

SPECIAL ISSUE

Kenya Gazette Supplement No. 4 (Kakamega County Acts No. 2)

NATIONAL COUNCIL FOR

LAW REPORTING

LIBRARY

COUNTY ASSEMBLIES FORUM (CAF)

P. O. Box 73552 - 00200,

NAIROBI, KENYA



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

KAKAMEGA COUNTY ACTS, 2019

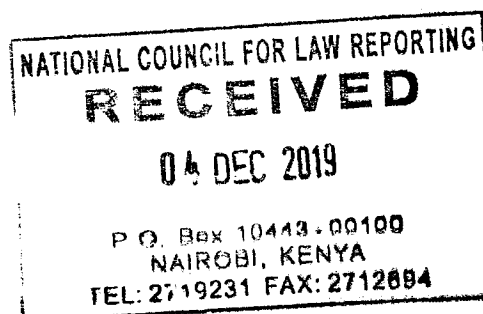
NAIROBI, 14th May, 2019

CONTENT

Act—

PAGE

The Kakamega County Environmental Management Act, 2019 1



PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

**THE KAKAMEGA COUNTY ENVIRONMENTAL
MANAGEMENT ACT**

No. 2 of 2019

Date of Assent: 21st December, 2018

Date of Commencement: See Section 1

ARRANGEMENT OF SECTIONS

PART I— PRELIMINARY

Section

- 1 — Short title and commencement.
- 2 — Interpretation.
- 3 — Object and purpose of the Act.

**PART II — PROVISIONS RELATING TO ADMINISTRATION
AND IMPLEMENTATION**

- 4 — Administration of the Act.
- 5 — Additional functions of Authorized Officers.
- 6 — Establishment of Environmental Technical Committee.
- 7 — Functions of County Environmental Technical committee.

PART III—PROVISIONS RELATING TO AIR POLLUTION

- 8 — Duty to prevent or mitigate air pollution.
- 9 — Prohibition on causing air pollution.
- 10 — Causing air pollution constitutes an offence.
- 11 — Ambient air quality.
- 12 — Duty to prevent dust emissions .
- 13 — Emissions caused by open burning.
- 14 — Emissions caused by burning of industrial, garden, domestic waste etc.
- 15 — Sugarcane burning emissions.
- 16 — Burning of tyres, rubber products etc.
- 17 — Tractor or aerial pesticide spraying.
- 18 — Spray painting emissions.
- 19 — Responsibility of the department to control air pollution.

No. 2 *Kakamega County Environmental Management*

20 — Responsibility of owner or operator of controlled facility.

21 — Responsibility of occupier or operator of premises.

22 — Collaboration with other departments or agencies.

23 — Other pollution sources, Inspection and Monitoring.

PART IV — PROVISIONS RELATING TO NOISE POLLUTION

24 — General prohibitions.

25 — Permissible noise levels.

26 — Measurements and control of noise levels.

27 — Exemptions.

PART V— PROVISIONS RELATING TO NOISE FROM CERTAIN SOURCES

28 — Radio, television and other amplifying devices.

29 — Parties and social events.

30 — Hawkers, peddlers, touts and street preachers

31 — Operating machinery etc.

32 — Noise from motor vehicles, motorcycle. etc.

33 — Noise from construction, demolition, mining or quarrying sites

34 — Noise by domestic animals.

PART VI—PROVISIONS RELATING TO LICENSING PROCEDURES FOR CERTAIN ACTIVITIES

35— License.

36 — License Application.

37 — Improvement notice.

38 — Closure notice.

39 — Existing activities.

40 —Department to control noise pollution.

PART VII —PROVISIONS RELATING TO PUBLIC NUISANCES

41 — Indecent behaviour.

42 — Requirement to keep kerbs, sidewalks, verge e.tc clean .

43 — Obstruction by plants.

44— Use of private property.

PART VIII—PROVISIONS RELATING TO WASTE MANAGEMENT

45— Waste management.

46 — Responsibility of waste generators and transporters.

47 — General responsibilities of the Department.

48 — Unlawful handling and disposal of waste.

49 — Pollution from motor vehicle, motor cycle, etc washes and repair, etc

50 —Land and water pollution.

PART IX—MISCELLANEOUS

51 — Protection from personal liability .

52 — Liability of the county government for damages.

53 — Prosecutions.

54 — General penalty.

55 — Regulations.

SCHEDULE

First Schedule — Ambient Air Quality.

Second Schedule — Guidelines on Air Pollution Monitoring Parameters from Stationary Sources.

Third Schedule — Priority Air Pollutants.

Fourth Schedule— Maximum Permissible Noise Levels.

Fifth Schedule — Application for A License to Emit Noise in Excess of Permissible Levels.

Sixth Schedule — License to Emit Noise in Excess of Permissible Levels.

Seventh Schedule — Improvement Notice.

Eighth Schedule — Application for License to Transport Waste within Kakamega County.

Ninth Schedule — Licence to Transport Waste within Kakamega County.

No. 2 *Kakamega County Environmental Management*

Tenth schedule—Application/renewal for a license to own/operate a waste treatment or disposal site.

Eleventh schedule— License to own/operate waste treatment plant/disposal site.

Twelveth schedule— Application to Access County's waste treatment or disposal site.

Thirteenth schedule — License to access waste treatment plant/disposal site.

**THE KAKAMEGA COUNTY ENVIRONMENTAL
MANAGEMENT ACT, 2019**

**AN ACT of the County Assembly of 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 County Assembly of Kakamega County
as follows—

PART I— PRELIMINARY

1. This Act may be cited as the Kakamega County Environmental Management Act, 2019 and shall come into operation on publication. Short title and commencement

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

“Air pollution” means any change in the composition of the air caused by smoke, soot, dust, fly ash, cinders, solid particles of any kind, gases, fumes, aerosols and odorous substances as defined by Environmental Management Coordination Act, (No. 8 of 1999).

“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.

“Combustible liquid” means a liquid which has a close cap flash point of 38°C 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.

No. 2 *Kakamega County Environmental Management*

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

“Decibel” means a dimensionless unit used in comparison of the magnitude of sound pressure or power.

“Department” means the county government 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 or night rating level, the outdoor equivalent continuous day rating level or the outdoor equivalent continuous night rating level for the particular neighbourhood indicated as the outdoor ambient noise.

“Executive Committee Member” means the County Executive Committee member responsible for matters relating to environment.

“Intermittent noise” means 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 defences 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.

“Particulate matter” means all Particulate material which persists in the atmosphere or in flue gas stream for lengthy periods because the Particles are too small in size to have appreciable falling velocity

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

“Public facility” means an amenity provided 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 an area filed in a lands registry and has been provided for or reserved for the use of the public.

“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.

“Solid waste” means 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

No. 2 *Kakamega County Environmental Management*

- (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;

“Waste” means any matter prescribed to be waste and any matter, whether liquid, solid, gaseous, or radioactive which is discharged, emitted, or deposited in the environment in such volume, composition or manner likely to cause an alteration of the environment.

3. The object and purpose of this Act is to enhance a healthy environment in the county by providing for the regulation and control of—

Object and purpose
of the Act

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

**PART II — PROVISIONS RELATING TO
ADMINISTRATION AND IMPLEMENTATION**

4. (1) The Executive Committee Member responsible for environment shall ensure proper administration and implementation of this Act.

Administration of
the Act

(2) The Executive Committee Member may, from time

to time appoint any person or a class of persons to be authorized officers for the purposes of administration of this Act.

(3) The Executive Committee 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, the chief officer responsible for environment and natural resources, environmental and natural resources officers appointed by the County Public Service Board; a member of the national police service above the rank of inspector or a public health officer appointed under any written law shall be deemed to be authorized officers for the purpose of this Act.

5. An authorized officer appointed under this section shall perform the following additional functions —

Additional
functions of
Authorized
Officers

- (a) monitor compliance with the environmental, forestry and natural resources standards established under this Act or any other written law; and
- (b) for the purposes of ensuring compliance with this Act, an authorized officer may, at any reasonable time—
 - (i) enter any land, premises, vessel, motor vehicle and make examination and enquiries whether the provision of this Act are being complied with;
 - (ii) require the production or examination of any licenses, permits or other relevant documents relating to such premises;
 - (iii) carry out periodic inspection of all establishments within their respective jurisdictional limits which manufacture, produce as by-products, import, store, sell or distribute or use any substances that are likely to have significant impact on the environment;
 - (iv) seize any article, vessel, motor vehicle, equipment, substance or any other thing which is reasonably believed to have been used in the commission of an offence under this Act;

No. 2 *Kakamega County Environmental Management*

- (v) on their own volition or with assistance of the county enforcement officers or a police officer arrest any person whom is reasonably believed to have committed an offence under this Act;
- (vi) install any equipment on any land or premise or motor vehicle for purposes of monitoring compliance to this Act;
- (vii) with the written approval of the Executive Committee Member, order the immediate closure of any manufacturing plant or other establishment or undertaking which is causing or is likely to cause significant environmental pollution and land degradation until it complies with the requirements under this Act; and
- (viii) perform such other functions as may be required under this Act.

6. (1) There is established a County Environmental Technical Committee which shall consist of—

Establishment of
Environmental
Technical
Committee

- (a) Chief Officer responsible for Environment who shall be the chairperson;
- (b) County Head of Environment who shall be the secretary;
- (c) One person versed in public administration appointed by the executive committee member;
- (d) three persons versed in environmental matters from the County each representing northern, central and southern regions of the county appointed by the Executive Committee Member;
- (e) County public health officer; and
- (f) a representative each from the county department responsible for urban areas, agriculture, natural resources and water respectively appointed by the executive committee member.

(2) Persons appointed under paragraph (c) and (d) shall serve for a renewable period of three years, but shall cease to be a member if the appointee—

- (a) serves the chairperson with a written notice of resignation;

- (b) is absent for three consecutive committee meetings without the permission of the chairperson;
- (c) is convicted and imprisoned for a term exceeding six months;
- (d) is incapable of discharging committee duties due to mental or physical infirmity; or
- (e) gross violation of the constitution and the law.

(3) The Committee shall regulate its own procedure.

(4) The committee shall meet quarterly but subject to approval by the Executive Committee Member, the chairperson may call for a meeting when there is an urgent need.

(5) The Committee may co-opt such officers or professionals as may be necessary for the proper discharge of its functions under this Act.

7. The County Environmental Technical Committee shall—

Functions of
county
environmental
technical
committee

- (a) be responsible for the proper management of the devolved environmental functions as set out in Schedule Four of the Constitution;
- (b) in conjunction with the environmental department, develop a county strategic environmental report every five years;
- (c) perform any other function as shall be prescribed by this Act or any other written law.

PART III—PROVISIONS RELATING TO AIR POLLUTION

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

Duty to prevent or
mitigate air
pollution

- (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

No. 2 *Kakamega County Environmental Management*

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 Executive Committee Member shall give the affected person adequate opportunity to inform the relevant government agent of their relevant interests.

(4) Where a person fails to 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; and
- (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.

9. (1) No person shall—

Prohibition on
causing air
pollution

- (a) act in a way that directly or indirectly causes, or is likely to cause immediate or subsequent air pollution; or
- (b) emit any liquid, solid or gaseous substance or deposit any such substance in levels exceeding those set out in the First Schedule
- (c) cause or allow emission within the county of air pollutants listed in the Second Schedule to cause the ambient air quality limits prescribed in the First Schedule to be exceeded
- (d) cause or allow particulate matter into the atmosphere from industries in the Second Schedule in excess of those limits stipulated under the First Schedule
- (e) cause or allow the scattering, dispersion or spreading of visible particulate matter from material being transported.

(2) Every operator or owner of a vehicle shall control the emission of air pollutants set out in the First Schedule.

10. A person who—

- (a) intentionally or negligently commits any act or omission which causes or is likely to cause air pollution; or
- (b) acts 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) refuses to comply with a directive issued under this Part,

Causing air pollution constitutes an offence

commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding six months or both.

11. (1) The County government shall apply the ambient air quality levels specified in the First Schedule.

Ambient air quality

(2) A person being an owner of premises who causes or allows the generation from any source of any odour which unreasonably interferes or is likely to unreasonably interfere with any other person lawful use or enjoyment of his or her property shall ensure that the odour emissions limit comply with the ambient quality limits set out under the First Schedule.

(3) Any person who causes or allows emissions of the priority air pollutants prescribed in the Third Schedule to cause the ambient air quality limits prescribed in the First Schedule to be exceeded commits an offence.

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

Duty to prevent dust emissions

(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

No. 2 *Kakamega County Environmental Management*

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 an authorized officer.
- (4) The provisions of this section are not applicable

to—

- (a) landscaping activities by a person at his or her 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 on conviction to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding six months or both.

13. (1) A person who carries out or permits open burning of any material on any land or premises commits

Emissions caused
by open burning

an offence, unless—

- (a) the prior written authorization of the Executive Committee Member, upon payment of prescribed 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 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 Executive Committee Member within seven days of being notified.

(2) The executive committee member shall authorize sugarcane burning under this section upon being satisfied that the requirements set out in subsection (1) have been complied with'

(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

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

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

15. (1) A person shall not burn sugarcane in a farm unless—

Sugarcane burning emissions.

- (a) a prior written authorization of the Executive Committee Member, upon payment of the prescribed fee, has been obtained which authorization may be granted by the Executive Committee Member with conditions; and

No. 2 *Kakamega County Environmental Management*

(b) that person has notified in writing the owners and occupiers of all adjacent properties (including surrounding communities within 150 metres 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 date 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 shall authorize sugarcane burning under this section when satisfied that the requirements set out in subsection (1) have been complied with.

(3) Any person who contravenes the provisions of this section commits an offence and shall be liable on conviction to a fine not exceeding 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.

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

Burning of tyres,
rubber products
etc.

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

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

- (a) prior written authorization of the Executive Committee Member has been obtained, upon payment of prescribed fee;
- (b) environmental impact assessment study has been carried out and environmental impact assessment license issued;
- (c) the authority in paragraph (a) may be granted by the Executive Committee Member upon the applicant providing the following information—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.
- (d) prior notification in writing to the owners and occupiers of all adjacent properties within 150 meters of the treatment area of—
 - (i) the details of the proposed treatment area;
 - (ii) the pesticide to be used;
 - (iii) the active ingredient;
 - (iv) the date and approximate time of pesticide use;
 - (v) in the event of inclement weather conditions 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 Executive Committee Member county within 7 days.

No. 2 *Kakamega County Environmental Management*

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

18. (1) A person shall not 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 designated areas.

Spray painting
emissions

(2) A person shall not spray, coat, plate, or epoxy-coat any building or part thereof or allow them to be sprayed, coated plated or epoxy-coated with any flammable substances unless that person is in possession of a spraying permit issued by the Executive Committee Member.

(3) Any person who contravenes the provisions of this section commits an offence and shall be liable on conviction to a fine not exceeding twenty 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 Executive Committee Member an application form for such permit in the form and manner prescribed.

(5) The Executive Committee Member may cancel the spraying permit if there is reason to believe that the holder of the spraying permit has contravened or failed to comply with any provision of this section.

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

Responsibility of
the department to
control air
pollution

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

20. (1) Every owner or operator of a controlled facility shall ensure that emission from the facility does not cause air pollution in any territory outside the facility, in excess of ambient air quality level prescribed in the First Schedule.

Responsibility of
owner or operator
of controlled
facility

(2) Any owner or operator who contravenes the provisions of subsection (1) commits an offence

21. (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.

Responsibility of
occupier or
operator of
premises

(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 may—

- (a) make regular inspection and ensure indoor pollutants do not exceed the recommended levels.
- (b) carry out monitoring of ambient air quality or request a relevant lead agency to do so on its behalf

22. The Department shall, in collaboration with other departments and agencies of government—

Collaboration with
other departments
or agencies

- (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 non-smokers from second-hand smoke; and
- (d) take steps to clean up any air pollution where necessary.

23. (1) The Department responsible for environment shall assess air quality parameters listed in First schedule in accordance with this Act.

Other pollution
sources, Inspection
and Monitoring

(2) An owner or operator of a controlled facility while installing a stack shall ensure that it complies with the requirements of Environmental Management and Co-ordination (Air Quality) Regulations, 2013 or any other written law.

(3) An owner or operator of a controlled facility shall provide portholes, and platforms which shall be conveniently located for easy access and all other facilities required for taking samples of air or emission from any chimney, flue or duct, plant or vessel or any other outlets.

(4) Where the Department requires stack emission tests to be performed under these Act, an owner of a facility shall provide the following-

- (a) sampling ports which are adequate for the test methods applicable to the facility;
- (b) safe sampling platforms or other suitable and safe permanent or temporary structures or equipment; and
- (c) safe access to sampling platforms

(5) Results of emissions sampling and analysis shall be expressed in metric units consistent with the emission standards or targets set out in Environmental Management and Co-ordination (Air Quality) Regulations, 2013 or any other written law and in the conditions, if any, imposed in the relevant licence

(6) A licensee who has any of the sources of emission set out in the First Schedule shall install, calibrate, maintain and operate equipment for continuously monitoring and recording emission levels

(7) An owner or operator of a facility existing before the coming into force of Act shall install equipment as required under (7) within a period of twenty-four months after the coming into force thereof.

(8) This Act will be implemented together with Environmental Management and Co-ordination (Air Quality) Regulations, 2013.

PART IV—PROVISIONS RELATING TO NOISE POLLUTION

24. (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.

General
prohibitions

(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) proximity to schools and other controlled areas;
- (d) whether the noise is recurrent, intermittent or constant;
- (e) level and intensity of the noise;
- (f) whether the noise has been enhanced in level or range by type of electronic or mechanical means; or
- (g) 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 not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months or both

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

Permissible noise levels

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

Measurements and control of noise levels

(2) Measurement of noise levels shall be undertaken by authorized officers.

(3) Where a person exceeds permissible levels in subsection (1), the authorised officer may—

- (a) take reasonable measures to remedy the situation or apply to a competent court for appropriate relief; and
- (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 excessive noise.

(4) Any person who contravenes the provisions of this section commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand

shillings or imprisonment for a term not exceeding six months or both.

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

Exemptions

- (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, national or county celebrations

PART V— PROVISIONS RELATING TO NOISE FROM CERTAIN SOURCES

28. (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—

Radio, television
and other
amplifying devices

- (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 Fourth 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 not exceeding one hundred thousand shillings or imprisonment for a term not exceeding six months or both.

29. (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 or event 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.

Parties and social events

(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 not exceeding one hundred thousand shillings or imprisonment for a term not exceeding six months or both.

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

Hawkers, peddlers, touts and street preachers.

No. 2 *Kakamega County Environmental Management*

- (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, market, a residential area, a silent zone, or any other area declared as a silent zone.

(1) 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.

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

31. (1) Any person wishing to operate or repair any machinery, motor-vehicle, construction equipment or other equipment, pump, fan, air-conditioning apparatus or similar mechanical device; or engage in any commercial or industrial activity, which is likely to emit noise shall carry out such activity or activities within the relevant levels prescribed in the Fourth Schedule to this Act.

Operating
machinery etc.

(2) Any person engaging in industrial activity, who has any of the sources of noise emission shall install, calibrate, maintain and operate equipment for continuously monitoring and recording emission levels

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

32. (1) A person shall not operate a motor-vehicle, motor cycle or other motorized machine which produces any loud and unusual sound that exceeds limits prescribed in the Fourth Schedule.

Noise from motor
vehicles,
motorcycle. etc.

(3) 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.

(4) The provisions of the Traffic Act (Cap. 403), Laws of Kenya shall apply to this section.

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

33. (1) Except for the purposes specified in subsection (2), a person shall not operate construction equipment or perform any outside construction or repair works as to emit noise in excess of the permissible levels as set out in the Fourth Schedule to this Act.

Noise from
construction,
demolition, mining
or quarrying sites

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

- (a) any work of an emergency nature;
- (b) public utility construction, or, with respect to construction of public works, projects exclusively relating to roads, bridges, airports, public schools and sidewalks;

Provided that, if any domestic power tool, including 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 metres or more from the source of the sound.

(3) Any person who contravenes the provisions of subsection (1) commits an offence.

34. (1) No person shall own, possess, harbor, control, keep or permit on any premises, a barking dog or other noisy animal as to cause nuisance.

Noise by domestic
animals

(2) In determining whether a barking dog or other noisy animal causes nuisance, an authorized officer may consider factors including the following—

- (a) the nature, frequency and volume of the noise;
- (b) the tone and repetitiveness;
- (c) the time of day or night;

No. 2 *Kakamega County Environmental Management*

- (d) the distance from the complaining or affected party or parties;
- (e) the number of neighbours affected by or complaining about the noise;
- (f) any other relevant evidence demonstrating that the noise is unduly disruptive; or
- (g) whether the animal is being provoked.

(3) For purposes of this section—

- (a) "Barking dog" means a dog that barks, bays, cries, howls or makes any noise for an extended period of time to the disturbance of any person at any time of day or night, regardless of whether the dog is physically situated in or upon private property.
- (b) An "extended period of time" means incessant barking for thirty minutes or more in any twenty-four hour period, or intermittent barking for sixty minutes or more in any twenty-four hour period.
- (c) "Noisy animal" means an animal that makes any noise for an extended period of time to the disturbance of any person at any time of day or night, regardless of whether the animal is physically situated in or upon private property.
- (d) An "extended period of time" means incessant noise for thirty minutes or more in any twenty-four-hour period, or intermittent noise for sixty minutes or more in any twenty-four-hour period.
- (4) A dog shall not be deemed to be a "barking dog" for purposes of this section if, at any time the dog is barking, a person is trespassing or threatening to trespass upon private property where the dog is situated, or when the dog is being teased or provoked.

**PART VI—PROVISIONS RELATING TO
LICENSING PROCEDURES FOR CERTAIN
ACTIVITIES**

35. (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 otherwise fail to comply with the provisions of License

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 a way that such equipment is or is likely to be heard outside of any building between 9:00 p.m. of any day and 7:30 a.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 outside 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 involved be authorized by a license pursuant to this Act;
- (b) plans and specifications for 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 Act; 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 license granted shall state that the license only applies to this Act.

(6) In order to further the purposes of this Act and to facilitate compliance and enforcement, the department 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.

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

License
Application

(2) When determining if a licence is to be issued, the factors the authorised licensing officer shall consider may include—

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

(3) The authorised licensing officer shall process the application for a license within a reasonable time from the date of receipt of the application.

(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 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 resulting from the activities.

(5) The authorised licensing officer shall issue a license in the form 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 provided that the Executive Committee Member may grant permission for the issuance of licenses to periods exceeding seven days in exceptional circumstances.

(7) Any applicant who is aggrieved by the refusal of the authorised licensing officer to grant a license may appeal to the executive committee member.

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

Improvement
notice

- (a) the cessation of the noise or prevention or discontinuance of any annoyance, or prohibiting or restricting its occurrence or re-occurrence;
- (b) compliance with the permissible noise levels;
- (c) reduction of the level of noise emanating from the premises to a level specified in the notice;
- (d) compelling enforcement officers to take measures to prevent, discontinue or stop the emission of the noise;
- (f) the prevention of any subsequent increase in the level of noise emanating from the premises or area;
- (g) issue such directions intended to contribute to the reduction of emission of noise 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, on conviction, to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

38. Where there is continuous emission of noise after the authorized officer has issued improvement notice, the authorised officer may, with the approval of the Executive Committee Member, order the closure of an establishment or an undertaking emitting such noise.

Closure notice

39. Any person carrying out activities that emit noise immediately before the coming into force of this Act shall, within six months from the coming into force thereof take necessary measures to ensure compliance with the provisions of this Act.

Existing activities

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

Department to
control noise
pollution

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

PART VII — PROVISIONS RELATING TO PUBLIC NUISANCES

41. (1) A person who in a public place—

Indecent behaviour

- (a) defecates or urinates, except in a designated area or within a public facility provided by or on behalf of the county government for that purpose; or
- (b) spits;
- (c) 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

- (d) removes from a receptacle, provided for the disposal of refuse, any of its contents, and causes same to be discharged from such a receptacle,

Commits an offence and shall be liable on conviction to a fine not exceeding five thousand shillings or imprisonment for a term not exceeding one month or both.

(2) 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.

(3) 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).

(4) A person who has been observed by an authorized officer 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.

42. (1) An owner or 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 remove all litter therefrom.

Requirement to
keep kerbs,
sidewalks, verge
e.tc clean

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

(3) An owner or occupier of premises who fails to comply with provisions of this section commits an offence and is liable on conviction to a fine not exceeding ten thousand shillings or imprisonment for a term not exceeding six months.

43. (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 officer 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 commits an offence.

(2) If a person on whom a notice has been served under subsection (1) fails to comply with the terms thereof within the period stated therein, then an authorized officer 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 officer.

44. (1) A person who on any private property—

- (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, anything to project from the private property over or in to a public place, except in area zoned for industrial purposes in terms of a

Use of private
property

Obstruction by
plants

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, commits an offense and is liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment to a term not exceeding one month.

(2) An authorized officer 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 41 shall apply mutatis mutandis.

PART VIII—PROVISIONS RELATING TO WASTE MANAGEMENT

45. (1) The Department shall take all such steps as are necessary— Waste management

- (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;

No. 2 *Kakamega County Environmental Management*

- (c) to perform such other functions pertaining to solid waste management as may be assigned to it or under this Act or any other written law.

(2) In performing the functions specified in subsection

(1) the Department may—

- (a) provide facilities for the collection, treatment and disposal of solid waste;
- (b) institute measures to encourage waste reduction and waste resource recovery;
- (c) introduce cost recovery measures for services provided by or on behalf of the Department;
- (d) establish procedures and develop, implement and monitor 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 Department or not, possessing the prescribed qualification to be an authorized officer;
- (j) do anything or enter into any arrangement which, in the opinion of the Executive Committee Member, is necessary to ensure the proper performance of its functions; and

- (k) formulate regulations on health and hazardous wastes management.

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

Responsibility of
waste generators
and transporters

(2) A person who wishes to transport solid waste within the county shall apply for a license in a form prescribed in the Eighth Schedule and obtain a license prescribed in the Ninth schedule.

(3) A person who transports solid waste within the county without a license prescribed in sub section (2) commits an offence.

(4) 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.

(5) A person who transports waste in a manner that causes a public nuisance or pollutes the environment commits an offence.

(6) 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.

47. (1) The Department shall be responsible for—

General
responsibilities of
the Department

- (a) establishment and implementation of a solid waste management strategy; and
- (b) enforcement of all regulations aimed at keeping a clean environment.

(2) The Department shall recognize any efforts made by an individual, organizations, groups, and institutions in ensuring a clean, safe and healthy environment for all so long as the efforts or actions are within the law.

48. (1) A person who—

- (a) unlawfully, removes any solid waste from a disposal facility or from any place under the control of the Department;
- (b) interferes or tampers with any disposal facility or any place where solid waste is stored;
- (c) disposes of solid waste in any area or in any manner not approved by the Department;
- (d) operates a solid waste disposal facility, provides solid waste collection or transfer services or otherwise manages solid waste, without duly completing and submitting an application form prescribed in the Tenth Schedule and first obtaining a valid license prescribed in the Eleventh Schedule;
- (e) without duly completing and submitting an application form prescribed in the Twelveth Schedule and first obtaining a license prescribed in Thirteenth Schedule disposes waste in the final disposal site;
- (f) impedes in any manner the collection and disposal of solid waste;
- (g) throws, drops or otherwise deposits and leaves any litter in any public place; or
- (h) 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.
- (i) 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.

(2) In any proceedings under this section, it shall be a defence 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.

(3) Any person who throws, drops, 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.

49. (1) Motor vehicle, motor cycle, bicycles or handcarts washes and repair business areas shall be approved by the Executive Committee Member in a prescribed form;

Pollution from
motor vehicle,
motor cycle, etc
washes and repair,
etc

(2) No person shall—

- (a) wash or cause a motor vehicle, motor cycle, bicycle or handcart to be washed in a river, stream, dam, earth pan, unlicensed car wash area or any other unauthorized area;
- (b) repair or cause a motor vehicle, motor cycle, bicycle or handcart to be repaired in unauthorized area;
- (c) spill or cause to be spilled used oil and grease or dump used motor vehicle, motor cycle, bicycle or handcart parts having oil or grease in a manner likely to cause harm to the environment;

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

50. Any person found generating, managing or disposing waste in a manner that pollutes water systems or land commits an offence and is liable on conviction to a

Land and water
pollution

fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

PART IX—MISCELLANEOUS

51. No matter or thing done by a member of the Department or any authorised officer shall, if the matter or thing is done *bona fide* for executing the functions, powers or duties of the department, render the member of department or authorised officer acting on his or her directions personally liable to any action, claim or demand whatsoever.

Protection from
personal liability

52. The provisions of section 48 shall not relieve the county government of the liability to pay compensation or damages to any person for any injury to him or her, his property or any of his or her interests caused by the exercise of the powers conferred on the county government by this Act or any other written law or by failure whether wholly or partially or any works.

Liability of the
county government
for damages

53. The Director of Public Prosecutions may appoint special public prosecutors for purposes of cases arising under this Act

Prosecutions

54. Any person who commits an offence prescribed under this Act and whose penalty is not provided for shall be liable on conviction to a fine not exceeding one hundred thousand shillings or imprisonment to a term not exceeding one year.

General penalty

55. (1) The Executive Committee Member may make Regulations for the better carrying out of the provisions of this Act including—

Regulations

- (a) the granting of written permission and accompanying conditions for the disposal of litter by an occupier of premises in or on which there is carried on any business, occupation, trade or manufacturing;
- (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;

- (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;
 - (ii) a tariff of charges for the removal and storage of items;
 - (iii) procedures to be followed with regard to the sale or disposal of items;
- (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;
- (e) the prevention of nuisances on private property, including—
 - (i) procedures for the removal of any item from private property; and
 - (ii) the giving of instructions and notification to an occupier of private property, for the abatement or cessation of a nuisance.
- (f) 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;
- (g) for the control of air, water, land and noise pollution, other public nuisances and outdoor advertising; and
- (h) any matter that is prescribed in this Act.

FIRST SCHEDULE (s.9 (1) (b), (c) & (d), (2)) s.11(1),(1) & (3), s.12(1), s. 23(1)&(6))

AMBIENT AIR QUALITY

Table 1: Ambient Air Quality Tolerance Limits

	Pollutant	Time weighted Average	Industrial area	Residential, Rural & other rural area	Controlled areas***
1	Sulphur Oxides (SO _x);	Annual Average*	80 µg/m ³	60 µg/m ³	15 µg/m ³
		24 hours	125 µg/m ³	80 µg/m ³	30 µg/m ³
		Annual Average		0.019 ppm/50 µg/m ³	
		Monthly Average			
		24 Hours		0.048ppm/125 µg/m ³	
		One Hour			
		Instant Peak		500 µg/m ³	
		Instant Peak (10 Min)		0.191 ppm	
2	Oxides of Nitrogen(NO _x)	Annual Average*	80 µg/m ³	60 µg/m ³	15 µg/m ³
		24 hours	150 µg/m ³	80 µg/m ³	30 µg/m ³
		8 hours			
				0.019 ppm/50 µg/m ³	
		Annual Average		0.2 ppm	
		Month Average		0.3 ppm	
		24 Hours		0.4 ppm	
		One Hour		0.8 ppm	
		Instant Peak		1.4 ppm	
3.	Nitrogen Dioxide	Annual Average	150 µg/m ³	0.05 ppm	
		Month Average		0.08 ppm	
		24 hours	100 µg/m ³	0.1 ppm	
		One Hour		0.2 ppm	
		Instant Peak		0.5 ppm	

4.	Suspended Particulate	Annual Average *	360 $\mu\text{g}/\text{m}^3$	140 $\mu\text{g}/\text{m}^3$	70 $\mu\text{g}/\text{m}^3$
	Pollutant	Time weighted Average			
	matter (SPM)				
		24 hours**	500 g/m^3	200 g/m^3	100 g/m^3
			Industrial area	Residential, Rural & Other area	Controlled areas***
		mg/Kg			
		Annual Average****		100 g/m^3	
		24 hours** *		180 g/m^3	
5.	Respirable Particulate Matter (<10 m) (RPM)	Annual Average*	70 g/m^3	50 g/m^3	50 g/m^3
		24 hours**	150 g/Nm^3	100 g/Nm^3	75 g/Nm^3
6.	PM _{2.5}	Annual Average	35 g/m^3		
		24 hours	75 g/m^3		
7.	Lead (Pb)	Annual Average*	1.0 g/Nm^3	0.75 g/Nm^3	0.50 g/m^3
		24 hours**	1.5 g/m^3	1.00 g/m^3	0.75 g/m^3
		Month Average		2.5	
8.	Carbon monoxide (CO)/ carbon dioxide (CO ₂)	8 hours**	5.0 mg/m^3	2.0 mg/m^3	1.0 mg/m^3
		1 hour	10.0 mg/m^3	4.0 mg/m^3	2.0 mg/m^3
		mg/Kg			
		24 hours**			
9.	Hydrogen Sulphide	24 hours**	150 g/m^3		

No. 2*Kakamega County Environmental Management*

10.	Non-methane hydrocarbons				
		instant Peak	700ppb		
11.	Total VOC	24 hours**	600 g/m ³		
12.	Ozone	1-Hour	200 g/m ³	0.12 ppm	
		8 hour (instant Peak)	120 g/m ³	1.25 ppm	

Legend(a) μg - microgram(b) m^3 – cubic metre

(c) ppm – Parts per million

(d) ppb – Parts per Action

(e) Values at Standard Temperature and Pressure (STP)

(f) Conversion factors from ppm to mg/m^3 and mg/m^3 to ppm are stipulated under the Eleventh Schedule

(g)* Annual Arithmetic mean of minimum 104 measurements in a year taken twice a week 24 hourly at uniform interval].

(h) ** 24 hourly/8 hourly values should be met 98% of the time in a year. However, 2% of the time, it may exceed but not on two consecutive days].

(i) Whenever and wherever two consecutive values exceed the limit specified above for the respective category, it would be considered adequate reason to institute regular/continuous monitoring and further investigations.

(j) *the 24-hour limit may not be exceeded more than three times in one year;

(k) ** 24-hour limit may not be exceeded more than three times in one year micrograms/m³

(l) *** Not to be exceeded more than once per year average concentration

(b) Table 2: Ambient Air Quality at Property Boundary for General Pollutants

	Pollutant	Time weighted Average	Property Boundary
1.	Particulate matter (PM)	Annual Average*	50g/m ³ μ
		24 hours**	70 g/m ³ μ
2.	Oxides of Nitrogen (NO _x);	Annual Average*	80 g/m ³ μ
		24 hours**	150 g/m ³ μ
3.	Sulphur oxides (SO _x);	Annual Average*	50 g/m ³
		24 hours**	125 g/m ³ μ
4.	Hydrogen Sulphide	24 hours**	5g/m ³ μ
5.	Lead(Pb)	Annual/24 hours	0.5-2.0 g/m ³ μ
6.	Ammonia	24 hours**	100 g/m ³ μ

Note.

- For residential premises in designated industrial areas, the above standards do not apply.
- For industries in designated residential areas, standards for residential areas shall apply.

(s.9 (1) (c) & (d))

[illegible]

THIRD SCHEDULE

(s.11) (3))

PRIORITY AIR POLLUTANTS**Part I: General Source Pollutants**

- (a) Particulate matter (Dust, black smoke, smog, aerosols);
- (b) Sulphur oxides (SO_x);
- (c) Nitrogen oxides (NO_x);
- (d) Carbon monoxide (CO)
- (e) Carbon dioxide (CO₂);
- (f) Hydrocarbons (HC);
- (g) Volatile organic Compounds(VOC);
- (h) Hydrogen Sulphide (H₂S);
- (i) Hydrogen Chloride (HCl);
- (j) Lead and its compounds;
- (k) Mercury vapour (Hg)
- (l) Ozone (O₃);
- (m)Dioxins and furans (PCDD and PCDF).

Part II: Mobile Source Pollutants

- (a) Hydrocarbons (HCs)
- (b) Volatile organic Compounds(VOC);
- (c) Sulphur dioxide (SO_x)
- (d) Nitrogen oxides (NO_x)
- (e) Particulates (PM)
- (f) Carbon Monoxide (CO)

Part III: Greenhouse gases (GHG)

- (a) Carbon dioxide (CO₂);
- (b) Methane (CH₄);
- (c) Nitrous oxides (N₂O);
- (d) Hydrofluorocarbons (HCFCs);
- (e) Perfluorocarbons (PFCs); and
- (f) Sulphur hexafluoride (SF₆);

FOURTH SCHEDULE (s.25, 26(1), 28(2), 31(1), 32(1), 33(1))
MAXIMUM PERMISSIBLE NOISE LEVELS

A. MAXIMUM PERMISSIBLE NOISE LEVELS					
Zone		Sound Level Limits dB(A)		Noise Rating Level (NR)	
		<i>(Leq, 14 h)</i>		<i>(Leq, 14 h)</i>	
		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 & places of entertainment	55	35	50	25
E.	Commercial	60	35	55	25

Time Frame

Day: 6.01 a.m. - 8.00 p.m. (Leq, 14 h)

Night: 8.01 p.m. - 6.00 a.m. (Leq, 10h)

B. MAXIMUM PERMISSIBLE NOISE LEVELS FOR CONSTRUCTIONS SITES
(Measurement taken within 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) above	75	65

Time Frame:

Day: 6.01 a.m. – 6.00 p.m. (Leq, 14 h) Night: 6.01 p.m. – 6.00 a.m. (Leq, 14 h)

**C. MAXIMUM PERMISSIBLE NOISE LEVELS FOR MINES
 AND QUARRIES**

(Measurement taken within the facility)

<i>Facility</i>		<i>Limit Value in dB (C) Max</i>
1.	For any building used as a health facilities, educational institutions, convalescent home, old age home or residential building	109 dB (C)
2.	For any building in an areas used for residential and one or more of the following purposes: commerce, small-scale production, entertainment, or any residential apartment in an area that is used for purposes of industry, commerce or small-scale production, or any building used for the purpose of industry, commerce or small-scale production.	114 dB (C)

FIFTH SCHEDULE

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

1. Name of Applicant			
Address:			
ID No. / Passport No			
Telephone:		Mobile:	
Fax:		Email:	

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

E. _____

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

F. Source of noise:

(a) Activity/Purpose: _____

(b) Has the noise been enhanced in level or range by any type of electronic or mechanical means:

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

State the measures intended to be used in controlling the noise (may attach separate sheet):

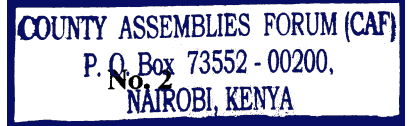
Intended time of noise emission (indicate time of day):

Date: Signature of Applicant:

ID No. of Applicant (Please attach copy): _____

2019

Kakamega County Environmental Management

**FOR OFFICIAL USE ONLY**

Date received: _____

Fees paid _____

The noise is: Recurrent/intermittent/constant (please tick one—

where “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 defences of a room or building; and constant means a noise whose level will remain the same throughout the emission period

Approved / Not Approved _____

Comments:

.....

.....

Officer Sign Date

Countersigned Date

SIXTH SCHEDULE
LICENSE TO EMIT NOISE IN EXCESS OF PERMISSIBLE
LEVELS

(s.36 (5))

License No..... CGK/ENV/LNC/2019/

NAME.....

Of

(Address)

Is hereby licensed to cause emission or emit noise in excess of the
 permissible noise levels
 at.....

(Location, Street, Ward)

Activity:

This License is valid from: ____ / ____ /20.....

to ____ / ____ /20.....

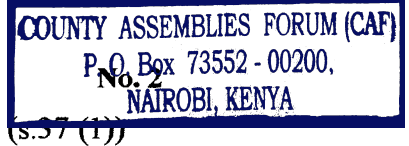
from the hours of to.....
 of each day.

This License is granted subject to the following conditions overleaf

Date: Signature:

2019

Kakamega County Environmental Management



**SEVENTH SCHEDULE
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 or your agents were
generating or producing excessive noise (Kakamega County
Environmental Act 2019) Part IV

The Environmental Inspector particularly found the following:

- 1.....
- 2.....
- 3.....
- 4.....
- 5.....
- 6.....

(Attach more paper if necessary)

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

You ARE further NOTIFIED THAT in accordance with Sections 25, 26
and 27 of the County Environmental Management Act, 2019, Failure to
comply with this Notice shall result in criminal prosecution being
instituted against you and/ or your agent or both.

Name

Signature

EIGHTH SCHEDULE

**APPLICATION FOR LICENSE TO TRANSPORT WASTE
WITHIN KAKAMEGA COUNTY**

I hereby apply for a license to transport waste, of which particulars are given below:

Name of applicant

Address:

PIN Number

Registration number and type of vehicles to transport waste

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

Type of Waste.....

Quantity of waste

Licensed sites/plant to which waste is to be dumped/discharged

.....
.....

Collection schedule

.....
.....

Date

Signature.....

Designation /

Title.....

2019



NINTH SCHEDULE

(s.46 (2))

LICENCE TO TRANSPORT WASTE WITHIN KAKAMEGA COUNTY

License No

Name.....

Address

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

You are hereby licensed to transport waste within Kakamega County
from _____ to _____

Type and registration number of vehicles licensed

.....

This license is valid for one year from date of issue on
...../.....20..... Upon payment of prescribed fee and subject to
renewal upon fulfilling attached conditions or other terms and
conditions as the Department may deem necessary or impose for
purposes of ensuring public health and sound environmental
management.

Date:

Signature.....

Conditions attached:

1. Your mode of transportation including vehicles be approved by the National Environment Management Authority.
2. Any vehicle used for transportation of waste shall be clearly marked
3. While transporting waste, you shall adhere to routes designated by National Environment Management Authority
4. The collection and transportation of such waste shall be conducted in such a manner that will not cause scattering, escaping and/or flowing out of the waste;
5. At all times during transportation of the waste, the Licensee shall keep original copy of a duly filled tracking document as set out in Environmental Management and Co-ordination (Waste Management), Regulations, 2006, which shall be surrendered on entry
6. You shall transport and dispose the waste in accordance with Environmental Management and Co-ordination (Waste Management), Regulations, 2006 or any other written regulations or law
7. Regular access to the site shall be to only person or companies licensed to transport waste upon weighing and payment of prescribed fee on every entry

TENTH SCHEDULE

(s.48 (1) (d))

**APPLICATION/RENEWAL FOR A LICENCE TO OWN/OPERATE A
WASTE TREATMENT OR DISPOSAL SITE**

(To be completed in Triplicate)

Name and address of applicant.....

.....
PIN Number

..... Location and sub county of plant/site

.....
Approval of physical planning department..........
Types of waste.....
Quantity per annum (tonnes/kg).....
Type of facilities/treatment to be carried on at plant/site:

(a) Land fill

.....
(b) Compost.....

(c)

Incinerator.....

Other (specify).....

Estimated life span of plant/site.....

Proposed hectarage/area of plant/site (include plan or designs)

.....
.....

No. 2 *Kakamega County Environmental Management*

Executive summary of environmental impact statement (please attach)

Is Application for:

☐ Initial license ☐ Renewal

Any other information.....

Date:.....

Signature:.....

Designation/Title:.....

FOR OFFICIAL USE ONLY

Application received

by.....on.....20.....

Fee paid KShs.....(in words).....

Signature: _____

Date: _____

2019



ELEVENTH SCHEDULE

(s.48 (1) (d))

**LICENCE TO OWN/OPERATE WASTE TREATMENT
PLANT/DISPOSAL SITE**

License No.

Name.....

Address.....

You are hereby licensed to own/operate a treatment plant/waste
disposal site:

.....
.....

(Plot No., Ward, sub County, County)

This license is valid from.....20.....

to.....20.....

This license is subject to the following conditions:

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

Date:.....

Signature.....

**TWELVETH SCHEDULE****(To be completed in Triplicate)****APPLICATION TO ACCESS COUNTY'S WASTE TREATMENT
OR DISPOSAL SITE**

Name and address of applicant.....

.....

I hereby apply for a license to access County's waste treatment
plant/disposal site in:

(Location)

.....

.....

Types of waste to be disposed

.....

Quantity being disposed of/per annum (tonnes/kg)

Routes used:

.....

Date:.....

Signature:.....

Designation/Title:.....

FOR OFFICIAL USE ONLY

Application received by.....

on.....20.....

Fee paid KSh.(In figures).....

(In words).....

THIRTEENTH SCHEDULE (s.48 (1) (e))

LICENCE TO ACCESS WASTE TREATMENT PLANT/DISPOSAL SITE

License No.

Name.....

Address.....

You are hereby licensed to access County's treatment plant/waste disposal site at:

.....
.....(Plot No., division, district, province) This license is valid
from.....20.....to.....
20..... This license is subject to the following conditions:

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

Date:.....

Signature.....

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA