

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 3 (Mandera County Bills No. 3)*



REPUBLIC OF KENYA

---

***KENYA GAZETTE SUPPLEMENT***

**MANDERA COUNTY BILLS, 2021**

---

---

**NAIROBI, 23rd March, 2021**

---

---

CONTENT

Bill for Introduction into the County Assembly of Mandera—	PAGE
The Mandera County Resort Hotels Bill, 2021.....	1

**THE MANDERA COUNTY RESORT HOTELS BILL, 2021**  
**ARRANGEMENTS OF CLAUSES**

*Clause*

**PART I—PRELIMIARIES**

- 1—Short title and commencement.
- 2—Interpretation.
- 3—Application.
- 4—Objects and purpose of the Act.

**PART II—ESTABLISHMENT OF MANDERA COUNTY  
RESORT HOTELS**

- 5—Establishment of County Resort Hotels.
- 6—Objects and purpose of the County Resort Hotels.
- 7—Function of the County Resort Hotels.

**PART III—ADMINISTRATION OF THE MANDERA  
COUNTY RESORT HOTELS**

- 8—Board of Directors.
- 9—Qualifications of the chairperson and members of the Board.
- 10—Functions of the Board of Directors.
- 11—Vacation of office.
- 12—Term of office.
- 13—Removal from office.
- 14—Filling of vacancies.
- 15—Conduct of meetings of the Board of the Rest House.
- 16—Disclosure of interest.
- 17—Appointment of the Chief Executive Officer and other staff.
- 18—Functions of the Chief Executive Officer.

**PART IV— GOVERNANCE AND ACCOUNTABILITY**

- 19—Code of governance.
- 20—Application of National Values.
- 21—Reporting requirements.

**PART V—FINANCIAL PROVISIONS**

- 22—Funds of County Resort Hotels.
- 23—Allocation of funds for County Resort Hotels.
- 24—Annual estimates.
- 25—Financial year.
- 26—Accounts and audit.

**PART VII—MISCELLANEOUS PROVISIONS**

- 27—Dissolution and merger of County Resort Hotels.
- 28—Offences and penalty.

---

**THE MANDERA COUNTY RESORT HOTELS BILL, 2021**

**A Bill for**

**AN ACT of the County Assembly of Mandera to provide for the governance and management of the Mandera County Resort Hotels; and to provide for the structure, appointment, functions, powers and responsibilities of the county owned hotels**

**ENACTED** by the County Assembly of Mandera, as follows—

**PART I—PRELIMINARIES**

**Short title and commencement**

1. This Act may be cited as the Mandera County Resort Hotels Act, 2021 and shall come into force upon its publication in the *Kenya Gazette*.

**Interpretation**

2. In this Act unless the context otherwise requires—

“Board of Directors” means Board of Directors established under Section 8 of this Act;

“County” means the County Government of Mandera;

“County Assembly” means the County Assembly of Mandera County elected in accordance with Article 177 of the Constitution;

“chief Executive Officer” means Chief Executive Officer established under section 17 of this Act;

“County Chief Officer” means the County Chief Officer for time being responsible for matters relating to Finance;

“County Executive Committee Member” means the County Executive Committee Member for time being responsible for matters relating to Finance;

“Chairperson” means chairperson appointed in accordance with section 8 of this Act;

“County Resort Hotels” means the entity established under section 5 of this Act;

“County Treasury” means county treasury established under section 103 of the Public Finance Management Act of 2012;

“Governor” means the County Governor for Mandera County elected in accordance with Article 180 of the Constitution.

**Application**

3. This Act shall apply to the County Resort Hotels as established under Section 5 of this Act.

**Objects and purposes of the Act**

4. The objects and purpose of the Act is to regulate the county owned hotels and its entities.

**PART II—ESTABLISHMENT OF THE MANDERA COUNTY  
RESORT HOTELS****Establishment of County Resort Hotels**

5. (1) There is established a County Entity to be known as the Mandera County Resort Hotels hereinafter referred to as “the County Resort Hotels).

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

- (a) suing and being sued;
- (b) taking, purchasing and disposing of movable and immovable property;
- (c) borrowing money;
- (d) entering into contracts; and
- (e) doing or performing all such other things or acts for the proper discharge of its functions under this Act, which may be lawfully done or performed by a body corporate.

(3) The headquarters of the County Resort Hotels shall be in Mandera town.

(4) The County Resort Hotels may establish branches and entities as may be deemed necessary.

**Objects and purpose of the County Resort Hotels**

6. The object and purpose of the County Resort Hotels shall be to promote business of meetings, conferences and exhibitions.

**Functions of the County Resort Hotels**

7. The functions of the County Resort Hotels shall be to—

- (a) organize and host meetings and provide incentives for conferences and exhibitions at the County Resort Hotels;

- (b) implement the national and County meetings, incentives for conferences and exhibitions strategy, in collaboration with the Department of finance upon consultation with the relevant stakeholders;
- (c) market the County Resort Hotels, in collaboration with the Department of finance; and
- (d) perform any other functions that are ancillary to the object and Purpose for which the County Resort Hotels is established.

### **PART III—ADMINISTRATION OF THE MANDERA COUNTY RESORT HOTELS**

#### **Board of Directors**

**8.** (1) There shall be a Board of Directors of the County Resort Hotels (hereafter to be known as “the Board” which shall consist of—

- (a) a Chairperson appointed by the Governor with the approval of the County Assembly;
- (b) the County Chief Officer for the time being responsible for matters relating to finance or his representative;
- (c) the Chief Executive Officer appointed under section 17 who shall be the secretary of the Board and *ex-officio* member of the Board; and
- (d) five other members, not being public officers, appointed by the Governor, with the approval of the County Assembly, of whom—
  - (i) two shall be nominated by professional associations; and
  - (ii) three shall be persons with knowledge or experience in matters relating to business management or marketing.

(2) The Governor shall, while appointing the members of the Board, ensure gender equity.

#### **Qualifications of the chairperson and members of the Board**

**9.** (1) A person shall be qualified for appointment as a chairperson under section 8 if that person—

- (a) holds a degree from a university recognized in Kenya;
- (b) has served in a senior management position in the private or public sector;
- (c) has at least ten years’ experience; and
- (d) satisfies the requirements of Chapter Six of the Constitution.

(2) A person shall be qualified for appointment as a member of the Board under section 8 if that person—

- (a) holds a degree from a university recognized in Kenya;
- (b) has a distinguished career in their respective field;
- (c) has served in a senior management position for a period of at least six years; and
- (d) satisfies the requirements of Chapter Six of the Constitution.

### **Functions of the Board of Directors**

**10.** The Board of Directors of the County Resort Hotels shall—

- (a) ensure the proper and effective performance of the functions of the County Resort Hotels;
- (b) approve the policies of the County Resort Hotels;
- (c) manage, control and administer the assets of the County Resort Hotels in a manner and for purposes that promote the object and purpose of the County Resort Hotels;
- (d) determine the provisions to be made for capital and recurrent expenditure, and for the reserves of the County Resort Hotels;
- (e) determine and specify the terms and conditions for the appointment and emoluments of the personnel of the County Resort Hotels;
- (f) co-operate with other organizations undertaking functions similar to its own, whether within or outside Kenya as it may consider appropriate and in furtherance of the object and purpose of the County Resort Hotels;
- (g) approve the appointment criteria and the terms and conditions of service of staff of the County Resort Hotels; and
- (h) provide for a staff superannuation scheme for the employees of the County Resort Hotels; and
- (i) approve the borrowing of funds in consultation with the chief officer for the time being responsible for matters relating to finance.

---

**Vacation of office**

- 11.** A member of a board shall cease to hold office if the member—
- (a) is unable to perform the functions of the office by reason of mental or physical infirmity;
  - (b) is declared or becomes bankrupt or insolvent;
  - (c) is convicted of a criminal offence and sentenced to a term of imprisonment of six months or more;
  - (d) resigns in writing to the county governor;
  - (e) without reasonable cause, the member is absent from three consecutive meetings of the board or committee within one financial year;
  - (f) is found guilty of professional misconduct by the relevant professional body;
  - (g) is disqualified from holding a public office under the Constitution;
  - (h) is convicted of an offence and is sentenced to imprisonment for a term of six months or more;
  - (i) in any particular case, the member fails to declare his or her interest in any matter being considered or to be considered by the board or committee;
  - (j) engages in any gross misconduct; or
  - (k) dies.

**Term of office**

**12.** A member of a board shall hold office for a term of three years, on a part-time basis.

**Removal from office**

**13.** (1) A person may be removed from the office of Chairperson or a member of the Board on any of the grounds provided under Section 10 (a), (b), (c), (e), (f), (g), (h), (i) and (j).

(2) A person may be removed under sub-section (1)—

- (a) by the County Governor; or
- (b) by the Board, supported by the vote of at least two-thirds of the members of the Board.



**Filling of vacancies**

**14.** A vacancy in the office of a chairperson or a member of the board shall be filled in accordance with Section 8 of this Act.

**Conduct of meetings of the Board of the Rest House**

**15.** (1) The Board of shall meet at least once in every three months to conduct the business of the Board of the County Resort Hotels.

(2). At the first meeting of the Board of the County Resort Hotels the members shall elect a vice chairperson, not being an *ex-officio* member, from among its members.

(3) The Chairperson shall preside at the meetings of the Board of the County Resort Hotels and in the absence the vice-chairperson, and in his absence, a member of the Board of the County Resort Hotels elected by the members present from among their number shall preside.

(4) The Chairperson may call a special meeting of the Board of the County Resort Hotels at any time where he or she considers it expedient for the transaction of the business of the Board of the County Resort Hotels.

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

(6) The quorum at a meeting of the Board of the County Resort Hotels shall be half of the members or a greater number determined by the Board of the County Resort Hotels, in respect of an important matter.

(7) The matters of the Board of the County Resort Hotels shall be decided by a majority of the members present and voting and in the event of equality of votes, the person presiding shall have a casting vote.

(8) The Board of the County Resort Hotels may determine its own procedure and the procedure for any committee of the Board of the County Resort Hotels and for attendance of any other persons at the meetings and may make standing orders in respect thereof.

**Disclosure of interest**

**16.** (1) A member of the Board of the County Resort Hotels who has an interest in a matter for consideration by the Board of the County Resort Hotels shall disclose, in writing, the nature of that interest and shall not participate in the deliberations of the Board of the County Resort Hotels in respect of that matter.

(2) A member who fails to disclose interest in a matter in accordance with subsection (1) shall cease to be a member of the Board of the County Resort Hotels.

### **Appointment of the Chief Executive Officer and other staff**

**17.** (1) The County Public Service Board shall, in consultation with the Board of Directors and subject to subsection (2), appoint a person to be the Chief Executive Officer of the Board.

(2) A person shall not be qualified for appointment as the Chief Executive Officer under subsection (1) unless that person has an advanced degree in marketing, business administration or related discipline and has at least ten years' experience at senior management level in tourism or hospitality or related sector.

(3) The Chief Executive Officer shall hold office for a term of three years but shall be eligible for re-appointment for one further term of three years.

(4) The County Public Service Board may appoint such officers and other staff as may be necessary for the proper and effective performance of the functions of the Board.

### **Functions of the Chief Executive Officer**

**18.** The Chief Executive Officer shall—

- (a) be responsible for the day to day administration of the affairs of the Board and the performance of its functions under this Act;
- (b) implement the decisions and functions of the board and shall be answerable to the board;
- (c) ensure the execution of the directives of the Board of the County Resort Hotels;
- (d) the Chief Executive Officer shall perform any other functions determined by the Board of Directors;
- (e) prepare and present for approval of the Board of the County Resort Hotels an annual estimate of revenue and expenditure to fund and carry out the programmes and operations of the Board;
- (f) prepare annual report on the activities and accomplishments of the Board of the County Resort Hotels;
- (g) attend and take minutes of the Board of the County Resort Hotels meetings;
- (h) make reports and recommendations to the Board of the County Resort Hotels about the needs of the County Resort Hotels;

- (i) organize County Resort Hotels departments and administrative structure;
- (j) prepare and administer the annual budget;
- (k) administer County Resort's Hotels utilities and property.

#### **PART IV—GOVERNANCE AND ACCOUNTABILITY**

##### **Code of Governance**

**19.** The Board of the County Resort Hotels shall develop and promote a code of governance for County Resort Hotels that promotes or facilitates—

- (a) high standards of professional ethics;
- (b) efficient use of resources;
- (c) effective service delivery;
- (d) responsive, prompt, effective, impartial and equitable delivery of services;
- (e) public participation in the process of policy making;
- (f) accountability for administrative acts;
- (g) transparency and provision to the public of timely, accurate information;
- (h) fair competition and merit as the basis of appointments and promotions;
- (i) the representation of County diverse communities; and
- (j) adequate and equal opportunities for appointment, training and advancement.

##### **Application of National Values**

**20.** Every member of the board and staff of a County owned entity shall observe and uphold—

- (a) the national values and principles of governance set out under Article 10 of the Constitution;
- (b) the responsibilities of leadership set out under Article 73 of the Constitution;
- (c) the values and principles of public service set out under Article 232 of the Constitution; and
- (d) any other values or principles developed in accordance with this Act or any other written law.

### **Reporting requirements**

**21.** (1) The Board of the County Resort Hotels shall, at the end of each financial year, publish a report outlining the measures taken by the entity towards the realization of the values and principles of the public service in accordance with Article 232 of the Constitution and the provisions of the code of governance referred to in section 19.

(2) The report under subsection (1) shall be submitted to—

- (a) the County Assembly; and
- (b) the Governor.

## **PART V—FINANCIAL PROVISIONS**

### **Funds of County Resort Hotels**

**22.** (1) The funds of the County Resort Hotels shall include—

- (a) such monies as may be appropriated to the entity by the county assembly as may be appropriate;
- (b) such fees, monies or assets as may accrue to or vest in the entity in the course of the exercise of its powers or the performance of its functions under this Act or under any written law;
- (c) monies from any other source provided for or donated or lent to the entity.

(2) Revenues generated by the County Resort Hotel or its entity shall be Appropriations-in-Aid.

### **Allocation of funds for County Resort Hotels**

**23.** The county government shall, in their annual budgets, make provisions for funds for the purposes of carrying out the activities and programmes of the County Resort Hotels.

### **Annual estimates**

**24.** (1) Before the commencement of each financial year, the County Resort Hotel shall cause to be prepared estimates of the revenue and expenditure of the County Resort Hotels for that year.

(2) The annual estimates shall make provision for all the estimated expenditure of the County Resort Hotels for the financial year concerned and, in particular, shall provide for the—

- (a) funding of training, research and development of activities of the County Resort Hotels; and
- (b) such other matters as the Board or may consider fit.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and shall be submitted to the executive committee member for transmission to and tabling in the County Assembly.

(4) Expenditure of the County Resort Hotels shall not be incurred except in accordance with the annual estimates approved under subsection (3).

### **Financial year**

**25.** Except as otherwise provided, the financial year of the County Resort Hotel Hotels shall be the period of twelve months ending on the thirtieth June in each year.

### **Accounts and audit**

**26.** (1) The County Resort Hotels shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the entity.

(2) Within a period of four months from the end of each financial year, the entity shall submit to the County Treasury and Auditor-General, the accounts of the entity together with—

- (a) a statement of the income and expenditure of the entity during that year;
- (b) a balance sheet of the entity on the last day of that year; and
- (c) any other records of account required under the Public Audit.

(3) The accounts of county Resort Hotels shall be audited and reported upon in accordance with the Public Audit Act and the Public Finance Management Act.

## **PART VI—MISCELLANEOUS PROVISIONS**

### **Dissolution and merger of County Resort Hotels**

**27.** (1) The County treasury and relevant department shall conduct regular audits of the respective county resort hotels to assess the relevance of the mandate and the justification for their continued existence and where necessary make recommendations to the Governor for the dissolution or merger of non-suitable entities.

(2) The Governor may by notice in the *Gazette* prescribe guidelines for dissolution and merger of an entity established under this Act.

(3) Upon approval of the recommendation to dissolve or merge an entity, the County Executive, with the approval of the County Assembly, shall forthwith dissolve or merge the entity with another.

**Offences and penalty**

**28.** (1) A person who knowingly makes a claim which they know or has reason to believe to be false is liable, on conviction, to a fine not exceeding one hundred thousand shillings or imprisonment of not more than one year, or to both.

(2) A person being entrusted with any money or materials, or otherwise being in custody of money or goods, misappropriates or disposes of such money or materials or any part or willfully compels any other person to do so, is liable on conviction, to a fine not exceeding one million shillings or imprisonment of not more than three years, or to both.

(3) A person who commits an offence under this Act for which no penalty is prescribed is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding one year, or to both.

**Transitional**

**29.** (1) Notwithstanding any other provision of this Act to the contrary, a person who, immediately before the commencement of this Act was in accordance with Alcoholic Drinks Control Act, 2010 a manufacturer, importer, distributor or retailer of any alcoholic drink under that Act shall be deemed to be a manufacturer, importer, distributor or retailer of any alcoholic drink under this Act.

(2) The manufacturer, importer, exporter, distributor or retailer of any alcoholic drink in the contemplated Act referred to in subsection (1), shall, within four months of upon commencement of this Act, comply with the requirements of this Act.

**MEMORANDUM OF OBJECTS AND REASONS**

The object of this Act is provide for the governance and management of the County Resort Hotels. It also provides for the structure, appointments, functions, powers and responsibilities in running the county owned hotels.

**Part I** of the Act provides for the Preliminary provisions including the Short title, the definition of terms used as well as the objects of the Act.

**Part II** of the Act provides for establishment of County Resort Hotels and the functions that the resort is intended to undertake.

**Part III** of the Act provides for Administration of the Count Resort Hotels. The part establishes a Board of Directors, their functions, their term of office, and matters pertaining thereto. The part also establishes the office of chief executive officer and how the same should be filled.

**Part IV** of the Act contain governance and accountability provisions. these include provisions on code of governance, requirement of application of national values set out in the Constitution and reporting requirements.

**Part V** of the Act provides for financial provisions. This part provides for the fund of the resort, annual estimates, financial year, and accounts and audit.

**Part VI** of the Act provides for miscellaneous provisions on dissolution and merger of county resort. The part also provides for provision on general offences and penalties.

**Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms**

This Act delegates legislative powers to the County Executive Committee Member to make regulations, but it does not limit fundamental rights and freedoms.

**Statement as to whether the Act is a money Act within the meaning of Article 114 of the Constitution**

The enactment of this Act may occasion additional expenditure of public funds.

Dated the 15th March, 2021.

ADAN MAALIM MOHAMED,  
*Chairperson Trade, Investment,  
Industrialization and Cooperative Development Committee.*