

**THE KAKAMEGA COUNTY ENVIRONMENTAL (REGULATION
AND CONTROL) BILL, 2013**

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**THE KAKAMEGA COUNTY ENVIRONMENTAL
(REGULATION AND CONTROL) BILL, 2013**

A Bill for

AN ACT of the Kakamega County to give effect to the Fourth Schedule of the Constitution, for management of the County environment and for connected purposes

ENACTED by the Kakamega County Assembly, as follows—

PART 1— PRELIMINARY

Short title.

1. This Act may be cited as the Kakamega County Environmental (Regulation and Control) Act, 2013.

Interpretation.

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

“air pollution” means any change in the composition of the air caused by smoke, soot, dust (including fly ash), cinders, solid particles of any kind, gases, fumes, aerosols and odorous substances;

“ambient air” means the atmosphere surrounding the earth and does not include the atmosphere within a structure or within any underground space;

“advertisement” means any visible representation of a word, name, and object or of an abbreviation of a word or name or of any sign or symbol which is not intended solely for illumination or as a warning against any danger;

“Authority” means the County Environmental Authority established under section 7 of this Act;

“authorized person” means a person appointed as an authorized officer under section 6(2) of this Act;

“combustible liquid” means a liquid which has a close cap flash point of 38⁰C or above;

“commercial zone” means any place where goods and services are exchanged, bought or sold;

“compressed ignition powered vehicle” means a vehicle powered by an internal combustion, compression ignition, diesel or similar fuel engine;

“control” means safe technique, practice or procedure used to prevent or minimize the generation, emission, suspension or air borne transport of fugitive dust.

“dB (A)” means decibels of noise, measured with an A-weighted filter;

“decibe” means a dimension less unit used in comparison of the magnitude of sound pressure or power;

“Department” means the county department responsible for matters relating to environment;

“display” means, in relation to an advertisement, to display the advertisement within public view;

“disturbing noise” means a specific noise level that exceeds either the outdoor equivalent continuous day/night rating level, the outdoor equivalent continuous day rating level or the outdoor equivalent continuous night rating level for the particular neighborhood indicated as the outdoor ambient noise;

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

“Flat sign-board” means any sign-board affixed to a wall and which at no point projects more than 230 mm from the surface of the wall;

“ground sign-board” means any sign which is affixed to the ground and is not attached to a building;

“intermittent noise” means a noise whose level suddenly drops to several times the level of the background noise;

“intrusive noise” means external noise, or noise from another part of the building, which penetrates the structural defenses of a room or building;

“noise” means any undesirable sound that is intrinsically objectionable or that may cause adverse effects on human health or the environment;

“noise pollution” means the emission of uncontrolled

noise that is likely to cause danger to human health or damage to the environment;

“nuisance” means, without limiting the generality of the term, an act, omission, condition or state of affairs that—

- (a) impedes, offends, endangers or inconveniences the public at large; or
- (b) causes material inconvenience in the ordinary and comfortable use or enjoyment of private property,

“open burning” means the combustion of material by burning without chimney to vent the emitted products of combustion to the atmosphere, excluding the burning of sugarcane;

“pave” means to apply and maintain concrete or any other similar material to a road surface;

“pest” means an injurious, noxious or troublesome living organism;

“pesticide” means a micro-organism or material that is used or intended to be used to prevent, destroy, repel or mitigate a pest and includes herbicides, insecticides, fungicides, avicides and rodenticides.

“private property” includes any public place and any land privately owned, all buildings, rooms, tenements, sheds, huts or other structures.

“projecting sign-board” means any sign-board affixed to a wall and which at any point projects more than 230 mm from the surface of the wall; erections, and also yards or lands, in connection therewith, and shall also include any unit

“protected area” means an area declared by the county government to be a protected area for grazing of animals under section 37;

“public facility” means an amenity provided by the municipality for the utilization by and convenience of the public at large;

“public place” means any square, park, recreation

ground or open space which—

- (a) is vested in the town or
- (b) the public has the right to use; or
- (c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General's office and has been provided for or reserved for the use of the public or the owners of in such township;

“roof” means any roof of a building but does not include that portion of a roof which is the roof of a verandah or balcony;

“sign-board” means any structure or device used or intended or adapted for the display thereon of an advertisement;

“sky sign-board” means any sign-board affixed to a roof or the top of a roof;

“solid waste” includes medical and hazardous waste and—

- (a) refuse or sludge from a waste treatment facility, water supply plant, air pollution control facility and garbage;
- (b) solid, semi-solid or contained gaseous or liquid matter resulting from industrial, commercial, mining or agricultural operations or domestic activities; and
- (c) any contained substance or object which is or is intended to be, or required by law to be, disposed of, but does not include—
 - (i) animal manure and absorbent bedding used for soil enrichment;
 - (ii) suspended solid or dissolved material in sewage; and
 - (iii) industrial discharges from pipelines conveying such waste;

“solid waste management” includes—

- (a) the systematic control of the generation, collection, separation, storage, reuse, recycling, transportation, transfer, treatment, and disposal of solid waste; and
- (b) the characterization and measurement of solid waste;

“special area” means an area declared by the Department to be a special area under section 37;

“wall” means any external wall of a building, but does not include a parapet balustrade or railing of a verandah or balcony; and

“waste” means anything discarded or perceived to be useless by the generator and which deserves final disposal.

General Principles

3. a. Every person within the jurisdiction of the County is entitled to a clean and healthy environment and has the duty to safeguard and enhance the environment.

b. The entitlement to a clean and healthy environment under subsection (a) above includes the access by any person within the County to the various public elements or segments of the environment for recreational, educational, health, spiritual and cultural purposes.

c. If a person alleges that the entitlement conferred under subsection (a) above has been, is being or is likely to be contravened in relation to him, then without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to a subordinate court for redress and the subordinate court may make such orders, issue such writs or give such direction as may deem appropriate to:

- (i) compel any officer dully appointed by the County to take measures to prevent or discontinue any act or omission deleterious to the environment.
- (ii) prevent, stop or discontinue any act or omission deleterious to the environment.
- (iii) require that an on-going activity be subjected to an environmental audit

in accordance with the provisions of these this act or any other applicable law.

- (iv) compel the persons responsible for the environmental degradation to restore the degraded environment as far as practicable to its immediate condition prior to the damage.
- (v) provide compensation for any victim of pollution and the cost of beneficial uses lost as a result of an act of pollution and other losses that are connected with or incidental to the foregoing.

d. A person proceeding under subsection (c) above shall have the capacity to bring an action notwithstanding that such a person cannot show that the defendants' act or omission has caused or is likely to cause him any personal loss or injury provided that such action is not frivolous or vexatious or is not an abuse to the court process.

Object and Purpose
of the Act

4. The principal objective of this Act is to enhance cleanliness and healthy environment in the county by providing for the regulation and control of—

- (a) air pollution;
- (b) noise pollution;
- (c) water pollution;
- (d) public nuisances;
- (e) outdoor advertising;
- (f) waste management; and
- (g) water and land pollution.

Application of
other laws.

No 8 of 1999.

5. The provisions of this Act shall be read with any applicable provisions of the Environmental Management and Coordination Act, No. 8 of 1999 or any other relevant written law.

PART II – PROVISIONS RELATING TO ADMINISTRATION AND IMPLEMENTATION

Administration of
the Act.

6. (1) This Act shall be administered by the County Department of Environment as shall be directed by the County Executive Member.

(2) The County Executive Member may, from time to time, by notice in the Gazette, appoint any person or a class of persons to be authorized officers for the purposes of administration of this Act.

(3) The Member shall issue a certificate of appointment to every person appointed as an authorized officer under subsection (2) of this section.

(4) In addition to authorized officers appointed under this section, a member of the police force above the rank of inspector or a public health officer appointed under any written law shall be deemed to be an authorized officer for the purposes of this Act.

Establishment of
the Management
Committee.

7. (1) There shall be established a County Environment Management Committee which shall consist of—

- (a) the Executive Committee Member who shall be the chairperson of the Committee;
- (b) a County Chief Officer in charge of Environment;
- (c) a County Environment Officer who shall be the secretary of the Committee;
- (d) a representative of a local University to be appointed by the Executive Committee Member;
- (e) a representative of a research institute to be appointed by the Executive Committee Member;
- (f) five representatives of the County community appointed by the Executive Committee Member;
- (g) a County National Environmental Management Authority officer who shall be an ex-Official member,

(2) Every appointment under paragraphs (d), (e) and (f) of subsection (1) shall be by name and by notice in the gazette and shall be for the renewal period of three years, but shall cease if the appointee-

- (a) serves the Executive Committee Member with a written notice of resignation;

- (b) is absent for three consecutive Committee meetings without the permission of the Executive Committee Member;
- (c) is convicted of an offense of two months imprisonment;
- (d) is incapable of discharging committee duties due to mental or physical problems; or
- (e) conducts him or herself in a manner deemed by the Executive Committee Member in consultation with the Committee to be inconsistent with membership.

(5) The Committee shall discharge its functions as shall be prescribed by the Executive Committee Member as terms of reference.

(6) The Committee shall meet at least four times a year and shall regulate its own procedure.

Establishment of
the County
Environmental
Authority.

8. (1) There is established an authority to be known as the County Environmental Authority—

(2) The Authority 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, charging and disposing of immovable property;
- (c) borrowing money;
- (d) entering into contracts; and
- (e) doing or performing all such other things or acts for the proper administration of this Act, which may be performed by a body corporate.

(3) The purpose and objective of the Authority shall be to exercise general supervision and coordination over all matters relating to environment and to be the principal instrument of the County Government on all policies relating to Environment.

(4) Without prejudice to the generality of the foregoing, the Authority shall perform any other duties that may be directed to it from time to time by the County Executive Committee.

Board of the Authority.

9. The Authority shall be managed by a Board, which shall consist of—

- (a) the Chief Officer in charge of Environment who shall be the chair of the Authority;
- (b) a County Environment Officer who shall be the secretary to the Authority;
- (c) a County Law Enforcement Officer;
- (d) three Sub-County Administrators based in Kakamega, Mumias and Malava Towns;
- (e) the Executive Committee Member; Personal Assistant to the Governor; and
- (f) the county legal officer.

Conduct of business and affairs of the Authority.

10. (1) Subject to this Act, the Authority shall regulate its own procedure.

(2) The Authority shall meet at least four times a year and when there is an urgent need for a meeting as may be determined by the Executive Committee Member.

Staff of the Authority.

11. The Authority may appoint such officers or other staff of the Authority as are necessary for the proper discharge of its functions under this Act or any other written law, upon such terms and conditions of service as the Authority may determine.

The common seal of the Authority.

12. The common seal of the authority shall be kept in the custody of the Chairperson.

Protection from personal liability.

13. No matter or thing done by a member of the Authority or any officer, employee or agent of the Authority shall, if the matter or thing is done *bona fide* for executing the functions, powers or duties of the Authority, render the member, officer, employee or agent or any person acting on his directions personally liable to any action, claim or demand whatsoever.

Liability of the Authority for damages.

14. The provisions of section 13 shall not relieve the Authority of the liability to pay compensation or damages to any person for any injury to him, his property or any of his interests caused by the exercise of the powers conferred on the Authority by this Act or by any other written law or by the failure, whether wholly or partially, or any works.

Financial year.

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

Annual estimates.

16. (1) At least three months before the commencement of each financial year, the Authority shall cause to be prepared estimates of the revenue and expenditure of the Annual Authority for that year.

(2) The annual estimates shall make provisions for the estimated expenditure of the Authority for the financial year and in particular, the estimates shall provide for—

- (a) the payment of the salaries, allowances and other charges in respect of the staff of the Authority;
- (b) the payment of pensions, gratuities and other charges in respect of the staff of the Authority;
- (c) the proper maintenance of the buildings and grounds of the Authority;
- (d) the maintenance, repair and replacement of the equipment and other property of the Authority; and
- (e) the creation of such reserve funds to meet future contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the Authority may deem appropriate.

(3) The annual estimates shall be approved by the Authority before the commencement of the financial year to which they relate and shall be submitted to the Executive Committee Member for approval and after the Executive Committee Member's approval, the Authority shall not increase the annual estimates without the consent of the Executive Committee Member.

Accounts and audit.

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

(2) Within a period of four months from the end of each financial year, the Authority shall submit to the Auditor-General or to an auditor appointed under this section, the accounts of the Authority together with—

- (a) a statement of the income and expenditure of the Authority during that year; and

(b) a statement of the assets and liabilities of the Authority on the last day of that year.

(3) The accounts of the Authority shall be audited in accordance with the applicable laws on audit of state corporations.

Role of County Executive Committee in implementation of the Act.

18. In order to implement the objectives of the Act the county executive committee shall—

- (a) formulate county policy for necessary laws and regulations for the control of air, water, land and noise pollution, other public nuisances and outdoor advertising;
- (b) with the approval of the County Assembly, on such terms and against such security as may be agreed upon, raise funds;
- (c) receive any grant or donation;
- (d) consider all matters brought to its attention by the national government, and report its findings thereof and take all measures possible to ensure activities within the county to conform with national and county legislation on health, safety, environmental and other relevant standards;
- (e) regulate outdoor advertising and graffiti;
- (f) control public nuisances, including waste, pests and insects;
- (g) establish and manage pounds, and determine the circumstances and conditions under which any article, vehicle, animal or bird found to be abandoned may be impounded and, if necessary, be sold or destroyed;
- (h) establish sufficient number of cemeteries and crematoriums, and provide for the burial of all destitute persons who die within the county, and maintain the cemeteries and crematoriums in such manner as to ensure they are not

offensive, dangerous to health or attractive to pests or other nuisance; and

- (i) take any other step that may be necessary to implement this Act.

Establishment of market, estate, town and urban environmental committees.

19. (1) There shall be established Market, Estate, Town and Urban Environmental Committees with exception of Kakamega, Mumias and Malava and any other major township whose daily environmental management activities shall be done by registered Youth Groups.

(2) Members of the Market, Estate, Urban or Town Environment Committees shall be elected by the public in public barazas and shall not be below six or exceed ten in number depending on the complexity of the center and the election shall be presided over by a person appointed by the Chief Officer in charge of environment.

(3) Terms of References, duties, powers, mandate, privileges, incentives and sanctions of such committees shall be as may be spelled out by the Executive Committee Member in the Eleventh schedule.

(4) The Center Environmental Committees, respective Member of County Assembly and Center Chairperson shall be ex-official members.

PART III – PROVISIONS RELATING TO AIR POLLUTION

General principles.

20. (1) Every person who is wholly or partially responsible for creating a risk of air pollution shall take the following measures—

- (a) prevent any potential of air pollution from occurring; or
- (b) mitigate, as far as reasonably possible, any air pollution that may occur.

(2) The Executive Committee Member may direct any person in writing who fails to take the measures required under subsection (1) to—

- (a) commence taking specific reasonable measures before a given date;
- (b) diligently continue with those measures; and

(c) complete them before a specified date.

(3) Prior to making such a decision as contemplated in subsection (2), the Authority shall give the affected person adequate opportunity to inform the relevant government agent of their relevant interests.

(4) Where a person fails to comply, or inadequately comply, with any directive given under subsection (2) the Executive Committee Member may—

(a) take reasonable measures to remedy the situation or apply to a competent court for appropriate relief; or

(b) recover costs for reasonable remedial measures which should have been undertaken by any person who is or was responsible for, or who contributed to, the air pollution.

Prohibition on causing air pollution.

21. (1) A person shall not—

(a) act unlawfully and intentionally or negligently commit any act or omission which causes or is likely to cause air pollution; or

(b) act in a way that directly or indirectly causes, or is likely to cause immediate or subsequent air pollution, or emit any liquid, solid or gaseous substance or deposit any such substance contrary to this Act; or

(c) refuse to comply with a directive issued under this Part.

(2) To prove that air pollution was caused from premises, within the meaning of this part, it is sufficient to prove that air pollution was caused on the premises, unless the defendant satisfies the court that the air pollution did not cause air pollution outside the premises.

(3) A person who contravenes the provisions of subsection (1), commits an offence and shall be liable to a fine of one hundred thousand shillings or imprisonment for a term not exceeding six months or both.

Identification of substances and development of local emission standards.

22. (1) The eExecutive Committee Member shall identify the substances in ambient air as set out in the First Schedule and for each substance develop local emission standards.

(2) The Executive Committee Member may apply the

criteria as set out in First schedule when identifying and prioritizing the substances and when developing the local emission.

(3) Any person emitting substances or mixtures of substances shall comply with the emission standards established under this section.

(4) A person who contravenes the provisions of subsection (3), commits an offence and shall be liable to a fine of one hundred thousand shillings or to imprisonment for a term not exceeding six months or both.

Emission from compressed ignition powered vehicles.

23. (1) A person shall not, on a public road, drive or use or cause to be driven or used a compression ignition powered vehicle that emits dark smoke.

(2) A person who contravenes the provisions of subsection (1), commits an offence and shall be liable to

(3) For the purposes of this section “dark smoke” means smoke which has a density of 60 Hatridge smoke units.

Stopping of vehicle for inspection and testing.

24. (1) In order to enable an authorized person enforce provisions of this Part, the driver of a motor vehicle shall comply with reasonable direction given by authorized person—

(a) to stop the vehicle; and

(b) facilitate the inspection or testing of the vehicle.

(2) Any person who fails to comply with a direction given under sub-section (1) commits an offence and is liable to a fine of one hundred thousand shillings or imprisonment for a term not exceeding six months or both

(3) When a vehicle has stopped in compliance with a direction given under section, the authorized person may inspect and test the vehicle at the roadside, in which case inspection and testing shall be carried out—

(a) at or as near as practicable to the place where the direction to stop the vehicle is given; and

(b) as soon as practicable, and in any case within one hour, after the vehicle is stopped in accordance with the direction.

(4) If, after having conducted the test above, the authorized

person—

- (a) is satisfied that the vehicle is not emitting dark smoke, then the authorized person shall furnish the driver of the vehicle with a certificate indicating that the vehicle is not being driven or used in contravention of section 22; or
- (b) finds that the vehicle is emitting dark smoke, the authorized person shall issue the driver of the vehicle with a repair notice in accordance with section 24.

Repair notice.

25. (1) A repair notice issued under section 23 (4)(b) shall direct the owner of the vehicle to repair the vehicle within a specified period of time, and to take the vehicle to a place identified in the notice for re-testing before the expiry of that period.

(2) The repair notice shall contain, amongst others the following information—

- (a) make model and registration number of the vehicle;
- (b) name, address and identity number of the driver of the vehicle;
- (c) if the driver is not the owner of the vehicle, the name and address of the owner.

(3) A person who fails to comply with the repair notice issued under this section or fails to take the vehicle for re-testing commits an offence and is liable to.....

Dust emissions.

26. (1) Any person conducting certain activities which customarily produce emissions of dust that may be harmful to public health, wellbeing and or cause a nuisance shall take control measures to prevent emissions into atmosphere.

(2) For the purposes of this section “dust” means any solid matter in a fine or disintegrated form which is capable of being dispersed or suspended in the atmosphere and shall include dust from mine dumps.

(3) Any person who undertakes any activity that causes dust emissions shall implement one or more of the following control measures—

- (a) pave;

- (b) use dust palliatives or dust suppressants;
- (c) uniformly apply and maintain any surface gravel;
- (d) erect physical barriers and signs to prohibit access to the disturbed areas;
- (e) use ground covers;
- (f) re-vegetation which is similar to adjacent undisturbed native conditions; or
- (g) any alternative control measure approved in writing by the air authorized officer.

(4) The provisions of this section are not applicable to—

- (a) landscaping activities by a person at his place of residence;
- (b) emergency maintenance activities on publicly maintained roads, road shoulders and rights of way;
- (c) unpaved roads having vehicular traffic of less than 500 vehicles per day;
- (d) non-commercial and non-institutional private driveways;
- (e) horse trails, hiking paths, bicycle paths or other similar paths; and
- (f) any other path that has been designated as an exclusive use area for purposes other than travel by motor vehicle.

(5) Any person who contravenes the provisions of this section commits an offence and shall be liable to a fine of one hundred thousand shillings or imprisonment for a term not exceeding six months or both.

Emissions caused by open burning.

27. (1) A person who carries out or permits open burning of any material on any land or premises commits an offence, unless—

- (a) the prior written authorization of the county government, upon payment of administrative fee, has been obtained, which authorization may be granted by the county government with conditions; and
- (b) that person has notified in writing the owners and

occupiers of all adjacent properties of—

- (i) all known details of the proposed open burning;
and
- (ii) the right of owners and occupiers of adjacent properties to lodge written objections to the proposed open burning with the county within seven days of being notified.

(2) The County government may not authorize open burning unless it is satisfied that the requirements set out in subsection (1) above have been adequately addressed or fulfilled

(3) The provisions of this section shall not apply to—

- (a) recreational outdoor activities, on private premises;
and
- (b) controlled fires in dwellings for the purposes of heating any area within the dwelling, cooking, heating water and other domestic purposes.

Emissions caused by burning of industrial, garden, domestic waste etc.

28. A person who carries out or permits the burning of any industrial, domestic or garden waste on any land or premises, for the purpose of disposing of that waste, commits an offence unless the industrial, domestic or garden waste is legally disposed.

Sugar cane burning emissions.

29. (1) A person shall not burn sugar cane unless—

- (a) the prior written authorization of the county government, upon payment of administrative fee, has been obtained which authorization may be granted by the Executive Committee Member with conditions;
and
- (b) that person has notified in writing the owners and occupiers of all adjacent properties (including surrounding communities within 150 m of the details of the proposed area to be burned including—
 - (i) the date and approximate time of the sugarcane burning;
 - (ii) in the event of inclement weather conditions, an alternative dates on which the sugarcane burning may occur;

(iii) the right of owners and occupiers (including surrounding communities within 150 meters) of adjacent properties to lodge written objections to the proposed sugarcane burning with the county within 7 days of being notified.

(2) The Executive Committee Member may not authorize sugarcane burning under this section unless it is satisfied that there requirements set out in subsection (1) have been adequately complied with.

(3) Any person who contravenes the provisions of this section commits an offence and shall be liable on conviction to a fine of one hundred thousand shillings or to imprisonment for a term not exceeding six months or both.

(4) The provisions of this section are not applicable to any defined area the Executive Committee Member may declare as such.

Emissions caused by tyre burning and burning of rubber products and cables in open spaces.

30. (1) A person shall not carry out or permit burning of any tyres, rubber products, cables or any other products, on any land or premises for the purposes of recovering the scrap metal or fibre reinforcements, or of disposing of tyre rubber products or cables as waste.

(2) Any person who contravenes the provisions of this subsection (1) commits an offence and shall be liable on conviction to a fine of one hundred thousand shillings or to imprisonment for a term not exceeding six months or both.

Pesticide spraying emissions.

31. (1) A person shall not carry out the spraying of pesticides, either by tractor or aerial, within the county government jurisdiction unless that person complies with the following control measures—

(a) prior written authorization of the County government ,upon payment of administrative fee, has been obtained, which authorization may be granted by the County government with conditions, including—

(i) the area of land on which the pesticide may be applied; and

(ii) the period of time in which the pesticide may be applied.

(b) prior notification in writing to the owners and occupiers of all adjacent properties within 150 metres of the treatment area of—

- (i) the details of the proposed treatment area;
- (ii) the pesticide use;
- (iii) the active ingredient;
- (iv) the date and approximate time of pesticide use;
- (v) in the event of inclement weather conditions an alternative dates on which the pesticide use may occur;
- (vi) The time if any indicated on the product label specifying when the area can be safely re-entered after application; and
- (vii) the right of owners and occupiers of adjacent properties to lodge written objections to the proposed spraying of pesticides with the county government within 7 days;

(2) Any person who contravenes the provisions of this subsection (1) commits an offence and shall be liable on conviction to a fine of one hundred thousand shillings or to imprisonment for a term not exceeding six months or both.

(3) A person may apply to Executive Committee Member for an exemption if the spraying of the pesticide is for—

- (a) the management of pests that transmit human diseases or adversely impact agriculture or forestry;
- (b) the management of pests that threaten the integrity of sensitive ecosystems; or
- (c) the need for the use of the pesticide is urgent.

(4) The provisions of this section are not applicable to—

- (a) residential areas;
- (b) buildings or inside buildings and the domestic use of pesticides; or
- (c) any other defined area or defined activity to which the

county government has declared this section not to apply.

Spray painting emissions.

32. (1) A person shall not, within the urban area of jurisdiction, spray, coat, plate or epoxy-coat any vehicle, article, object or allow them to be sprayed, coated, plated, or epoxy-coated with any flammable substances outside approved spray painting room or both.

(2) A person shall not spray, coat, plate, or epoxy-coat any vehicle, article object, or building or part thereof or allow them to be sprayed, coated plated or epoxy-coated with any flammable substances unless—

- (a) that person is in possession of a spraying permit contemplated in subsection (1);
- (b) the spraying, coating, plating or epoxy-coating as the case may be, is conducted in a spraying room approved by the designated fire officer, in consultation with the authorized officer, on premises registered for that purpose.

(3) Any person who contravenes the provisions of this subsections (1) and (2) commits an offence and shall be liable on conviction to a fine of one hundred thousand shillings or to imprisonment for a term not exceeding six months or both.

(4) Any person who wishes to obtain a spraying permit shall complete and submit to the designated officer an application form for such permit in the form and manner prescribed.

(5) The designated authorized officer may cancel the spraying permit if there is reason to believe that the holder of the spraying permit contravenes or fails to comply with any provision of this section.

(6) Subject to subsection (7), before the designated fire officer cancels the spraying permit as contemplated in subsection (6), that officer shall—

- (a) give the holder of the spraying permit written notice of the intention to cancel the spraying permit and the reasons for such cancellation;
- (b) give the holder a period of at least 21 days to make written representations regarding the matter to the County government.

(7) If the designated fire officer has reason to believe that the failure to cancel the spraying permit may endanger any person, that officer may cancel the spraying permit without prior notice to the holder as contemplated in subsection (6).

(8) If the designated fire officer cancels the spraying permit in terms of subsection (7) that officer shall—

- (a) furnish the holder of the spraying permit with written notice of the Cancellation;
- (b) give the holder of the spraying permit a period of at least 21 days to make written representation regarding the matter to the county government.

Responsibilities of the Department to control air pollution.

33. The Department shall take necessary steps in order to control air pollution within the county, including—

- (a) promotion of alternative cooking technologies that are non polluting;
- (b) development of well ventilated buildings;
- (c) regulation of smoking in enclosed spaces; and
- (d) promotion of tree planting and expansion of forest cover.

Responsibility of owner or operator of controlled facility.

34. Every owner or operator of a controlled facility shall ensure that emissions from the facility does not cause air pollution in any territory outside the facility, in excess of the prescribed relevant ambient air quality levels.

Responsibility of occupier or operator of premises.

35. (1) The occupier or operator of premises shall ensure that exposure of indoor air pollutants does not exceed the exposure limits stipulated under the Factories and Other Places of Work (Hazardous Substances) Rules, 2007, and any other written law.

LN. No. 60 of 2007.

(2) Where the hazardous substances referred to in subsection (1) are not covered under the legislation referred to therein, the occupier or operator shall apply the guidelines provided by the manufacturer or supplier of the substances.

(3) The Department shall make regular inspection and ensure indoor pollutants do not exceed the recommended levels.

Permitted operations.

36. Subject to any national legislation on the subject, the following operations shall be permissible within the county

provided that they are not used for the disposal of refuse-

- (a) back-burning to control or suppress wildfires;
- (b) fire fighting rehearsals or drills conducted by county fire service agencies;
- (c) burning for purposes of public health protection; and
- (d) emissions of air pollutants from all stationary and mobile sources as may be prescribed.

Department may
Objection to grant
or renewal of
licences.

37. The Department may raise objection in granting or renewing a license relating to—

- (a) the use of premises as a theatre, music hall, concert room or other place of amusement, or as a restaurant or eating house; or
- (b) the use of premises for the carrying on of any work or trade,

on the grounds that—

- (i) the method adopted or proposed to be adopted by the applicant for preventing noxious or offensive vapors, gases or smells arising from such premises are not efficient; or
- (ii) the granting of such license or the renewal thereof would be calculated to cause public nuisance or annoyance to persons residing in the neighborhood, or otherwise be against public interest.

Collaboration with
other departments
and agencies.

38. The Department shall, in collaboration with other departments and agencies of the county government—

- (a) provide methods of abating and regulating air pollution;
- (b) determine protected areas and special areas for the purpose of this Act;
- (c) promote public awareness campaigns relating to measures to safeguard the health of nonsmokers from second-hand smoke; and

- (d) take steps to clean up any air pollution where necessary.

PART IV – PROVISIONS RELATING TO NOISE POLLUTION AND EXCESSIVE VIBRATION

General prohibitions.

39. (1) Except as otherwise provided in this Act, a person shall not make any loud, unreasonable, unnecessary or unusual noise which annoys, disturbs, injures or endangers the comfort, repose or safety of other persons and environment.

(2) In determining whether noise is loud, unreasonable, unnecessary or unusual, the following factors may be considered—

- (a) time of day;
- (b) proximity to residential area;
- (c) whether the noise is recurrent, intermittent or constant;
- (d) level and intensity of the noise;
- (e) whether the noise has been enhanced in level or range by type of electronic or mechanical means; or
- (f) whether the noise may be controlled without much effort or expense to the person making the noise.

(3) Any person who contravenes the provisions of this section commits an offence and shall be liable on conviction to a fine of one hundred thousand shillings or imprisonment for a term not exceeding six months or both

Excessive vibrations.

40. (1) Except as otherwise provided in this Act, a person shall not—

- (a) make or cause to be made excessive vibrations which annoy, disturb, injure or endanger the comfort, repose or safety of others and environment; or
- (b) cause to be made excessive vibrations which exceed 0.5 centimetres per second beyond any source property boundary or 30 metres from any moving source.

(2) Any person who contravenes the provisions of this section commits an offence and shall be liable on conviction

to a fine of one hundred thousand shillings or to imprisonment for a term not exceeding six months of both.

Permissible noise levels.

41. A person shall not make, continue or cause to be made or continued any noise in excess of the noise levels set in the Second Schedule to this Act, unless such noise is reasonably necessary to the preservation of life, health, safety or property.

Measurement and control.

42. (1) A person shall not cause noise from any source which exceeds any sound level as set out in the applicable column in the Second Schedule to this Act.

(2) Measurements shall be taken by authorized officers who are knowledgeable in the proper use of the measuring equipment;

(3) Any person who contravenes the provisions of this section commits an offence and shall be liable on conviction to a fine of one hundred thousand shillings or imprisonment for a term not exceeding six months or both.

Exemptions.

43. The provisions of this Part shall not apply to—

- (a) the emission of noise for the purpose of alerting persons to the existence of an emergency;
- (b) the emission of noise in the performance of emergency response;
- (c) the emission of noise in connection with the protection of the health and safety of Residents or their property during emergency conditions;
- (d) warning devices necessary for the protection of public safety, such as police, fire and Ambulance sirens, and train horns; or
- (e) parades and national celebrations.

PART V— PROVISIONS RELATING TO NOISE FROM CERTAIN SOURCES

Radio, television and other sound amplifying devices

44. (1) A person shall not use or operate any radio or receiving set, musical instrument, phonograph, television set, any other machine or device for the producing or reproducing of sound or any other sound-amplifying equipment in a loud, annoying or offensive manner such that the noise from the device—

- (a) interferes with the comfort, repose, health or

safety of members of the public;

- (b) creates a risk thereof, within any building or, outside of a building, at a distance of 30 meters or more from the source of such sound; or
- (c) interferes with the conversation of members of the public who are 30 meters or more from the source of such sound.

(2) A person shall not cause noise from any source which exceeds any sound level as set out in the applicable column in the Second Schedule to this Act.

(3) For the purposes of this section, a “person” includes—

- (a) in the case of an offence that occurs on any public property where permission was obtained to use that public property, the person or persons who obtained permission to utilize that property for that event; and
- (b) in case of an offence that occurs on private property, any adult person or persons who live in or on the property that is involved in the offence.

(4) Any person who contravenes the provisions of this section commits an offence and shall be liable on conviction to a fine of one hundred thousand shillings or imprisonment for a term not exceeding six months or both

Parties and social events.

45. (1) Any person in charge of a party or other social event which occurs on any private or public property shall ensure that the party or event does not produce noise in a loud, annoying or offensive manner such that noise from the party interferes with the comfort, repose, health or safety of members of the public within any building or, outside of a building, or recklessly creates the risk thereof, at a distance of 30 meters or more from the source of such sound.

(2) For the purposes of this section, a “person in charge of a party or other social event”—

- (a) that occurs on any public property shall include the person or persons who obtained permission to utilize that property for that event;
- (b) that occurs on private property shall include the person who owns the premises involved and any adult person who lives in or on the premises involved in such party or social event;

(c) shall include the person who is listed on a permit issued by the county government with respect to such event.

(3) Any person who contravenes the provisions of this section commits an offence and shall be liable on conviction to a fine of one hundred thousand shillings or imprisonment for a term not exceeding six months or both.

Hawkers, peddlers,
touts and street
preachers.

46. (1) Subject to provisions of subsection (2), a person shall not—

- (a) preach, tout, advertise, promote or sell any goods; or
- (b) engage in any commercial activity in such manner as to emit noise by shouting within the Central Business District of any town, a residential area, a silent zone, or any other area declared as a silent zone by the Authority.

(2) The provisions of subsection (1) shall not be construed to prohibit the selling by shouting of merchandise, food and beverages at licensed sporting events, parades, fairs, circuses and other similar licensed public entertainment events.

(3) Any person who contravenes the provisions of this section commits an offence and shall be liable on conviction to a fine of one hundred thousand shillings or imprisonment for a term not exceeding six months or both

Machinery.

47. (1) Any person wishing to—

- (a) operate or repair any machinery, motor-vehicle, construction equipment or other equipment, pump, fan, air-conditioning apparatus or similar mechanical device; or
- (b) engage in any commercial or industrial activity, which is likely to emit noise or excessive vibrations,

shall carry out such activity or activities within the relevant levels prescribed in the Second Schedule to this Act.

(2) Any person who contravenes the provisions of this section commits an offence and shall be liable on conviction to a fine of one hundred thousand shillings or imprisonment for a term not exceeding six months or both

Noise from motor-

48. (1) A person shall not operate a motor-vehicle

vehicles.

which—

- (a) produces any loud and unusual sound; and
- (b) exceeds 84dB (A) when accelerating.

(2) A person shall not at any time sound the horn or other warning device of a vehicle except when necessary to prevent an accident or an incident.

(3) The provisions of the Traffic Act, Chapter 403, Laws of Kenya, The Traffic (Amendment) Act, No. 37 of 2012 and the Rules made there under shall apply to this section.

(4) Any person who contravenes the provisions of this section commits an offence and shall be liable on conviction to a fine of one hundred thousand shillings or imprisonment for a term not exceeding six months or both

Construction at night.

49. (1) Except for the purposes specified in subsection (2), person shall not operate construction equipment (including but not limited to any piled river, steam shovel, pneumatic hammer, derrick or steamor electrichoist) or perform any outside construction or repair works on as to emit noise in excess of the permissible levels as set out in the Third Schedule to this Act.

(2) Subsection (1) shall not be deemed to prohibit—

- (a) any work of an emergency nature;
- (b) work of a domestic nature on buildings, structures or projects being undertaken by a person residing in such premises; or
- (c) public utility construction, or, with respect to construction of public works, projects exclusively relating to roads, bridges, airports, public schools and side walks:

Provided that, if any domestic power tool, including but not limited to mechanically powered saws, sanders, grinders and lawn and garden tools used outdoors, is operated during the night time hours, person shall not operate such machinery so as to cause noise within a residential building or across a residential real property boundary where such noise interferes with the comfort, repose, health or safety of members of the public within any building or, outside of a building, at 30 meters or more from the source of the sound.

Noise, excessive vibrations from construction, demolition, mining or quarrying sites.

50. (1) Where defined work of construction, demolition, mining or quarrying is to be carried out in an area, the Authority may impose requirements on how the work is to be carried out including but not limited to requirements regarding—

- (a) machinery that may be used; and
- (b) the permitted levels of noise as stipulated in the Third and Fourth Schedules to this Act.

(2) The relevant lead agency shall ensure that mine sand quarries where explosive sand machinery used are located in designated areas and not less than two kilometers away from human settlements.

(3) Any person carrying out construction, demolition, mining or quarrying work shall ensure that the vibration levels do not exceed 0.5 centimetres per second, beyond any source, property, boundary or 30 metres from any moving source.

(4) Any person who contravenes the provisions of this section commits an offence and shall be liable on conviction to a fine of one hundred thousand shillings or imprisonment for a term not exceeding six months or both

Environmental impact assessment.

51. Any person intending to carry out construction, demolition, mining or quarrying work shall, during the Environmental Impact Assessment studies—

- (a) identify natural resources, land-uses or activities which may be affected by noise or excessive vibrations from the construction, demolition, mining or quarrying;
- (b) determine the measures which are needed in the plans and specifications to minimize or eliminate adverse construction, demolition, mining or quarrying noise or vibration impacts; and
- (c) incorporate the needed abatement measures in the plans and specifications.

PART VI—PROVISIONS RELATING TO LICENSING PROCEDURES FOR CERTAIN ACTIVITIES

Licence.

52. (1) Where a sound source is planned, installed or

intended to be installed or modified by any person in such a manner that such source shall create or is likely to emit noise or excessive vibrations, or otherwise fail to comply with the provisions of this Act, such person shall apply for a licence to the Executive Committee Member.

(2) A person shall not use any sound-amplifying equipment in such away that such equipment is or is likely to be heard outside of any building between 9:00p.m.of any day and 7:30a.m.of the next day, without a valid license

(3).Where any person uses or plans to use a public-address system which is likely to emit sound out side of a building, such person shall secure a license under this Act.

(4) An application for the license shall provide the following information—

- (a) the reasons for such usage, including a demonstration as to why it is desirable or necessary that the sounds our involved be authorized by a licence pursuant to this Regulation;
- (b) plans and specifications of the use;
- (c) noise-abatement and control methods to be used with respect to the sound source involved;
- (d) the period of time during which the license shall apply
- (e) the name of the person(s) who is responsible for ensuring that the activity complies with any license issued for it pursuant to this Regulation; and
- (f) evidence that notification of the application for the license has been given to each person reasonably expected to be affected by the noise, the content of such notification and the manner in which such notification has been given, if the event is not a community-wide or public event:

Provided that the notification shall state that any person objecting to the granting of such a license may contact the appropriate office to whom the application is being made to express his or her opposition to the granting of the license.

(5) Any licence granted shall state that the licence only applies to this Act.

(6) In order to further the purposes of this Act and to facilitate compliance and enforcement, the relevant lead agencies shall have power to attach such other conditions in

relation to this Act as they may deem necessary to a license or permit issued thereunder.

License application.

53. (1) An application for a license shall be made to the Executive Committee Member in the form prescribed in the Fifth Schedule to this Act and shall be accompanied by the prescribed fee.

(2) When determining if a licence is to be issued, the factors the Executive Committee Member shall consider shall include—

- (a) the level of the noise or excessive vibrations;
- (b) the proximity of the noise or excessive vibrations to accommodation or residential facilities;
- (c) the time of the day or night the noise or excessive vibrations occur;
- (d) the time duration of the noise or excessive vibrations;
- (e) the impact of the noise on persons living or working in different places or premises who are affected by the noise or excessive vibrations;

(3) The Authority shall process the application for a licence within two days from the date of receipt of the application, failure to which the applicant shall be free to proceed with the activity in respect of which the application is made.

(4) A license shall contain requirements relating to the manner in which the activities are to be carried out and may, in particular specify—

- (a) the equipment or material to be used;
- (b) the hours during which the activities may be carried out;
- (c) the level of noise or vibrations which may be emitted in excess of the permissible levels;
- (d) the activities and the method by which they are to be carried out; and
- (e) the steps proposed to be taken to minimize noise or excessive vibrations resulting from the activities.

(5) The Authority shall issue a license in the form of a prescribed in the Sixth Schedule to this Act.

(6) A license issued under this section shall be valid for a period not exceeding seven days.

(7) An application for a permit shall be made to the Authority in the form prescribed in the Seventh Schedule to these Act and shall be accompanied by the prescribed fee

(8)The Authority may, on receiving an application, issue the applicant with a permit to carry out fireworks, demolitions, firing ranges and specific heavy industrial work, in the form set out in the Eighth Schedule to this Act, on such terms and conditions as may be contained in the permit

(9)A permit to carry out activities such as fire works, demolitions, firing ranges and specific heavy industry shall be valid for a period not exceeding three months.

(10) Any person who contravenes the provisions of this section commits an offence and is liable upon conviction to a fine of one hundred thousand shillings or imprisonment for a term not exceeding six months or both

(11) The provisions of the Factories and Other Places of Work (Noise Prevention and Control) Rules, 2005 shall apply to Act.

(12) Any applicant who is aggrieved by the refusal of the Authority to grant a license or a permit may appeal to the Tribunal.

LN. No. 25 of 2005.

Improvement notice.

54. (1)Where an authorized officer has reasonable cause to believe that any person is emitting or is likely to emit noise or excessive vibration in any area in excess of the maximum permissible levels, or is causing or is likely to cause annoyance, the latter may, with the approval of the Executive Committee Member, in consultation with the relevant executive environment committee, serve an improvement notice on that person in the form prescribed in the Ninth Schedule, directing all or any or all of the following—

- (a) the cessation of the noise or excessive vibration, or prevention or discontinuance of any annoyance, or prohibiting or restricting its occurrence or re-occurrence;
- (b) compliance with the permissible noise or excessive vibration levels;
- (c) there deduction of the level of noise or excessive vibration emanating from the premises to a level specified in the notice;

- (d) requiring the carrying out of an environmental audit;
- (e) compelling enforcement officers to take measures to prevent discontinue or stop the emission of the noise or excessive vibration;
- (f) the prevention of any subsequent increase in the level of noise or excessive vibration emanating from the premises or area;
- (g) issue such directions intended to contribute to the reduction of emission of noise or excessive vibration from or within the vicinity of a specified area;
- (h) the execution of such works, and the taking of such steps, as may be specified in the notice; or
- (i) carrying out of any other order as may be issued.

(2) Any person who fails or refuses to comply with the conditions in an improvement notice commits an offence and is liable, up on conviction, to a fine of or to imprisonment..... or to both.

Closure notice.

55. Where there is continuous emission of noise or excessive vibration after the environmental authorized officer has issued improvement notice, the latter may, with the approval of the Executive Committee Member, and in consultation with the Executive Committee, order the closure of an establishment or undertaking emitting such noise or excessive vibration, or to both.

Existing activities.

56. Any person carrying out activities that emit noise or excessive vibration immediately before the coming in to force of this Act shall, within six months from the coming in to force thereof take all necessary measures to ensure full compliance with the provisions of this Act.

Responsibilities of the Department to control noise pollution.

57. The Department shall take necessary steps in order to control noise pollution within the county, including—

- (a) measures to control noise in special areas like school, hospital, residential areas, and libraries;
- (b) regulating high noise levels associated with commercial machinery, public transportation and social activities;
- (c) measures to regulate the businesses, factories and workshops which, by reason of noise, vibration or other cause, become a source of danger, discomfort or annoyance to the neighborhood, and to monitor the fulfillment of the conditions subject to which such businesses, factories and workshops shall be carried

on under this Act.

PART VII – PROVISIONS RELATING TO PUBLIC NUISANCES

Purpose of this
Part.

58. The purpose of this law is to promote a safe, healthy and peaceful environment for the benefit of the public residing within the county boundaries, and to provide for practices and procedures to control public nuisances.

Breaches of the
peace in public
places.

59. A person commits an offence if, in a public place, he or she—

- (a) accosts, insults, interferes with, jostles, threatens or harasses other person;
- (b) associates or acts in concert with other persons in a manner which causes or is likely to cause a breach of the peace; or
- (c) fights or incites or invites another person to fight.

Indecent behavior.

60. (1) A person commits an offence if, in a public place, he or she—

- (a) is not decently clothed so that at least such person's genitals are covered from view; or
- (b) performs any indecent act, or incites any other person to commit any such offence.

(2) A person commits an offence if, in a public place, he or she—

- (a) defecates or urinates, except within a public facility provided by or on behalf of the county government for that purpose;
- (b) enters a toilet reserved or set aside for members of the opposite sex;
- (c) spits;
- (d) is under the influence of intoxicating liquor or imbibes or ingests such liquor in circumstances which, in the reasonable opinion of an authorized official, render it likely that such person will cause

a nuisance to other persons;

- (e) is under the influence of a dependence-producing substance, or administers such a substance to him- or herself for another person; or
- (f) commits or displays any indecent gesture, or indecently exposes himself or herself.

Obscene or
offensive language.

61. A person commits an offence if, in a public place within the hearing of a person in a public place, he or she uses or says indecent or offensive language or sings an indecent or offensive song.

Indecent or
offensive literature
and
representations.

62. A person commits an offence if, in a public place, he or she—

- (a) displays, distributes, exposes to view, or sells, or offers for sale, in a manner likely to cause offence, any indecent or offensive picture, or other representation or written or printed matter; or
- (b) draws, prints, writes, or otherwise produces, any indecent or offensive figure, letter, picture, word or other representation or matter so that the same is in the public view.

Dangerous acts.

63. A person commits an offence if, in a public place, he or she—

- (a) activates, handles or uses any material, object or thing which results in injury to a person, or which threatens a person, or which damages property, or he or she acts in a manner likely to result in such injury, threat or damage;
- (b) introduces or handles any material, object or thing, or any liquid or solid substance, which, by its nature, or by reason of the manner of its introduction or handling, creates a new source of danger to persons or property, or is likely to do so;
- (c) lights, uses, or benefits from a fire, other than in or on a public facility provided by the county government for that purpose;
- (d) attaches any object to, or suspends any object from, a canopy, bridge, verandah or other projection, or a pillar, pole or post, subject to the provisions of this

Act;or

- (e) performs any other act which may cause injury to a person or damage to property, unless he or she is authorized or permitted by law to do so, or does so with the written permission of an authorized official and in accordance with any conditions imposed by him or her.

Discharge or use of fireworks.

64. (1) A person shall not discharge fireworks from any private property or public place without the written consent of the County government.

(2) Applications for the written consent contemplated in terms of subsection (1) shall be—

- (a) submitted in writing fourteen days prior to the event; and
- (b) accompanied by the written consent of the immediate neighbours who occupy abutting properties and properties across the road from the private property or public place from which the fireworks will be discharged.

Littering.

65. (1) A person commits an offence if, in a public place, he or she—

- (a) abandons, discards, discharges, or spills, or causes or allows to be discharged or spilled, any rubbish or other waste material or thing, whether liquid or solid, except in a receptacle provided for the purpose; or
- (b) removes from a receptacle, provided for the disposal of refuse, any of its contents, and causes same to be discharged from such a receptacle.

(2) A person who causes or incites another person to perform any of the acts described in subsection (1) commits an offence.

(3) Any material or thing that a person drops or allows to fall without being immediately retrieved by him or her shall, for the purposes of subsection (1), be deemed to have been discarded by him or her.

(4) Any material or thing found in a public place in circumstances giving rise to a reasonable suspicion that an offence has been committed in terms of subsection(1), and which bears the name of a person or in respect of which

there is a reasonable suspicion that it is or was the property or under the control of that person, shall, for the purposes of sub-section (1), be deemed to have been abandoned or discarded by that person, until the contrary is proved.

(5) A person who sweeps, or in any other way introduces, any rubbish or waste material or thing into a public place shall be deemed to have discarded it there, for the purposes of subsection(1).

(6) A person who has been observed by an authorized official to have contravened the provisions of subsection (1) may be directed by him or her to remove the rubbish, material or thing or to place it in a receptacle provided by or on behalf of the county government, and failure to comply with such direction shall constitute an offence.

(7) Any person who commits an offence under this section is liable upon conviction to a fine of one hundred thousand shillings or imprisonment for a term not exceeding six months or both

Cleaning of
sidewalks and
verges.

66. (1) An occupier of premises in or on which there is carried on any business, occupation, trade or manufacturing shall at all times, while any such activity is being carried on, keep any side walk and verge abutting on or adjoining the premises, including the gutter and kerb, free of litter, and shall keep the sidewalk and verge in a clean and satisfactory state, and, to this end, remove all litter therefrom.

(2) The occupier referred to in subsection (1) shall cause all litter removed in terms of said subsection to be placed in refuse receptacles provided by or on behalf of the county government, or, with receptacles provided by or on behalf of the county government, or, with the written consent of an authorized official, to be disposed of in a manner approved by said authorized official.

Obstructions.

67. (1) A person commits an offence if, in a public place, he or she—

- (a) leaves anything unattended, having introduced or placed the thing there, so as to cause or be likely to cause an obstruction to persons or vehicles;
- (b) carries, deposits, handles or introduces anything, so as to be likely to obstruct or interfere with the free movement of persons or vehicles, or with the use of the public place by persons or vehicles, or to cause injury to any person, or damage to any property;

- (c) deposits on its surface anything, for the purpose of, or in the course of, loading or unloading a vehicle, or of delivering same to premises having access to such public place, for a longer period than is reasonably necessary for that purpose;
- (d) obscures a road traffic sign;
- (e) hangs or suspends anything from or above a public place, or causes or allows anything to protrude above its surface or to encroach upon it, provided that prior written consent may be obtained from the county government, which consent may be given subject to conditions and restrictions deemed necessary;
- (f) gathers with or causes a gathering of other persons in a place or manner so as to, or so as to be likely to, obstruct or restrict or interfere with the movement of persons or vehicles, or the use or enjoyment of a public place by persons or vehicles;
- (g) performs any other act which has, or is likely to have, a result described in paragraph (b).

(2) Any person who commits an offence under this section is liable upon conviction to a fine of one hundred thousand shillings or imprisonment for a term not exceeding six months or both

Disposal of property found in a public place.

68. (1) When anything has been left in a public place, in contravention of section 67, an authorized official may remove it to a store established by the county government for this purpose, provided that, if such a thing, in the reasonable opinion of the authorized official, has no commercial value, he or she may dispose of same in such manner as he or she deems fit, and the person who has committed the offence shall be liable to the county government for the cost of such disposal, as determined by such authorized official.

(2) Items which have been removed to a store in terms of subsection (1) shall be released to any person who, within seven days after such removal, or within such longer period as may be allowed by the authorized official in charge of such store, has demonstrated that he or she is the owner of the items, or entitled to their possession, after payment of the cost of removal and storage, as determined by such authorized official, in accordance with a prescribed tariff or

charges.

(3) Items which have not been released in terms of subsection (2) shall be sold or disposed of in such manner and after such notice as the authorized official in charge of the store deems fit, having regard for the nature of the items.

(4) The proceeds of any sale in terms of subsection (3) shall be utilised for the payment of—

- (a) the cost of removal and storage, as determined in terms of subsection (2);
- (b) any costs which may have been incurred in attempting to trace the owner; and
- (c) the costs of sale, the remaining balance being forfeited to the county government if not claimed within one year of the date of sale by a person who demonstrates his legal right thereto.

(5) If the proceeds of the sale are not sufficient to meet the costs referred to in subsection (4), the owner of the items sold and the person who committed any offence in relation thereto shall be jointly and severally liable to the county government for payment of the unsatisfied balance.

(6) If the items cannot be sold in terms of subsection (3), then the authorized official in charge of the store may dispose of the items in such manner as he deems fit, and the provisions of subsection (5) shall, *mutatis mutandis*, apply in respect of any costs incurred in effecting such disposal.

(7) The exercise of any powers conferred by this law shall not render the county government or any authorized official liable for any loss or theft of, or any damage to, anything removed in terms of subsection (1), except where such loss, theft or damage is a direct result of the negligence of the county government or authorized official in question.

Obstructions
caused by plants

69. (1) If a tree, shrub or other plant growing on any private property which abuts on a public place, or any portion of such plant —

- (a) obstructs the view of the driver of any vehicle in such public place;
- (b) obstructs or causes a nuisance to persons using such public place; or

(c) obscures a road traffic sign,

an authorized official may serve a notice on the owner or occupier of the private property, requiring him or her to cut down, remove or trim the plant from which the nuisance originates, to an extent, and within the period, stated in the notice, and any person who fails to comply with such notice within the period stated shall be guilty of an offence.

(2) If a person on whom a notice has been served in terms of subsection (1) fails to comply with the terms thereof within the period stated therein, then an authorized official may cause the work specified in the notice to be carried out, and such person shall be liable to the county government for the reasonable cost of the work, as assessed by such authorized official.

Use of private property.

70. (1) A person commits an offence if, on any private property, he or she—

- (a) excavates or removes soil or other material from a position in relation to other premises or public place so as to be likely to, remove later all support from such premises or public place, or to create a source of danger to life or damage to property;
- (b) being the owner or occupier of such private property, allows any well, pond, reservoir, swimming pool, pit, hole, excavation, earthwork, tree or other vegetation on such private property to be in such a condition or to be protected so as to constitute a danger to the safety of persons or property;
- (c) causes, or allows, any thing to project from the private property over or in to a public place, except in area zoned for industrial purposes in terms of a zoning scheme and to an extent necessarily consistent with the lawful land use thereof;
- (d) being the owner or occupier of such private property, deposits, stores or causes, or allows or permits to be deposited or stored or to accumulate so as to be visible from a public place, abandoned, derelict or disused furniture, machinery, vehicles or other objects or parts thereof, or scrap metal or other derelict or waste materials;

- (e) without the consent of the owner or occupier thereof, attaches or places anything to or on any private property, or in any way defaces such private property, whether by the use of chalk, ink, paint, or by any other means whatsoever, unless he is authorized by any law to do so.

(2) An authorized official may order a person who has contravened or is contravening subsection (1) (d) or (e) to remove the item to which the contravention relates from the private property concerned within a specified time, and, if he fails to do so, then the provisions of section 67 shall, mutatis mutandis, apply.

Slaughter of animals and disposal of carcasses.

71. (1) A person shall not—

- (a) slaughter any animal at any place other than an abattoir;
- (b) permit the slaughter of any animal at any place under his or her control, unless the place is an abattoir; or
- (c) sell or provide meat for human or animal consumption, unless the meat has been slaughtered at an abattoir.

(2) The provisions of subsection (1) do not apply to slaughter for own consumption, or for cultural or religious purposes, provided that—

- (a) prior to the slaughter of any animal on a private property, the owner or the occupier has—
 - (i) obtained the written consent of the county government; and
 - (ii) provided reasonable notification to the immediate neighbors' who occupy abutting properties and properties across the road from the private property on which the animal will be slaughtered; and
- (b) such slaughter does not constitute a nuisance, as defined.

(3) A person shall not bury, or place, any carcass or part of a carcass, or permit any carcass, dead thing, or any

decomposable or offensive material or thing, which is his or her property, or which is under his or her care or control, to be placed on his or her private property or elsewhere, or to remain thereon so as to cause a nuisance.

(4) In the event of any person not being able to dispose of any offensive matter or thing or bury any carcass in terms of subsection (3), he or she shall arrange with the county government for it to effect such disposal at the prescribed fee.

(5) Any person who contravenes the provisions of this section commits an offence and is liable upon conviction to a fine of one hundred thousand shillings or imprisonment for a term not exceeding six months or both

Control of mosquitoes, flies, rodents and other vermin.

72. (1) It shall be the duty of every owner and occupier to prevent mosquitoes, flies, rodents or other vermin from developing or being harbored on any private property owned or occupied by such owner or occupier, and any such owner or occupier who fails to comply with the provisions hereof shall be deemed to have contravened this law.

(2) The owner or occupier of private property shall, on being served with a notice signed by an authorized official, carry out such measures as may be specified therein, for the removal of conditions favorable for the development of, or harboring of, mosquitoes, flies, rodents or other vermin, within the time specified in the notice.

(3) If the owner or occupier refuses to carry out the measures specified in a notice issued in terms of this law, or fails to do so within the time specified, then an authorized official may arrange for such measures to be carried out, and the reasonable costs incurred in so doing shall be recoverable by the county government from the person upon whom the notice is served, at a charge specified in the county government's tariff of charges.

Keeping or management of a brothel.

73. (1) A person shall not keep or manage, or act or assist in the keeping or management of, a brothel upon any private property.

(2) A person, being the owner, lessee or occupier of any private property, shall not knowingly permit such private property or any portion thereof or any room therein to be used as a brothel or for the purpose of prostitution, or to be a party to continued use thereof for such purposes.

(3) A person, being the owner of any private property

or the agent of such owner, shall not let such private property or any portion thereof or any room therein, with the knowledge that such private property or any portion thereof or any room therein is to be used as a brothel or for the purposes of prostitution.

No. 3 of 2006.

(4) Nothing contained in this section shall be construed so as to detract from the requirements of the Sexual Offences Act, 2006.

(5) Any person who contravenes the provisions of this section commits an offence and is liable upon conviction to a fine of one hundred thousand shillings or imprisonment for a term not exceeding six months or both

Disturbance of peace.

74. (1) A person being in or on any private premises, shall not disrupt the peace in the neighborhood of such premises by making therein or thereon any unseemly noise shouting, quarrelling, wrangling or singing or the continuous playing of musical instruments, radios, or anything similar thereto, or by the continuous or over-loud use of loudspeakers, or the like, which constitutes a nuisance to the neighbours and neighborhood.

(2) Any person or ultimately, the subject property's owner, must comply with any notice issued by an authorized official, requiring him or her to ensure that the noise pollution which constitutes a nuisance to the neighborhood, ceases.

(3) If such person fails to comply with such written notice, then he or she shall be in contravention of this section, and the county government may take such steps as it may deem necessary in terms of section 76 (2) and (3).

Presumptions

75. When an employee, in the course of his or her employment, performs any act, or commits an offence of omission, the employer shall also be deemed to have performed the act, or to be guilty of the omission, and he or she shall be liable on conviction for the penalties mentioned in terms of section 76, unless it can be proved that—

- (a) in performing the act, or permitting the omission, the employee was acting without his or her employer's knowledge and consent;
- (b) all reasonable steps were taken by the employer to prevent the act or omission in question; and

- (c) it was not within the scope of the authority or the course of the employment of the employee to perform the act or permit the omission in question.

Offences and penalties

76. (1) Any person who—

- (a) contravenes any provision of this Act, which contravention is not expressly stated to be an offence;
- (b) contravenes any condition or restriction imposed upon the granting of any application, approval, authority, consent or permission in terms of this law; or
- (c) fails to comply with the terms of any notice served upon him or her, or instruction to him or her in terms of this Act, shall commits an offence.

(2) Any person who contravenes any of these provisions commits an offence, and is liable, upon conviction, to a fine of a fine of one hundred thousand shillings or imprisonment for a term not exceeding six months or both

(3) An admission of guilt fine may be paid by any person in respect of whom a summon or written notice has been issued for any contravention of this section.

Regulations.

77. (1) The county government may make Regulations regarding—

- (a) the granting of written permission and accompanying conditions for —
 - (i) the performance of a dangerous act, as contemplated in terms of section 67(1) (e); and
 - (ii) the discharge of fireworks in terms of section 63, the disposal of litter by an occupier of premises in or on which there is carried on any business, occupation, trade or manufacturing, as contemplated in terms of section 65;
- (b) the granting of written consent and accompanying conditions and restrictions for the hanging or suspension of anything from or above a public place or so as to cause an obstruction, as

- contemplated in terms of section 69;
- (c) the disposal of property found in a public place, including—
 - (i) the county government's identification and designation of a store for property removed in terms of section 68(1);
 - (ii) a tariff of charges for the removal and storage of items, as contemplated in terms of section 68(2);
 - (iii) procedures to be followed with regard to the sale or disposal of items in terms of sections 68(3) and (6);
 - (d) the contents and service of a notice on the owner or occupier of private property, the carrying out of work necessary to give effect to the notice, and guidelines for the determination of the reasonable costs thereof, as contemplated in terms of section 69(1) and (2);
 - (e) the prevention of nuisances on private property, including—
 - (i) procedures for the removal of any item from private property, as contemplated in terms of section 70(2);
 - (ii) the giving of instructions and notification to an occupier of private property, for the abatement or cessation of a nuisance, as contemplated in terms of section 74(2) and (4);
 - (iii) procedures for the entering of private property, for the extinction of fires thereon, as contemplated in terms of relevant provisions of this Act;
 - (iv) the slaughter of any animal for own consumption, or for cultural or religious purposes, as contemplated in terms of section 71(2), and the adoption and implementation of a tariff of charges for the disposal and burying of any offensive matter or thing, including carcasses, as contemplated in terms of

section 71 (4).

- (v) the contents and service of a notice for the removal of vegetation, and procedures for effecting the removal by the county government itself and a tariff of charges therefor, as contemplated in terms of sections 69(2);
 - (vi) the contents and service of a notice for the control of vermin, and procedures for effecting control by the county government itself and a tariff of charges therefor, as contemplated in terms of sections 72(2) and (3); and
 - (vii) the contents and service of a notice for the cessation of noise pollution which constitutes a nuisance and a tariff of charges therefor, as contemplated in terms of section 74(2) and (3);
- (f) the provision of consent by an authorized official in respect of any act with regard to municipal property and property under the control of the county government, as contemplated in terms of this Act;
 - (g) a tariff of charges, or schedule of costs, for the remedying of any loss or damage suffered by the county government as a result of the commission of an offence in terms of this Act;
 - (h) the prescription of penalties for the offences contemplated in terms of this section and the amendment of such penalties from time to time;
 - (i) any matter which may be prescribed in terms of this by-law, and any matter which may facilitate the application of this law.

(2) The county government shall, not less than one month before promulgating a regulation in terms of subsection 1, cause a draft of the Regulations to be communicated to the local community and to be made public together with a notice declaring the intention of the county government to issue such Regulations and inviting comments or representations.

- (a) compel occupiers or, in the case of vacant premises, owners, to keep their premises free from offensive or unwholesome matter;
- (b) monitor the keeping of animals, birds and bees at their premises by any owner or occupier, so that their keeping or the premises are not constructed, situated, used or kept in such manner as to be a public nuisance, or otherwise offensive, or injurious to public health;
- (c) take such steps and measures as may be necessary for securing the prevention and destruction of insects, fungi and any other; pests which attack timber in buildings and felled timber, and for preventing and eradicating the infestation of any such timber;
- (d) take measures for the destruction and suppression of rats and vermin within the county, and to set traps or take other measures necessary for the purpose on any land whether within or, with the consent of the government of the county concerned, without its area;
- (e) establish and maintain sanitary services for the removal and destruction of, or otherwise dealing with, all kinds of refuse and effluent;
- (f) take such measures as may be necessary for preventing or stemming the flow of any noxious matter or waste water flowing or discharged from any premises, into the street, any water course, irrigation canal or other places not approved for the reception of such discharge; and
- (g) take other necessary steps under the Act.

(2) The Department shall, if satisfied that a public nuisance exists, serve a notice on the owner, or, if the owner cannot be found, on the occupier of the premises where the nuisance exists, requiring such owner or occupier, as the case may be, to remove the nuisance within the period specified in the notice.

(3) The Department may further instruct the owner or

occupier under sub-section (2) to take additional measures in order to prevent a recurrence of the nuisance.

(4) A person who fails to comply with a notice issued under subsection (1) to remove the nuisance within the period specified in the notice commits an offence.

Impounding of certain animals.

79. (1) Any person who, except with a written permit from the Department, and subject to such conditions as the Department may impose in this regard under this Act, keeps within an urban area of the county a game animal or reptile other than a lizard, or any ass, mule, ox, bull, or cow, goat, sheep or pig commits an offence.

(2) The Department may remove any of the species of animals referred to in subsection (1) which has been kept or left in a street in contravention of this Act, and impound the same.

(3) The keeper of any of the species of animals which has been removed in pursuance of sub-section (2) shall not be entitled to recover the same until he or she pays such fees and expenses as may be prescribe by the Department for the upkeep of the animal.

(4) If a keeper fails to pay the fees and expenses under subsection (3), the Department may sell or otherwise dispose of the animal, by auction or any other means, and the proceeds of such disposal shall be set off against the outstanding fees and expenses incurred by the Department in the removal or disposal of the animal.

Street offences.

80. Any person who, on any street—

- (a) ignites any firework;
- (b) without a permit for the purpose of hawking, selling, distributing or otherwise outdoor advertising any article or event, shouts or uses any bell, gong, or other noisy instrument or loudspeaker;
- (c) without a permit, draws, wheels or drives any vehicles or carries any board or placard used solely or chiefly for the purpose of exhibiting advertisements;
- (d) without a permit for the purpose of outdoor advertising, distributes any hand bill or other paper;
- (e) performs any act contrary to public decency;

- (f) without statutory authority, defaces the footway or roadway by writing or other marks;
- (g) places or deposits and leaves any glass, china, earthenware, tin, carton, paper, sawdust or other rubbish so as to create or tend to create litter;
- (h) throws down or leaves any orange peel, banana skin, or other substance likely to cause a person to fall down;
- (i) to the inconvenience or danger of any person, carries or conveys any bag of lime, charcoal, or other offensive material, timber or any pointed or edged tools or implements not properly guarded;
- (j) plays any game in such a manner as to cause the likelihood of damage to any property, or danger to any person;
- (k) while being in charge of any dog, allows such dog to foul any path and fails to remove the stool;
- (l) without a permit, lights or maintains, or suffers to be lit or maintained, any fire or brazier in the protected area;
- (m) rides or drives any animal on a footpath;
- (n) defecates or urinates;
- (o) touts for passengers; or
 - (p) fails to observe traffic lights or the zebra crossing or any other public directional signs, commits an offence.

**PART VIII – PROVISIONS RELATING TO
OUTDOOR ADVERTISING**

purpose of the Part.

81. The purpose of this Part is to—

- (a) regulate all signage, advertisements displayed or to be displayed within the area of jurisdiction of the county government.
- (b) provide for procedures, methods and practices to regulate signage, advertisements displayed or to be displayed within the area of jurisdiction of the County government.

821. (1) Subject to the provisions of subsection (2), this Part shall apply to all advertisements displayed or to be displayed within the area of jurisdiction of the County government.

(2) The following categories of advertisements shall be exempted from the provisions of this Part—

- (a) an advertisement, commonly referred to as builders' or contractors' boards, displayed within the boundaries of any during the course of building operations including plumbing, electrical wiring, painting and renovations;
- (b) an advertisement relating to the immediate sale of newspaper within the public road provided the advertisement does not obstruct vehicular or pedestrian traffic or the lines of sight of drivers or pedestrians;
- (c) an advertisement required to be displayed by law;
- (d) an advertisement displayed on any vehicle which is being used on a public road provided that the main purpose for which that vehicle is being used is not to display such advertisement;
- (e) an advertisement affixed to or painted on any part of any building other than a dwelling-house which indicates only the following—
 - (i) the name or address of such building;
 - (ii) the name of the occupier or owner thereof;
 - (iii) a general description of the type of business lawfully carried on in such building;
 - (iv) the hours of attendance or business; and
 - (v) the telephone number of such business;

Provided that such advertisement, including any sign-board on which it is displayed, does not exceed 0,8 m² in area and does not project more than 100 mm from the surface to which it is affixed;

- (f) an advertisement affixed to or painted on any part of any building used as a dwelling-house which merely indicates—

- (i) the name or address of the dwelling-house;
and
- (ii) the name of the owner or occupier the dwelling house:

Provided that such advertisement, including any sign-board on which it is displayed, does not exceed 0,8 m² in area and does not project more than 100 mm from the surface to which it is attached;

- (g) an advertisement designed solely for the issuing of any direction, request or warning to any person entering upon an erf or premises on the erf; provided that such advertisement is displayed within the boundaries of the erf and provided that the advertisement, including any sign-board on which it is displayed, does not exceed 0,8 m² in area;
- (h) an advertisement advertising the sale or lease of any erf, or the fact that such erf has been sold; provided that such advertisement is displayed within the boundaries of the erf and provided that the advertisement, including any sign-board on which it is displayed, does not exceed 0,8 m² in area; and
- (i) an advertisement displayed from the interior of any building enclosed by walls, windows and doors.

Temporary and portable advertisements.

83. (1) Any advertisement—

- (a) intended to be displayed solely for or in connection with a particular event including but not limited to an election or referendum; or
- (b) displayed on any sign-board intended or adapted to be carried or conveyed,

shall only be displayed with the prior written consent of the authorized official and subject to the requirements of subsection (2) and any other conditions which the authorized official may impose.

(2) Any advertisement displayed in terms of subsection (1) shall—

- (a) not exceed 0,8 m² in area; and
- (b) not be displayed for longer than 14 days before or after the event.

(3) Every application for permission in terms of subsection (1) shall be accompanied by a fee and a deposit prescribed by the County government, the deposit being refundable when all advertisements concerned have been removed to the satisfaction of the authorized official.

(4) Any person who, having displayed or caused to be displayed any advertisement in respect of which approval has been given under subsection (1), fails to remove it or cause it to be removed within the relevant time, commits an offence and the authorized official shall be entitled to remove any such advertisement and deduct from any deposit made in respect of each and every advertisement so removed:

Provided that any excess shall be a civil debt due to the County government, provided further that when any advertisement is so removed in terms of this section the County government shall be entitled to destroy any such advertisement without giving notice to anyone, after a period of 14 days from the date of such removal.

(5) Any person who displays or causes, permits or suffers to be displayed any advertisement referred to in subsection (1) shall be presumed to be the displayer until it is proved to the contrary.

Display of permanent advertisements prohibited.

84. A person shall not display or cause to be displayed any permanent advertisement in the area of jurisdiction of the County government unless such advertisement is approved in writing by the Executive Committee Member and is displayed in accordance with the provisions of this Act.

Application for display of permanent advertisements.

85. (1) Any person intending to erect, alter or display any permanent advertisement for which the prior written permission of the County government is required, shall apply for such permission to the County government in a manner prescribed under this Act and shall be signed by the applicant and by the owner (if he or she is not also the applicant) of the site upon which such advertisement is or is to be located.

(2) An application referred to in subsection (1) shall be accompanied by—

- (a) a full specification showing the dimensions of such sign, its location or proposed location on a building or other supporting structure, the materials of construction, the name and address of the manufacturer, and where applicable, the number of electric lights and electrical details in regard thereto;
- (b) a drawing indicating—
 - (i) the position of such sign on the site at a scale of not less than 1: 50;
 - (ii) the full text of the advertisement;
 - (iii) the colour of the material;
 - (iv) the construction;
 - (v) the overall dimensions;
 - (vi) the method of attachment, suspension or support; and
 - (vii) any other details required by the Executive Committee member on behalf of the County government;
- (c) in the case of ground signs, information in regard to all calculations upon which such size is based;
- (d) the prescribed application fee.

(3) The County government may refuse or grant such application subject to such conditions as it may think proper.

Consideration of application of display of permanent advertisements.

86. (1) The county government may grant, on such conditions as it may determine, or refuse an application referred to in section 84, but the County government shall not grant an application if it is of the opinion that, having regard to—

- (a) the design;
- (b) colour;
- (c) other characteristics of the advertisement in question;

(d) its proposed position in relation to the building or premises upon or in which it is to be displayed; and

(e) the neighboring properties,

such advertisement may detract from or disfigure the appearance of the building or premises concerned or neighbouring properties, or otherwise be unsightly.

Sign-boards
affixed to
buildings.

87. (1) Only the following sign boards may, subject to the provisions of this Part, be affixed to buildings—

- (a) flat sign-board-boards;
- (b) projecting sign-boards, and
- (c) sky sign-boards.

(2) A flat sign-board-board shall not—

- (a) extend above the top or beyond either side of the wall to which it is affixed;
- (b) project in any part more than 100 mm from the wall to which it is affixed;
- (c) exceed 15% of the height of the building to the eaves or 15% of the area of the wall to which it is affixed.

(3) A projecting sign-board shall not—

- (a) be affixed otherwise than at right angles to the road line;
- (b) be affixed at a clear height of less than 2,5 m;
- (c) exceed 225 mm in thickness;
- (d) extend beyond the top of the wall to which it is affixed;
- (e) project in any part more than 1,5 m from the wall to which it is affixed;
- (f) extend over or nearer than 1,2 m to any overhead electricity wires or cables; or

(g) be affixed otherwise than in a vertical plane.

Advertisement
painted on
buildings.

88. (1) Only the following types of advertisements may be painted on buildings—

- (a) advertisements painted on the walls of buildings;
and
- (b) advertisements painted on the roofs of buildings used in connection with industry or a manufacturing process.

(2) An advertisement painted on a wall of a building shall not exceed 15% of the height of the building from the ground to the eaves or 15% of the area of the wall on which it is painted.

(3) An advertisement painted on the roof of a building shall contain only the name (or an abbreviation thereof) of the person, firm, company, society or association occupying such building.

Ground sign-
boards.

89. Every ground sign-board shall—

- (a) be supported by poles or standards or pylons the bases of which are firmly embedded and fixed in the ground and which are entirely self-supporting, rigid and inflexible;
- (b) not exceed 2 m x 0,3 m (300 mm);
- (c) not extend or project beyond the road line; and
- (d) not exceed 6,5m in height.

Flashing
advertisements.

90. The County government shall only approve flashing illuminated advertisements if it is of the opinion that, having regard to the proposed position and characteristic of the advertisement, the display of the advertisement shall not be likely to distract or disturb persons using any public road or to create the conditions contemplated in section 90(b).

General
prohibitions
relating to
advertisements.

91. A person shall not display any advertisement—

- (a) so as to obstruct any fire escape or the means of egress to a fire escape or to obstruct or interfere with any window or opening required for ventilation purposes;

- (b) in a position which obscures, obstructs or otherwise interferes with any road traffic sign or is likely to so obscure, obstruct or otherwise interfere;
- (c) which is illuminated and contains the colours, red, green or amber or any one or more of such colours, unless such sign has a clear height of 6 m or unless such sign is more than 15 m (measured horizontally) from the vertical line of the road line at the corner of a public road; or
- (d) which is of such intense illumination so as to disturb the residents or occupants of adjacent or nearby residential buildings.

Directional signs.

92. (1) Directional signs may not be erected on road reserves other than on directional signboard frames erected by the County government, and on payment of the prescribed fee and such directional signs shall be either 2m long and 0,3 (300 mm) high or 1 m long and 0,3m (300 mm) high and be constructed to the satisfaction of the County government.

(2) A directional signboard frame shall not exceed 4m in height from ground level save with the express approval of the County government in writing.

Construction of sign-boards.

93. (1) Every sign-board shall be neatly and properly constructed and finished in a workmanlike manner to the satisfaction of the building control officer.

(2) Every sign-board attached to a building or wall shall be rigidly and securely attached thereto so that it is safe and that movement in any direction is prevented.

(3) The method of attachment shall be such that it is capable of effectively securing, supporting and maintaining not less than twice the mass of the sign-board in question with the addition of any force to which the sign may be subjected.

(4) The use of nails or staples for the purpose of the anchorage and support of a sign-board is prohibited.

(5) Every projecting sign-board shall, unless the building control officer otherwise approve, have not less than four supports—

- (a) which shall be of metal;

- (b) any two of which shall be capable of supporting the mass of the sign-board;
- (c) the designed strength of which acting together shall be calculated on a mass equal to twice the mass of the sign-board with a superimposed horizontal wind pressure of 1,5 kPa; and
- (d) which shall be neatly constructed as an integral part of the design of the sign-board or otherwise concealed from view.

(6) All sign-boards which are attached to brickwork, masonry or concrete shall be securely and effectively attached thereto by means of bolts securely embedded in such brickwork, masonry or concrete or passing through the same and secured on the opposite side.

(7) The bolts under subsection (6) shall be of such a size and strength as shall ensure effective compliance with the provisions of this section.

(8) Every illuminated sign-board and every sign-board in which electricity is used shall—

- (a) be constructed of a material which is not combustible;
- (b) be provided with an external switch in an accessible position approved by the building control officer whereby the electricity supply to such sign-board may be switched off; and
- (c) be wired and constructed to the satisfaction of the building control officer.

(9) All exposed metalwork of a sign-board shall be painted or otherwise treated to prevent rust, decay and insect attack and thereafter painted.

Maintenance of permanent advertisements.

94. The person having possession or control of any permanent advertisement shall, while such advertisement is displayed, at all times maintain such advertisement, including any sign-board on which it is displayed, in good repair and safe condition.

Alterations of and additions to permanent advertisements.

95. (1) Any person wishing to alter or add to any permanent advertisement, including any sign-board on which it is displayed, shall first apply to the County government in

writing for its approval.

(2) An application referred to in subsection (1) shall specify the nature and extent of the proposed alteration or addition.

(3) A person who has applied in terms of sub-section (2) for the County government's approval shall furnish such additional particulars in connection with his application as the County government may require.

Removal of permanent advertisements.

96. (1) Where there is displayed a permanent advertisement—

(a) for which no approval was granted under section 82; or

(b) which is displayed in contravention of this section,

the County government may, by notice in writing, direct the person having possession or control of the advertisement to remove it or to effect such alterations as may be prescribed in the notice, and to effect such removal or alteration within such period (which shall be not less than fourteen days as from the date on which the notice was given) as may be specified in the notice.

(2) If a person to whom a notice has been given in terms of subsection (1) fails to comply with a direction contained in that notice within the period therein specified, the County government may, at any time after the expiration of that period, through the agency of any person authorized thereto by the County government, enter upon the land upon which the advertisement to which the notice relates and remove the advertisement or effect the alterations prescribed in the notice.

(3) The County government may recover the expenses which it incurred by any action taken under subsection (2) from any person to whom the notice in question was given.

Penalty.

97. Any person who commits an offence under this Part shall be liable on conviction to a fine of one hundred thousand shillings or imprisonment to a term not exceeding six months or to both.

No outdoor advertisement without a permit.

98. Any person who in or in view of any street or public place, erects, fixes, places, maintains, displays or uses, or

permits to be erected, fixed, placed, maintained, displayed or used, any advertisements devise without first obtaining a permit, or otherwise than in accordance with the terms and conditions of permit, commits an offence.

Application for outdoor advertising permit.

99. (1) Every application for a permit for outdoor advertising under this Act shall be made in writing to the Department.

(2) The procedure and manner of application for a permit and issuing a permit under subsection (1) shall be prescribed by Regulations.

Regulations for the purposes of this Part.

100. (1) The Department may, with the approval of the county executive committee, make regulations for the better carrying out of the purposes and provisions of this Part.

(2) Without prejudice to the generality of subsection (1), the Regulations made under this Act may prescribe for—

- (a) regulating the businesses, factories and workshops within the county which, by reason of smoke, fumes, chemicals, gases, dust, smell, or any other cause, may become a source of danger, discomfort or annoyance to the neighbourhood;
- (b) controlling emission of fumes from vehicles;
- (c) prohibiting or controlling the display of advertisements and advertising devices in or in view of any street or other public place or in such places or in such manner or by such means as would, in the opinion of the department, be likely to affect injuriously the amenities of or to disfigure any neighbourhood; and
- (d) regulating the use and passage of advertising vans, sandwich boards, lanterns, flags, screens or other moveable advertising devices;
- (e) regulating the distribution of handbills in or along any street or other public places;
- (f) controlling street decorations, and prohibiting or controlling the erection and removal of temporary platforms, seats and other structures for the use of the public at any meeting or entertainment or for the accommodation of spectators at any procession;
- (g) regulating the size of the billboards and the number

that may be erected on a road reserve;

- (h) the procedure and manner of issuing a permit for outdoor advertising and application for such a permit under this Act; and
- (i) such fees and expenses as may be payable for any permit or other authorization relating to the control of air pollution, noise pollution, any public nuisance or outdoor advertising to be issued under the Act.

PART IX– PROVISIONS RELATING TO WASTE MANAGEMENT

Responsibilities of the Authority.

101. (1) The Authority shall take all such steps as are necessary—

- (a) for the effective management of solid waste in order to safeguard public health, ensure that the waste is collected, stored, transported, recycled, reused or disposed of, in an environmentally sound manner and promote safety standards in relation to such waste;
- (b) to promote public awareness of the importance of efficient solid waste management and foster understanding of its importance to the conservation, protection and proper use of the environment;
- (c) to perform such other functions pertaining to solid waste management as may be assigned to it or under this Act or any other enactment.

(2) In performing the functions specified in subsection (1) the Authority may—

- (a) provide facilities for the collection, treatment and disposal of solid waste;
- (b) institute measures to encourage waste reduction and resource recovery;
- (c) introduce cost recovery measures for services provided by or on behalf of the Authority;
- (d) establish procedures and develop, implement and monitor a plan and other plans and programmes relating to solid waste management;

- (e) formulate standards, guidelines and codes of practice relating to solid waste management and monitor compliance with such standards, guidelines and codes;
- (f) initiate, carry out or support, by financial means or otherwise, research which, in its opinion, is relevant to any of its functions;
- (g) conduct seminars and provide appropriate training programmes and consulting services and gather and disseminate information relating to solid waste management;
- (h) define the minimum specifications of equipment used for solid waste management;
- (i) from time to time, designate any person(whether employed by the Authority or not) possessing the prescribed qualification to be an authorized officer; and
- (j) do anything or enter into any arrangement which, in the opinion of the Authority, is necessary to ensure the proper performance of its functions.

Enforcement of waste management Regulations.

102. The Department shall enforce all Regulations on Waste Management in liaison with the office of the Governor.

Responsibilities of Waste generators.

103. (1) It shall be the responsibility of generator person who generates waste to control such waste from the time of generation, to store and to take it to constructed or installed bins for the purposes of final disposal by the department.

(2) A person who having generated waste, disposes or dumps waste of any kind on street, highway, a park, outdoor, open field or at any other place to cause public nuisance commits an offence.

(3) It shall remain the responsibility of the person who generates waste to participate in waste management at all levels through groups, committees, associations or any other forum in ensuring a clean and safe environment for all.

General responsibilities of the Department.

104. (1) The Department shall be responsible for-

- (a) establishment and implementation of a solid

- waste management strategy;
- (b) enforcement of all regulations aimed at keeping a clean environment;
- (c) collection, storage and disposition of waste from public places in an appropriate manner; and
- (d) establishment, empowerment and maintainance of towns, estates and market environment committees.

(2) This Act shall recognize any efforts made by an individual, organizations, groups, institutions and especially Town, Estates and Market committees in ensuring a clean, safe and healthy environment for all so long as the efforts, regulations or acts are within the law.

Offences and penalties.

105. A person who—

- (a) unlawfully, removes any solid waste from a disposal facility or from any place under the control of the Authority;
- (b) interferes or tampers with any disposal facility or any place where solid waste is stored or kept by the Authority;
- (c) disposes of solid waste in any area or in any manner not approved by the Authority;
- (d) operates a solid waste disposal facility, provides solid waste collection or transfer services or otherwise manages solid waste, without a valid licence or operating certificate under this Act or any regulation hereunder;
- (e) impedes in any manner the collection and disposal of solid waste;
- (f) throws, drops or otherwise deposits and leaves any litter in any public place; or
- (g) erects, displays (whether by writing, marking or otherwise), deposits or affixes anything in a public place or on any building, wall, fence or structure abutting or adjoining a public place, in such circumstances as to cause, contribute to or tend to the defacement of that place, building wall, fence or structure, as the

case may be,

commits an offence and shall be liable to a penalty specified in the last column of the Tenth Schedule of this Act.

(2) Where any person, on behalf of some other person employing or recruiting him for the purpose, does any act in contravention of subsection (1)(g), the person employing or recruiting him also commits an offence and shall be liable to a penalty unless he proves that the act done was contrary to his express instructions and that the act, if performed as instructed, would not have been in contravention of this section.

(3) In any proceedings under this section, it shall be a defense to prove that the act that is the subject matter of the proceedings was authorized by law or was done with the consent of the owner or occupier or other person having control of the public place or building, wall, fence or structure, as the case may be.

(4) Any person who throws, drops or otherwise deposits or leaves any litter in any premises owned or occupied by another person without the consent of that other person, the proof whereof shall lie on the person charged.

Land and water pollution.

106. (1) Any person, institution, organization, factory or entity found generating, managing or disposing waste in a manner that pollutes water systems and land without or with a permit commits an offence and is liable upon conviction to a fine of one hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

Powers to amend the Schedules.

107. The Department with the approval of the County Executive Committee Executive may amend the Schedules as it deems necessary.

FIRST SCHEDULE (s. 22(1)(2))

CRITERIA TO IDENTIFY AND PRIORITIZE SUBSTANCES AND TO DEVELOP LOCAL EMISSION STANDARDS

A Criteria to identify and prioritise substances

The County government may apply the following criteria when identifying and prioritizing the substances in ambient air that present a threat to public health, wellbeing or the environment-

- (1) The possibility, severity and frequency of effects, with regard to human health and the environment as a whole, with irreversible effects of special
- (2) Widespread and high concentrations of the substance in the atmosphere
- (3) Potential environmental transformations and metabolic alterations of the substance, as these changes may lead to the production of chemicals with greater toxicity or introduce other uncertainties
- (4) Persistence in the environment, particularly if the substance is not biodegradable and able to accumulate in humans, the environment or food chains;

(5) The impact of the substance taking following factors into consideration:

- (a) Size of the exposed population, living resources or ecosystems
- (b) the existence of particularly sensitive receptors in zone concerned

B CRITERIA TO DEVELOP LOCAL EMISSION STANDARDS

The Council may, when developing the standards:

- (a) Identify the critical factors for public health impacts;
 - (b) Identify insensitive sub-populations;
 - (c) Review available data bases for public health status;
 - (d) Review available databases for ambient air quality information; and
 - (e) Review and assess international guidelines and standards.
- (2) The Council may take the following factors into consideration in setting local emission standards:
- (a) Health, safety and environmental protection objectives;
 - (b) Analytical methodology;
 - (c) Technical feasibility;

- (d) Monitoring capability; and
- (e) Socio-economic consequences.

SECOND SCHEDULE (ss. 41, 42(1), 44(2) and 47(1))

MAXIMUM PERMISSIBLE NOISE LEVELS

Zone		Sound Level Limits dB(A)		Noise Rating Level(NR)	
		(Leq,14 h)		(Leq,14 h)	
		Day	Night	Day	Night
A.	Silent Zone	40	35	30	25
B	Places of worship	40	35	30	25
C.	Residential Indoor	45	35	35	25
	Outdoor	50	35	40	25
D.	Mixed residential (with some commercial and places of entertainment)	55	35	50	25
E.	Commercial	60	35	55	25

Time Frame

Day: 6.01 a.m.– 8.00 p.m. (14h)

Night:8.01p.m.–6.00a.m.(10h)

THIRD SCHEDULE (ss. 49(1), 50(1))

MAXIMUM PERMISSIBLE NOISE LEVELS FOR CONSTRUCTION SITES

(Measurement taken with in the facility)

Facility		Maximum Noise Level Permitted (Leq)in dB(A)	
		Day	Night
(i)	Health facilities, educational institutions, homes for disabled etc.	60	35
(ii)	Residential	60	35

(iii)	Areas other than those Prescribed in(i) and(ii)	75	65
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Time Frame:

Day: 6.01 a.m. – 6.00 p.m. (14 h)

Night: 6.01 p.m. – 6.00 a.m. (14 h)

FOURTH SCHEDULE s. 50(1)

MAXIMUM PERMISSIBLE NOISE LEVELS FOR MINES AND QUARRIES

(Measurement taken within the facility)

Facility		Limit Value in dB (C)Max
1.	For any building used as a health facilities, Educational institutions, convalescent home, old age home or residential building	109dB(C)
2.	For any building in an areas used for residential and one or more of the following purposes:commerce,small-scaleproduction,entertainment,oranyresidential a partment in an area that is used for purposes of industry, commerce orsmall-scaleproduction,oranybuildingusedforthepurposeofindustry,commerceorsmall-scaleproduction.	114dB(C)

FIFTH SCHEDULE

s. 53(1)

APPLICATION FOR A LICENSE TO EMIT NOISE/ VIBRATIONS IN EXCESS OF PERMISSIBLE LEVELS

1. Name of Applicant:..... Address:.....ID No./ Passport No

Tel.:.....Mobile:.....

Fax.....E-mail:.....

2.PhysicalAddressofPremisesorfacilitywhereNoise/Excessivevibrationswillbe produced:.....

(Sub-location, Location, Division, District, Street, House Number)

3. Source of noise.....

Activity/Purpose.....

Predicted levels:.....

4. Describe the neighborhood within a radius of 2kms (describe whether industrial residential, commercial and whether it is near a school, hospital or resident area):

.....
.....
.....

5. State the measures intended to be used in controlling the noise/excessive vibrations (may attach separate sheet):

.....
.....

6. Intended time of noise/ excessive vibrations emission (indicate time of day):

.....

..... Date:.....

Signature of Applicant:.....

FOR OFFICIAL USE ONLY

Date received.....

Fees paid..... Approved/ Not
Approved.....

Comments

.....
.....
.....

Officer..... Sign..... Date.....

Countersigned..... Date.....

**SIXTH SCHEDULE (s. 53(5))
LICENSE TO EMIT NOISE/VIBRATIONS IN EXCESS OF PERMISSIBLE
LEVELS**

L

License No.....LNC/ (NAME).....

Of..... (Address)

I here by licensed to cause emission or emit noise/ excessive vibrations in excess of the
permissible noise levels at.....

(Location, Street, District)

Activity:..... This License is

valid from:...../...../20.....to

...../...../20.....from the hours of.....to

.....of each day.

This License is granted subject to the following conditions:-

1.....

2.....

3.....

Date:.....Signature:.....

(SEAL)

.....

.....

EXECUTIVE COMMITTEE
MEMBER, ENVIRONMENT COUNTY GOVERNMENT OF KAKAMEGA

SEVENTH SCHEDULE (s.53(7))

APPLICATION FOR A PERMIT TO CARRY OUT ACTIVITIES
□ FIREWORKS □ DEMOLITIONS □ FIRING RANGES
□ SPECIFIC HEAVY INDUSTRIES OTHER (SPECIFY).....

1. Name of Applicant:.....
.....

Address:

ID No./Passport No.....

Tel:..... Mobile:.....

Fax..... E-mail:..... Personal

Identification No.(PIN):.....

2. Physical Address of Premises or facility where Noise will be produced:
.....
.....

(Sub-location, Location, Division, District, Street, House Number)

3. Source of noise.....

Activity/Purpose.....

Predicted Levels

6. Intended time of noise/ excessive vibrations emission (indicate time of day):

6. Intended time of noise/ excessive vibrations emission (indicate time of day):

4. Describe the neighborhood within a radius of 2kms (describe whether industrial, residential, commercial and whether it is near a school, hospital or residential area):

.....

The Kakamega County Environmental (Regulation and Control) Bill , 2013

.....
.....

5. State theme assures intended to be used in controlling the noise (may attach separate sheet):

.....
.....
.....

6. Intended time of noise emission (indicate time of day):

.....
.....

Date:..... Signature of Applicant:.....

FOR OFFICIAL USE ONLY

Date received.....	Approved/	Fees
paid.....		Not
Approved.....		

Comments

.....
.....
.....
.....
.....
.....

Officer..... Sign..... Date.....

Countersigned..... Date

EIGHTH SCHEDULE (s. 59(8))

PERMIT TO EMIT NOISE IN EXCESS OF PERMISSIBLE LEVELS FOR THE FOLLOWING ACTIVITIES fire WORKS

DEMOLITIONS FIRINGRANGES

SPECIFIC HEAVY INDUSTRIES OTHER
(SPECIFY).....

Permit No.....PNC/
(NAME).....

Of.....(Address)

Is here by permitted to cause emission or emit noise in excess of the permissible noise levels at.....
.....(Locati
on, Street, District)

Activity: Fireworks/ Demolition/ Firing range/ Heavy industry*(specify) This Permit is valid from:...../...../20.....to
...../...../20.....from the hours of.....to
.....of each day.

This Permit is granted subject to the following conditions:-

1. This Permit shall be for the period provided in the validity clause above.
- 2.....
- 3.....

Date.....Signature:.....(SEAL)

.....

EXECUTIVE COMMITTEE MEMBER FOR ENVIRONMENT , WATER, ENRGY,
NATURAL RESOURCES AND FORESTRY:

NINTH SCHEDULE (s. 54(1))

IMPROVEMENT NOTICE

To:.....

.....

TAKE NOTICE that on the.....of.....20.....an Environmental Inspector carried out an inspection of your establishment/ facility located in

.....
.....

(Physical address) where it was found that you're your agents were generating or producing noise/ excessive vibration in excess of the permissible levels in contravention of the Environmental Management and Co-ordination (Noise and Excessive Vibration Pollution Control) Regulation,2008.

The Environmental Inspector particularly found the following:

1.....

2.....

3.....

.....

4.....

.....

(Attach more paper if necessary)

You ARE HEREBY DIRECTED to reduce the noise/ excessive vibration levels to the permissible levels in the above mentioned facility/ establishment with in a period of hours/ days from the date of this Notice.

You ARE NOTIFIED THAT in accordance with Sections 137 and 140 of the Environmental Management and Coordination Act, No. 8 of 1999, failure to comply with this Notice shall result in criminal prosecution being in statute against you and/ or your agent or both.

The Kakamega County Environmental (Regulation and Control) Bill , 2013

Name:.....

Signature:.....

ENVIRONMENTAL OFFICER

TENTH SCHEDULE (s. 105)

No.	Offence	Penalties
	Any person who;	
	unlawfully, removes any solid waste from a disposal facility or from any place under the control of the Authority;	5,000/=
	Interferes or tampers with any disposal facility or any place where solid waste is stored or kept by the Authority, commits an offence and shall be liable on summary conviction	50,000/=
	disposes of solid waste in any area or in any manner not approved by the Authority.	75,000/=
	operates a solid waste disposal facility, provides solid waste collection or transfer services or otherwise manages solid waste, without a valid licence or operating certificate under this Act or any regulation hereunder;	75,000/=
	impedes in any manner the collection and disposal of solid waste, Commits an offence and shall liable on summary conviction	20,000/=
	Throws, drops or otherwise deposits and leaves any litter in any public place;	50,000/=
	erects, displays (whether by writing, marking or otherwise), deposits or affixes anything in a public	50,000/=

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	place or on any building, wall, fence or structure abutting or adjoining a public place, in such circumstances as to cause, contribute to or tend to the defacement of that place, building wall, fence or structure, as the case may be, and shall be liable to a penalty.	
	discharging effluent or any type of liquid or solid waste into a body of water while untreated he or she commits an offence	150,000/=
	Any animal found on public place e.g. Market centers or urban centers, the owner shall be liable of an offence.	10,000/=
	Polluting the atmosphere	100,000/=
	Spitting, urinating and defecating any where without a medical prescription.	20,000/=
	Noise polluting that exceeds the set standards.	50,000/=

Eleventh Schedule (s. 19(3))

Terms of Reference of the Market, Estate, Urban and Town Environment
Committees

MEMORANDUM OF OBJECTS AND REASONS

To accomplish the county's mandate towards a clean and healthy environment for all as envisaged in Article 42 of the Constitution of Kenya 2010, the following policy objectives have served as the basis for this legislation:

- a. The Promotion of environmental conservation by curbing pollution and ensuring accountability for environmental pollution and degradation; and
- b. The Maintenance of a desirable level of environmental quality that will serve not only the current population of kakamega county but for posterity as well;

Part I provides for preliminary matters.

Clause 3 sets out the general principles primarily stemming from the constitutional right to a clean and healthy environment.

Part II provides for administration and implementation of the Act.

Clause 6 vests the County Executive Member in Charge of Environment with the mantle of administration and implementation on behalf of the County government (Department of Environment).

Clauses 7, 8 and 19 Establish the County Environmental Management Committee chaired by the Executive Committee Member, the County Environment Authority and the Market, Estate, Town and Urban Environment Committees respectively.

Part III provides for Air Pollution regulation.

Clause 21 makes it a sanctionable offence for any person to commit an act or omission causes or is likely to cause air pollution.

Clause 33 obligates the County Department of Environment to take overt measures to control air pollution.

Parts IV and V provide for regulation of Noise Pollution and Excessive Vibrations.

Clauses 39 and 40 lay out the general principles for determination of whether noise pollution or excessive vibrations are in play.

Part VI provides for licensing procedures for certain activities which are likely to cause noise pollution or excessive vibrations.

Clause 55 allows for the issuance of a closure notice by an authorized officer (with approval of the Executive Committee Member) where there is continuous emission of noise or excessive vibration from a premises.

Part VII provides for public nuisance offences.

Part VIII provides for regulation of outdoor advertising

Clause 84 vests the Executive Committee Member with sole authority to approve erection and display of permanent advertisement.

Part IX provides for waste management within the county.

Clause 101 obligates the County Environment Authority to take measures towards ensuring effective management of solid waste and its disposal.

Clause 102 mandates the department together with the governor's office to enforce all national and county regulations on waste management.

The enactment of this Bill shall occasion additional expenditure of public funds which shall be provided for in the estimates.

**H.E. Hon, Wycliffe Ambetsa Oparanya, E.G.H
GOVERNOR – KAKAMENGA COUNTY**

