an existing building;
- (2) the refurbishing or alterations of any part of an existing building;
- (3) the re-erection of any building or part of a building when an external wall of that building or part of a building has been destroyed or pulled down or burned down or damaged either wholly or partially;
- (4) the roofing over of any space between walls or buildings;
- (5) the changing of the purpose or purposes for which a building or part of a building or appurtenances of a building are used;
- (6) the using for human habitation of any building which has not been previously used for that purpose;
- (7) the increasing of the number of dwellings or separate tenancies or occupancies in a building;
- (8) the using of any building in a manner different from that shown on the plan thereof approved by the county whether before or after the date on which this Act becomes operative and whether or not it is proposed to execute any alterations or work in connection with the proposed change; or

■ The carrying out of any water service or drainage work;

“estate officer” means the person for the time being holding the office of estate officer of the County;

“fire brigade” means the entity designated by the County to inspect for compliance, prevent and combat or deal with fire incidences or undertake extinction of fires within the County;

“film making” means the production of video film or photography;

“film maker” means the producer or Director of a certain film production;

“hand cart” means a two or three wheeled cart for the carrying of goods propelled by human energy and includes a hamali cart;

“hawker” means a person who carries on either of the following businesses, whether as a principal, agent or

employee—

- (a) the sale of or exchange of goods or wares, merchandise or refreshment, to place oneself in any street or public place or unenclosed land other than in shop premises approved as such by the county or to go about in street or public places or from premises to premises for purposes of carrying on trade and promotion of sale of items; or
- (b) the sale or exchange, or the offer of or exposing for sale or exchange of goods or wares, merchandise and refreshment, but does not include the seeking or taking of orders for subsequent delivery of goods, wares merchandise or refreshments to premises for the purpose of re-sale or trade by any of the means aforesaid;

“hazardous waste” means waste which is toxic, flammable, corrosive, radioactive, explosive or otherwise dangerous, and include motor oil, diesel, fuel ,gasoline, paint, solvents, dry cells, vehicle batteries, pesticides, infectious medical wastes from hospitals and clinics, metallic and oily sludge ,solvents from commercial and industrial establishments, asbestos materials, radioactive wastes, and any such like waste which possess characteristics that make them hazardous to human beings or to the environment;

“inspector” means an authorised officer assigned to control or supervise a certain activity;

“licensee” means the holder of a valid license;

“licence” means a permit issued by the county government under this Act for a specified activity;

“Licensing Authority” means any entity or department of the County Government empowered to issue permits or licenses for carrying out a specified authority under the relevant written laws;

“livestock” means domesticated animals and includes cattle, poultry, pigs, sheep or goats, rabbits;

“market master” means the holder of the office of market and includes any other authorised officer;

“medical officer of health” means the person holding the office of medical officer of health and includes any other authorised officer;

“non-motorized vehicle” means an animal or human drawn vessel used for the carriage of goods or persons and bicycles;

“occupier” includes any person in actual occupation of premises or residential dwelling subdivided and let to lodgers or tenants;

“open space” means a street, road, pathway or open ground;

“owner” means a person in whose name a property is registered;

“parking permit” means a permit issued by the county government authorizing the owner of a vehicle to use a designated parking place;

“parking space” means a space in a parking place, which is provided for parking of a single vehicle;

“park” means any open space managed by the county government for temporary resting, recreation purposes or public access either for free or at a fee;

“passenger” means a person carried in a motor vehicle or non-motorized vehicle for hire or reward;

“permit holder” means a business entity authorized by the county government to conduct business within its jurisdiction;

“permit” means a document issued by the county government to a person or entity as authority to conduct business within its jurisdiction;

“ply for hire” includes parking or waiting taxi rank or exhibiting on a motor vehicle;

“poultry” means any domestic bird or birds capable of domestication and includes fowls, ducks, geese, chicken, turkeys, peacocks, ostriches and guinea fowls;

“premises” includes —

- (1) land;
- (2) commercial buildings;
- (3) houses, flats, rooms, bungalows or maisonettes belonging to and rented for residential purposes within the county;
- (4) vehicles;
- (5) railway carriage;

(6) other conveyances and tents;

(7) vans;

(8) structures of any kind;

(9) drains ; or

(10) open places, covered or enclosed, whether maintained or not under statutory authority, of any place within the County;

“residential dwelling” means building, flat or any structure used as a private dwelling and includes undeveloped or partially developed land allotted for residential purposes;

"regulated trade" means-

(1) wholesale or retail trade;

(2) catering;

(3) laundering or dry-cleaning;

(4) hairdressing;

(5) beauty culture;

(6) shoe repairing;

(7) motor vehicle repairing;

(8) cinematograph film exhibition;

(9) advertising;

(10) the sale by a manufacturer of goods manufactured ; or

(11) any other business designated as a regulated trade by the county government or the national government

“recommended thickness” means a thickness of not less than 30 microns;

“sand” means has the meaning assigned in the Machakos County Sand Harvesting Act;

“Sand Harvester” has the meaning assigned in the Machakos County Sand Harvesting Act;

“solid waste” means waste material generated by domestic households, institutions, commercial establishments, and industries, litter and piles of such waste;

“street” includes any street, road, highways, path, sanitary lane, sand lane, thoroughfare or public space to which the public have access and includes a bridge over

which a roadway runs;

“taxi-cab” means a public service motor vehicle constructed or made to carry a limited number of passengers, excluding the driver, which is licensed under this Act to ply for hire and for the purposes of this Act shall include tuktuks, maruti boda boda and motorcycles licensed to ply for hire or operate as taxis;

“taxi rank” means a place designated as a waiting bay for taxi cabs;

“trade waste” means all commercial and industrial waste arising from trading of industrial or industrial output or business or in the provision of services and includes waste which is not domestic refuse within the meaning of this Act;

“transporter” means any individual or firm in the business or system of transporting goods, people or loads from one place to another;

“waste management” includes the cleansing, removal, collection, transport, source sorting, treatment and disposal of waste in accordance with this Act or any other relevant written law;

“waste operator” means an entity licensed by the county government to carry out waste management operations within the county;

“waste treatment” includes sorting, separation, recycling, bulking, or other activity formal or informal which changes the quantity and composition of waste pending final disposal whether or not carried out with a view to extract useable elements;

“waste water” means any water which passes from any premises into a tank, pit, drain, or sewer from any closet, bath or wash basin situated or an appendage to such premises;

“waste” includes any substance which constitutes a scrap material or an unwanted surplus substance arising from the application of any process and any substance or article which requires to be disposed of as being broken, worn out, contaminated or otherwise;

“water service works” means the construction, installation, laying, connection, fixing and alteration of water pipes, fittings or installations or appliances used or to be used in connection with any building;

“water way” includes channel, harbour, canals, canals ports and any part of a water body; and

“way leaves” means space or strip of land that is exclusively used for overhead, underground, ground level service lines for power lines, telephone lines, water pipes, sewer lines, ducts or any other space, conducting and or conveyance such services but not exclusively confined to the same owned by an individual, company, or parastatals.

## **PART II – ADVERTISEMENT**

3. (1) A person who intends to use an advertisement device within the county shall make an application to the county government.

Application for advertisement

(2) Every application for advertisement shall be made in the prescribed form to the authorized officer and shall be accompanied by—

- (a) a plan or sketch;
- (b) the content of the advertisement;
- (c) position of the proposed advertising device or notice, its dimensions;
- (d) the method of erection and standing, the material of erection and stating the material of which it is to be composed or constructed; and
- (e) such other information as the county may require

(3) The county government may—

- (a) disapprove an application for advertisement in any case where, in its opinion, the display of an advertisement or the use of an advertising device would likely be injuriously or affect the amenities; or
- (b) grant an application on such terms as it deems fit.

(4) Any person who uses an advertisement device without formal approval of an advertisement commits an offence;

4. There shall be paid to the county government in respect of every approval of an application for advertisement issued under this Part the prescribed fees.

Fees

5. Every grant of an application for advertisement issued under this Act shall expire on the 31st day of December of the year for which it is issued unless cancelled

Expiry of permit

prior to such expiry.

6. The county government may from time to time by notice to a holder, cancel an authority for advertisement for contravention of any of the terms and conditions thereof or any of the provisions of this part or where in its opinion the continued display of any advertisement device is likely to affect or is injuriously to the amenities of, or to disfigure any neighbourhood or for any other reason it may deem fit.

Cancellation of advertisement

7. A person who, fails to maintain in good repair and in a proper and safe condition any advertising device commits an offence.

Maintenance of advertising device

8. (1) Any person who is granted advertisement authority under this Acts shall on demand and within Twenty Four hours produce such authority to the authorized officer.

Production of advertisement authority

(2) Any person who contravenes or fails to comply with the provisions of this section commits an offence.

9. This Part shall not apply to—

Exceptions

(1) Public notices exhibited at public worship premises, public schools and public hospitals;

(2) name boards relating to private residential premises; and

(3) name boards for business premises.

10. Any person who contravenes the provisions of this part commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand shillings or to an imprisonment for a term not exceeding twelve months or both.

Penalties

### PART III – PARKS AND OPEN SPACES

Opening and closing hours

11. Save as may be provided in any other law, the parks shall be opened daily at 6.30 am and closed at 6.00p.m.

12. No person other than an employee of the county government may enter the park before the time set for opening or remaining at the time set for closing.

Prohibited entry

13. A person shall not enter or exit the park otherwise than through any of the gates, wickets, passages or openings appointed by the county government as the authorized means of entrance to or exist the park.

Entry or exist gates

14. (1) A person shall not wilfully or improperly remove or displace any board, plate or tablet used or

Interferences with notices, signs or boards

constructed or adapted to be used for the exhibition of any notice and fixed by the county government in any part of the parks or in or on any building or structure therein or at or near to any of the appointed ways of entrance to or exit from the park or in or on any wall or fence enclosing the park.

(2) A person shall not carelessly or negligently deface, injure or destroy any part of any wall or fence in or enclosing the park, or any part of any building, barrier or fitting, or of any fixed or movable seat, or of any such other part in the park.

15. No person other than the employee of a county government shall be allowed to enter the park except upon payment of prescribed fee.

Entry fees

16. A person shall not wilfully, carelessly or negligently remove or displace any barrier, or any fixed or movable seat or any part of any building, structure, or any appliance or article provided for use or adapted to be used or in the care, cultivation or protection of any tree, shrub under wood or other plant in the parks.

Removal or displacement

17. A person other than an employee of the county government or a person with a written authority by the authorized officer or about any work in connection with the laying out, planting, improvement, maintenance of the park or entertainment of visitors to the park shall not at any time ride, drive or cause or permit to be ridden, driven or brought into the park any animal.

Riding or driving

18. No person shall be allowed to graze livestock in the park except with the express permission from the county government which permit shall be obtained only on application, vetting and payment of a prescribed fee.

Livestock grazing

19. (1) A person shall not drive or bring into the park any animal.

Restriction on domestic animals

(2) Nothing in subsection (1) prohibits a person from taking a dog provided that the person keeps it under proper control.

20. (1) The County Government may enter into an agreement with a person, for the purpose of management of the parks or establishment of Conservancy's within Parks for a period of time to be prescribed or negotiated on a case-by-case basis.

Management of the parks

(2) The person, may form a management board to