

SPECIAL ISSUE

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

Kenya Gazette Supplement No. 41 (Kilifi County Acts No. 16)



NATIONAL COUNCIL FOR
LAW REPORTING
LIBRARY

REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

KILIFI COUNTY ACTS, 2016

NAIROBI, 19th September, 2016

CONTENT

Act—

PAGE

The Kilifi County Health Services Improvement Fund Act, 20161

**KILIFI COUNTY HEALTH SERVICES IMPROVEMENT FUND
ACT, 2016**

No. 16 of 2016

Date of Assent: 12th September, 2016

Date of Commencement: 3rd October, 2016

ARRANGEMENT OF SECTIONS

PART I—PRELIMINARY

Section

1—Short title.

2—Interpretation.

**PART II—ESTABLISHMENT OF THE KILIFI COUNTY HEALTH
SERVICES IMPROVEMENT FUND**

3—Establishment of the Health Services Improvement Fund.

4—Objects and Purposes of the Fund.

PART III—MANAGEMENT OF THE FUND

5—Establishment of the Fund Board.

6—Membership of the Fund Board.

7—Qualifications for Membership.

8—Term of Office.

9—Termination of Membership.

10—Functions of the Fund Board.

11—Responsibilities of the Fund Board.

12—Functions of the Hospital Management Fund Board.

13—Principles of Financial Management for Hospital Management Fund
Boards.

PART IV—FINANCIAL PROVISIONS

14—Opening and Operating bank accounts.

15—Annual Reports.

16—Winding up of the Fund.

PART V—MISCELLANEOUS PROVISIONS

17—Guiding Principles.

18—Administrative Regulations.

19—Transition and Savings Provisions.

**KILIFI COUNTY HEALTH SERVICES IMPROVEMENT FUND
ACT, 2016**

AN ACT of the Kilifi County Assembly to establish the Kilifi County Health Services Improvement Fund for the improvement of health care service delivery in hospitals; to provide for administration of the Fund; and for connected purposes

ENACTED by the County Assembly of Kilifi as follows—

PART I—PRELIMINARY**Short Title and Commencement**

1. (1) This Act may be cited as the Kilifi County Health Services Improvement Fund Act, 2016.

Interpretation

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

“fund board” means the Fund Board administering the Kilifi County Health Services Improvement Fund established in section 5;

“chief officer” means the Chief Officer responsible for health services in the Department of Health;

“director for health services” means the County Director of Health Services appointed by the Kilifi County Public Service Fund Board;

“executive member” means the County Executive Committee Member responsible for Health Services;

“exemption” means an automatic excuse from payment based on the patient meeting a certain criteria set down in regulations by the Executive Member;

“fund” means the Health Services Improvement Fund established under section 3;

“health services improvement funds” means the meaning as provided in section 3;

“hospital” includes a county and sub-county hospital;

“hospital management fund boards” mean the administrative arm that manage hospitals;

“waiver” means a release from payment meeting a certain criteria set down in regulations by the Executive Member.

2016

Kilifi County Health services Improvement Fund

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

PART II—ESTABLISHMENT OF THE FUND

Establishment of the Health Services Improvement Fund

3. (1) There shall be established a fund to be known as the Kilifi County Health Services Improvement Fund.

- (2) There shall be paid into the fund—
- (a) such monies as appropriated by the County Treasury;
 - (b) grants or donations;
 - (c) monies received as user charges; and
 - (d) income generated from the proceeds of the services.

Objects of the Fund

4. (1) The objects and purposes of the Fund are—
- (a) to provide financial resources for medical supplies and small-scale equipping of health Services in the county for basic operation and maintenance;
 - (b) to give decision making autonomy to hospitals to plan and manage the resources within their control;
 - (c) to support capacity building in the management of hospitals; and
 - (d) to improve the quality of health care services in the hospitals.

PART III—ADMINISTRATIVE PROVISIONS

Establishment of the Kilifi County Health Services Improvement Fund Board

5. (1) There shall be established a Fund Board for the Kilifi County Health Services Improvement Fund.

(2) The Fund shall be administered by the Fund Board and the Hospital Management Fund Boards according to such rules and guidelines as prescribed hereunder.

Membership of the Fund Board

6. (1) The Fund Board shall comprise of no more than seven members as follows—

- (a) a Chairperson appointed by the Governor;
- (b) the Chief Officer in charge of health services;
- (c) the Fund Administrator appointed by the County Treasury;

- (d) the County Director of Health Services, who shall be the secretary to the Fund Board; and
- (e) three (3) other persons who shall be appointed by the Executive Member fulfilling such criteria and drawn from such membership as provided in section 7.

Qualification for membership

7. (1) The appointment of the chairperson under section (6)(1) (a) and members under sub-section (e) shall be subject to such criteria—

- (a) satisfying the requirements of Chapter Six of the Constitution; and
- (b) holding a minimum of a bachelor's degree from a university recognized in Kenya, Finance/Medical degree is an added advantage; or
- (c) on account of their training or experience.

(2) The members of the Fund Board to be appointed under section 6 (1)(e) shall be drawn from associations representing non-governmental organizations, professional associations and business drawn from the healthcare sector taking into account gender, disability and youth.

Terms of Office

8. The chairperson and members of the Committee appointed under section (6) (1) (a) and (e) shall hold office for a term of three years and shall be eligible for reappointment for one further term.

Termination of Membership

9. A member shall vacate his/her position as a member of the Management Committee if he/she;

- (a) is absent from three (3) consecutive meetings of the committee without written apology;
- (b) violates Chapter 6 of the Constitution;
- (c) ceases to be a resident of Kilifi County or Sub-County or work in the area of Hospital Jurisdiction;
- (d) voluntarily resigns from committee; and
- (e) dies;
- (f) is so incapacitated by prolonged physical or mental illness as to be unable to attend and discharge his/her duties

Functions of the Fund Board

10. (1) The Fund Board shall —

- (a) provide oversight of the administration of the moneys drawn from the Fund;
- (b) mobilize resources for the Fund;
- (c) provide guidance to the management Fund Boards on —
 - (i) proposals on user fees where the management Fund Board seeks to propose new user fees or changes to the old fees structure;
 - (ii) disciplinary matters including but not limited to theft of funds , spending of revenue at source, spending without proper authorization, fraud, abuse of powers of exemptions and waivers;
 - (iii) monitor the performance of the hospital management Fund Boards
 - (iv) receive reports from the management Fund Boards for its consideration and adoption; and
 - (v) develop criteria for the granting of waivers and exemptions;

Responsibilities of the Fund Board

11. In administering the Fund, the Fund Board shall have the following responsibilities —

- (a) prepare, sign and transmit to the County Auditor in respect of each financial year and within three months after the end thereof, a statement of account relating to the Fund specifying all contributions to the Fund and the expenditure incurred from the Fund, and such details as the County Treasury may from time to time direct, in accordance with the provisions of the Public Audit Act;
- (b) furnish such additional information as may be required that is proper and sufficient for the purpose of examination and audit by the County Auditor in accordance with the provisions of the Public Audit Act;
- (c) develop the criteria for the allocation of funds for approval;
- (d) prepare annual distribution of resources by health Services;

No. 16

Kilifi County Health Services Improvement Fund

- (e) impose conditions on the use of expenditure authorized and may impose any reasonable prohibition, restriction or other requirement concerning such use of expenditure;
- (f) institute prudent measures for the proper utilization for monies deposited in the Fund using suitable internal controls and appropriate mechanism for accountability including audit of accounts by internal auditors of the department responsible for matters relating to finance; and
- (g) cause to be kept proper books of accounts and records relating to all receipts, payments, assets and liabilities of the Fund and to any other activities and undertakings financed by the Fund.

Functions of the Hospital Management Fund Boards

12. (1) The Hospital Management Fund Boards shall—

- (a) approve budgets, programmes and plans of the health Services;
- (b) prepare the fund's annual budget and plan to be adopted by the Fund Board;
- (c) formulate strategies on resource mobilisation by health Services management committees;
- (d) resolve any conflicts that arise amongst health Services whose nature is the allocation of resources, membership of the committees or joint programmes;
- (e) inspect health services, prepare reports and forward to the Management Committee for *gazettement*;
- (f) identify implementation challenges and seek corrective actions;
- (g) make policy recommendations on cost sharing, public awareness on health and administration of the fund through the chairman to the Management Committee;
- (h) determine such number of standing committees and composition of *ad hoc* committees.

Principles of Financial Management for Hospital Management Fund Boards

13. (1) In financial management, the Hospital Management Fund Boards shall—

- (a) review the proposed budgets to ensure they are linked to the priorities as outlined in the Quarterly Implementation Plans and Annual Work Plan;

2016

Kilifi County Health services Improvement Fund

- (b) ensure the proposed budgets are based on the available resources;
 - (c) approve the proposed budgets after review; and
 - (d) forward the approved budgets to the Health services improvement Fund Board for approval and submission to the Executive Member.
- (2) In supervising and controlling the administration of all funds, the Hospital Management Fund Boards shall—
- (a) ascertain the available funds and their sources;
 - (b) guide the Hospital on user fees, unit costs, exemptions and waivers, as prescribed by the Executive Member;
 - (c) ensure accounting procedures conform to the Fund regulations and the County Government Financial Management Guidelines;
 - (d) ensure compliance with financial planning cycle;
 - (e) ensure mitigation against financial risk; and
 - (f) ensure internal and external audits are conducted as required under the Fund.

PART III—FINANCIAL PROVISIONS**Opening and Operating Bank Accounts**

14. (1) Each hospital shall operate a bank account in its own name.
- (2) There shall be three mandatory signatories to the bank account—
- (a) the Fund Administrator or the Deputy Fund Administrator in case the Fund Administrator is away on official leave,
 - (b) the Hospital Administrator, and
 - (c) the Medical Superintendent for the hospital.
- (3) The Hospital accountant shall obtain bank statements on a monthly basis and prepare bank reconciliation statements.
- (4) The Hospital Management Fund Boards shall review and approve monthly bank reconciliation statements that will be presented to the Fund Board.
- (5) The Hospital Management Fund Boards shall ensure that basic books of accounts and financial records of the Fund are maintained by ensuring that—

- (a) the Hospital's Financial Management System is up to date and conforms to the required accounting standards; and
- (b) the financial management system has the capacity to capture useful information and produce required reports for monitoring and management decision making.

(6) The Hospital Management Fund Boards shall ensure that certified financial reports are prepared and submitted.

Annual Reports

15. The Fund Board shall, within three months after the end of each financial year, prepare and submit to the County Executive Committee Member a report for the immediate preceding year.

Winding up of the Fund

16. In the event of winding up of the Fund, the cash balances shall be transferred to the Exchequer while other assets of the Fund shall be transferred to the Department for the time being responsible for medical services.

PART IV—MISCELLANEOUS PROVISIONS

17. Guiding Principles

(1) The expenditure incurred by a hospital on the services shall be on the basis of, and limited to, the annual allocation or grants and authority to incur expenditure.

(2) The receipts, earnings, accruals and the balance of the services at the close of each financial year shall not be paid into the Consolidated Fund but shall be retained by the respective hospital for the purpose for which the service is established.

18. Administrative Regulations

In the performance of its functions under this Act, the Executive Member may, in consultation with the Executive Member for Finance, make regulations generally for the governance, control and administration of the Fund and in particular for—

- (a) the criteria for granting exemptions and waivers;
- (b) the criteria for gazettement hospitals that are receiving monies from the Fund, and
- (c) user fees and charges.

Transition and Savings Provisions

19. (1) All members of the Hospital management Fund Boards serving before the enactment of this Act shall continue to serve for a further 3 months or until the appointment of the Hospital Management Fund Boards as prescribed by the Executive Member.

(2) Legal Notice No. 155 of 16th October, 2009 ceases to apply with respect to hospital management Fund Boards, in so far as the composition and membership however all guidelines as to conduct of meetings and format of records shall be utilised until such time that the Executive Member can formulate the Regulations.

SPECIAL ISSUE

Kenya Gazette Supplement No. 42 (Kilifi County Acts No. 17)

NATIONAL COUNCIL
LAW REPORTING FOR
COUNTY ASSEMBLIES FORUM (CAF)
P.O. Box 4962 - 00200,
NAIROBI, KENYA



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

KILIFI COUNTY ACTS, 2016

NAIROBI, 1st September, 2016

CONTENT

Act—	PAGE
The Kilifi County Environmental (Regulation and Control) Act, 2016.....	1

THE KILIFI COUNTY ENVIRONMENT (REGULATION AND CONTROL) ACT

No. 17 of 2016

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

Date of Assent: 25th August, 2016

Date of Commencement: 15th September, 2016

ARRANGEMENT OF SECTIONS

Section

PART I—PRELIMINARY

- 1— Short title.
- 2— Interpretation.
- 3— Objectives.
- 4 — Application.

PART II —ADMINISTRATION

- 5— Administration of the Act.
- 6 — Establishment of the Sub-County Environment Management Committees
- 7 — Conduct of Business
- 8 — Remuneration
- 9— Removal from Office
- 10 — Vacation from Office
- 11 — Implementation of the Act.

PART III — PROVISIONS RELATING TO AIR POLLUTION

- 12 — Nobody shall cause air pollution.
- 13 — Responsibilities of the Department to control air pollution.
- 14— Responsibility of owner or operator of controlled facility.
- 15 — Responsibility of occupier or operator of premises.
- 16 — Permitted operations.
- 17— Liaise with other departments and agencies.

PART IV— PROVISIONS RELATING TO NOISE POLLUTION

- 18— No person shall cause noise pollution.
- 19 — Responsibilities of the Department to control noise pollution.

No. 17 *Kilifi County Environmental (Regulation and Control) Bill, 2016*



PART V — PROVISIONS RELATING TO PUBLIC NUISANCES

20 — Responsibilities of the Department to control public nuisances.

21 — Impounding of certain animals.

22 — Street offences.

PART VI — OUTDOOR ADVERTISING

23 — No outdoor advertisement without a permit.

PART VII — GENERAL LICENSING PROVISIONS

24 — Application for licenses and permits

25 — Department may object to granting or renewal of licences.

26 — Issue of licence

27 — Conditions of a licence

28 — Revocation, alteration or suspension of a licences

29 — Surrender of license

30 — Appeals

31 — Publication of revocation order

PART VIII — ENFORCEMENT

32 — Authorised Officers

33 — Power of Entry

34 — Power of Officers

MISCELLANEOUS

35 — Regulations

**Schedule — Provisions as to the Conduct and Business Affairs of the
Sub-County Environment Committee**

2016

Kilifi County Environmental (Regulation and Control)

No. 17

**THE KILIFI COUNTY ENVIRONMENT
(REGULATION AND CONTROL) ACT, 2016**

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

AN ACT of the County Assembly of Kilifi to give effect to the Fourth Schedule of the Constitution; to control and regulate air pollution, noise pollution, public nuisances and outdoor advertising; and for connected purposes

ENACTED by County Assembly of Kilifi, as follows—

PART I— PRELIMINARY

1. This Act may be cited as the Kilifi County Environment (Regulation and Control) Act, 2016.

Short title.

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

Interpretation.

“advertisement” or “advertising” 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;

“air pollution” means any change in the composition of air caused by air pollutants;

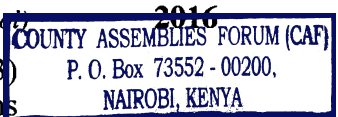
“air pollutant” includes—

- (a) fume, smoke, particulate matter, vapour, gas, odorous substance or any combination thereof; and
- (b) any other substance or matter whether physical, chemical, biological, or radioactive, including source material, special nuclear material, and by-product materials, which is emitted into or otherwise enters the atmosphere from any object or activity and causes, or, if unabated, may cause air pollution,

but does not include water vapour, steam condensate or any other emission exempted under any written law;

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

“authorized officer” means an authorized officer appointed under section 32(1);

No. 17*Kilifi County Environmental (Regulation and Control)*

- (5) (a) the appointed members under sub-section(3) (a) and (e) shall be subject to such persons satisfying the requirements of Chapter Six of the Constitution and hold a minimum qualification of a certificate at O-level.

- (b) The above appointments shall satisfy the requirements of the gender rule envisaged in the constitution

(6) A member of the Committee appointed under sub-section (3) (a) (e) and (f) shall hold office for a term of three years but shall be eligible for re-appointment for one further term of three years.

7. (1) The conduct and regulation of the business and affairs of the Committees shall be as set out in the Schedule.

Conduct of Business

(2) Except as provided in the Schedule, the Committees may regulate their own procedure.

8. The offices in the Committee shall not attract any remuneration.

Remuneration.

9. A member of the Committee may be removed from office on any one or more of the following grounds—

Removal from Office

- (a) Lack of Integrity;
- (b) Gross misconduct, whether in the performance of the members' functions or otherwise;
- (c) Violation of the Constitution or any other law;
- (d) Physical or mental incapacity to perform the functions of the office;
- (e) Missing three consecutive meetings without a reasonable cause;
- (f) Incompetence during the period in office, the appointing authority shall write to the County Assembly requesting the removal of a member from the Board and in the case of the Sub-County Committee the appointing authority shall write to the Board requesting for removal of a member in the Sub-County Committee.

2016

Kilifi County Environmental (Regulation and Control)

No. 17

10. A person shall cease to be a member of the Board if such person—



- (a) resigns in writing, to the Executive Committee Member for persons under (2) (a) (e) and (f)
- (b) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (c) is declared bankrupt;
- (d) is unable to perform the functions of his or her office by reason of mental or physical infirmity; or
- (e) dies.

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

Implementation of the Act.

- (a) formulate county policy for necessary laws and Regulations for the control of air and noise pollution, other public nuisances and outdoor advertising;
- (b) consider all matters brought to its attention by the county or national government, and report its findings thereof;
- (c) take all measures possible to ensure activities within the county conform with national and county legislation on health, safety, environmental and other relevant standards;
- (d) regulate outdoor advertising and graffiti;
- (e) control public nuisances, including waste, pests and insects;
- (f) 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; and
- (g) take any other step that may be necessary to implement this Act.

PART III — PROVISIONS RELATING TO AIR POLLUTION

12. (1) A person or an entity shall not 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.

Nobody shall cause air pollution.

(2) Any person or entity found acting in contravention of the subsection (1) commits an offence and shall upon conviction—

- (a)** if a person; be liable to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months or both; and
- (b)** if an entity; be liable to a fine not exceeding five million shillings or imprisonment for a term not exceeding one year or both.

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

Responsibilities of the Department to control air pollution.

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

14. 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 owner or operator of controlled facility.

15. (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.

L.N. 60 of 2007.

2016

Kilifi County Environmental (Regulation and Control)

No 17

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

(2) Where the hazardous substances referred to in sub-section (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.

16. Subject to any national or county legislation on the subject, the following operations shall be permissible within the county provided that they are not used for the disposal of refuse—

Permitted operations.

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

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

Liaising with other
departments and
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 nonsmokers from second-hand smoke; and
- (d) take steps to clean up any air pollution where necessary

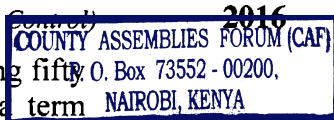
PART IV—PROVISIONS RELATING TO NOISE POLLUTION

18. (1) A person or an entity shall not act in a way that directly or indirectly causes, or is likely to cause, noise pollution contrary to this Act.

No person shall cause
noise pollution.

(2) Any person or entity found acting in contravention of the subsection (1) commits an offence and shall upon conviction—

No. 17

Kilifi County Environmental (Regulation and Control)

- (a) if a person; be liable to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months or both; and
- (b) if an entity; be liable to a fine not exceeding Kenya shillings five million or imprisonment for a term not exceeding one year or both.

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

Responsibilities of the Department to control noise pollution.

- (a) measures to control noise in special areas like schools, hospitals, 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 neighbourhood, and to monitor the fulfilment of the conditions subject to which such businesses, factories and workshops shall be carried on under this Act; and
- (d) any other steps for implementing the county policy and strategy on control of noise pollution under this Act.

PART V — PROVISIONS RELATING TO PUBLIC NUISANCES

20. (1) The Department shall—

Responsibilities of the Department to control public nuisances

- (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;

2016

Kilifi County Environmental (Regulation and Control) Bill, 2016

No. 17

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

- (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 or entity which fails to comply with a notice issued under subsection (1) to remove the nuisance within the period specified in the notice commits an offence.

21. (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,

Impounding of certain animals.

No. 17*Kilifi County Environmental (Regulation and Control) Bill*

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. Upon conviction such person shall be liable to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months or to both.

(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.

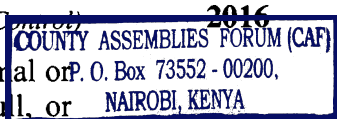
(3) The keeper of any of the species of animals which has been removed in pursuance of sub-section (2) shall not be entitled to recover the same until he or she pays such fees and expenses as may be prescribe by the Department for the upkeep of the animal.

(4) If a keeper fails to pay the fees and expenses under subsection (3), the Department may sell or otherwise dispose off 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.

22. Any person who, on any street—

Street offences.

- (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;



2016

Kilifi County Environmental (Regulation and Control)

No. 17

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

- (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) to the inconvenience or danger of any person, carries or conveys any bag of sand, lime, charcoal, or other offensive material, timber or any pointed or edged tools or implements not properly guarded;
- (i) plays any game in such a manner as to cause the likelihood of damage to any property, or danger to any person;
- (k) without a permit, lights or maintains, or causes to be lit or maintained, any fire or brazier in the protected area;
- (l) rides or drives any animal on a footpath;
- (m) defecates, spits or urinates; or
- (n) smokes in an enclosed space outside the designated smoking zone reserved for the purposes of smoking in that establishment, commits an offence and shall be liable, upon conviction, to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months or to both.

PART VI — OUTDOOR ADVERTISING

23. Any person or entity which erects, fixes, places, maintains, displays or uses, or permits to be erected, fixed, placed, maintained, displayed or used, any advertisements devise in any street or public place without first obtaining a permit, or otherwise than in accordance with the terms and conditions of permit, commits an offence and shall be liable, upon conviction,

Prohibition to outdoor advertisement.

- (a) if a person, to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months or to both.
- (b) if an entity, to a fine not exceeding five million shillings or imprisonment for a term not exceeding six months or to both.

PART VII—GENERAL LICENSING PROVISIONS

Application for
licences and Permits

24. (1) Any person or entity which desires to obtain a licence or permit, or vary a licence or permit already issued to them under this Act shall make an application in a prescribed form to the Department where the intended activity is to be situated and the application shall be accompanied by the prescribed fee.

(2) The Department may—

- (a) issue a license or permit, in accordance with this Act;
- (b) refuse to issue the license or permit on any ground which may appear to be sufficient and inform the applicant, in writing, the reasons; or
- (c) cancel, vary or suspend any license or permit if, in the finding of the Department, the license or permit is found to have contravened the Act.

25. The Department may raise objection in granting or renewing a licence relating to—

Department may
object to granting or
renewal of licences

- (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 vapours, 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 neighbourhood, or otherwise be against public interest.

26. (1) The Department shall issue licenses to applicants subject to such lawful conditions as the Department may determine.

Issue of licenses

2016

Kilifi County Environmental (Regulation and Control) Act

No. 17

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

(2) The Department, after consultation with the Executive Committee Member, shall prescribe the fees payable on the issue of licenses and permits under this Act.

(3) The issuance of a license or a permit to an applicant under this Act shall not be withheld without reasonable cause.

(4) A license issued under this Act is not transferable.

(5) The Department shall ensure that an updated register is kept and maintained for all licenses issued pursuant to this part.

27. (1) A license or permit issued under this Act shall be subject to such conditions as the Department may determine which shall be specified in the Regulations.

Conditions of a
license

(2) The Department may at anytime during the validity of a license or a permit—

- (a) vary the conditions of the license; or
- (b) impose conditions or further conditions on the license.

28. The Department may revoke, alter or suspend a license or permit issued under this Act if—

Revocation, alteration
or suspension of
license

- (a) an offence under this Act or in respect of the licensed activity under any other written law, has been committed by the license holder or any employee of the license holder;
- (b) a condition of the license has been contravened or not complied with.

29. (1) The holder of a license which is revoked shall immediately surrender it to the Department.

Surrender of license

(2) A license holder may, at anytime, surrender the license to the Department and the license shall cease to have effect forthwith.

30. (1) An applicant for or the holder of a license or a permit who is aggrieved by a decision of the Department on—

Appeals

- (a) the grant, refusal, renewal, variation or revocation; or

- (b) the conditions imposed on the grant, renewal or variation, of a license, May appeal to the Member.

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

31. Where a revocation order has been made under section 28 directing that a license or permit be revoked, the Department shall inform the public of that order in such manner as it considers necessary under the circumstances.

Publication of
revocation order

PART VIII — ENFORCEMENT

32. (1) The Member shall by notification in the *Gazette*, appoint such number of authorized officers as may be necessary for the proper administration of this Act.

Authorised Officers

(2) The Member shall issue a letter of appointment to every officer appointed under this section

(3) Notwithstanding the provisions of this section, the following officers shall be deemed to be authorised officers for the purposes of this Act—

- (a) Environment Officers in the department of Environment
- (b) Senior Officers in the Enforcement Unit of the County Government above the rank of the superintendent ;
- (c) A member of the police force above the rank of Inspector; and

(4) The officers appointed in sub-section (b) and (c) above shall not act without approval by the Executive member.

33. (1) For the purposes of ensuring compliance or implementation of the Act, an authorised officer may, at any reasonable time, enter any place in which any function related to this Act are carried out.

Power of Entry

(2) Despite subsection (1), the authorised officer shall produce a valid identification document before entering any premises.

34. (1) An authorized officer may examine or inspect any facility or equipment, related to this Act or gain access to any area for the purposes of implementing this Act.

Power of Authorised
Officers

(2) Any person who obstructs an authorized officer while enforcing or implementing this Act commits an

2016

Kilifi County Environmental (Regulation and Control) Act

No. 17

offence and liable to a fine not exceeding Kenya Shillings fifty thousand or imprisonment for a term not exceeding six months.

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

PART IX—MISCELLANEOUS

35. (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 Act.

Regulations.

(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;
- (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;

No. 17*Kilifi County Environmental (Regulation and Control)***2016**

- (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 section 20; 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.

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

SCHEDULE

(s. 7)



**PROVISIONS AS TO THE CONDUCT OF BUSINESS AND
AFFAIRS OF THE SUB-COUNTY ENVIRONMENT
MANAGEMENT COMMITTEE**

1. Meetings

(1) The Committee shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding the provisions of subparagraph (1), the Chairperson may, and upon requisition in writing by at least seven members shall, convene a special meeting of the Committee at any time for the transaction of the business of the Committee.

(3) Unless three quarters of the total members of the Committee otherwise agree, at least fourteen days' written notice of every meeting of the Committee shall be given to every member of the Committee.

(4) The quorum for the conduct of the business of the Committee shall be seven members including the Chairperson or the person presiding.

(5) The Chairperson shall preside at every meeting of the Committee at which he/she is present but, in his/her absence, the members present shall elect one of their members to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the Chairperson.

(6) Unless a unanimous decision is reached, a decision on any matter before the Committee shall be by a majority of votes of the members present and voting and, in the case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

(7) Subject to subparagraph (4), no proceedings of the Committee shall be invalid by reason only of a vacancy among the members thereof.

2. Conflict of interest

(1) If a member is directly or indirectly interested in any matter before the Committee and is present at a meeting of the Committee at which the matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter:

No. 17*Kilifi County Environmental (Regulation and Control)***2016**

Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is valuable to the deliberations of the meeting, the Committee may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.



3. Minutes

The Committee shall cause minutes of all resolutions and proceedings of meetings of the Committee to be entered in books kept for that purpose.

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