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BUNGOMA COUNTY BILLS, 2023

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SCHEDULE—CHARGES FOR OUTDOOR ADVERTISEMENT AND SIGNAGE

THE BUNGOMA COUNTY OUTDOOR ADVERTISING AND SIGNAGE CONTROL AND REGULATION BILL, 2023

A Bill for

AN ACT of the County Assembly of Bungoma to provide for the regulation of outdoor advertisement and signage within Bungoma County, and for connected purposes

ENACTED by the County Assembly of Bungoma, as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Bungoma County Outdoor Advertising and Signage Control and Regulation Act, 2023.

Interpretation

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

“advertisement” means any representation by a word, or abbreviation thereof, letter, logo, symbol, sign, figure, painting, drawing or other pictorial representation, or light, displayed in or in view of any public place, national trunk road or other road within the jurisdiction of the County for the purpose of drawing the attention of the public to or promoting any product, service, business or commercial enterprise, trade, person, election or candidature in an election, voter registration, entertainment, function, meeting or other event, aspects relating to security and news headlines;

“advertising sign” means a screen, fence, wall or any other object, structure or device, freestanding or attached to any wall or structure, in a fixed position intended to be used or used for the purpose of displaying any advertisement and any object, structure or device which is in itself an advertisement, in or in view of a public place, national trunk road or other road within the jurisdiction of the county and includes an advertising hoarding and billboard and in so far as any provision of this Act relating to an advertising sign is practically capable of being applied to an advertisement, includes an advertisement other than an advertisement displayed on an advertising sign and a poster;

“advertising” means the act or process of displaying an advertisement and “advertise” has a corresponding meaning;

“approved” means approved in writing by the authorized officer and “written approval” has a corresponding meaning;

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“arcade” means a covered pedestrian thoroughfare not vested in the county government, whether or not located at ground level, passing wholly or partly through a building and to which the public normally has regular and unrestricted access;

“area of maximum control” means an area in which maximum control of outdoor advertising is applied;

“area of minimum control” means an area in which minimum control of outdoor advertising is applied;

“area of partial control” means an area in which partial control of outdoor advertising is applied;

“authorized official” means any official of the county government who has been authorized by the county government to implement and enforce the provisions of this Act;

“banner” means a piece of cloth or similar material on which an advertisement is displayed in such a manner that it is legible in windless conditions and is attached to one or more ropes, poles or a flagstaff that projects vertically, horizontally or at any angle from the building or structure to which it is attached or is attached to a building or other structure, but excludes a banner carried as part of a procession;

“blimp” means a gas-inflated balloon or other object, including any such object capable of carrying passengers, which is attached or anchored to the ground upon which an advertisement is displayed;

“building line” means a building line determined under an applicable county planning scheme or any other law or document that has the force of law;

“building schedule” means a development program for the construction or renovation of a building or structure specifying the different phases of the development or renovation and the type of construction prepared by a person undertaking the activities concerned;

“clear height” means the vertical distance between the lowest edge of an advertising sign and the level of the ground, footway or roadway immediately below such sign;

“combination sign” means a single freestanding structure specially designed to accommodate and display more than one advertising sign for a location such as a roadside service area, shopping Centre, office park, industrial park and other urban complexes;

“construction site” means a property or portion of a property on which any building or structure is being, constructed after building plans have been approved in terms of the National Construction Authority Act (No. 41 of 2011) and the Planning and Building Regulations, or a property or portion of a property on which any building or portion of a building is to be demolished after a demolition permit has been issued in terms of the said Act;

“county executive committee member” means the county executive committee member for the time being responsible for physical planning;

“Department” means the Bungoma County department for the time being responsible for matters relating to urban planning and development;

“directional sign” means an advertising sign indicating or directing the attention of the public to a place, undertaking or activity for the purpose of advertising it;

“Director” means the person for the time being holding the office of the Director of the Department, and includes his or her deputy and such other officer of the Department authorized by the Director in writing for purpose of this Act.

“display” means the display of an advertisement and “displayed” has a corresponding meaning;

“election” means a presidential, Gubernatorial, Senatorial parliamentary, women representative or ward and includes a by-election;

“electronic advertising sign” means an advertising sign, which has an electronically or digitally controlled, or both an electronically and digitally controlled, illuminated display surface, which allows for different advertisements to be shown, changed, animated or illuminated in different ways and at different intervals on one such sign;

“event” means an occasion organized for the general public;

“facade” means the principal front of a building;

“flag” means a piece of cloth or similar material upon which an advertisement is displayed and which is attached to a single rope, pole or flagstaff projecting vertically in such a way that its contents are normally not legible in windless conditions but excludes—

- (a) a national flag which does not carry any advertisement in addition to the design of the flag or flagstaff;
- (b) a flag carried as part of a procession; and
- (c) a flag which is not displayed on a flagstaff;

“gantry” means a freestanding advertising sign that extends over, or suspends across a public street erected for the sole purpose of displaying an advertisement;

“interested party” means any person who has in terms of this Act submitted an application or submitted comments or an objection or made representations in respect of any such application;

“intersection” means that area embraced within the prolongation of the lateral boundary lines of two or more public streets, open to vehicular traffic, that join one another at any angle, whether or not one such public road crosses the other;

“on-premises advertising sign” means an advertising sign located on—

- (a) a property other than a public place; or
- (b) a public street and adjacent to a property contemplated in paragraph (a), on which sign an advertisement is displayed, advertising any business, industry, service, activity or attraction taking place or provided on that property and “on-premises advertising” has a corresponding meaning;

“outdoor advertising” means the display of any advertisement in or in view of any public place, or private place within the jurisdiction of the County;—

“owner” means, in relation to—

- (a) property, the person registered as the owner or holder thereof and includes the trustee in an insolvent estate, the liquidator of a company or a close corporation which is an owner and the executor of any owner who has died or the representative recognized by law of any owner who is a minor or of unsound mind or is otherwise under disability, provided such trustee, liquidator, executor or legal representative is acting within the authority conferred on him or her by law; and
- (b) an advertising sign or advertisement, the person who owns such sign or advertisement and any person who has a right to, or share in, the ownership of such sign or advertisement;

“poster” means any placard displaying an advertisement attracting public attention to any event or activity for which a poster may be approved as contemplated in section 28(1);

“prescribed” means prescribed by the executive committee member;

“projected sign” means an advertisement projected by a cinematograph or other apparatus onto any surface, but does not include an advertisement projected onto the audience’s side of a drive-in cinema screen during a performance;

“projecting sign” means an advertising sign, whether stationary or actuated, attached to and protruding from a building which is used for commercial business, offices, industrial or entertainment purposes and which projects more than 300mm from the surface of the wall to which it is attached;

“property” includes money, goods, choses in action, land and every description of property, whether movable or immovable; and also obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as defined in the Interpretation and General Provisions Act (Cap. 2);

“public place” means a public street, bridge, sub way, a square, open space, garden and any other enclosed space to which the public has a right of access or which is commonly used by the public and which is vested in the County in terms of any law;

“public street” means a road, street or thoroughfare or other right of way to which the public has a right of access or which is commonly used by the public and includes any portion of a public street between the edge of the roadway and the boundary of the land reserved for such public street, including a sidewalk;

“registered person” means a person registered with a professional body recognized by law;

“road island” means an area demarcated on a roadway by means of painted lines, stones, kerbs or other means, with the intention of preventing vehicles from standing or being operated in that area;

“roadway” means that portion of a public street which is improved, constructed or intended for vehicular traffic;

“road reserve” means the full width of a public street including the roadway, shoulder and sidewalk and the air space above a roadway, shoulder and sidewalk and any other area within the road reserve boundary;

“road traffic sign” means any road traffic sign and traffic signal as contemplated in the Traffic Act (Cap. 403);

“scaffolding” means a system of interlocking poles and bars used to provide support or access, or both, to a site for construction purposes as regulated by the relevant Kenya Bureau of Standards code of practice;

“scrolling advertising sign” means an advertising sign which by mechanical means allows the rotation or changing of advertising faces to display different advertisements on one such sign;

“sky sign” means any advertising sign erected or placed on or above any roof, parapet wall or the eaves of a building, but does not include an advertisement painted on a roof of a building;

“storey” means the space within a building, which is situated between one floor level and the next floor level above, or if there are no clearly defined storeys, a height of 4.5m;

“street furniture advertisement” means an advertisement displayed on any public facility or structure which is not primarily intended for advertising and includes as eating bench, plant box, sidewalk, litter bin, pole-mounted litter bin, public transport shelter, sidewalk clock, suburban name sign and a street name and drinking fountain;

“street light pole advertising sign” means an advertising sign fixed to or erected on a street light pole which pole vests in the County;

“streetscape” means the visual product of all the features within and adjacent to a public street such as street furniture, signage and landscaping;

“third-party advertising sign” means an advertising sign located on a property upon which sign one or more advertisements are displayed which are not descriptive of any business, industry, service, activity or attraction situated, taking place or provided on that property and “third party advertising” has a corresponding meaning;

“transit advertising sign” means a vehicle, motor cycle, bicycle or trailer designed or adapted for advertising purposes and mainly used for such purposes;

“urban design” means the actions of conceiving and managing the special and aesthetic characteristics of urban space between and around buildings including physical elements that make up the streetscape and the

Application of and responsibility for complying with this Act

3. (1) This Act shall apply to all outdoor advertising within Bungoma County.

(2) Approval for outdoor advertising under this Act shall be required irrespective of the zoning of any property in terms of any applicable town planning scheme and irrespective of the provisions of any other written law.

(3) The owner of an advertising sign and any person who has applied for approval of an advertising sign under this Act shall comply with any provision of this Act relating to that sign and shall ensure that such provisions are complied with, subject to anything to the contrary contained in such provision.

Functions of the Department

4. The functions of the Department shall be to—

- (a) administer the provisions of this Act;
- (b) receive and process applications for the erection of any advertising sign;
- (c) advise the county government generally on the policy on the regulation of outdoor advertising;
- (d) receive objections or views on any application on erection of advertising signs under this Act;
- (e) cause to be removed any advertising sign erected in contravention of any provision of this Act;
- (f) receive and deal with any application for review of its decisions under this Act;
- (g) control outdoor structures to be used for signage and advertisements;
- (h) issue licenses and permits for the construction and placement of outdoor structures in any part of the county;
- (i) ensure protection of the environment from potential adverse impact from visual blights;
- (j) control the number, size and location of outdoor advertisement structures;

- (k) ensure that outdoor structures are soundly and carefully designed, erected, modified, maintained or removed when no longer in use to avoid potential damages to lives and property;
- (l) ensure that outdoor structures are compatible with surrounding land uses and environment and further ensure the beautification of the immediate surrounding and vicinity of the advertisement;
- (m) control the pasting and display of posters on public structures and highways;
- (n) organise the procedure to regulate the ownership and operation of outdoor structures for the purpose of signage or advertisements under specific regulations as contained in this law;
- (o) reject, revoke or modify a permit if found to be in violation of any of the provisions of this Act or the conditions for its grant;
- (p) prepare and keep all records related to the issuance and denial of outdoor structures permit as well as appropriate general records;
- (q) monitor and inspect any outdoor structure and verify its compliance with the Act; and
- (r) establish a data-base of all the outdoor structures used for signage and advertisement, their owners and operators as well as their location.

PART II—APPLICATIONS AND APPROVALS

Approval of advertising signs

5. (1) No person may erect any advertising sign or use or continue to use any advertising sign or any structure or device as an advertising sign without the prior written approval of the county government.

(2) Subsection (1) shall not apply to any advertising sign exempted under section 7.

(3) No advertising sign erected and displayed with approval contemplated in subsection (1) or any other law, may in any way be altered, removed, re-erected or upgraded, other than for maintenance work which may be required for the upkeep of an advertising sign, without prior written approval by the Department and subject to such conditions and requirements as the Department may consider appropriate which may include the submission of proof of compliance with section 31.

(4) An application for approval under subsection (1) shall be made by submitting a duly completed application on a prescribed form in the regulation which shall be accompanied by—

- (a) the prescribed fee as set out in the Schedule;
- (b) the written consent of the owner of the proposed advertising sign and of the registered owner of the property or building upon which the advertising sign is to be erected or on behalf of the owner of the property or building by his or her agent duly authorized in writing by such owner;
- (c) a locality plan, in colour, indicating the proposed position of the advertising sign within the jurisdiction of the County;
- (d) a block plan of the property upon which an advertising sign is to be erected, drawn to a scale acceptable to the County, showing every building, building line and servitude on the site and the position with dimensions of the advertising sign in relation to the two boundaries of the property closest to the proposed advertising sign and the location of any public street and any building on a property adjacent to the property upon which such sign is to be erected;
- (e) an artistic impression showing all the detail, location and measurements of the proposed advertising sign;
- (f) a drawing showing the proposed advertising sign and the distances in relation to any other third party or free-standing advertising signs situated within a radius of 200m from the proposed advertising sign on the same side of the road;
- (g) a copy of the title deed of the property upon which the proposed advertising sign is to be erected, if applicable;
- (h) a zoning certificate of the property concerned issued under an applicable town planning scheme and a zoning map indicating the land uses in terms of such scheme of every property adjacent to the property upon which the advertising sign is to be erected;
- (i) a diagram of the property indicating the position of the proposed advertising sign with measurements from that position to the closest two boundaries of the property concerned;
- (j) proof of compliance with any other law, including but not limited to, the Traffic Act (Cap. 403), the National Construction Authority Act, (No. 41 of 2011) the Planning and Building Regulations, 2009 and the Environmental Management and Co-

ordination Act, 1999 (Cap. 387) to the extent that such law is applicable in respect of the application concerned;

- (k) proof of submission of an application for a building line relaxation in terms of any law, if applicable;
 - (l) if a proposed advertising sign is to be attached to, or displayed on, the facade of a building, the approved building plans of that buildings showing an elevation and measurements of the building, and the details, measurements and position of the proposed advertising sign and the details and the position of every existing advertising sign on the building drawn to a scale acceptable to the County government;
 - (m) if a proposed advertising sign is to be displayed on a boundary fence or hoarding enclosing any portion, or the whole of a construction site, the approved building plans of the proposed building showing the details, measurements and position of the proposed advertising sign drawn to a scale acceptable to the County government, or proof that a demolition permit has been issued;
 - (n) a certificate by a registered person, confirming the structural safety of the proposed advertising sign and its foundations, if applicable; and
 - (o) any other written information which the Department may in writing require.
- (5) The department may exempt an applicant from complying with any of the requirements set out in subsection (4) on good cause being shown.
- (6) Every plan and drawing required under subsection (4) shall be on a sheet of not less than A4 size.
- (7) The department may refuse to accept an application if—
- (a) subject to subsection (5), any requirement of subsection (4) has not been complied with; or
 - (b) the application relates to an advertising sign which is prohibited under section 10.
- (8) If any information requested by the Department pursuant to subsection (4)(o) is not provided within ninety days from the date of the first written request, or within such further period as the Department may in writing permit, the application concerned lapses without further notice.

(2) The Department may refuse any application in terms of section 3(3) or approve it, subject to any amendment or condition it considers appropriate.

(3) Any approval in terms of subsection (2) may be for a period not exceeding five years.

(4) The period of approval contemplated in subsection (3) shall be specified in the approval.

(5) The Department shall, within twenty-one days from the date of a decision in terms of subsection (2), in writing, notify every interested party who has furnished his or her postal address, of its decision, and shall provide written reasons for its decision on receipt of a written request.

(6) The Department shall retain every application, plans, drawings and other documentation submitted in terms of section 3(3) for a period it considers appropriate.

(7) No approval granted in terms of this section has the effect that—

- (a) any person is exempted from any provisions of any other written law applicable to outdoor advertising; or
- (b) the owner of an advertising sign is exempted from the duty to ensure that such sign is designed, erected, completed, displayed and maintained in accordance with this Act and any other applicable written law.

(8) If an application pursuant to section 3(3) has been refused as envisaged in subsection (2), no further application may be lodged in respect of the same property for a period of six months from the date of such refusal, unless reasons acceptable to the department are submitted indicating a change of circumstances prior to a further application being lodged in terms of that section.

(9) If an advertising sign approved in terms of subsection (2) is not erected within six months from the date of notification of such approval or within a time specified in such approval or any further period which the Department on good cause allows in writing, the approval lapses, whereupon a new application shall be submitted in terms of section 3(3).

Withdrawal and amendment of approvals

7.(1) The Department may, after having considered any representations made under subsection (2), withdraw an approval granted under section 7 or amend any condition or impose a further condition in

respect of such approval if, in its opinion, the advertising sign concerned—

- (a) is or has, as a result of a change to the nature of the environment or the amenity of the neighbourhood, streetscape or urban design existing at the time of such approval, become detrimental to the area in which it is located by reason of its size, intensity of illumination, quality of design, workmanship, material or its existence;
- (b) constitutes, or has become, a danger to any person or property;
- (c) is obscuring any other advertising sign, natural feature, architectural feature or visual line of civic, architectural, historical or heritage significance; or
- (d) is or has become prohibited under this Act or any other written law.

(2) Prior to taking any decision in terms of subsection (1), the Department shall, in writing, notify the owner of the advertising sign concerned of its proposed decision and that he or she may within twenty-one days of the receipt of the notice make written representations concerning the proposed decision.

(3) The owner of the advertising sign concerned and, if applicable, the owner of the property concerned shall forthwith be given notice in writing of any decision in terms of subsection (1).

(4) The department shall provide written reasons for its decision on receipt of a written request.

PART III—GENERAL REQUIREMENTS, EXEMPTIONS AND PROHIBITIONS

General requirements for advertising signs

8. (1) The owner of an advertising sign shall ensure that such sign is designed or located so as not to—

- (a) be detrimental to the nature of the environment, streetscape, urban design or detract from the architecture of any building on which or where such sign is to be located, by reason of abnormal size, appearance, intensity of illumination, workmanship, design or its existence;
- (b) wholly or partially obscure any advertising sign previously erected which displays an advertisement;

- (c) constitute a danger to any person or property;
- (d) project outside the boundaries of the property on which it is to be erected or displayed;
- (e) result in the removal of, or damage to, any trees in a public place without prior written authorization of the Department;
- (f) be unsightly and not to comply with minimum distances as prescribed in subsection (2)(a) in relation to any other advertising sign;
- (g) have a detrimental visual impact on any residential property within the area;
- (h) obstruct a fire escape or the means of access to or egress from a fire escape; or
- (i) comply with the minimum clearance with regard to overhead power lines stipulated in any law.

(2) Any advertising sign on a public street or facing a public street, including advertising signs facing a road, shall comply with the following requirements—

- (a) except for street light pole and on-premises advertising signs, a minimum distance of 100m shall be maintained between advertising signs or advertisements on the same side of a public street including any motorway, provided that the Department may require a minimum distance exceeding 100m if it considers it necessary in the interest of road safety; and
- (b) no advertising sign may be located inside a prohibited area at any on and off-ramp of a motorway, whether county or national.

(3) Any advertising sign on a public street or facing a public street, including any national road, controlled by road traffic signs shall, in addition to any other requirement under this Act, comply with the following requirements—

- (a) no advertising sign may have red, amber or green as its main colours;
- (b) no advertising sign may obscure or interfere with any road traffic sign;
- (c) any advertising sign shall be clear of any road traffic signs concerned and shall be positioned in compliance with the following—

- (i) no free-standing on-premises advertising sign greater than 8m² in extent shall be allowed within a 50m radius from the centre of an intersection;
- (ii) no street furniture used for advertising or a sign containing the name of a suburb and an advertisement at an intersection may be within 5m from any road traffic sign; and
- (iii) except for advertising signs flat against a building and construction site advertising signs, any other third party advertising sign shall be positioned at least 50m from the centre of an intersection.

(4) Traffic flow may not be impeded during the erection and maintenance of an advertising sign located in a public street, unless prior permission has been obtained and necessary precaution arranged with the Department.

(5) No advertisement displayed on a freestanding third-party advertising sign on any property may exceed—

- (a) in an area of partial control, 40m²; and
- (b) in an area of minimum control, 120m².

(6) The height of an advertising sign may not exceed 12m with a clear height of 2.1m, but the Department may, in granting an application in terms of section 5(2), approve a height in excess of the prescribed height.

Power cables and conduits to signs

9. (1) Every power cable and conduit containing an electrical conductor for the operation of advertising sign shall be so positioned and attached so that it is not unsightly.

(2) No advertising sign may be connected to any electricity supply without the prior written permission of the electricity supply authority concerned and such permission shall, on request by an authorized official, be presented to by the owner of the advertising sign concerned.

Exempt advertising signs and advertisements

10. (1) The following advertising signs and advertisements shall be exempted from the provisions of this Act—

- (a) an advertising sign when situated in an arcade;

- (b) an advertising sign when advertising a current event in a cinema, theatre or other place of public entertainment, displayed in a fixture or on a building intended for such display;
- (c) an advertising sign on a property where a building, swimming pool, tennis court, paving, fencing or garden landscaping or any other structure is in the course of being constructed, erected, carried out or altered and on which the activity concerned is described and the name of any architect, contractor or consultant concerned in such activity is displayed and the branch of the industry or the profession involved is specified, provided—
 - (i) only one such sign, or set of signs is permitted per street frontage of a property; and
 - (ii) such sign is placed on or affixed to the building concerned or attached to the boundary wall or fence of the property on which the activity is taking place; and
 - (iii) such sign is removed within twenty-one days of the completion of the activities contemplated in this paragraph;
- (d) an advertising sign contemplated in this paragraph may not exceed —
 - (i) 8m² in extent and with a maximum erected height of 6m, if the names of architects, consultants and contractors or all of them are displayed; or
 - (ii) 2m² in extent if the names of the contractor, sub-contractor, or both of them, are displayed.
- (e) in an area of maximum control as specified in the regulations, an advertisement consisting of one metal plate or board not exceeding 600mm x 450mm in size, displaying the name, address and telephone number of a security company contracted to protect a property and firmly affixed to the boundary wall, fence or gate on the street of the property concerned;
- (f) a single advertisement not exceeding 600mm x 450mm in size on any street boundary of a property or portion of a property on which the existence of a security service or burglar alarm system is displayed;
- (g) not exceeding 2m² in extent attached to a boundary wall or fence of property on which the existence of a security company or protection service conducted on that property is displayed;

- (h) a transit advertising sign which is mobile at all times when an advertisement is displayed;
- (i) an advertising sign containing only the name of a hotel, shop or restaurant and displayed on an awning of the building concerned; and
- (j) an on-premises advertising sign comprising—
 - (i) any non-illuminated advertising sign not projecting over a public street and not exceeding 8m² in extent displaying the trade, business, industry or profession conducted by any occupant or resident of the building to which such sign is attached, and the name of such occupant and resident, the address and telephone number of the occupant and resident and the hours of business; provided only one such sign per occupant or resident is displayed; and
 - (ii) any advertising sign not exceeding 12m² in extent, incorporated in the face of a building and a sign forming an integral part of the fabric of a building, not on or attached to the building in any manner;
- (k) any advertising sign which is a County approved initiative which is deemed to be in the public interest or which is deemed to be of local or national interest.

(2) The following advertising signs and advertisements shall be exempted from compliance with the provisions of section 3 but shall comply with any other applicable provision of this Act—

- (i) any advertisements not in conflict with any provision of this Act on an advertising sign approved in terms of section 5(2);
- (ii) any advertising sign and advertisements displayed at or on public transport shelters and stations;
- (iii) a poster relating to voter registration for the purposes of an election displayed by the Independent Electoral and Boundaries Commission in terms of section 29;
- (iv) a poster advertising a national or county event or activity, subject to compliance with section 28;
- (v) a poster advertising an event, activity, function or meeting organized by a registered political party, subject to compliance with section 26;

- (vi) an advertising sign provided for in terms of sections 11, 12, 13, 16(1), 19, 20, 21(1) and 24, and complying with the applicable requirements of those sections;
- (vii) an advertising sign not exceeding two square metres indicating the existence of a residents association, a notice board, displayed on a boundary wall or fence or in a position approved by the Department.

(3) Any advertising sign referred to in subsection (2) which does not comply with any provision of this Act relating to such sign, may only be erected or displayed after approval of an application in terms of section 5(2).

Prohibited signs

11. In addition to any other prohibition, expressed or implied, in this Act, no person may erect, maintain or display any advertising sign—

- (a) painted on, attached to, or attached between the columns or posts of, a veranda;
- (b) which projects above or below a fascia, bearer, beam or balustrade of a veranda or balcony fronting on a public street;
- (c) which is luminous or illuminated and which is attached to a fascia, bearer, beam or balustrade of any splayed corner of a veranda or balcony fronting on a public street;
- (d) on calico, paper mache, plastic, woven or similar material unless—
 - (i) it is an advertising sign contemplated in section 20 or 21;
 - (ii) it consists of a flexible face and forms part of an advertising sign approved in terms of section 5(2);
- (e) which is a swinging sign, not rigidly attached to any building or structure;
- (f) which may obscure, or be mistaken for, or interfere with the functioning of, a road traffic sign;
- (g) which may endanger the safety of motorists by restricting their vision or line of sight;
- (h) which is indecent or suggestive of indecency, prejudicial to public morals, or is insensitive to the public or any portion thereof or to any religious or cultural group;

- (i) which obstructs any window or opening in a building provided for the ventilation of that building or which obstructs any stairway or doorway or other means of exit from a building or which will prevent the movement of persons from one part of a roof of a building to another part thereof;
- (j) which is an animated or flashing advertising sign, the frequency of the animations or flashes or other intermittent alternations of which may disturb the residents or occupants of a building or is a source of nuisance to the public or detrimentally affect or pose a risk or threat to road traffic or pedestrian safety;
- (k) which is an illuminated advertising sign, the level of illumination of which disturbs the residents or occupants of a building or is a source of nuisance to the public or a portion of the public;
- (l) which is a movable either temporary or permanent advertising sign, other than those allowed in terms of this Act;
- (m) if the extent of the advertising sign exceeds 30m² and it is painted or fixed on a wall of a building other than a front wall of that building, unless such sign has been permitted in terms of section 12(3);
- (n) which is painted on or attached to a boundary wall or fence which wall or fence has not been approved as an advertising sign in terms of section 5(2);
- (o) which is a transit advertising sign and parked in or in view of any public place irrespective of whether it is attached to a vehicle or not;
- (p) which is attached to a road traffic sign or a tree;
- (q) which is on a road island, excluding street light pole advertising signs;
- (r) which is attached to a security access control structure to any area property or building;
- (s) which is a flag displaying a third party advertisement on a property zoned for residential purposes in terms of an applicable town planning scheme and used for such purposes;
- (t) subject to section 17(1), on a property where the main land use is residential in nature;

- (u) which is a gantry which is suspended or extended across a public street;
- (v) which is a painted third party advertising sign onto the roof of any building;
- (w) on any road or on or within any on or off-ramps of roads whether county or national roads.

PART IV—PROVISIONS RELATING TO SPECIFIC ADVERTISING SIGNS

Signs suspended under verandas or canopies

12. Any advertising sign which is suspended under a veranda or a canopy shall comply with the following requirements—

- (a) unless otherwise approved under this Act, such sign shall be fixed with its face at right angles to a boundary of a public street on which the property concerned fronts;
- (b) no part of such sign may project beyond the outer edge of the veranda or canopy from which it is suspended;
- (c) such sign shall have a clear height of at least 2.75m;
- (d) the top of such sign may not be more than 1m below the canopy or veranda from which it is suspended or more than exceed 1m in thickness;
- (e) unless otherwise approved under this Act, the bottom edge of such sign when suspended shall be horizontal and the supports by means of which it is suspended shall be an integral part of the design of such sign.

Signs on verandas or canopies over public streets

13. (1) Any advertising sign affixed to or onto a veranda or canopy which extends over a public street—

- (a) shall be set parallel to the building line on the property concerned;
- (b) may not exceed 600mm in vertical dimension; and
- (c) shall be attached immediately above the eaves of a veranda or canopy roof in such a manner that it does not project beyond the rear of the roof gutter or shall be fixed against but not extending above or below the veranda parapet or balustrade in such manner that it projects more than 230 mm from the outside face of such parapet or balustrade.

(2) An advertising sign on a building in which public entertainment is presented, attached to a veranda or canopy extending over a public street and which displays only the features or programmes of the entertainment to be presented in such building, may not exceed —

- (a) an area of 1m² in the aggregate for every 1.5m or part thereof of the frontage of such building on the public street over which such sign is erected; and
- (b) 1.2m in height.

(3) Nothing in this section prohibits the painting of an advertisement on or the display of advertisement not exceeding 600 mm in thickness on a beam over a veranda column or on a parapet of a veranda contemplated in subsection (1).

Projecting signs

14. (1) Any projecting sign shall be set at right angles to the building line and shall maintain a clear height of not less than 2.75m.

(2) Subject to the provisions of subsection (3), no sign contemplated in subsection (1) may either exceed 600mm in height, 300mm in thickness or project more than 900mm from the building to which it is attached.

(3) A projecting sign larger than that specified in subsection (2) may be erected, subject to compliance with the following requirements—

- (a) such sign shall be constructed of metal framing and covered with metal sheeting;
- (b) such sign may not exceed 9m in height or project more than 1.5m from the building concerned, or in the case of a sign consisting only of the name of a building used for the public, 14m in height or project more than 1.8m from the building concerned;
- (c) such sign shall be supported by at least four iron brackets firmly fixed to the building concerned, any two of which shall be capable of carrying the entire mass of the sign; and
- (d) such sign shall be adequately protected from wind pressure by the use of effective braces and stays.

Pylon signs for on-premises advertising

15. (1) For the purposes of this section, “pylon” includes any pylon, mast, tower or similar structure to which an advertising sign is attached, supported by or displayed on or which is constructed as an advertising

sign or a combination of such signs, for the purpose of on-premises advertising.

(2) Any pylon shall be independently supported and for that purpose, it shall be firmly secured to an adequate foundation in the ground and be entirely self-supporting without the aid of fasteners, stays, brackets or any other restraining device.

(3) The dimensions of a pylon and its associated advertising sign shall be such that the entire assembly, whether stationary or actuated, can be contained within a notional vertical cylindrical figure having a diameter of 9m and a height of 12m.

(4) No activated or protruding part of a pylon sign or of an advertising sign associated with it may be less than 2.4m above the highest point of the existing ground level immediately below that pylon.

(5) No free standing advertising sign as contemplated in subsection (1) shall have a single advertising display exceeding 18m² and 24m² for a combination of such signs.

Advertising signs placed flat on buildings and on bridges

16. (1) The total area of advertising sign placed flat or painted on a wall of a building may not exceed 20m² for every 15m of the frontage of the building concerned facing a public street.

(2) No on-premises advertising sign contemplated in subsection (1) may exceed 40m² in extent in an area of partial control, and 80m² in an area of minimum control.

(3) No third party advertising sign contemplated in subsection (1) may exceed 80m² in an area of partial control, and 200m² in an area of minimum control.

(4) Notwithstanding the provisions of section (3), it may, in an approval, be permitted or required that the dimensions of any such sign be greater than those specified in that subsection, if it is in the interests of the aesthetic appearance of a building or wall on which an advertising sign is placed as contemplated in subsection (1), and of the neighbourhood where such building or wall is situated, if the building or wall is situated in appropriate areas of minimum control.

(4) No advertising sign attached to a bridge, irrespective of its ownership, may exceed 20m² in extent in an area of partial control, or 40m² in extent in an area of minimum control, and shall have the prior written approval of the relevant agency.

Signs relating to the development of properties

17. (1) An advertising sign exempted in terms of section 11(2) and relating to the development of a property and the disposal of property may be displayed, provided the following requirements are complied with —

- (a) if such advertising sign relates to the laying out or development of any land or for the disposal of a property development, may not exceed 18m² in extent or an erected height of 8m;
- (b) such advertising sign shall be located on the site of the property development; and
- (c) any such advertising sign shall be removed within ninety days of a development being completed or in respect of a property for sale or to let, within seven days after the sale or letting concerned.

(2) If an advertising sign contemplated in this section does not comply with subsection (1), an application for approval of such sign shall be made in terms of section 3(3).

Requirements for sky signs

18. (1) Notwithstanding section 10(t), a sky sign may be erected on a building where the main use is residential as long as the sign has no visual impact on the occupants of the building itself or any other building in the immediate area which is used for residential purposes.

(2) Two or more sky signs placed one above the other, whether or not in the same vertical plane, shall, for the purposes of this section, be deemed to be one such sign.

(3) In an area of minimum or partial control as may be specified in the regulations, every sky sign shall be set against a screen complying with the requirements of section 17.

(4) No part of a sky sign may protrude beyond, above or below the edge of the screen required in terms of subsection (2).

(5) No sky sign may exceed 300m² in extent but the Department may, for a third party advertising sign, allow a greater extent.

(6) If the number of storeys contained in that part of a building which is directly below a sky sign is—

- (a) one to five storeys ; or
- (b) six or more storeys,

the vertical dimension of such sign may not exceed 3.0m and 5.0m, respectively but the Department may approve a third-party advertising sign which is a sky sign with a greater dimension.

Screens for sky signs

19. (1) Every screen for a sky sign contemplated in section 14 shall comply with the following requirements—

- (a) every screen shall be located and constructed to form a continuous enclosure effectively concealing the frame and the structural components of any sky sign from view, and, if it is required or allowed in an approval under this Act—
 - (i) such screen and structural component shall be screened from any adjacent or other property;
 - (ii) the provisions of paragraph (a) requiring a continuous enclosure maybe relaxed if the walls of any building on a property contemplated in sub-paragraph (i) are of a height and construction that such walls will effectively conceal such frame and structural components and do not contain openings overlooking them.
- (b) unless the Department otherwise allows, no part of a screen may protrude beyond the perimeter of the building on which it is constructed;
- (c) the gap between the bottom of a screen and that part of the building immediately below it may not exceed 100mm;
- (d) no vertical dimension of any screen may exceed one-and-one-half times the vertical dimension of a sky sign specified in section 14(5):

Provided that if the screen also encloses a lift motor room, tank or other structure on the roof of the building concerned, the vertical dimension of the screen may be increased to the same height as such room, tank or structure; and

- (e) if the material of which the screen is made has an open mesh or grid formation—
 - (i) the openings in such mesh or grid shall be uniform; and
 - (ii) the aggregate area of the openings may not exceed twenty-five percent of the area of the screen; and
 - (iii) no dimension of any such opening may exceed 100 mm:

Provided that the Department may allow the erection of a screen not complying with this paragraph, if the requirement of concealment in terms of paragraph (a) is met.

Signs on residential buildings, dwelling houses and dwelling units

20. The advertising signs exempted under section 9(2) may, without the approval of the Department, be displayed on a residential building, dwelling house or dwelling unit where applicable, subject to the following requirements—

- (a) a single sign not exceeding 600mm by 450mm displaying the name only of a residential building; and
- (b) a sign not exceeding 600mm x 450mm displaying the name of the person owning or managing a residential building, such person's logo and telephone number, provided such sign —
 - (i) is attached to or built into a wall or the building or a freestanding wall or boundary wall or fence or a freestanding pole on the property concerned;
 - (ii) is not illuminated; and
 - (iii) is limited to one of each sign referred to in paragraphs (a) and (b) per street frontage of the property concerned; and
- (c) a sign not exceeding 2m² specifying the name and profession or occupation of an occupant of the property concerned attached to a boundary wall or fence, or the entrance door of a dwelling house or dwelling unit.

Sun-blind advertisements

21. An advertisement on any sun-blind exempted under section 9(2) may be displayed without the approval of the Department, subject to compliance with the following requirements—

- (a) a sun-blind shall be so made and attached to a building that it is incapable of being lowered to a height lower than 2m above the footway or pavement of a public street;
- (b) except at an intersection, a sun-blind shall be placed parallel to the building line of the property concerned; and
- (c) at any intersection a sun-blind shall be placed so that it does not cause any interference with or endanger vehicular or pedestrian traffic, or a traffic sign, street nameplate or other notice for the guidance or information of the public.

Advertisements on banners, flags and similar objects

22. (1) An advertisement exempted under section 9(2) on any banner, streamer, flag, paper, paper machete, plastic sheet or other similar pliable material or on calico or other woven material may only be displayed for the following purposes—

- (a) advertising a function or event conducted for religious, educational, social, welfare, animal welfare, sporting, civic or cultural purposes, or a function or event relating to an election; and
- (b) the display of the name, corporate symbol and nature of any enterprise.

(2) Every person to whom approval has been granted under section 4(2) in respect of an advertisement contemplated in subsection (1), but not exempted under section 9(2), shall comply with and ensure that the following requirements are complied with —

- (a) not more than two advertisements in respect of the same matter are permitted in an urban area of maximum control or four banners or flags in respect of the same matter in an urban area of partial and minimum control as set out in the regulations;
- (b) a maximum of ten banners or flags may be displayed at any shopping centre;
- (c) every advertisement shall be attached to a pole or suspended between poles or other supports on the property upon which the activity contemplated in subsection (1)(a) is to take place; and
- (d) no advertisement may be displayed for more than seven days prior to the date of the activity advertised and shall be removed within three days after the conclusion thereof.

Advertisements on blimps

23. (1) A blimp containing an advertisement may, subject to the approval of the Department under this Act, be used for a period not exceeding twenty-four months and may be air borne during daylight hours only.

(2) The Department shall, for the purposes of considering an application for approval of an advertisement to be displayed on a blimp, have regard to —

- (a) the period during which the blimp will be used;

- (b) the size of the blimp;
- (c) the strength of the anchorage and the anchoring cable;
- (d) the provision of a device by means of which the blimp will automatically so deflate as to sink slowly to the ground in the event of the failure or severance of the blimp from its anchorage or anchoring cable;
- (e) the possibility of interference with pedestrian or vehicular traffic;
- (f) any requirement or condition prescribed by the Kenya Civil Aviation Authority; including the maximum height to which the blimp shall be restricted; and
- (g) the location of the blimp.

Painted advertisements

24. Subject to the approval of the Department under this Act—

- (a) the name of any person carrying on business in a building may be painted directly on a wall of that building;
- (b) a third-party advertisement may be painted directly onto any surface, subject to section 10(v).

Advertising signs relating to selling and letting of property

25. (1) Any of the following advertising signs relating to the letting or selling of property may be displayed without the approval of the Department—

- (a) a sign not exceeding 600mm x 450mm in size containing the words “for sale”, “to let” or “sold” in respect of a dwelling house or residential building and displaying only the name, address and telephone number of the owner of the property or his or her estate agent, shall be —
 - (i) placed on or attached to the building concerned;
 - (ii) attached parallel to a boundary fence or wall of the property concerned;
 - (iii) otherwise displayed within the boundaries of the property concerned;
 - (iv) on that part of a public street, other than the roadway, on which the property concerned fronts and directly in front of such property; and
 - (v) limited, if an estate agent is involved, to one sign per estate agent per property;

- (b) a single sign per street frontage of a property not exceeding 600mm x 450mm in size, which contains only the word “sold” and the name address and telephone number of the estate agent concerned, in respect of any dwelling house, or residential building, and which —
 - (i) is displayed only after every sign specified in paragraph (a) has been removed;
 - (ii) is placed, attached or displayed as specified in paragraph (a)(i), (ii) or(iii);
- (c) a single sign not exceeding 6m² in extent per building flat on the façade of a non-residential building which contains only the words “for sale”, “to let” or “sold” and the name, address and telephone number of the owner or his or her estate agent, or only the word “sold” and the said particulars of the estate agent, for a period not exceeding ninety days;
- (d) a sign not exceeding 600mm x 450mm in size, displayed on a vacant residential property, which displays only the words “for sale” and the name, address and telephone number of the owner or his or her estate agent concerned, or only the word “sold” and the name address and telephone number of that agent;
- (e) a for sale sign shall be limited to one sign per estate agent and maybe displayed for a period not exceeding ninety days; and
- (f) a single sign not exceeding 6m² in extent per property, on a vacant non-residential property, on which the words “for sale” or “to let” and the name, address and telephone number of the owner or his or her estate agent are displayed or the word “sold” and the name, address and telephone number of the estate agent concerned, may be displayed for a period of not exceeding ninety days.

(2) Not more than five directional signs and only on show days indicating the position of a property for sale or to let may be displayed by an estate agent and “show days” shall mean from 12.00pm to 5.00pm on Sundays only.

Other temporary advertising signs

26. (1) Any advertising sign not exceeding 4m² in extent and not more than 3m above the ground level immediately below it, containing an advertisement relating to a sale in execution consequent upon the decision of a court of law or an auction or a sale by a liquidator or a trustee in an

insolvent estate to be held on or relating to a property, may be displayed on that property for not more than seven days before the sale or auction, or for more than three days after the conclusion of the sale or auction.

(2) The Department may approve temporary advertising on property owned by, vested in or controlled by it for a period not exceeding six months.

Advertisements on construction sites

27. (1) The Department shall, for the purposes of considering an application under section 3(3) for an advertisement to be displayed on the boundary or fence of or scaffolding on a construction site for a period set out in the building schedule but not exceeding twelve months, have regard to the following considerations—

- (a) the zoning of the property concerned in terms of an applicable town planning scheme and the general ambience of the area where the proposed sign is to be displayed;
- (b) the aesthetic effect of the sign on the amenity of the area concerned and its surroundings;
- (c) the area of control set out in the regulations, applicable to the property concerned and its surroundings; and
- (d) the distance of the proposed sign from every other approved and existing advertising sign within a radius of 200m.

(2) An advertisement specified in subsection (1) shall only be allowed in an urban area of partial or minimum control and—

- (a) may only be permitted on scaffolding which is against a building under construction or on a hoarding, fence or wall on the boundary of a construction site which has been erected to enclose that site during construction;
- (b) may only be erected if it will conceal an unsightly condition arising out of the use to which the property concerned is put and if such sign shall make a positive contribution to the visual environment; and
- (c) may not be placed on the top of a boundary fence or wall unless it is positioned so that there is no gap between the advertisement and the wall or fence.

Transit advertising

28. (1) A transit advertising sign containing an advertisement may only be displayed if it is mobile or displayed at specific designated locations approved by the Department.

(5) The Department may retain one poster to which an application in terms of subsection (3) relates for identification purposes.

(6) Any person who displays a poster, for which approval has been granted as contemplated in subsection (1), shall comply with and ensure that the following requirements are complied with—

- (a) no poster may be displayed that it has a clear height lower than 2.1m or higher than 3m;
- (b) no poster may be indecent or suggestive of indecency, prejudicial to public morals or reasonably objectionable;
- (c) no poster may be displayed on any road and on any on- and off-ramp relating to a road, whether a county or national road;
- (d) every poster other than a poster contemplated in section 31 shall be displayed in a frame and in a location approved by the Department;
- (e) a frame referred to in paragraph (d) may not exceed —
 - (i) 600 mm in height x 450mm in width in respect of any poster displaying a newspaper headline; and
 - (ii) 900 mm in height x 600mm in width in respect of any other poster;
- (f) a poster with a frame contemplated in paragraph (d) may only be attached to an electric pole in a public place;
- (g) a frame referred to in paragraph (e) shall—
 - (i) be secured in such a manner that it will not become wholly or partially dislodged by wind or any other means; and
 - (ii) positioned in such a manner that it does not obscure or interfere with the electrical inspection chamber or pole identification number of the pole to which it is attached; and
 - (iii) not impair the safety of motorists or pedestrians;
- (h) no poster may be displayed within 20m of an intersection, controlled by a road traffic sign;
- (i) no poster relating to a meeting, function or event, other than a national election or relating to the registration of voters, may be displayed for a period exceeding ten days before the date on

which such meeting, function or event commences or longer than four days after the date on which it ends;

- (j) the name and contact details of the person displaying any poster, details of the event advertised, the commencement and final date of the event and the venue with address where it is to be held shall appear on every poster;
- (k) no poster may be displayed for a period exceeding twenty-eight consecutive days for any event advertised; and
- (l) no poster may be affixed by means of adhesive directly onto any surface of any private or county government property or asset.

(7) Subject to the approval contemplated in subsection (1), a number of posters not exceeding eighty in number, advertising an auction to be held in consequence of an order of court of law as a sale in execution or a sale held by a liquidator or a trustee in an insolvent estate, may be displayed and shall contain in the case of a sale in execution the relevant case number.

(8) An authorized official may, without giving notice to anyone, remove any poster displayed without approval having been obtained in terms of subsection (1) or which is in conflict with any provision of this Act.

(9) Any poster removed in terms of subsection (8), other than a poster which had to be damaged or destroyed in order to remove it, may be claimed by its owner within twenty-one days of its removal, and if not so claimed may be destroyed by an authorized official.

(10) If an owner claims any poster under subsection (9), the poster concerned shall be returned to him or her subject to the payment of the prescribed fee.

(11) The county government may recover the prescribed fee contemplated under subsection (1) from any owner who does not claim his or her poster as contemplated in that subsection.

Posters relating to election or voter registration

30. (1) The following requirements shall be complied with in respect of any poster relating to elections or voter registration—

- (a) every poster shall be attached to a board made of weatherproof material, in such a manner that it shall not become wholly or partially dislodged by wind or any other means;

- (b) no board or poster referred to in paragraph (a) may exceed 900mm in height x 600mm in width or be less than 600mm in height x 450mm in width;
- (c) a board and poster referred to in paragraph (a) may only be secured to an electric light pole;
- (d) a poster relating to —
 - (i) a candidate nominated for election may be displayed from the date of such nomination;
 - (ii) an election other than a poster referred to in paragraph (a), or voter registration, may be displayed from the date —
 - (aa) fourteen days prior to the date of the proclamation in the *Gazette* of the election or voter registration; or
 - (bb) if applicable, fourteen days prior to the date of nomination of candidates, whichever date is earlier;
- (e) any poster contemplated in this section shall be removed by the person displaying it within five days after conclusion of the election or voter registration, failing which, the Department shall, within ten days after the conclusion of the election or voter registration, notify the relevant party to remove the posters within a time period specified, failing which, the Department may remove the posters itself against a prescribed fee per poster payable by the relevant party.

(2) The provisions of section 28(6)(a), (b), (c), (e) (f) and (g), read with the necessary changes, shall apply in respect of any poster contemplated in this section, provided that such poster need not be placed in a frame.

(3) The provisions of section 28(8) read with the necessary changes shall apply in respect of posters not complying with the provisions of this section.

PART VI—MISCELLANEOUS PROVISIONS

Maintenance of signs

31. (1) The owner of an advertising sign shall be responsible for maintaining that sign and the surrounding area so that it does not become unsightly or deteriorate to such a degree that it is in conflict with any provision of this Act.

(2) An owner contemplated in subsection (1) shall carry out at least one annual inspection of an advertising sign with a view to satisfying himself or herself that it has been properly maintained, and shall forthwith carry out any necessary maintenance resultant upon such inspection.

(3) An owner contemplated in subsection (1) shall—

- (a) keep a written record of any inspection made and maintenance carried out in terms of subsection (2);
- (b) retain the record for a period of five years; and
- (c) upon request by an authorized official, make such record available for perusal.

(4) If, in the opinion of an authorized official, any advertising sign is in a dangerous or unsafe condition or has been allowed to fall into a state of disrepair or is in conflict with any requirement of this Act, he or she may serve a notice on the owner of such sign requiring him or her, at his or her own cost, to remove the advertising sign or take other steps relating to the maintenance specified in the notice, within a period so specified.

(4) If an authorized official is of the opinion that an advertising sign constitutes an imminent danger to any person or property, he or she may, without serving a notice in terms of subsection (4), or if such a notice has been served but not complied with within the period specified therein, he or she may remove that advertising sign or take other steps which he or she may consider necessary.

(5) If at any time, no advertisement is displayed on an advertising hoarding, the Department may serve a written notice on the owner of that hoarding requiring him or her at his or her own cost, to display an advertisement on that hoarding within the period specified.

(6) If a notice served in terms of subsection (1) is not complied with, the Department may, by notice in writing, require the owner of the advertising hoarding at his or her own cost to display a community message specified by the department, until that owner displays an advertisement on the hoarding concerned.

(7) The approval for an advertising hoarding in terms of this Act lapses if the owner on whom a notice has been served in terms of subsection (6) fails to comply with the requirements of the notice within the period specified.

Costs of removal and storage

32. (1) The cost incurred by the county government for the removal and storage of an advertising sign, other than a poster, and other costs

incurred pursuant to section 29, may be recovered from the owner of that advertising sign or any other person whose name or activity is displayed on that advertising sign.

(2) If an advertising sign has been removed under this Act, an authorized official shall give a written notice to the owner of that sign, if his or her address can be ascertained, of such removal and that he or she may claim the advertising sign concerned.

(3) Any advertising sign which has been removed and stored under this Act may be released to its owner subject to payment of a prescribed fee.

(4) Any advertising sign removed and not claimed within thirty days may be disposed of by the county government.

(5) The county government and any officer of the county government shall be indemnified against any claim for loss or damage of any advertising sign in the removal thereof.

Documentation

33. (1) The owner of a property upon which a sign or an advertising sign is erected, attached or displayed, shall retain certified copies of all documentation relating to the application for approval of such sign under this Act and the approval of the Department under this Act, for as long as that sign is erected or displayed, and shall, upon request by an authorized official, present such documentation.

(2) The owner of an advertising sign or advertisement who is not also the owner of the property or building on which such sign is displayed, shall provide the owner of that property or building with a certified copy of all documentation contemplated in subsection (1), relating to such advertising sign.

Public participation process

34. (1) After lodging an application pursuant to section 3(3), the applicant shall forthwith cause a notice in a prescribed form, to be published once in a newspaper circulating in the county.

(2) The applicant shall, from the date of publication of a notice pursuant to subsection (1), display a notice in a prescribed form in a conspicuous place visible to the public on a street front of the property on which the proposed sign shall be erected.

(3) The applicant shall maintain a notice displayed in terms of subsection (2), for a period of at least twenty-one days from the date of the publication of the notice in terms of subsection (1).

(4) A notice contemplated in subsections (1) and (2) shall contain a statement that—

- (a) details of the application concerned shall be open for inspection at an address specified in the notice for a period of twenty-one days from the date of publication of the notice in terms of subsection (1); and
- (b) any person may, within the period specified in paragraph (a), submit comments or representations, or lodge an objection, in writing in respect of the application concerned.

(5) Any person proposing to submit comments or representations or lodge an objection as contemplated in subsection (3) shall address such comments, representations or objections to both the Department and the applicant concerned at their respective addresses specified in the notices so contemplated.

(6) The Department may, if the proposed advertising sign will be visible from any property used for residential purposes, require the applicant to notify the owner of that property in writing of the application and obtain his or her written comments on the proposed advertising sign.

(7) An applicant contemplated in subsection (1) shall submit the original newspaper cuttings showing the notices and the date and name of the newspapers in which notices have been published in terms of subsection (1) and a photograph indicating the first and last date of the notice displayed in terms of subsection (2), accompanied by an affidavit confirming compliance with that subsection.

(8) The applicant shall furnish proof to the satisfaction of the Department that he or she has complied with the provisions of this section.

(9) The Department may exempt an applicant from complying with any requirements of this section upon being shown good cause.

Consideration of applications

35. (1) If any written comments, representations or objections have been received in respect of an application from any interested party contemplated in section 33, the Department shall consider all such comments, representations and objections before taking a decision on the application.

(2) An applicant may, within fourteen days after receiving any comments, representations or objections to an application, submit a written response thereto to the Department for consideration.

(3) If a response in terms of subsection (2) is not received by the Department within the period specified, it may take a decision on the application concerned without any notification to the applicant.

Termination of approvals of signs

36. (1) If approval for an advertising sign was given under this Act without specifying a period for the duration of that approval, the Department may, in agreement with the owner of that sign, determine a date on which such approval will lapse.

(2) If an agreement cannot be reached under subsection (1), the Department may determine a date contemplated in subsection (1), and notify the owner of the advertising sign concerned of its decision and that he or she may apply for approval for that sign.

(3) If the owner of an advertising sign fails to submit an application in terms of section 3(2) within sixty days after being notified in terms of the date of an agreement in terms of subsection (1) or of a notification in terms of subsection (2), the advertising sign concerned shall be considered to be erected or displayed without such approval.

Service of notices.

37. Any notice that is required to, or may, be served, delivered or given in terms of, or for the purposes of, this Act, shall be served in any of the following ways—

- (a) by handing a copy of the notice to the person concerned;
- (b) by leaving a copy of the notice at the person's place of residence, business or employment with any other person who is apparently at least eighteen years old and in charge of the premises at the time;
- (c) by faxing a copy of the notice to the person, if the person has in writing furnished a fax number to the county government authorized official;
- (d) by handing a copy of the notice to any representative authorized in writing to accept service on behalf of the person;
- (e) if the person has chosen an address for service, by handing a copy of the notice to a person who is apparently at least eighteen years old at that address;
- (f) by sending a copy of the notice by registered or certified post to the last known address of the person concerned, and, unless the contrary is proved, it is deemed that service was effected on the

seventh day following the day on which the document was posted;

- (g) if the person is a company or other body corporate, by serving a copy of the notice on an employee of the company or body corporate at its registered office or its principal place of business within Kenya, or its main place of business in the area of jurisdiction of the county, or if there is no employee willing to accept the service by affixing a copy of the notice to the main door of the office or place of business; or
- (h) if the person is a partnership, firm or voluntary association, by serving a copy of the notice on a person who at the time of service is apparently in charge of the premises and apparently at least sixteen years of age, at the place of business of such partnership, firm or association or if such partnership, firm or association has no place of business, by serving a copy of the notice on a partner, the owner of the firm or the chairman or secretary of the managing or other controlling body of such association, as the case may be.

Inspections

38. (1) In addition to any power of inspection which an authorized official may have under this Act, he or she may, for any purpose relating to the implementation and enforcement of this Act, between 8:00am and 5:00pm, on any day other than a Sunday or public holiday, carry out an inspection of any advertising sign.

(2) An authorized official shall, before the commencement of, or during an inspection in terms of subsection (1), at the request of the owner of an advertising sign or the owner of a property on which the advertising sign concerned has been erected or is displayed, produce written confirmation of his or her appointment as an authorized official empowered to carry out inspections for the purposes of this Act.

(3) An authorized official carrying out an inspection under this Act shall conduct himself or herself with strict regard to decency and orderliness and with due regard to any person's rights contained in the Act of Rights set out in Chapter 4 of the Constitution of Kenya.

Appeals

39. (1) A person whose rights are affected by a decision by an authorized official in terms of or for the purposes of this Act, may appeal against that decision to the Department, by lodging written notice of

appeal, specifying the grounds of appeal, within twenty-one days of the date on which he or she was notified of that decision.

(2) The Department shall commence consideration of the appeal and take a decision thereon within a reasonable time.

(3) The Department shall forthwith after a decision has been taken in terms of subsection (2), notify the appellant thereof in writing.

(4) An applicant contemplated in subsection (1) may, on being notified of a decision in terms of subsection (2), apply in writing for reasons for the decision, and the Department shall furnish written reasons to the applicant.

Offences and penalties

40. A person who—

- (a) contravenes or fails to comply with any provision of this Act;
- (b) refuses or fails to comply with any notice served on him or her in terms of or for the purposes of this Act;
- (c) refuses or fails to comply with the terms or conditions of any approval issued under this Act;
- (d) obstructs, hinders or interferes with an authorized official or other official of the county government acting under power delegated to him or her, in the exercise of any power or the performance of any duty under this Act;
- (e) fails or refuses to furnish to an authorized official or other official of the county government acting under power delegated to him or her, with any documentation or information required for the purposes of this Act or furnishes a false or misleading document or false or misleading information;
- (f) fails or refuses to comply with any instruction given in terms of or for the purposes of this Act; or
- (g) pretends to be an authorized official or other official of the county government acting under power delegated to him or her,
commits an offence and on conviction —
 - (i) shall be liable to a fine not exceeding one hundred thousand shillings or imprisonment for a period not exceeding twelve months, or both; and

- (ii) in the case of a continuing offence, to a fine not exceeding two hundred thousand shillings for every day during the continuance of such offence after a written notice has been served on him or her by the Department or an authorized official requiring the discontinuation of such offence.

Regulations

41. (1) The County Executive Committee Member may make regulations for the better carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the regulations made under this section may provide for the classification of the areas of control for the purposes of this Act.

SCHEDULE

CHARGES FOR OUTDOOR ADVERTISEMENT AND SIGNAGE

SCHEDULE: COUNTY ADVERTISEMENT AND SIGNAGE

Item	Description of fee or Charge on Service	Unit of Measure	Charges
	Hoisting of Banner on Building / road reserve		
1-5801	Commercial	Per Day for each	1,000
1-5802	Religious	Per Day for each	500
1-5803	Political	Per Day for each	10,000
	Act boards Road Reserve/Building		
1-5804	Application fee	Per application	1,000
1-5805	Installation of Act board- once	Per application	35,000
1-5806	First 100 sq.m or less	Annually	85,000
1-5807	Additional per m sq.	Annually	5,000
	Construction site boards (ONCE)		
1-5812	Application	per application	1,000
1-5813	Annual Charges	per site	5,000
	Digital Wall Wraps		
1-5814	Application	Per application	1000
1-5816	Annual charges Per sq. Metre	per month	3,000
	Sign Board (PER SIDE)- non illuminated		
	Under canopy		
1-5817	Application fee		1000
	Annual charges		
1-5818	-Annual Charge Per meter square	per year	2,000
	On canopy		
1-5820	Application fee		1000
	Annual charges		
1-5821	-Annual Charge Per meter square	per year	1,500
	On buildings		
1-5826	Application fee		1000
1-5827	Annual charges Per sq. Metre	per year/per side	1,500
1-5828	Removal/storage fee	per day	5,000
	Illuminated Signs (PER SIDE)		
	Under canopy		
1-5829	Application fee		1000
	Annual charges		
1-5830	- Annual charges Per sq. Metre	per year/per side	1,000
	On canopy		
1-5832	Application fee		1000
	Annual charges		
1-5833	- Annual charges Per sq. Metre	per year/per side	750
1-5846	Portable Sign boards (per square feet/per side) Urban Centres & Towns	per year	750
	Fixed Directional Signs (PER DIRECTION)		
1-5853	Application fee		1,000

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Item	Description of fee or Charge on Service	Unit of Measure	Charges
1-5854	Maximum size 600mm x 1200mm excluding residential signs	per year	1,500
	Fixed Multi-directional Signs		
1-5855	Application fee		1,000
1-5856	Size 150mm x 1500mm	per year	3,000
1-5857	Advertisement on canvas - Application fee	per application	1,000
1-5858	- Charge per square meter	per year	1,000
	Street Light Pole Advertisement		
1-5859	Application	per application	1,000
1-5860	Annual Charges	per year	20,000
	Advertisement on Hoarding		
1-5861	Application	per application	1,000
1-5862	Annual Charges	per year	8,000
	Call in/Advert board at Bus stop /Taxi Roof, racks per Board /block		
1-5863	Application	per application	500
1-5864	Annual Charges	per year	4,000
	Display of Flags		
1-5870	Display of flags/platforms up to 14 days		2,000
1-5871	Display of flags per day after 14 days		200
	Branding		
	Vehicle/Kiosk /Containers Branding		
1-5902	-Saloon/pickups/station wagon	per year	3,000
1-5903	-Lorries/buses/canters	per year	5,000
1-5904	-Trailers	per year	10,000
1-5907	Branded kiosk/Container	per year	5,000
	Wall branding/painting (building)		
1-5910	Application fee		1,000
	Annual charge		3,000
1-5911	Bungoma, Webuye & Kimilili.	Per sq. Metre	500
1-5912	Other Market Centres	Per sq. Metre	500
	Posters (per session)		
1-5914	(1-1000 posters)	Valid for 14 days	5,000
	Hand Acts/fliers (per session)		
1-5920	-1-1000 fliers		7,000
1-5922	Removal of illegal posters/hand Acts by County	1-1000 fliers	5,000
	Tent Pitching		
1-5928	On street/pavements/road reserve	per day	3,000
1-5929	Near a public office or near a county government function	per day	3,000
	Mobile Advertisement by public address system		
1-5930	-Religious	per day	2,000
1-5931	Commercial	per day	7,000
1-5932	Political	per day	10,000
1-5933	Social	per day	5,000

The Bungoma County Outdoor Advertising and Signage Control and Regulation Bill, 2023 45

Item	Description of fee or Charge on Service	Unit of Measure	Charges
1-5934	Institutional/ Educational	per day	3,000
	Vehicle mounted with public address system		
1-5939	-Saloon/pickups/station wagon	per day	3,000
1-5940	-Bus/lorries/canter	per day	7,000
1-5941	-Trailers	per day	10,000
	Road Show (per vehicle)		
	Saloon/pickups/station wagon		
1-5942	-Religious	per day	1,000
1-5943	-Commercials	per day	3,000
1-5944	-Political	per day	5,000
1-5945	-Social	per day	1,000
1-5946	Institutional/ Education		
	Bus/lorries/canter		
1-5946	-Religious	per day	2,000
1-5947	-Commercials	per day	5,000
1-5948	-Political	per day	10,000
1-5949	-Social	per day	2,000
	Trailers		
1-5950	-Religious	per day	3,000
1-5951	-Commercials	per day	10,000
1-5952	-Political	per day	15,000
1-5953	-Social	per day	3,000