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BUNGOMA COUNTY BILLS, 2023

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THE BUNGOMA COUNTY PUBLIC ENTERTAINMENT AND AMENITIES BILL, 2023**A Bill for**

AN ACT of the County Assembly of Bungoma to regulate public entertainment and the use of public amenities and for connected purposes

ENACTED by the County Assembly Bungoma, as follows—

PART I—PRELIMINARY**Short title**

1. This Act may be cited the Bungoma County Public Entertainment and Amenities Act, 2023.

Interpretation

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

“authorised officer” means an officer appointed under section 7 of the Act;

“camping” means temporarily—

- (a) occupying land for purposes of a picnic;
- (b) occupying land with a caravan or vehicle for sleeping or as a shelter or protection against the weather; or
- (c) erecting a tent for sleeping or as a shelter or protection against the weather;

“camping site” means land set aside by the county government as a public picnic, camping or caravan park site or a similar private facility on private land licensed by the Department;

“county executive committee member” means the county executive committee member responsible for public entertainment, public amenities and cultural heritage;

“Department” means the county government department responsible for public entertainment and public amenities;

“games of chance” include casinos, bookmaking, horse racing, prize competitions, bingo, lotto, sports pools, sports betting, dog racing, race betting, game rooms and electronic and mechanical based amusements;

“inland waters” includes any lake, river, dam, marsh or other body of water;

“nature reserve” means a nature reserve registered as a local nature reserve by the county;

“notice board” includes a sign, poster or other device on which the county displays information;

“park” means any piece of land registered by the county government as a park and maintained by it for use by the public;

“public amenity” includes—

- (a) any land, commonage, square, camping area, caravan park, beach, swimming pool, public open space, public resort, recreation site, river, dam, nature reserve, zoo-logical, botanical or other park, or hiking trail, including any portion thereof and any facility or apparatus therein or thereon, which is the property of, or is possessed, controlled or leased by the county government and to which the general public has access, whether on payment of admission fees or not, but excluding a public road or street;
- (b) a building, structure, hall room or office, including any part thereof or any facility or apparatus therein, which is the property of, or is possessed of, controlled or leased by the county government and to which the general public has access, whether on payment of admission of fees or not; and
- (c) a public place contemplated in paragraphs (a) and (b) which is lawfully controlled or managed by a private person or body under agreement between the county government and that private person or body;

“public entertainment” includes any—

- (a) betting, gambling and other games of chance;
- (b) racing;
- (c) concert, recital, dancing exhibition, picture or art exhibition;
- (d) animal or circus performance, waxworks, puppet performance;
- (e) cinemas and video shows;
- (f) acrobatics or other exhibitions of skill; and
- (g) sport,

which is open to or available for use to the public whether admission is procured or otherwise;

“public entertainment venue” means—

- (a) any premises, land, building, tent or other erection where public entertainment is performed or presented; or
- (b) a place having at least three amusement machines for use by the public; and
- (c) a sports stadium;

“sport” includes all forms of physical or mental activity which, through casual or organized participation, or through training activities, aims at expressing or improving physical and mental wellbeing, forming social relationships or obtaining results in competition at all levels, and includes any other activity as the county executive committee member may determine.

Objects of the Act

3. The objects of this Act are to regulate, protect and promote, for the interest and enjoyment of the community and other persons visiting the county for the following activities and services—

- (a) public entertainment; and
- (b) public amenities including camping sites.

PART II—GENERAL PROVISIONS RELATING TO PUBLIC AMENITIES

Admission to public amenity

4. (1) The county executive committee member may determine the times, dates and conditions under which a public amenity is open to the public.

(2) The county executive committee member may determine the activities that may or may not be undertaken in a public amenity.

(3) The county executive committee member may grant to any person or persons, during such hours and for such period as may be necessary, the exclusive use of a public amenity for games, a public meeting, fete, show or other function or entertainment.

(4) Where a person in a public amenity has committed an offence under this Act or the regulations made thereunder, an authorised officer may order such person to leave the public amenity, and a person so ordered to leave shall leave the amenity forthwith.

(6) Where an authorised officer suspects, on reasonable grounds, that a person wishing to enter a public amenity intends to commit an offence in or at the public amenity, he or she may refuse entry to such a person.

Entrance fees

5. (1) The County government may levy entrance fees and issue entrance tickets in respect of persons of different ages, groups of persons, or different classes of vehicles.

(2) Entrance fees shall be payable at the entrance to a public amenity.

(3) An entrance ticket contemplated in subsection (1) shall be valid for the day and time indicated thereon.

(4) An authorised officer may require any person in a public amenity to produce the entrance ticket issued in terms of subsection (1), and any person who fails to produce such ticket or a person who enters a public amenity without having paid the prescribed entrance fee commits an offence.

Consent required for certain activities

6. (1) No person may, without the prior consent of the county executive committee member, at, in or upon a public amenity—

(a) arrange, hold, present or attend—

(i) a meeting;

(ii) a public gathering or procession, exhibition or performance;

(iii) an auction;

(b) collect money or any other goods;

(c) display or distribute a pamphlet, placard or handbill;

(d) Engage in any trading activity.

(2) No person may, without the prior written consent of the county executive committee member, erect or establish any fence, structure, shelter or anything else, and a person who has obtained such consent may only erect such fence, structure, shelter or anything else at a designated place or area set aside for this purpose.

PART III—REGULATION OF PUBLIC ENTERTAINMENT

Authorised officers

7. The county executive committee member shall, by notice in the *Gazette*, appoint such number of officers to be authorised officers to oversee the activities taking place in places of public entertainment, public amenities, camping sites or cultural sites under this Act.

Responsibilities of the Department

8. (1) The Department is responsible for—

- (a) the development of county policies and legislation on public entertainment for consideration by the County Executive Committee;
- (b) the implementation of national and county policies and legislation on public entertainment;
- (c) the promotion, co-ordination and development of public entertainment within the county;
- (d) advising the county government on initiatives, programs and services required for the regulation and promotion of public entertainment in the county;
- (e) identifying talent within the county and make recommendation to the relevant institutions for the development of that talent;
- (f) regulating the establishment of places of public entertainment within the county;
- (g) the sensitization of the public within a particular area on the effects of setting up a particular public entertainment in their community;
- (h) the protection of the public, especially children and vulnerable persons, against disadvantages of specific public entertainments;
- (i) receiving and investigating complaints on practices within specific public entertainments that impact negatively on surrounding communities; and
- (j) carrying out any other activity relating to public entertainment that may be necessary or assigned by any national or county legislation.

(2) The Department shall publish and disseminate information on its activities at least four times in a year.

Powers of the Department

9. The Department may in relation to public entertainment—

- (a) purchase or otherwise acquire, possess or hire movable or immovable property;
- (b) raise money by way of loans from any source with the approval of the county assembly;

- (c) set conditions and fees for the licensing of places of public entertainment;
- (d) determine the classes and categories of public entertainment; and
- (e) determine the age of the patrons of any class or category of public entertainment and the hours of operation.

Responsibility of the owner of a place of entertainment

10. The owner of a public entertainment venue shall—

- (a) ensure adherence to the requirements of all the applicable laws;
- (b) maintain the safety of the patrons in the place of entertainment;
- (c) give notice to the officer in charge of the nearest police station and the authorised officer of any major programme taking place in the public entertainment venue; and
- (d) allow the officer in charge of the nearest police station or authorized officer appointed for the purpose by the Department, to inspect the public entertainment venue at a reasonable period.

Power of entry by police or authorised officer

11. (1) A police officer or authorized officer may, at all reasonable times, enter upon any premises or place in which there is reason to believe that any public entertainment is taking place or is about to take place to ensure compliance of this Act.

(2) A person obstructing the police officer or authorized officer acting under subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding twelve months, or both.

(3) If a police officer or authorized officer acting under subsection (1), is satisfied that a public entertainment is taking place or is about to take place contrary to this Act, the police officer or authorized officer may order the public entertainment to stop.

Power of closure by authorised officer

12. (1) Where an authorised officer is of the opinion that the use of a building or place as a public entertainment venue is in contravention of this Act the authorised officer may direct the owner or employee in charge of the place to take such action as the authorized officer considers reasonably necessary to remedy the situation.

(2) Where the owner or employee fails to take action directed under subsection (1) within the period specified, the authorised officer shall, by

notice in writing addressed to the owner and served personally on the owner or the owner's agent or employee in charge of the place, close the place pending the final decision of the Department and advise the Department accordingly.

(3) The Department shall, within seven days after being advised of the closure of a public entertainment venue under subsection (2), consider whether the license in respect of the place should be cancelled or varied and shall in writing, inform the owner or the owner's agent or employee in charge of the place, within fourteen days.

Prohibition of public entertainment

13. (1) The county executive committee member may, where it is necessary in the public interest or for public security to do so and after consultation with the officer in-charge of the police in the county—

- (a) impose any condition or conditions to be followed during the public entertainment; and
- (b) stop or prohibit any public entertainment from taking place in any area in the county.

(2) A person holding any public entertainment contrary to an order or condition imposed under subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months, or both.

Inspection by police officer or authorised person

14. (1) A police officer or authorized person may, upon a written request of the county executive Committee Member or the Department, inspect any public entertainment venue and make a report on the safety and suitability of the place for public entertainment.

(2) A police officer or authorized person acting under subsection (1) may require the owner, person in charge of a place of entertainment or any person on or in the immediate vicinity of the place who may assist in the inquiry to furnish any information that may be required by the officer.

(3) A person required to furnish any information under subsection (2) shall comply with the request and ensure, to the best of their knowledge, that all the required information is given.

Declaration of any entertainment to be public entertainment

15. The county executive committee member may, by notice in the *Gazette* and after approval of the Assembly, declare any entertainment to which the public is admitted, whether admission is procured or not, to be a public entertainment venue for the purposes of this Act.

Cruelty to animals

16. A person who mistreats any animal taking part in any public entertainment commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand shillings or imprisonment for a term of six months, or both.

Exits to be free from obstruction

17. The owner or employee in charge of a public entertainment venue and the person holding a public entertainment shall ensure that the means of exit, staircases, landings, passage ways or gangways are safe and free from obstruction any time members of the public are in the public entertainment venue.

PART IV—ADMINISTRATION OF PUBLIC AMENITIES

Establishment of public amenities.

18. (1) The county executive committee member may, subject to any applicable law, establish, maintain, manage and oversee public amenities, including but not limited to—

- (a) nature reserves, playgrounds and recreation parks and grounds;
- (b) public libraries and information centres;
- (c) art galleries, museums, botanical gardens and zoological gardens;
- (d) boarding houses, hostels and social service centres;
- (e) charity homes and needy persons places;
- (f) sewerage and drainage systems;
- (g) public toilets;
- (h) areas for boating, fishing, bathing and washing;
- (i) public swimming pools;
- (j) cafes and restaurants;
- (k) sites providing relief services in the event of a disaster;
- (l) road signs; and
- (m) any other public facilities.

(2) The county executive committee member shall, subject to the applicable laws, encourage and promote the establishment of the public amenities provided under subsection (1) through public-private partnerships.

Responsibilities of the Department in relation to public amenities

19. The Department shall, in relation to public amenities—

- (a) recommend to the Executive Committee the applicable policy to be adopted by the county government;
- (b) create the proper business and administrative environment to provide public amenities;
- (c) with the approval of the Executive Committee and the County Assembly, raise funds for the relevant activities;
- (d) where necessary, license any private public amenity established for the benefit of the community;
- (e) ensure that public amenities conform with the health, safety and environmental standards including noise pollution and common decency;
- (f) take relevant measures to ensure minimum standards for related sites including learning institutions, orphanages, children's homes, health facilities, rehabilitation centres, places of worship, nature reserves, game parks and other such places; and
- (g) perform any other function that may be assigned to it by any legislation.

(2) The Department may establish, support or facilitate the establishment of radio or television stations to further the objectives of the county or for the benefit of the community.

(3) The Department may directly manage or enter into a public-private partnership in relation to any public amenity.

Agreement with another party

20. The Department may enter into a written agreement with any person, body, organisation, local community or organ of State—

- (a) for the use of any public amenity; or
- (b) with the approval of the Executive Committee Member, for—
 - (i) the development or management of any public amenity; or
 - (ii) the regulation of human activities in that amenity.

Admission and activities in a public amenity

21. (1) The county executive Committee Member may, by regulations, determine—

- (a) the times, dates and conditions under which a public amenity shall be open to the public; and
- (b) the activities that may or may not be undertaken in a public amenity.

(2) The Department may permit any person or entity to use any recreation ground—

- (a) including or excluding any building or apparatus therein;
- (b) authorizing the making of any changes or alterations therein;
- (c) exclusively for games, a public meeting, fete, show; or
- (d) any other authorised activity.

(3) The county executive committee member shall, depending on the type and size of the public amenity, determine, by regulations—

- (a) the maximum number of persons or vehicles that may be in or at a public amenity at any given time; and
- (b) the different classes of vehicles that may be parked at a public amenity.

(4) A person shall not, without the prior written consent of the Department, while in a public amenity—

- (a) organize or attend any gathering, procession or exhibition within the amenity;
- (b) distribute pamphlets, placards, paintings, books, handbills;
- (c) other printed written or painted work;
- (d) engage in any form of trade; or
- (e) carry out any other public activity.

Closure and suspension of public amenities

22. The Department may, for reasons of maintenance, development, security, safety or public health, temporarily or permanently—

- (a) close a public amenity or a portion thereof; or
- (b) suspend all or any activities thereon.

Notice boards

23. (1) There shall be a notice board at the entrance or in the immediate vicinity of a public amenity on which the following information may be displayed—

- (a) the dates, times and conditions of entry;
- (b) the activities that may be undertaken;

(c) the fees payable; and

(d) a notice of closure or suspension imposed under section 22.

(2) No person, other than the authorised officer or a person authorised by the authorised officer may remove or alter the contents of any notice on the notice board.

(3) A notice posted on the notice board may contain graphic representation to convey meaning.

(4) A person who alters, defaces or otherwise tampers with any information on the notice board commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months, or both.

(5) A person convicted of an offence under subsection (4) shall be liable, in addition to the penalty prescribed in that subsection, to reinstate the notice board he or she alters, defaces or tampers with to its former state.

Declaration of recreation ground

24. (1) The county Executive Committee Member may, in consultation with the department responsible for physical planning, by notice in the Gazette, and with the approval of the County Assembly, declare any portion of land to be a recreation ground for the purpose of any particular games, recreation or activities.

(2) The Department shall facilitate or authorize on terms that the Department may decide, the provision of any apparatus, equipment, gadgets, devices or tools which may be required for the particular games, recreation or activities in the recreation ground.

(3) The Department shall facilitate or authorize on terms that the Department may decide, the establishment and maintenance of refreshment rooms, cafes and restaurants in the recreation ground.

(4) The Department may rent out, for a specific period, function or occasion any recreation ground established under this section to any person, club, organization or other body of persons.

(5) The county Executive Committee Member may, with the approval of the County Assembly, authorize the person or entity to whom a recreation ground is rented to make charges on the ground.

Restriction of animals

25. (1) No person shall bring an animal into a public amenity where animals are prohibited by notice displayed on the notice board of the public amenity.

(2) Where a person is permitted to bring an animal into a public amenity in accordance with a notice on the notice board, that person shall have direct and physical control of the animal by a leash or other device, and may not bath, wash or allow the animal to enter or remain in any pond, fountain or ornamental water, and shall be responsible for tidying up the animal's solid waste excretion.

(3) Any animal which is not under the control of any person, while in a public amenity, may be impounded and removed from the amenity and dealt with in accordance with the law relating to the impoundment of animals.

(4) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months, or both.

Prohibited actions or activities

26. (1) A person who is under the influence of alcohol or any drug shall not be permitted to enter or remain in a public amenity.

(2) A person shall not, while in a public amenity—

- (a) break, damage, destroy, tamper with, remove, misuse, disfigure or use anything or fail to observe an instruction by the authorised person;
- (b) intentionally throw or roll a rock, stone, bottle or other object;
- (c) unless authorised to do so under section 39(2)(b), pull out, pick, cut or damage any flora growing in the amenity, or have in possession flora;
- (d) walk on a flowerbed;
- (e) walk, stand, sit or lie on grass in contravention of any notice;
- (f) write, paint, draw pictures or symbols, emblem or other structures on buildings or other places in the amenity;
- (g) excavate soil, sand or stone or remove organic or inorganic objects except if authorised to do so;
- (h) interfere with, obstruct or divert water flow, stream or drain a wetland;
- (i) deface or disfigure anything provided in the public amenity;
- (j) wash, polish or repair a vehicle, except emergency repairs;
- (k) litter or dump any refuse, garden refuse or building materials or burn refuse;

- (l) wash crockery or laundry or hang out clothes, except at places indicated by notice for that purpose;
- (m) use or try to use anything provided in the amenity for a purpose other than that for which it is designed or determined by notice;
- (n) dispose of any burning or smouldering object contrary to the manner provided by the Department;
- (o) behave or conduct oneself in an improper, indecent or unbecoming manner;
- (p) play or sit on play-park equipment, except if the person concerned is a child under the age of thirteen years;
- (q) swim, walk or play in a fish-pond, fountain, dam, river, artificial feature or pond, in contravention with a notice prohibiting the action;
- (r) having an open wound, enters any bath provided by the county;
- (s) enter or use a toilet facility indicated, by notice, for use by members of the opposite sex;
- (t) hunt, injure, disturb, feed, kill, hurt, follow, disturb, ill-treat or catch an animal, or displace, disturb, destroy or remove a bird, nest or egg, or skin or gut an animal, except if authorised to do so;
- (u) discharge any firearm or set off fireworks except if authorised to do so;
- (v) discharge a bow or use a slingshot or catapult or in any way that prejudice the safety, convenience or rights of other persons; or
- (w) play or conduct a game in a manner that causes annoyance or endangers public safety.
- (x) perform any act that may be detrimental to the health of another person;

(3) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months, or both.

Use of a vehicle in a public amenity

27. (1) No person may bring into a public amenity any truck, bus, motor vehicle, motor cycle, hand drawn cart, bicycle or any other vehicle except in accordance with the directions of the Department.

(2) Where a person is permitted to drive a vehicle in a public amenity it shall be done on the road constructed in the amenity at the speed indicated on the notice board at the amenity.

(3) This section shall not apply to—

- (a) an emergency vehicle, while lawfully in use, at the amenity;
- (b) any vehicle used by a member of the public in an emergency; or
- (c) a vehicle used by an official or authorised officer in the discharge of their duties while acting in an emergency.

(4) A person who contravenes subsection (1) and (2) commits an offence.

Camping sites and camping

28. (1) The county executive committee member may, within the County—

- (a) subject to any written law and with the approval of the county assembly, declare any area to be a county government camping site; and
- (b) on application by any person or entity, permit the applicant to establish a private camping site.

(2) A private camping site shall be established and managed by the applicant on conditions that may be declared in the permit.

(3) Except when camping on one's own land, no person may camp on any land which is not established as a camping site under subsection (1) or any national law in force.

(4) No person may camp in a county government camping site without the written consent of the Department or a person authorised by the Department.

PART V—LICENCES AND OPERATIONAL PERMITS

Powers of the Department

29. (1) The Department has the power to—

- (a) issue licences and permits in accordance with this Act;
- (b) during the subsistence of a licence or permit, vary, or for good cause, suspend a license or permit for not more than fourteen days;

- (c) cancel a licence or permit after giving the licensee or permit holder a reasonable opportunity to show cause against the cancellation; and
- (d) inquire into complaints against licensees or permit-holders.

(2) The Department shall exercise the powers referred to under subsection (1), subject to the provisions of the applicable national legislation, to issue permits and regulate the use of, entry into and safety of patrons in places of public entertainment, public amenities and camping sites.

Application for a license of a public entertainment venue.

30. (1) No person shall operate a public entertainment venue without a license issued for that purpose in accordance with the applicable law.

(2) A person requiring a licence shall make application to the Department in the form prescribed by the county Executive Committee Member by regulations.

(3) On receipt of an application under subsection (2), the Department may carry out investigations and consider any information that may be required before issuing a licence.

Issuing of a licence

31. (1) The Department may, within thirty days after receiving an application under this Act—

- (a) consider the application; and
- (b) if satisfied that the application meets the requirements of this Act, issue a licence for a public entertainment venue subject to payment of the prescribed fee, upon such terms and conditions that the Department may consider appropriate.

(2) The licence issued under subsection (1) shall be in a form prescribed by the county executive committee member by regulations.

(3) A licence issued under subsection (1) may be revoked or suspended if the safety, health or convenience of persons attending the public entertainment is not adequately provided for or if the structure, equipment or lighting has ceased to conform to the law.

(4) A person who is aggrieved by the decision of the Department to decline an application for a licence may appeal to the county executive committee member against that decision, within thirty days of receiving a written notice of the decision.

(5) Upon receipt of an appeal, the county executive committee member shall, within thirty days from the date of receiving the appeal, consider and determine the appeal.

Use of public entertainment venue for performance or exhibition.

32. (1) A person who requires to use any public entertainment venue for a performance or presentation of a stage play, music show, cinema or other exhibition shall apply to the Department for a permit to use the public entertainment venue.

(2) The application for a permit under subsection (1) shall state the public entertainment venue, period and the type of entertainment to be presented or staged.

(3) The Department may issue a permit if the public entertainment venue in relation to which the application is made under subsection (1) conforms to the requirements of the law on films and stage plays.

Cap. 222

(4) A permit issued under subsection (3) may be revoked or suspended if the safety, health or convenience of persons attending the performance or presentation is not adequately provided for or if the structure, equipment or lighting has ceased to conform with the Films and Stage Plays Act (Cap. 222).

(5) Where a new part is added to a stage play or public entertainment a permit covering the new part shall be obtained from the Department before the new part is presented or staged.

(6) The permit issued under subsection (3) shall be in a form prescribed by the county executive committee member by regulations.

Use of public amenity

33. (1) A person who requires to use a public amenity for—

- (a) the performance or presentation of any public entertainment;
- (b) camping;
- (c) motor sport, horse riding or other sport; or
- (d) any other activity,

shall make an application for a permit to use the amenity or site.

(2) The application for a permit under subsection (1) shall state the location of the activity, period and type of entertainment.

(3) The Department may issue a permit if the activity in relation to which application is made under subsection (1) conforms to the applicable laws.

(4) The license issued under subsection (1) shall be in a form prescribed by the county Executive Committee Member by regulations and issued upon payment of fees and charges provided in the schedule.

Submission and inspection of stage play or other public entertainment

34. (1) A copy of the stage play for which a permit has been granted, and a full description, in writing, of any other public entertainment intended to be performed in a public entertainment venue shall be submitted to the Department, including the time and the public entertainment venue where the stage play or other public entertainment shall be performed.

(2) If any stage play or any part of it is not in English or Kiswahili, the Department may require, in addition to the original script, a certified true translation in English or Kiswahili submitted to the Department.

(3) The Department may inspect, through its officer or any other person, the scripts submitted to it.

(4) The Department may, before issuing a licence, cause the stage play or public entertainment to be performed or presented for its inspection.

Conditions for issuance of licence

35. The Department shall not issue a licence under this Act unless it is satisfied that the building or place in respect of which the application is made has—

- (a) proper sanitary arrangements;
- (b) satisfactory provisions against risk from fire;
- (c) suitable arrangements for extinguishing fire;
- (d) in the case of fire, safe and sufficient exits; and
- (e) adequate provision for the safety and convenience of the public generally;
- (f) adequate aeration.

Conditions of a licence

36. (1) A licence issued under this Act is subject to conditions specified by the Department in the licence including but not limited to—

- (a) the term of the licence;

- (b) the days and hours of operation;
- (c) the number and ages of persons who may be admitted;
- (d) the noise and light in and emanating from the public entertainment venue; and
- (e) the behaviour of persons in the public entertainment venue.

(2) The holder of a licence shall cause the licence to be displayed in a conspicuous place in the public entertainment venue to which it relates.

(3) The holder of a licence, who contravenes or fails to comply with a condition of the licence or causes another person to contravene or fail to comply with any condition, commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand shillings.

Unlawful use of place of entertainment

37. Where a class of public entertainment other than that specified in the licence is held in a public entertainment venue, the person holding the entertainment and the holder of the licence commit an offence.

Cancellation of licence or permit.

38. The Department may cancel or vary a condition of a licence if the holder of a licence contravenes or fails to comply with a condition of the licence or if the continued use of the public entertainment venue—

- (a) would constitute a danger to the public;
- (b) is prejudicial to public health or convenience; or
- (c) constitutes a nuisance to persons who normally reside in the vicinity of the place.

Permit regarding flora and fauna

39. (1) The Department may, on application and subject to any national legislation and any condition that may be imposed by the Department, issue, free of charge or otherwise, a permit in the prescribed form, to use a public entertainment venue, public amenity or camping site to—

- (a) a group of people, including students, organizations, associations or other group;
- (b) a person or persons undertaking scientific, educational or other research.

(2) The holder of a permit issued under subsection (1) may—

- (a) if a holder of a valid hunting license, hunt, catch, kill or remove fauna under the supervision, control and in accordance with the instructions of an authorised officer;
- (b) pick, collect or remove fauna;
- (c) have in possession diving equipment, weapon trap, gardening tools, living or dead fauna or flora;
- (d) excavate soil, sand or stone or remove organic or inorganic objects;
- (e) remove any flora or carcass which has been plucked or hunted if the authorised officer—
 - (i) has inspected the flora or carcass;
 - (ii) considers it necessary or desirable;
 - (iii) has measured the dimensions or mass, or taken a sample of the flora or carcass; and
 - (iv) authorises in writing, the removal of the flora, carcass or inorganic material.

(3) The holder of a permit shall, on arrival at the public amenity, present the permit to the authorized officer.

(4) The holder of a permit who undertakes an activity in contravention of a condition imposed by that permit commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months, or both.

(5) The Department shall, before issuing a permit under this section, confirm with the applicable state department that the fauna, flora, soil or stone is not a natural resource which—

- (a) is an endangered species;
- (b) is restricted from being picked, collected or removed;
- (c) contains a national mineral resource.

Use of camping site

40. (1) The Department may issue a permit to camp in a camping site for a period not exceeding three months subject to any conditions that the Department may consider necessary.

(2) The permit shall include—

- (a) the name or names of the persons or entities camping in the site;
- (b) the dates the camping will take place; and
- (c) the conditions to be fulfilled or followed by the persons camping.

Appeal against decision of the Department

41. (1) A person aggrieved by the decision of the Department under this Part may appeal, within fourteen days from the date of being notified of the decision, in writing, to the county Executive Committee Member.

(2) An appeal under this section shall be considered and determined within twenty-one days from the date of the appeal.

Exemption from obtaining a permit

42. The county Executive Committee Member may exempt a person holding an activity in a public entertainment venue, public amenity, cultural site, camping site or other place owned or managed by the Department, from obtaining a permit under this Act for the purpose.

Security for compliance

43. (1) The Department may, before issuing a permit in respect of a public entertainment venue, public amenity, cultural site or camping site, for purposes of public security and compliance to the conditions of the permit, require—

- (a) the applicant to give security in a form that the Department may determine; or
- (b) if there are two or more applicants, that each applicant gives a separate security as the Department may determine.

(2) Where a holder of a permit has a previous conviction under this Act, the Department may require that holder to give security that may determine to ensure that the provisions of the Act and the conditions of the permit will be duly observed.

Records of licenses and permits

44. (1) The Department shall keep record of all places of public entertainment, public amenities, cultural sites and camping sites to which licenses are issued or renewed.

(2) The Department shall keep record of all stage plays and other public entertainments to which permits are issued under this Act.

(3) The county Executive Committee Member may notify the public in the Gazette on the particulars contained in the records of the Department regarding the licenses and permits issued under this Act.

(4) Notwithstanding subsection (3), a person may request to be furnished with the particulars referred to in that subsection, and the county Executive Committee Member or a person authorised by him or her shall provide those particulars in the prescribed form.

PART VI—MISCELLANEOUS PROVISIONS**Liaison forums**

45. (1) The Department shall establish a liaison forum in the county and may establish different fora for different communities to—

- (a) encourage the local community to participate in the affairs and activities in a public entertainment venue or public amenity in their area; and
- (b) promote security and public safety and benefit of the community.

(2) The Department may consult the liaison forum for input on any matter concerning the regulation, administration or activities in a place of entertainment, public amenity or cultural activities.

(3) The Department shall ensure that all decisions made in the course of administering public entertainment, public amenity, camping or cultural activities which may affect the community of any particular area, are published, publicised and subjected to the widest possible consultation and members of the public are invited to participate.

Protection from personal liability

46. No matter or thing done by a member of the Department, authorised officer or other officer, employee or agent of the county shall, if the matter or thing is done in good faith for executing the functions, powers or duties of the county under this Act, render the member, officer, employee or agent personally liable to any action, claim or demand.

Powers of entry by police officer or authorised officer

47. (1) A police officer, or authorised officer appointed for the purpose by the county Executive Committee Member may, at all reasonable times, enter upon any public entertainment venue, public amenity, camping site or cultural site in which there is reason to believe that any activity or event is being or is about to take place, with a view to ensuring that this Act is complied with.

(2) A person preventing or obstructing a police officer, or authorised officer acting under subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months or to both.

(3) If the police or authorised officer is satisfied that an activity or event is being performed or presented contrary to this Act, and there is clear and present danger to the members of the public, the officer shall order the event to cease immediately.

General penalty

48. A person who is convicted of an offence under this Act, for which no other penalty is provided shall, on conviction, be liable to a fine not exceeding five hundred thousand shillings or imprisonment for a term not exceeding three years or to both.

Regulations

49. The county Executive Committee Member may make regulations for the better carrying into effect of the provisions of this Act and without prejudice to the generality of the foregoing may prescribe—

- (a) the fees to be charged in respect of any licence or permit in accordance with the applicable Act;
- (b) the form of applications for the licence or permit;
- (c) the form of records to be kept;
- (d) hours during which cultural sites may be open to the public;
- (e) conditions subject to which the Department may issue permits for private places of public entertainment, public amenities, camping sites; and any matter that the executive member considers necessary for the administration of this Act.

Item	Description	Unit of Measure	Approved Charges 2021/22	Proposed Charges 2022/23
1-4227	Permit		3% of projected ticket sales or 75,000 whichever is less	3% of projected ticket sales or 75,000 whichever is less
	Local Prize Competition Permit			
1-4228	Application fee		500	500
1-4229	Permit	Per Applioation	6% of total budget (advertisement+production+design+cost of prize)	6% of total budget (advertisement+production+design+cost of prize)
	HIRE OF PARKS/STADIA/SPORTS GROUND –Kanduyi,Kimilil Stadium &Muliro Gardens			
1-4501	Political Rally	Per day ,or part thereof	50,000	50,000
	Religious Function			
1-4502	Local	Per day ,or part thereof	2,000	2,000
1-4503	-National	Per day ,or part thereof	5,000	5,000
1-4504	International	Per day ,or part thereof	25,000	25,000
1-4505	School /Institution Sporting Activities/ Commercial Activities	Per day ,or part thereof	5,000	5,000
1-4507	Music Extravaganza	Per day ,or part thereof	3,000 +30% of gate collection	3,000 +30% of gate collection
1-4508	Motor Rallying			
	Other Open Space			
1-4508	Hire of open space at ward level	Per Day	2,000	2,000

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to regulate, protect and promote, for the interest and enjoyment of the community and other persons visiting the county, public entertainments and public amenities. It is designed to regulate public entertainment and the use of public amenities and for connected purposes.

Part I contains the preliminary provisions.

Part II contains general provisions relating to public amenities. It has provisions relating to admission to public amenities, entrance fees and entrance tickets, and consent for certain activities.

Part III provides for the regulation of public entertainment. Clause 7 requires the county Executive Committee Member to appoint such number of officers to oversee the activities taking place in places of public entertainment, public amenities, camping sites or cultural sites while clause 8 specifies the responsibilities of the

Clause 9 provides for Powers of the Department while clause 10 is to the effect that the owner of a public entertainment venue shall ensure adherence to the requirements of all the applicable laws. Clause 11 provides for the power of entry by authorised officer while clause 12 provides for the power of closure by an authorised officer. Clause 13 provides that the county executive Committee Member may, where it is necessary in the public interest or for public security to do so and after consultation with the officer in charge of the police in the county impose any condition or conditions to be followed by the public.

Clause 14 provides for inspection by a police officer or authorised person while clause 15 requires the Executive Committee Member to declare any entertainment to which the public is admitted, whether admission is procured or not, to be a public entertainment venue for the purposes of the Bill. Clause 16 provides that a person who mistreats any animal taking part in any public entertainment commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand shillings while clause 17 sets out the requirement that exits of public entertainment must be free from obstruction.

PART IV provides for administration of public amenities. Clause 18 provides for establishment of public amenities while clause 19 states that the Department shall, in relation to public amenities recommend to the County Executive Committee the applicable policy to be adopted by the county government. Clause 20 is to the effect that the Department may enter into a written agreement with any person, body, organisation, local community or organ of State for the use of any public amenity. Clause 21 provides for admission and activities in public amenities while clause 22 provides for closure and suspension of public amenities.

Clause 23 sets out the requirement of a notice board at the entrance or in the immediate vicinity of a public amenity on the prescribed information may be displayed. Clause 24 provides for the declaration of recreation grounds. Clause 25 prohibits any person from bringing an animal into a public amenity where animals are prohibited by notice displayed on the public amenity's notice board while clause 26 provides for prohibited actions or activities in public amenities. Clause 27 is to the effect that no person may bring into a public amenity any truck, bus, motor vehicle, motor cycle, bicycle or any other vehicle except in accordance with the directions of the Department while clause 28 provides for camping sites and camping.

PART V provides for licences and operational permits. Clause 30 and 31 provide for application for a license of a public entertainment venue and issuing of a licence respectively. Clause 32 requires any person who would like to use any public entertainment venue for a performance or presentation of a stage play, music show, cinema or other exhibition to apply to the Department for a permit to use the public entertainment venue while clause 33 provides for use of public amenities. Clause 34 provides for submission and inspection of a stage plays or other public entertainment. Clause 32 outlines the conditions of issuance of a licence whereas clause 36 states the conditions of a licence. Clause 37 provide for unlawful use of place of entertainment. Clause 38 contains circumstance that may lead to cancellation of a licence. Clause 39 provide for permit regarding flora and fauna while clause 40 is on use of camping sites. Clause 38 gives a person aggrieved by the decision of the Department a right to appeal to the county Executive Committee Member while clause 42 provides for exemption from obtaining a permit. Clause 43 is on security for compliance while clause 44 requires the Department to keep a record of all places of public entertainment, public amenities, cultural sites and camping sites to which licenses are issued or renewed.

PART V contains miscellaneous provisions. Clause 45 is on liaison forums while clause 46 provides for protection from personal liability. Clause 47 gives the Executive Committee Member the power to make regulations to ensure the provisions of the Bill are carried to effect. Clause 48 provides for powers of entry by police officer or authorised officer to enter any public entertainment venue, public amenity, camping site or cultural site to ensure that the provisions of this Bill are complied with while clause 49 is on general penalty.

The enactment of this Bill shall occasion additional expenditure of public funds to be provided for through the estimates.

JACK KAWA,
Chairperson, Gender and Culture Committee.