

SPECIAL ISSUE

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REPUBLIC OF KENYA

**MACHAKOS COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2016

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THE MACHAKOS COUNTY (FLAGS AND OTHER SYMBOLS)

BILL, 2016

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**THE MACHAKOS COUNTY FLAGS AND OTHER SYMBOLS
BILL, 2016.**

A Bill for

AN ACT of the County Assembly of Machakos to effect to section 4 of the County Government's Act; to provide for the county flag and other symbols; to prevent the improper use of the county flag and of certain symbols, names, words and likenesses for professional or commercial purposes; and for connected purposes

ENACTED by the County Assembly of the Machakos as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Machakos County Flag, and other Symbols Act, 2016.

Interpretation

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

‘coat of arms’ means any object or figure, being a symbolic representation displayed in colours on a shield in conformity with the principles and rules of heraldry, with or without any crown, helmet, mantling, supporters, motto, or other accessories;

‘county’ means the county government of Machakos;

‘emblem’ means any device, seal, mark, trade mark, badge, symbol, design, logotype, or other distinctive sign of identification; and includes its representation, whether on any flag, banner, sign, or other printed or written material, or by way of any pictorial representation or other visual image, or otherwise;

‘executive committee member’ means the executive committee member for the time responsible for public administration;

“national flag” means the National flag prescribed in the Constitution of Kenya;

“specified likeness” means any photograph, drawing or other pictorial representation of the person for the time being holding any of the offices or dignities specified in Part III of the First Schedule to this Act;

“specified name” means any of the names and words specified in Part II of the First Schedule to this Act, and include any abbreviation of any such name.

Purpose of the Act

3. The purpose of this Act is to—
 - (a) Regulate the use the county flag, other symbols, and the title of Governor; and
 - (b) regulate provide for the use the national flag in the County to promote national unity.

PART II—COUNTY FLAGS AND OTHER SYMBOLS

County flag, public seal and coat of arms

4. (1) The County flag shall be of the design and description set out in Part I of the Second Schedule to this Act.

(2) The County Seal shall be of the design set out in Part II of the Second Schedule to this Act.

(3) The County coat of arms shall be of the design set out in Part II of the Second Schedule to this Act.

Insult to County Symbols

5. Any person, who shows disrespect, in speech, manner or writing, to county flag, specified likeness or specified name, or its representation, shall be guilty of an offence and liable to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

Improper use

6. (1) A person shall not, except with the written permission of the executive committee member —

- (a) use any specified emblem, specified name or specified likeness, or any colourable imitation thereof, in furtherance of, or display the same as an advertisement for, any trade, business, calling or profession; or
- (b) use any specified emblem, specified name or specified likeness, or any colourable imitation thereof, in the title of any patent, or in any trade mark or design; or
- (c) manufacture or import any article or goods bearing the flag or any specified emblem, specified name or specified likeness, or any article or goods on which any title, trade mark or design is used in contravention of paragraph (b) of this subsection.

(2) Subsection (1) (a) shall not apply to the publication of a bona fide news item or to the publication of any article connected with any bona

fide news item other than a news item in the furtherance of, or as advertisement for, any trade, business, calling or profession.

(3) Any permission given under subsection (1) of this section may be given subject to such conditions as the executive committee member may deem fit.

(4) Any person who contravenes this section shall be guilty of an offence and liable to a fine not exceeding thirty thousand shillings, or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

Prohibited display

7. (1) A person shall not—

- (a) Without lawful authority, alter the County Flag by the placement thereon of any letter, emblem, or representation;
- (b) In or within view of any public place, use, display, destroy, or damage the County Flag in any manner with the intention of dishonoring it.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

Authorized officers

8. (1) The following persons shall fly the county flag—

- (a) Governor;
- (b) Deputy Governor;
- (c) County executive committee
- (d) Speaker of the County Assembly; and
- (e) Deputy Speaker of the County Assembly

(2) The executive committee member shall prescribe the manner in which the county flag may be flown or displayed.

Sanction

9. Section 6 and 7 of this Act shall apply with respect to the protection of county symbols under this Act.

Hoisting County Flag

10. The county flag shall be hoisted on the following occasions;

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- (a) all official functions that are attended by the Governor, the Deputy Governor or county executive committee ;
 - (b) at the headquarters of the county government;
 - (c) at the Liaison offices of county governments;
 - (d) at the head offices of sub-counties, wards and villages; and
 - (e) at the county assembly.
- (2) The executive committee member may prescribe such other place where the county flag shall be hoisted or displayed.

Custodian of County Flag

11. The county secretary shall be the custodian of the county flag, emblems, coat of arms and all other symbols protected by this Act.

National Flag as Symbol of Unity

12. (1) The national flag in the county shall be hoisted in key establishments of the county government and shall be used to unite people by creating visual, verbal, or iconic or representations of the national values and goals in the County.

(2) To promote the objective in subsection (1), the national flag shall be flown in the prescribed official cars.

Power to Amend first Schedule

13. The executive committee member may, by notice in the County Gazette, amend the First Schedule to this Act.

Regulations

14. (1) The executive committee member may make regulations for the better carrying out into effect the provisions of this Act—

(2) Without prejudice to the generality of subsection (1), the Regulations may—

- (a) prescribe other occasions upon which, other persons by whom and the manner in which the county flag may be flown or displayed, as the case may be;
- (b) days and times during which the county flag shall be flown;
- (c) without detracting from the general design depicted in the Second Schedule, the standard sizes, dimensions, proportions, and colours of the county flag for all or any purposes or in all or any circumstances;

- (d) prescribe conduct and the etiquette to be followed in the flying or other use of the county flag;
- (e) prohibiting, controlling or restricting the use of any specified emblem, specified likeness or specified name;
- (f) regulate the manner in which application may be made to the office of the executive committee member for permission under section 6 of this Act,
- (g) prescribe the form of any license by which such permission may be given and fixing any fee for such application and license;
- (h) prescribe reproduction and production of documents requiring the official use of the protected symbols; and
- (i) generally for carrying this Act into effect.

(2) The Regulations prescribed under subsection (1) shall be approved by the County Executive Committee and the County Assembly before they take effect.

FIRST SCHEDULE

Part I—Emblems

1. The County Flag.
2. The Public Seal of County Government of Machakos; and
3. The Coat of Arms of the County of Machakos.

Part II—Names and Words

The name of the Governor.

The name of the Deputy Governor.

The name of the Speaker.

The name of the Deputy Speaker.

Part III—Offices and Dignities

His/Her Excellency the Governor.

The Deputy Governor.

The Speaker.

The Deputy Speaker.

SECOND SCHEDULE**Part I**

The County Flag

THE FLAG**Part II**

The County Public Seal

Part III

The Coat of Arms



MEMORANDUM OF REASONS & OBJECTS

The principal object of this Bill is to establish a frame to regulate the use of the county flag, the county coat of arms and the county public seal. The Bill prevents the improper use of the county Flag and of certain emblems, names, words and likenesses for professional and commercial purposes, and also prohibits the display of county flag in an authorized way. The Bill also allows the Governor to fly the national flag in the County for purposes of promoting national unity in the County.

The enactment of the Bill shall not occasion additional expenditure of public funds.

Dated the 6th May, 2016.

VERONICA MBITHE,
Member of County Assembly.