The Vihiga County Flag and Other Symbols Act, 2014

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THE VIHIGA COUNTY FLAG AND OTHER SYMBOLS
ACT, 2014
No. 5 of 2014

Date of Assent: 14th September 2014
Date of Commencement: See Section 1

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THE VIHIGA COUNTY FLAG AND OTHER SYMBOLS ACT, 2014

AN ACT of the Vihiga County Assembly to provide for the County Flag and other symbols, to give effect to the provision of Section 4 of the County Governments Act with regard to the development and use of the County Flag and other symbols and for related purposes.

ENACTED by the County Assembly of Vihiga as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Vihiga County Flag and other Symbols Act, 2014 and shall commence operation on the fourteenth day after the publication in the Gazette.

2. In this Act, unless the context otherwise provides—
   “relevant county executive committee member” means a member of County Executive Committee of Vihiga County Government.
   “Panel” means a panel for selection of county symbols established under section 4.
   “competitive process” means fair opportunity granted to every person to participate.
   “symbol” means any of the symbols specified in section 3 and the schedule.
   “development” with reference to the county symbols includes, alteration, modification or change of the symbol.
   “County Secretary” means the County secretary of Vihiga County appointed under section 44 of the County Governments Act;
   “Fly” with reference to use of the County Flag means displaying of the flag on the outer body of a vehicle or in any other conspicuous manner;
   “Portrait” means a photo image of any character;
   “Specified likeness ”means the image of which is specified in the Act;
   “imitation” means copy or create resemblance;
“person” includes a juristic body.

PART II—THE COUNTY FLAG AND OTHER COUNTY SYMBOLS

3. (a) The Flag of which the design and description are set out in Part I of the Schedule to this Act is hereby declared to be the Flag for Vihiga County.

(b) The Coat of Arms the device of which the blazon and description are set out in Part II of the Schedule to this Act is hereby declared to be the Coat of Arms of Vihiga County.

(c) The Seal of which the design is set out in Part III of the Schedule to this Act is hereby declared to be the Public Seal of Vihiga County.

PART III—ESTABLISHMENT OF THE PANEL THE FUNCTIONS QUALIFICATION OF MEMBERS MEETINGS AND TENURE

4. (1) There is established the County Symbols Selection Panel which shall be a standing committee on the County Symbols comprising of—

(a) a Chairperson appointed by the Governor from amongst the residents of Vihiga County through a competitive process;

(b) at least one person from every sub county appointed by the relevant county executive committee member in consultation with the sub county administrator and the respective member of the County Assembly and;

(c) not more than three persons employed in the County Public Service identified from relevant departments by the Chief Officer.

(2) The appointments under this Section shall take into account the requirement for gender balance.

(3) The Panel members shall elect one from amongst themselves to serve as Secretary.

5. The functions of the Panel are—

(a) invite, receive, analyze and select the Winning Symbols from samples submitted by the public in a competitive process;
(b) to monitor the use of the County Flag and other Symbols;

(c) to advise the relevant county executive committee member on any change, modification or alteration required on the County Flag and other Symbols;

(d) to develop and recommend to the relevant county executive committee member the regulations that may be necessary to implement any of the provisions of this Act and;

(e) to perform any other function required for the implementation of the provisions of this Act or as may be assigned or directed by the relevant county executive committee member.

6. A person shall not be appointed a member of the Panel unless he or she—

(a) is a Kenyan citizen and a resident of Vihiga County for a continuous period of at least five years preceding the appointment;

(b) holds at least a diploma from a learning institution recognized in Kenya and;

(c) satisfies the requirements of chapter six of the Constitution.

7. (1) Unless removed from office in accordance with subsection (2), a member of the Panel shall serve for a term of three years which may be renewed once.

(2) A member of the Panel may vacate office—

(a) in case of death;

(b) where he or she loses the office by virtue of which he or she became a member;

(c) if removed from office by the appointing authority for reasons to be recorded in writing after the due process.

(3) A vacancy arising in the membership of the Panel shall be filled within ninety days.
8. (1) The Panel shall meet once in every quarter of a year provided that the total number of meetings in a year shall not exceed six.

(2) A member of the Panel shall be paid sitting allowance at the rate to be determined by the relevant County Executive Committee member in consultation with the executive committee member in charge of the County Treasury.

(3) The quorum for every meeting of the Panel shall be one half of its membership.

(4) A decision of the panel shall be valid notwithstanding any vacancy in its membership.

PART IV—DEVELOPMENT OF COUNTY SYMBOLS

9. (1) No Symbol of the County shall be developed, altered or changed except—

(a) where a proposal for such development, alteration or change has been submitted to the County Executive Committee by the Panel;

(b) the proposal submitted under subsection (a) contains a description of the procedure to be used in the development, alteration or change of the County Symbol;

(c) the procedure proposed includes an invitation to the public for participation through submission of samples for analysis in an open, transparent and accountable manner.

(2) The development of County Symbols shall be by or under the authority of the county executive committee with the approval of the county assembly.

(3) Where, following invitation for public participation in compliance with subsection (1) there is no respond from the public or the respond is without adequate or satisfactory submission of samples sufficient for use in the development of the County Symbols, the Panel shall, with the written approval of the county executive, undertake the development with the aid of a private undertaking procured in accordance with the relevant public procurement and disposal laws.
(4) Any person who violates the provisions of this section shall be guilty of an offence and liable, on conviction to a fine not exceeding Kenya shillings one hundred and fifty thousand or to a term of imprisonment not exceeding two years or both.

PART V—CUSTODY OF THE COUNTY SYMBOLS

9. The custody of the County Flag and other Symbols of the county shall vest in the County Secretary.

PART VI—USE OF THE COUNTY FLAG AND OTHER COUNTY SYMBOLS

11. (1) The County Flag may be flown on the motor vehicle of the County official specified in the Third Schedule while on duty within the county.

(2) The county official so authorized to fly the County Flag in accordance with subsection (1) may fly the County Flag in a neighbouring or other county with the approval of that other county.

(3) The Panel may, by amendment of the Third Schedule and with the approval of the County Executive and the County Assembly, name other officers of the county to be authorized to fly the County Flag.

(4) Nothing in this section shall be construed to permit the County Flag to be flown during non official hours or in the absence from the vehicle of the official authorized to fly the County Flag.

(5) The County Flag shall remain hoisted full mast outside every county government office or premise during the official hours, PROVIDED that the County Flag may be hoisted half mast on exceptional occasions specified by the Governor.

PART VII—GOVERNOR’S PORTRAIT

13. (1) There shall be displayed in a prominent position in every county government office or premise, the portrait of the sitting governor of which the name, likeness and image shall be approved by the County executive in consultation with the Governor and notified in the Gazette.
(2) Any person who desires to use or display the portrait of the sitting or former Governor in his residence, premise or business place shall first apply for approved copy to the County Secretary on payment of the prescribed fees.

PART VIII—PROHIBITION AGAINST IMPROPER USE OF COUNTY SYMBOLS AND EFFECT ON COMMERCIAL USE AND REGISTRATION

14. (1) Notwithstanding anything contained in this Act or any law for the time being in force in the county, no person shall, except with the written permission of the Panel—

(a) use the County Flag or any colourable or form of imitation thereof, in furtherance of or display the same as an advertisement for any trade, business, calling or profession; or

(b) use any County Symbol, specified name, governor’s portrait or specified likeness or any colourable imitation or form thereof, in the title of any patent, trade mark or design or;

(c) manufacture or import any article or goods bearing the flag, other symbol of the county or the governor’s portrait or specified likeness or any article or goods on which any title, trade mark or design is used in contravention of any provision of this Act.

(2) Despite subsection (1) the provision relating to the use of a specified likeness shall not apply to a publication of a bona fide news item, whether in a newspaper, website or by any other medium or to the publication in a newspaper of any article connected with any bona fide news item other than a news item in the furtherance.

(3) Any permission under subsection (1) of this section may be given subject to such conditions as the Panel may deem just.

(4) Any person who contravenes the provision of this section shall be guilty of an offence and liable on conviction to a fine not exceeding Kenya shillings one hundred thousand or to a term of imprisonment not exceeding one year or to both and if the violation was for a
commercial purpose the offender shall be liable on conviction to a fine not exceeding Kenya shillings two hundred thousand or to a term of imprisonment not exceeding two years or both.

15. A registration of any company, firm or other body or any trade, mark, design or grant of a patent made in contravention of any provision of this Act shall be null and void and ineffective for all purposes.

PART IX—ENFORCEMENT, OFFENCES AND PENALTIES

16. (1) A person authorized in writing by the Panel may upon obtaining a warrant from a court having jurisdiction in the county, enter any place or premise where he or she reasonably believes there are kept any item or goods in contravention of this Act and seize such item or goods.

(2) Any item or goods seized pursuant to subsection (1) shall be produced before the court which issued the warrant within twenty four hours for orders of disposal and if the period for production ends on a non working day, the next day following the non working day.

17. Any person who uses the County Flag or other County Symbol other than in accordance with the provision of this Act or shows disrespect, in speech, manner or writing to or with reference to the County Flag, other symbol of the county or the name or portrait of the Governor currently holding office or violates any provision of this Act for which no sentence is prescribed, shall be guilty of an offence and liable on conviction to a fine not exceeding Kenya shillings one hundred thousand or a term of imprisonment not exceeding one year or both.

PART X—RECORDS AND REPORTS

18. The Panel shall keep accurate and proper records of the County Symbols and other information under the Act.

19. (1) The Panel shall submit annual reports to the County Executive and the County Assembly on the status
of the use of the County Flag, other Symbols and the Portrait and name of the Governor not later than the thirty first day of January every year.

(2) The annual report submitted under subsection (1) shall include financial statement of any money received or utilized in connection with the provisions of this Act. Provided that if any money was used in connection with this Act the annual audited accounts shall be submitted to the County Executive, the County Assembly and the Auditor-General within the same period.

20. A person shall not be held personally liable for anything done or omitted to be done under this Act if the doing or omission was in good faith and in due execution of the provision of this Act.

PART XI—GENERAL PROVISIONS

21. If anything was done in execution of any of the provision of this Act prior to the commencement of the Act the thing done shall, on the commencement of this Act be deemed to have been done under this Act

22. (1) The Panel shall, with the approval of the County Executive and the County Assembly make regulations for the better carrying into effect the provisions of this Act including regulations—

(a) prescribing the occasions upon which the persons by whom and the manner in which the County Flag may be flown or displayed as the case may be;

(b) prohibiting, controlling or restricting the use of any specified County Symbol, specified likeness or specified name and;

regulating the manner in which application may be made to the Panel for permission to use the County Flag or County Symbol, Governor’s Portrait or name, prescribing the form of any licence by which such permission may be granted and fixing any fees for such application and licence.

(2) The regulations made under subsection (1) shall be published in the Gazette before implementation.
PART I – The County Flag of Vihiga

Description:

The four colours of the County Flag carry the following meanings—

GREEN: The environment of Vihiga County together with tapped and untapped natural resources.

BROWN: The rich land of Vihiga inherited from ancestors where the people live and feed from.
YELLOWISH

GOLDEN: Signifies the light of Vihiga County and the willingness of its people to initiate and participate in major undertakings to upgrade their living standards.

WHITE: Signifies the peace and harmony existing in the County.

THE FIRST SCHEDULE
PART II

The Coat of Arms of Vihiga County

Description:
The colours words and images depicted in the County Coat of Arms have the following meanings—

BLUE COLOUR: Signifies the plenty of water sources in the County.

MAIZE COB AND BANANA LEAVES: Signifies the value the people of Vihiga whose main activity is agriculture have for production of
food crops and the food security.

TEA STEM:
Signifies the main cash crop of Vihiga County which is Tea farming.

THE COCK:
The people of Vihiga are also livestock farmers with a special reliance on poultry farming of which chicken is a traditional delicacy.

SUN:
The people of Vihiga like doing their things in the light and are always ready to embark on major initiatives to brighten and upgrade their living standards.

MASK:
Signifies a major cultural activity amongst the Tiriki sub-tribe in Vihiga and the respect the County has for the cultural heritage of its people.

THE DOVE WITH GREEN LEAF IN ITS PEAK
Signifies the peace “mulembe” the people of Vihiga enjoy and the message of hope and reconstruction they have for their neighbours and other people of Kenya.

GREEN BANANA LEAF:
Signifies our green environment and immense forest.

THREE STONES:
The three stones stand for the three main sub tribes of Vihiga County akin to the three cooking stones amongst the people of the county.
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UMOJA NA KAZI:  
The motto to unite for hard work.

THE FIRST SCHEDULE

PART III

The County Public Seal  
Section 3(c)

Design

Description:
1. Must be round in shape.
2. Must carry the Coat of Arms at the centre.
3. Must carry on the inner cycle the words –

"THE PUBLIC SEAL OF VIHIGA COUNTY GOVERNMENT"

THE SECOND SCHEDULE

The County Officials authorized to fly the County Flag on the official vehicles –

1. The Governor.
2. The Speaker, Vihiga County Assembly.
3. The Deputy Governor.

THE THIRD SCHEDULE

The fee payable for a portrait of the Governor—

1. The Governor's portrait of which the size, when in frame does not exceed 12”x 12” inches Kshs. 1,000.00

2. The Governor's portrait of which the size when in frame exceeds 12”x 12” inches but does not exceed 36”x 36” inches Kshs. 2,000.00.