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UASIN GISHU COUNTY ACTS, 2022

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2022**

No. 2 of 2022

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Date of Commencement: See Section 1

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**THE UASIN GISHU COUNTY INSPECTORATE SERVICE ACT,
2022**

AN ACT of the County Assembly of Uasin Gishu to provide for the establishment of Uasin Gishu County Inspectorate Service and for matters connected thereto

ENACTED by the County Assembly of Uasin Gishu, as follows —

PART I — PRELIMINARY

Short title and commencement

1. This Act may be cited as the Uasin Gishu County Inspectorate Service Act, 2022 and shall come into force on a day to be gazetted by the Governor.

Interpretation

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

“Animal” includes domestic animals, wild animals and poultry;

“Board” means the County Public Service Board of Uasin Gishu County established under section 57 of County Governments Act, 2012;

“Committee” means the disciplinary committee established under section 8 of the Act;

“Compliance enforcement” includes action taken to establish compliance of any requirement by a county law or, enforcing compliance of county laws and pursuing punishment for committing an offence under a county law;

“County law” means any Act of the County Assembly of Uasin Gishu or a subsidiary county law;

“Court” means a magistrate court designated to handle criminal matters arising from county laws;

“Governor” means the Governor of the County Government of Uasin Gishu;

“Member of County Executive Committee” means the County Executive Member responsible for matters pertaining to enforcement of county laws;

“Director” means a person for the time being in charge of the inspectorate appointed under section 7;

“Officer” means an officer appointed under section 5;

“Inspectorate”, means the entire body of officers that ensure that the laws and regulations applying to Uasin Gishu County Government are obeyed and enforced under section 4 of the Act;

“Premise” means any building or structure where a regulated activity is undertaken or is about to be undertaken but does not include residential houses;

“Regulated activity” means any activity, trade or business whose undertaking, a county law requires obtaining of a license, permit, approval or payment of service fee, by or to relevant county organ;

“Relevant county organ” means the organ or department responsible for licensing, issuing permits, collecting services fee or approving an activity;

“Unit” means the Inspectorate unit established under section 4;

“Vessel” includes motor vehicles, motorbikes, bicycles and any other motorised or non-motorised vessel.

Objects of the Act

3. The object of this Act is to establish a legislative and institutional framework for enforcement of all County Laws and other applicable laws by —

- (a) providing for the institutional framework for the implementation of the County laws;
- (b) regulating the actions of the County Inspectorate Service;
- (c) giving effect to the provision of Article 189(1)(b) that requires the County Government to assist, support and as appropriate implement legislation of the National Government;
- (d) establishing by law, pursuant to Article 185(2) of the Constitution of Kenya, 2010 an inspection mechanism so as to ensure the effective performance and exercise of the powers conferred on the County Government under part 2 of the Fourth Schedule of the Constitution of Kenya, 2010.

PART II—ESTABLISHMENT OF UASIN GISHU COUNTY INSPECTORATE SERVICE

Establishment of County Inspectorate Service and Inspectorate Units

4. (1) There is hereby established an Inspectorate Service known as the Uasin Gishu County Inspectorate Service.

(2) The Member of the County Executive Committee shall publish in the *Kenya Gazette*, the establishment and location of every Inspectorate Station in the County.

(3) The Inspectorate Service shall be made of Units as prescribed in the Third Schedule of the Act and shall be headed by an Inspector.

Functions of the Inspectorate Service

5. (1) The Inspectorate Service shall be responsible for—

- (a) enforcement of compliance with the Uasin Gishu County Laws and National Government Laws;
- (b) protecting and guarding the property and personnel of the County;
- (c) investigation of crime;
- (d) arrest of offenders;
- (e) protection of public entertainment sites;
- (f) prevention of crime in the county;
- (g) control of traffic; and
- (h) support County Government staff in the discharge of their official duties.

(2) In addition to the matters listed at sub-section (1), the service shall be responsible for enforcement and compliance of any other matter that it may be required to do so by any other written law or as directed by any Department in the County Government.

PART III—APPOINTMENT, DEPLOYMENT, RANKING AND DISCIPLINE OF THE INSPECTORATE SERVICE

Appointment of Inspectorate Officers

6. (1) The Board shall competitively recruit and appoint officers into the Inspectorate.

(2) The recruitment and composition of the service shall, so far as is reasonably practical uphold the principle that not more than two thirds of the appointment shall be of the same gender, reflect the regional and ethnic diversity of the County, ensure equity of opportunity amongst all the Wards in the County and ensure that the persons living with disability are considered for appointment in the Inspectorate.

(3) The minimum qualifications for appointment as an Inspectorate Officer shall be a form four certificate.

Director of Inspectorate

7. There shall be a Director of the County Inspectorate Service appointed by the Board through a competitive process.

Functions and Powers of the Director

8. (1) The Director shall be the head of the inspectorate and shall be responsible for —

- (a) the day-to-day operations of Inspectorate;
- (b) the administration, organisation and control of the other officers and staff of the inspectorate;
- (c) mapping all areas in need of enforcement;
- (d) enforcement of all county laws and other legislations;
- (e) development, implementation and evaluation of enforcement and compliance strategies and policies in the County;
- (f) facilitation of prosecution and defence in liaison with relevant state organs.

(2) The Director may issue administrative orders, to be called County Inspectorate Standing Orders, not inconsistent with the Constitution, this Act or any regulations made, for the general control, direction and information of the County Inspectorate.

(3) The County Inspectorate Standing Orders may be published in the *Kenya Gazette*.

(4) The Director may, in consultation with the Chief Officer of the department, establish inspectorate stations at all decentralised units as it considers fit for the better performance of its functions.

(5) The Director may delegate any powers conferred upon him/her by this Act or, unless otherwise stated, by any other written law, to any gazetted officer of or above the rank of Superintendent.

(6) The nominee for the position of Director of County Inspectorate Service shall be vetted by the County Assembly before appointment.

(7) The Director of the County Inspectorate Service shall serve for a term of three (3) years renewable once.

Qualification of Director

9. A person shall qualify to be appointed as Director if that person—

- (a) is a citizen of Kenya;
- (b) holds a bachelor's degree in Social Sciences from a recognized university in Kenya or be at the level of Senior Superintendent of police or equivalent in the disciplined services;
- (c) has seven (7) years' experience, five (5) of which must have been in senior management level in an institution either in public or private sector;
- (d) satisfies the requirements of Chapter Six of the Constitution of Kenya, 2010.

Deployment, promotion and ranking of the inspectorate service

10. (1) The Board shall be responsible for enlistment, deployment, promotion, demotion and training of the officers upon recommendation by the Director in charge of the Inspectorate.

(2) The Board shall ensure initial and continuous training for the officers in the service and may collaborate with other institutions for the purpose of training.

(3) The ranks of the Inspectorate Service shall be as prescribed in the First Schedule of the Act.

Oath of office

11. An Inspectorate Officer shall upon enlistment, make and sign before an officer authorised by law to administer oaths in English or Kiswahili and in such a manner as the officer may declare to be most binding on his conscience, the oath or the affirmation set out in the Second Schedule.

Resignation from the Inspectorate Service

12. An Inspectorate Officer desirous of resignation from the inspectorate may do so in writing addressed to the County Public Service Board.

Disciplinary offences

13. (1) An Inspectorate Officer in the Service shall be subject to the law and regulations from time to time in force relating to the Service.

(2) The offences against discipline include the offences prescribed under the Fourth Schedule of this Act.

(3) An Inspectorate Officer who commits a criminal offence, as against the law shall be liable to criminal proceedings in a court of law.

Obedience to orders

14. (1) An Officer shall promptly obey all lawful orders in respect of the execution of his or her duties which he or she may from time to time receive from a superior officer in the Inspectorate.

(2). An officer shall —

- (a) promptly obey and execute all orders and warrants lawfully issued to him or her;
- (b) collect and communicate intelligence affecting law and order;
- (c) take all steps necessary to prevent the commission of an offence.

Establishment of the Disciplinary Committee

15. (1) There is established an internal disciplinary committee that shall be responsible for maintaining discipline in the Inspectorate units.

(2) The Committee shall comprise of—

- (a) the Chairperson who shall be the Chief Officer in charge of the Inspectorate;
- (b) the Director in charge of the Inspectorate Service;
- (c) three persons from the Inspectorate unit chosen by the County Executive Committee Member; and
- (d) a representative from the Office of the County Attorney.

(3) At any disciplinary proceedings, an officer shall be represented by a representative/advocate of their choice.

Powers of the Disciplinary Committee

16. (1) The Disciplinary Committee shall have power to—

- (a) receive and investigate a complaint regarding an inspectorate officer;
- (b) summon and interrogate witnesses;
- (c) call for or require the production of documents for examination;
- (d) recommend the appropriate disciplinary action against an Inspectorate Officer to the County Public Service Board.

(2) The disciplinary actions the committee may recommend include—

- (a) interdiction of an officer;
- (b) suspension;
- (c) dismissal;
- (d) demotion;
- (e) deduction of salary;
- (f) fine;
- (g) warning; or
- (h) any other action as provided for in the County Public Service Human Resource manual.

Appeals

17. (1) Any officer aggrieved by the decision of the County Public Service Board may appeal to the Public Service Commission (PSC).

(2) The right for appeal does not bar any person from applying for judicial review against the decision of the Disciplinary Committee.

PART IV—POWERS AND CONDUCT OF INSPECTORATE

Power of entry by authorised officer

18. (1) An officer may, in his or her performance of duty, enter upon any premises, vessel, or place in which there is a reasonable ground to believe that a regulated activity is being undertaken, for the purpose of compliance and enforcement.

(2) If an officer acting under subsection (1), is satisfied that a regulated activity is taking place or is about to take place contrary to any existing county law or any other written law, the officer may order immediate stoppage of the activity.

(3) An officer may apply to a magistrate for a warrant to enter, search, inspect and impound goods in any premises where he/she reasonably suspects that an activity is about to or being undertaken contrary to any county laws and where entry has been refused.

Power to search without warrant in special circumstance

19. Where an officer has reasonable grounds to believe that something necessary for the purpose of investigation is likely to be found in any place and that the delay occasioned by obtaining a search warrant will in his or her opinion substantially prejudice such investigation, he or she may, after recording in writing the grounds of his or her belief and such description as is available of the thing for which the search is to be made, without such warrant, enter any premise in or on which she or she

suspects the thing to be and search to be made for, and take possession of such thing provided that—

- (a) the officer shall carry with him/her, and produce to the occupier of the premises on request by him, his badge or Certificate of Appointment;
- (b) if the subject matter is seized, he/she shall forthwith take or cause to be taken before a magistrate within whose jurisdiction the subject matter was found, to be dealt with according to law.

Power to arrest

20. (1) Where an officer has a reasonable ground to believe that an offence has been committed or is about to be committed under any County Law, the Officer may arrest in accordance with Article 49 of the Constitution of Kenya—

- (a) the person committing or who is about to commit an offence.
- (b) where the offence relates to a regulated activity—
 - (i) the proprietor of the activity; or
 - (ii) an employee of the proprietor; or
 - (iii) any other person whom the officer reasonably believes that is involved in the execution of the activity.

(2) An officer may use reasonable force to execute arrest, where a person whom is believed to have committed a crime or is about to commit a crime under any county law resists an arrest.

Production in court or police station

21. Where an officer arrests any person under section 20 above, he or she shall immediately forward the person arrested to the nearest police station or, produce such person in court within 24 hours.

Conduct of officers

22. (1) The Inspectorate's action on investigations shall be based on reasonable suspicion of an actual or possible offence or crime.

(2) An Inspectorate Officer shall follow the principle that everyone who is the subject of an enforcement action or investigation is presumed innocent until found guilty by a court of law.

Power to impound goods

23. (1) Where an officer has reasonable grounds to believe that a person is trading in goods contrarily to any county law, the officer may

impound the goods and cause them to be stored at the Inspectorate Station until the person involved complies with the law or the case against him is determined by the court.

(2) Any goods impounded that are subject to rapid decay shall be disposed of with the authority of the magistrate after a full inventory has been taken and any other records of the same including photographs submitted to court.

(3) Sub-Section (1) shall not preclude the relevant county organ from dealing with the impounded goods in any other manner permitted by order of the court or by any other law.

Power to impound animals

24. An Officer may impound any animal that is kept contrary to any County laws.

Certificate of appointment and badge for officers

25. (1) A Certificate of appointment signed by the Director shall be issued to every officer on appointment and shall be proof of appointment under this Act.

(2) An officer shall at all times carry the Certificate of Appointment for identification.

(3) An officer shall sufficiently identify himself or herself while exercising any of the powers under this Act. The officer shall —

- (a) wear appropriate County Uniform;
- (b) wear an identification badge;
- (c) verbally identify him/herself.

PART V—OFFENCES

Impersonating an officer

26. Any person, who impersonates an officer appointed under this Act, commits an offence and shall be liable, upon conviction, to a fine not exceeding Kenya Shillings Five Hundred Thousand (500,000) or imprisonment for a period not exceeding three years, or to both.

Obstruction of an officer

27. Any person who wilfully resists arrest, obstructs or interferes with the duties of an inspectorate officer commits an offence and shall be liable upon conviction to a fine not exceeding Kenya Shillings One Hundred Thousand (100,000) or to imprisonment for a term not exceeding one year or to both.

Destruction of county property

28.(1) Any person who defaces or destroys any property being the property of the County Government commits an offence and shall be liable upon conviction to a fine not exceeding Kenya Shillings One Hundred Thousand (100,000) or to imprisonment for a term not exceeding one year or to both.

(2) In addition to the penalties prescribed in sub-section 1 above, the person so convicted under this Act shall be liable to pay damages or costs of repair to the County Government for the property destroyed.

General Penalty

29. Any person who is convicted of an offence under this Act for which no penalty is prescribed shall upon conviction of that offence be liable to a fine not exceeding Kenya Shillings one hundred thousand (100,000) or to imprisonment for a term not exceeding one year or to both.

Prohibition against torture or cruel treatment

30. (1). No officer shall subject any person to torture or to any other cruel, inhumane or degrading treatment.

(2). Any officer proved to have contravened the provisions of this section is liable upon conviction to fine not exceeding Kenya Shillings five hundred thousand (500,000) or to imprisonment for a term not exceeding seven years or to both.

PART VI—MISCELLANEOUS PROVISIONS**Fines and forfeitures**

31. All fines and forfeitures imposed and recovered by a competent court on an offender shall be collected by the County as revenue and legal receipts issued.

Arrangements with other public offices

32. The Governor and the member of the County Executive Committee shall put in place arrangements with—

- (a) the Director of Public Prosecution for the purpose of facilitating prosecution of those who contravene county laws;
- (b) the Judicial Service Commission of Kenya for the purpose of allocation and designation of magistrates to adjudicate on criminal matters arising from county laws and the transmission of fines paid by those convicted of county offences into the County Revenue Fund.

- (c) the relevant public authorities dealing with matters of incarceration of criminal suspects and convicts.

Regulations

33. Subject to the approval of the County Assembly, the County Executive Committee Member may in consultation with the relevant Departments and Committees in the county government make regulations to

- (a) further prescribe and regulate the conduct of Inspectorate officers; and
- (b) facilitate the implementation of this Act.

Transition

34. All persons who immediately before the commencement of this Act were officers or employees of the service shall upon commencement of this Act become officers of the service in accordance with this Act in such ranks as the Board shall designate.

FIRST SCHEDULE**RANKS OF THE INSPECTORATE SERVICE**

The Inspectorate Service ranks shall be as follows in order of their seniority—

- (a) Director of Inspectorate
- (b) Deputy Director of Inspectorate
- (c) Senior Superintendent of Inspectorate
- (d) Superintendent of Inspectorate
- (e) Assistant Superintendent of Inspectorate
- (f) Chief Inspector of Inspectorate
- (g) Inspector of Inspectorate
- (h) Senior Sergeant of Inspectorate
- (i) Sergeant of Inspectorate
- (j) Corporal of Inspectorate
- (k) Constable of Inspectorate

SECOND SCHEDULE

OATH/AFFIRMATION OF OFFICE

I,.....(full names) do swear/do solemnly and sincerely affirm that I will be faithful and bear true allegiance to the Constitution of Kenya, 2010 and the Governor of Uasin Gishu during my service in the inspectorate without favour or affection, malice or ill will; that I will at all times do my utmost to reserve the peace and to prevent offences against the peace; that while I shall continue to hold the said office, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law and will not; I will subject myself to the Constitution, all Acts, orders and regulations now or in future in service relating to my service in the Uasin Gishu County Inspectorate Service; and that I will discharge all the duties of an inspectorate officer according to law, without fear, favour, affection or ill-will.

(SO HELP ME GOD).

OATH/AFFIRMATION OF SECRECY

I,..... (full names) DO HEREBY SWEAR BY THE ALMIGHTY GOD/SOLEMNLY AND SINCERELY AFFIRM THAT I will not, without due authority, disclose or make known to any person any information acquired by me by reason of the duties performed by me on behalf or under the direction of the inspectorate or by reason of any office or employment held by me pursuant to the Uasin Gishu County Inspectorate Act.

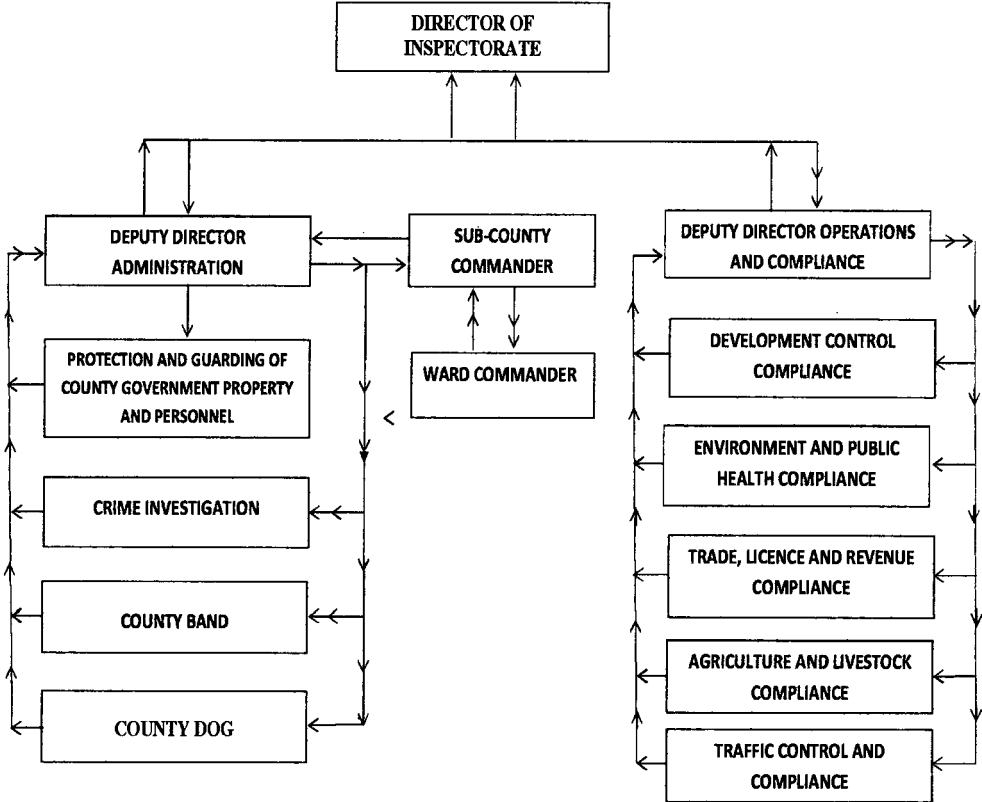
(SO HELP ME GOD).

THIRD SCHEDULE**UNITS OF THE INSPECTORATE SERVICE**

The units of the Inspectorate Service shall be as follows —

- (a) Compliance and Operation:
 - (i) Development Control
 - (ii) Environment and Public Health
 - (iii) Trade, License and Revenue
 - (iv) Agriculture and Livestock
 - (v) Traffic Control
- (b) Administration:
 - (i) Protection and Guarding of Count Government Properties and Personnel
 - (ii) Crime Investigation
 - (iii) County Band
 - (iv) County Dog

UASIN GISHU COUNTY INSPECTORATE ORGANOGRAM



FOURTH SCHEDULE**OFFENCES AGAINST DISCIPLINE**

It shall be an offence against discipline for any inspectorate officer to—

- (a) unlawfully strike, or use or threaten violence against any inspectorate officer or any other county officer;
- (b) uses threatening or insubordinate or disrespectful language, word, act or demeanor to an inspectorate officer senior to him/her in rank;
- (c) cause a disturbance in any inspectorate or county premises;
- (d) be drunk while on duty;
- (e) drink intoxicating liquor or psychotropic substances or drugs, or smoke in uniform when actively engaged on duty in a public place;
- (f) willfully disobey any lawful command or order;
- (g) absent himself/herself without leave;
- (h) be found sleeping while on duty;
- (i) leave his/her post or place of duty before he/she is regularly relieved, except in fresh pursuit of an offender who it is his/her duty to apprehend;
- (j) neglect or refuse to assist in the apprehension of any inspectorate officer charged with any offence, when lawfully ordered so to do;
- (k) resist any lawful arrest;
- (l) negligently allow any prisoner, who is committed to his/her charge, or whom it is his/her duty to guard, to escape;
- (m) without reasonable cause, fail to attend at any parade, instruction class or court or any other duty which he/she is required to attend;
- (n) be in improper possession of any public or private property; or
- (o) Commit any act of plunder or wanton destruction of any property;
- (p) be negligent in the performance of his/her duty;
- (q) appear on duty untidy or dirty in his/her person, clothing or equipment;

- (r) make or sign any false statement in any document or official record;
- (s) without proper authority, disclose or conveys any information concerning any investigation or other inspectorate matter;
- (t) without proper authority demands or exacts from any person any carriage, portorage or provisions; and
- (u) commit an act which amounts to corruption under any law in force in Kenya.

