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BARINGO COUNTY BILLS, 2024

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BARINGO COUNTY CONSERVANCIES BILL, 2024

A Bill for

AN ACT of the County Assembly of Baringo to establish the framework for the support of conservancies in Baringo County and for connected purposes.

ENACTED by the County Assembly of Baringo, as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Baringo County Conservancies Act, 2024.

Interpretation

2. In this Act—

“Board” means the Baringo County Wildlife Conservancies Board established under section 13;

“Community” has the meaning assigned to it under section 3 (1) of the Wildlife Conservation and Management Act, 2013;

“Community participation” means active involvement of the relevant community in decision making processes through, among others, use of relevant consultative mechanisms and public hearings;

“Community wildlife scout” has the meaning assigned to it in section 3 (1) of the Wildlife Conservation and Management Act, 2013;

“Conservation area” has the meaning assigned to it under section 3 (1) of the Wildlife Conservation and Management Act, 2013;

“Conservancy Governing body” as constituted through a free and fair election or nomination process by the conservancy members, in line with their by-laws and registration requirements, to be the governing body of the conservancy;

“County Executive Committee Member” means a County Executive Committee member for the time being responsible for matters relating to Tourism and Wildlife;

“Fund” means the County Conservancies Fund established under section of this Act;

“Sanctuary” has the meaning assigned to it under section 3 (1) of the Wildlife Conservation and Management Act, 2013;

“Wildlife” has the meaning assigned to it under section 3 (1) of the Wildlife Conservation and Management Act, 2013;

“Wildlife conservancy” means land set aside by an individual landowner, body corporate, group of owners or a community for purposes of wildlife conservation in accordance with the provisions of section 3 (1) of the Wild life Conservation Management Act, 2013; and

“Wildlife Conservancies Association” refers to County Conservancies governing body.

Application and Commencement

3. This Act shall apply to all conservancies in Baringo County and shall commence upon publication.

Objects and Purpose

4. The object and purpose of this Act is to—

- (a) support the establishment of community conservancies in the County;
- (b) provide for the recognition of existing community conservancies by the County;
- (c) support the establishment of community conservancies in the County;
- (d) provide for the recognition of existing community conservancies by the County;
- (e) provide licensing of businesses in the conservancies;
- (f) establish a community conservancies fund in the county;
- (g) provide an opportunity for collaboration with other partners to provide technical support, education awareness, capacity building and improve livelihoods;
- (h) enhance financial and technical capacity in the management and governance of conservancies;
- (i) promote conservation and sustainable use of natural resources; and
- (j) promote good governance and effective management practises in the management of Conservancies.

PART II—SUPPORT OF CONSERVANCIES

Establishment of Community Conservancies

5. (1) The County Government may in consultation with the Kenya Wildlife Service and other relevant conservation partners facilitate the establishment of Conservancies in the County.

Recognition of Community Conservancies

6. The County shall—

- (a) recognize all conservancies within the County;
- (b) maintain a register of all the conservancies; and
- (c) collaborate with Kenya Wildlife Service, Wildlife Conservancies Association and other relevant conservation partners in supporting the management of conservancies.

Community Participation Act No. 34 of 2016

7. The County shall ensure community participation in the establishment of conservancies.

Support to conservancies

8. The County may, in consultation with the Kenya Wildlife Service and other relevant stakeholders, provide—

- (a) the necessary infrastructure to conservancies;
- (b) support programmes aimed at enabling sustainability to conservancies; and
- (c) support operations and maintenance of conservancies.

Management of conservancies

9. (1) Each conservancy shall be governed by a Conservancy governing body in line with the relevant legal registration regime.

(2) Members of the Conservancy governing body shall be elected into office for a term of three (3) years and shall be eligible for re-election for one further term at the Annual General Meeting of the respective community within the Conservancy.

(3) There shall be a Conservancy Manager who shall be competitively recruited by the Conservancy Governing Body who will be responsible for the operations of the respective conservancy including the implementation of the resolutions of the conservancy Governing body.

Powers and functions of Conservancy Governing Body

10. The Conservancy Governing Body shall—

- (a) develop and oversee implementation of conservancy management plan ;
- (b) oversee the accounts of the conservancy;
- (c) undertake and oversee human resource management at the conservancy;

- (d) develop a road map for sustainability of the conservancy;
- (e) network and collaborate with other relevant stakeholders;
- (f) promote good governance practices in the conservancy;
- (g) develop, review and oversee implementation of conservancy bylaws;
- (h) establish benefit sharing framework subject to approval by the conservancy members; and
- (i) align conservancy development initiatives with the County Integrated Development Plan (CIDP); and spatial plan.

Licensing of businesses in Conservancies

11. All business operations in the conservancy shall be required to seek a license from the County and other relevant regulatory bodies.

PART III – ESTABLISHMENT OF THE COUNTY CONSERVANCIES BOARD

Establishment of the Board

12. (1) There is established the Baringo County Conservancies Board.

(2) The Board shall be a body corporate with perpetual succession and a common seal and capable, in its corporate name, of—

- (a) suing and being sued;
- (b) purchasing, holding and disposing of movable and immovable property; and
- (c) doing all such other things as may be done by body corporate.

Composition of the Board

13. (1) The Board shall be composed of the following members—

- (a) a Chairperson appointed by the County;
- (b) Governor and approved by the County Assembly;
- (c) one representative of the Wildlife Conservancies Association in the County;
- (d) three (3) nominated Conservancy representatives from the three clusters, where special consideration will be given to gender, youth, people living with disability and minorities;
- (e) the County Chief Officer responsible for Tourism and Wildlife matters, who will be the Secretary to the Board;

- (f) the Fund Administrator of the Conservancies Fund, who shall be an *ex officio* member;
- (g) the County Chief Officer responsible for Environment matters;
- (h) the County Chief Officer for the time being responsible for finance; and
- (i) any other member co-opted for any specific purpose and time that may be deemed necessary by the Board.

(2) The members of the Board in sub-section (1) (b), and (c), shall be appointed by the County Executive Committee Member for the time being responsible for Tourism and Wildlife in consultation with the Governor.

(3) The Board in its first meeting shall appoint a vice chairperson who shall be of opposite gender to the Chairperson.

Tenure of office

14. The members of the Board, other than *ex-officio* members, shall hold office for a period of three years and shall be eligible for re-appointment for one further term.

Functions and powers of the Board

15. The functions and powers of the Board shall be to—

- (a) Facilitate the establishment of conservancies in the County;
- (b) oversee the effective implementation of the conservancies projects and programmes in the county;
- (c) oversee the governance activities within the Conservancies;
- (d) facilitate the process of legal recognition of conservancies;
- (e) equitably allocate the conservancies fund to the conservancies;
- (f) advise the county executive committee responsible for tourism and wildlife on best practices in ensuring sustainable conservancies;
- (h) support conservancies to diversify their revenue sources;
- (i) mobilize resources for the County Conservancy Fund.

Conduct of business and regulation of the affairs of the Board

16. The conduct and regulation of business and affairs of the Board shall be as provided for in the Schedule.

Remuneration of the Board

17. The Board shall not be eligible for remuneration but shall be subject to allowances based on The Salaries and Remuneration Commission guidelines.

The secretariat of the Board

18. The County Department responsible for Tourism and Wildlife shall provide the Board with secretariat services for purposes of supporting the activities and operations of the Board.

Appointment of the Fund Administrator, Duties and responsibilities of the County Conservancies Fund Administrator

19. (1) There shall be a Fund Administrator who shall be appointed by the County Executive Committee Member responsible for Finance in accordance with section 116 of Public Finance Management Act, 2012.

(2) The County Conservancies Fund Administrator shall—

- (a) be an *ex-officio* member of the Board and shall have no right to vote at any meeting of the Board;
- (b) subject to the direction of the Board, be responsible for day today management of the affairs of the Board;
- (c) keep all the records of the Board; and
- (d) Carry out any other function as may assigned by the Board from time to time.

Establishment of the Fund

20. There is established the Baringo County Conservancies Fund as per section 116 of the Public Finance Management Act, 2012.

Revenue of the Fund

21. There shall be credited to the Fund—

- (a) such moneys as may be approved and allocated to the Fund by the County Assembly;
- (b) income from any investment made by the Fund; and
- (c) any gifts, donations, grants and endowments made to the Fund.

Expenditure of the Fund

22. There shall be paid out of the Fund any expenditure approved by the Board and incurred in connection with the administration of the Fund.

Functions of the Fund

23. (1) The Fund shall be used to—

- (a) provide financial support to operationalize community conservancies aligned with approved annual budgets;
- (b) facilitate development of infrastructure to conservancies;
- (c) build capacity of conservancies in good governance and management practices including the ranger's work force;
- (d) meeting any expenditure related to administration of the Fund; and
- (e) perform any other function that the Board may consider to facilitate sustainability of conservancies;

(2) Provided that not more than five per cent of the total monies consisting of the Fund shall be utilized for administration of the Fund.

Administration of the Fund

24. The Fund shall be administered and managed by the Board through Fund Administrator.

Accounts and Audit

25. (1) The Board shall cause to be kept all proper books and other records of accounts of the income, expenditure and assets of the Board.

(2) The Fund Administrator shall submit books of accounts for the Fund to the Board for the purposes of audit.

(3) The books of accounts referred in (2) above, shall be in respect of that year together with—

- (a) income and expenditure for the Fund;
- (b) assets and liabilities; and
- (c) cash flow statements.

(4) The accounts of the Board and the Funds shall be audited in accordance with the Public Finance Management Act, 2012

Annual Returns and Reports

26. The Board shall, at the end of each financial year, submit annual returns and reports of the fund to the County Executive Committee Member of Tourism and Wildlife who shall forward to the County Assembly for oversight purposes.

PART V—FINANCIAL PROVISIONS

Financial year of the Board

27. The financial year of the Board shall be the period of twelve months ending on the thirtieth of June in each year.

Annual Estimates

28. (1) At least four (4) months before the commencement of each financial year, the Board shall cause to be prepared estimates of revenue and expenditure of the Board for the ensuing year.

(2) The annual estimates for the Fund shall provide for—

- (a) the cost of administration of the Fund including payment of allowances, and other charges whatsoever payable to the staff and members of the Board;
- (b) the payment or reimbursement to the members of the Board of monies in respect of expenses incurred during the attendance of the meetings of the Board; and
- (c) the development and maintenance of any project administered by the Fund.

(3) Except with the approval of the County Executive Committee Member for Tourism and Wildlife, no expenditure shall be incurred by the Fund Administrator except in accordance with the annual estimates approved under sub-section (2).

PART VI—GENERAL PROVISIONS

Offences and Penalties

29. (1) Part XI of the Wildlife Conservation and Management Act, 2013 shall apply in relation to offences and penalties to the extent applicable to provisions of this Act.

(2) Part VII of the Public Finance Management Act, 2012 shall apply in relation to enforcement of provisions related to administration and management of the Fund under this Act.

Regulations

30. (1) The County Executive Committee Member responsible for Tourism and Wildlife may, on recommendation of the Kenya Wildlife Service, make regulations for or with respect to any matter which is necessary or expedient to be prescribed for carrying out or giving effect to this Act.

(2) Without prejudice to the generality of the foregoing, rules and regulations may be made under this section for—

- (a) prescribing the criteria under which the Fund shall be applied;
- (b) prescribing measures that enhance community participation in the conservation and management of wildlife;
- (c) prescribing the procedure for the application of the Fund by conservancies; and
- (d) prescribing the framework of the Register to facilitate recognition of conservancies.

Alternative dispute resolution

31. Any dispute arising under this Act shall be settled through Alternative dispute resolution mechanisms failure to which the matter can be referred to the normal judicial structures and or the court.

SCHEDULE**(Section 17)****PROVISIONS RELATING TO THE CONDUCT OF BUSINESS
AND AFFAIRS OF THE BOARD**

This Schedule shall apply in accordance with the statutory obligations of the State Corporations Act.

1. Tenure of office and conduct of business of the Board

(1) The Chairperson of the Board shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.

(2) Other than *ex-officio* members, a member of the Board shall, subject to the provisions of this section, hold office for a period not exceeding three years on such terms and conditions as may be specified in the instrument of appointment, and shall be eligible for re-appointment for one further term of three years.

(3) A member other than the chairperson and *ex-officio* member may —

- (a) at any time resign from office by notice in writing to the County Executive Committee member;
- (b) be removed from office by the County Executive Committee member if the member —
 - (i) has been absent from three consecutive meetings of the Board without the permission of the Chairperson;
 - (ii) is adjudged bankrupt or enters in to a composition scheme or arrangement with his creditors;
 - (iii) is convicted of an offence involving fraud or dishonesty;
 - (iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings or both;
 - (v) is incapacitated by prolonged physical or mental illness;
 - (vi) is found to have acted in a manner prejudicial to the aims and objectives of this Act;
 - (vii) Fails to comply with the provisions of this Act relating to disclosure; or
 - (viii) is otherwise unable or unfit to discharge the functions as a member of the Board under medical recommendations.

2. Meetings of the Board

(1) The Board shall meet not less than four times in every financial year, and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) Provided that the Chairperson may call a special meeting of the Board at any time where he/she deems it expedient for the transaction of the business of the Board.

(3) Other than a special meeting, or unless three quarters of members agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board by the secretary.

(4) The quorum for the conduct of business of the Board shall be half of the members' and unless a unanimous decision is reached, decisions shall be by a majority vote of the members present, and in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

(5) The Chairperson shall preside over all meetings of the Board in which he is present, but in his absence the Vice-chairperson shall preside, and in

his absence the members present shall elect one of their member who shall, with respect to that meeting and the business transacted there at, have all the powers of the Chairperson.

(6) At the first meeting of the Board, the members shall elect a Vice-chairperson, not being a public servant, from among its members.

3. Disclosure and conflict of interest

(1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at the meeting of the Board at which the contract, proposed contract or matter is the subject of consideration, the person shall, at the meeting and as soon as practicable after the commencement thereof, disclose that fact and shall be excluded at the meeting at which the contract, proposed contract or matter is being considered.

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

4. The Board may regulate its own procedure

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to provide for the operationalization of Wildlife Conservation and Management Act, 2013 in Baringo County, establishment of Baringo County Community Wildlife Conservancies Board, Conservancies Fund, establishment and recognition of community conservancies in the County. This will provide a framework for sustainable community land use by community wildlife conservancies as well as generate revenue for Baringo County.

ROBERT KIPSANG,
*Chairperson, Industry, Commerce, Tourism and
Enterprise Development Committee.*