

SPECIAL ISSUE

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

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REPUBLIC OF KENYA

**KISII COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2014

NAIROBI, 31st October, 2014

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COUNTY ASSEMBLIES FORUM (CAF)
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**THE KISII COUNTY WATER MANAGEMENT AND
WATER AND SANITATION SERVICES ACT, 2014**

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

No. 14 of 2014

Date of Assent: 23rd October, 2014

Date of Commencement: 31st October, 2014

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No. 14 *Kisii County Water Management and Water and Sanitation Services Act, 2014*

**THE KISII COUNTY WATER MANAGEMENT AND
WATER AND SANITATION SERVICES ACT, 2014**

**AN ACT of the County Assembly of Kisii to make
provision for storm water management and county
water services and sanitation and for related
matters**

ENACTED by the County Assembly of Kisii as
follows—

PART I—PRELIMINARY

1. This Act may be cited as Kisii County Water
Management and Water and Sanitation Services Act, 2014
Act.

Short Title.

2. In this Act unless otherwise—

Interpretation.

“authorised officer” means a person appointed under
this Act as an authorized officer;

“beach” means any natural body of water intended by
the landform either along the coast of an ocean, sea, lake,
dam, or river;

“flood plain” means the land adjoining a watercourse
which in the opinion of the county is susceptible to
inundation by floods;

“nuisance” means a condition that is or might become
injurious or dangerous to the public health, or that might
hinder in any manner the prevention or suppression of
disease;

“private storm water system” means a storm water
system, owned, operated, or maintained by a person other
than the county;

“sanitation” means conditions relating to public
health, especially the provision of clean drinking water and
adequate sewage disposal;

“storm water” means water resulting from natural
precipitation and / or accumulation and includes ground
water and spring water ordinarily conveyed by the storm
water system, as well as sea water within estuaries, but
excludes water in a drinking water or waste water
reticulation system;

“storm water system” means both the constructed and natural facilities, including pipes, culverts, water courses and the associated flood plains whether under or over public or private property, used or required for the management, collection, conveyance, temporary storage, control, monitoring, treatment, use and disposal of storm water;

“water pollution incident” means an incident or occurrence which has a detrimental impact or a potential detrimental impact on the quality of the water in the storm water system to such an extent that public health or the natural ecosystem may be threatened.

PART II—STORM WATER MANAGEMENT

3. The county shall—

Provision of
infrastructures.

- (i) construct, expand, alter, maintain or lay any drains, pipes or other structures related to the storm water system on or under immovable property;
- (ii) drain storm water or discharge water from any county public works into any natural water course, and;
- (iii) do any other thing necessary to give effect to this Act.

(2) Ownership of any drains, pipes or structures related to storm water shall vest in the County Government.

4. A person shall not, unless with the written consent of the county and subject to any conditions it may impose;

Protection of
storm water
system.

- (a) discharge, permit to enter or place anything other than storm water into the storm water system;
- (b) damage, endanger, or destroy the storm water system or its operation;
- (c) construct or erect any structure or thing or over or in such a manner to interfere with or endanger the storm water system or its operation;
- (d) discharge, permit to enter or place anything likely to cause storm water pollution;
- (e) make an opening into a storm water pipe, canal or culvert;

- (f) drain, abstract or divert any water directly from the storm water system;
- (g) fill, excavate, shape, landscape, open up or remove the ground above, within, under or immediately next to any part of the storm water system.

5. A person shall not, except with the written consent of the County Government and subject to any conditions it may impose undertake in any activity which alone or in combination with other existing or future activities, may cause an increase in the flood levels or create a potential flood risk

Prevention of flood risk.

6. (1) There shall be a Plan for storm water management to be called the county storm water Management Plan.

Storm water management plans.

(2) The storm water Management Plan shall be prepared by the executive member having regard to the guidelines laid down by the Department.

7. (1) The conditions which the county may impose in section 3 and 4 may include;

Studies and assessments.

- (i) the carrying out of studies by the County Government;
- (ii) the establishment of flood lines;
- (iii) the undertaking of impact assessments; and
- (iv) environmental impact studies or investigations which may be required by any applicable environmental laws.

(2) Any study done under subsection 1 will be at the expense of the applicant.

8. (1) Where there is a storm water pollution incident as contemplated in this Act, the owner of the property on which the incident took place or is still in the process of taking place or the person responsible for the incident shall immediately report the incident to the county.

Water pollution incidents.

(2) The county shall require that such persons take all reasonable measures to minimize the effects of the pollution at their own cost.

9. (1) Every owner of property on which private storm water systems are located shall —

Storm water systems on private land.

- (i) not carry out any activity which could reasonably be expected to impair the effective functioning of the storm water system; and
- (ii) at own cost, keep such storm water systems functioning effectively, including undertaking its refurbishment or reconstruction.

(2) the provisions of subsection (ii) do not apply to the extent that the county has accepted responsibility for any of the duties in a formal agreement or in terms of a condition of a servitude.

10. The County Executive Member for the time being responsible for matters related to water and environment may make regulations relating to the manner of disposing water falling or coming to rest within private property.

Regulations.

PART III—WATER AND SANITATION SERVICES

11. (1) Water and sanitation services in the county shall be provided by or on the basis of an agreement with water services providers appointed by the County Government.

County water services.

(2) Nothing in this section prohibits the provision of water services—

- (a) by a person to his employees;
- (b) on the premises of an institution including a hospital, factory, school, hotel, research station or other institution of a like nature to the occupants thereof, in cases where the source of supply of the water is lawfully under the control of the institution or where the water is supplied to it in bulk by a licensee;
- (c) In circumstances which are prescribed by rules made by the county to be exempt from the requirement for a license.

12. (1) The County Government may set up a water supply system and may authorize any persons to use its services by issuance of a licence.

Water supply systems.

(2) The County Government may provide metered water supply.

13. (1) The County Government may grant to any person a license to provide water upon such terms and conditions as it may prescribe.

Water service providers.

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(2) It shall be unlawful to provide water services in the county without a valid license.

14. A person may not dispose industrial effluent in any manner than that approved by the county and any environmental legislation.

Disposal of effluent.

15. The County Government shall at any reasonable time take water samples from any water supply for the purpose of making an analysis thereof.

Taking of water sample.

(2) where upon making such analysis it finds that the water is unfit for human consumption, the department shall take all such reasonable steps to warn inhabitants of that area that the water is contaminated.

(3) Authorized officers shall have the right of entry upon any property for this purpose.

(4) Before starting to inspect or search the premises, an authorized officer who is not a member of the police force must, if it is practicable to do so identify themselves to an occupier of the premises by producing their identity card for inspection by the occupier.

16. (1) An authorised officer may by order prohibit the erection or retention of temporary dwellings on any land or water in their county if they are of opinion that such erection or retention would be prejudicial to public health or the amenities of the locality or would interfere to an unreasonable extent with traffic on any road.

Prohibition by sanitary Authority of temporary dwellings.

(2) A person who erects or retains a temporary dwelling in contravention of an order in force under this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding three thousand shillings and or imprisonment for a term of imprisonment not exceeding three months.

17. (1) The County Government may provide and maintain—

Charges for use of public bath, etc.

(a) public baths;

(b) public swimming baths or public bathing places;

(c) public washhouses.

(2) A sanitary Authority may make, at their discretion, charges for the use of or admission to a bath, swimming bath, bathing place, convenience for bathers or washhouse maintained by them.

18. An authorised officer may take such steps as are reasonably necessary to prevent injury being caused to public health or the amenities of any locality by reason of obstructions in any river or watercourse.

Obstructions in
rivers and
watercourses.

19. The owner of a water tank or other receptacle on a vehicle used to hold a potable water supply for delivery for consumption by the public shall ensure that the tank or other receptacle;

Water tanks.

- (a) is maintained in a clean and sanitary condition; and
- (b) Is not used for any other purpose.

(2) A person supplying or delivering a potable water supply for consumption by the public by means of a tank or receptacle referred to in subsection (1) shall ensure that;

- (a) the water is protected from contamination; and
- (b) the pumps, hoses and other equipment used in the supply or delivery are maintained and operated in a clean and sanitary condition.

20. (1) No person shall locate a water well within—

Wells
(location and
maintenance)

- (a) 10 metres of any watertight septic tank, pump out tank or other watertight compartment of a sewage or waste water system;
 - (b) 15 metres of a weeping tile field, an evaporative treatment mound or an outdoor pit privy;
 - (c) 30 metres of a leaching cesspool;
 - (d) 50 metres of sewage effluent on the ground surface;
 - (e) 100 metres of a sewage lagoon; or
 - (f) 450 metres of any area where waste is or may be disposed of at a landfill.
- (2) No person shall—
- (a) locate a watertight septic tank, pump out tank or other watertight compartment of a sewage or waste water system within ten metres of a water well;
 - (b) locate a weeping tile field, an evaporative treatment mound or an outdoor pit privy within 15 metres of a water well;
 - (c) deposit sewage effluent on the ground surface within 50 metres of a water well;

- (d) locate a sewage lagoon within 100 metres of a water well; or
- (e) locate a landfill so that an area where waste is or may be disposed of is located within 450 metres of a water well.

21. (1) All sewage systems shall be installed and operated in accordance with the separation distances outlined in the Schedule.

Sewerage standards.

(2) A sewage system or a part of it shall not emit, discharge or deposit sewage or effluent onto the surface of the ground except where the system is designed so that properly treated effluent is discharged into the soil.

(3) Sewage or effluent shall not emit, discharge, seep, leak or otherwise escape from the sewage system or a part of that system into a piped water supply, well water supply, a freshwater watercourse or surface water.

(4) Sewage or effluent shall not emit, discharge, seep, leak or otherwise escape from the sewage system or a part of the system other than from a place or part of the sewage system where the system is designed or intended to discharge sewage or effluent.

(5) A sewage system or part of a sewage system shall not emit, discharge, deposit or allow the emission, discharge or deposit of micro-organisms of intestinal origin into the natural environment in a manner that may be a hazard to health.

(6) No person shall permit gas to be emitted discharged or otherwise escape from a sewage system into a building or structure except in the manner in which the sewage system was designed or intended to emit or discharge gas.

(7) Connections shall not be made to the sewage system from non-sewage waste water sources.

22. Person shall not spread stable or other manure, fish or fish offal, or discharge waste on land situated less than 75 meters from the source of a supply of water used for drinking purposes when the draining of the land is towards the water supply.

Manure and other discharge.

23. Where a person provides a source of water that the person intends to be used or realizes or ought to realize will

Water must be pure.

be used by the public for human consumption, the person shall ensure that the water is clean and safe.

24. Where under any law a potable water supply is required to be provided in or at any public place, the owner of the public place shall ensure that the equipment used for the transmission, treatment and storage of the water is maintained in adequate operating condition and in a clean and sanitary condition.

Maintenance of equipment.

PART V—GENERAL PROVISIONS

25. (1) A person who—

Offences.

- (a) commits a breach of any condition imposed by any licence or permit issued under this Act;
- (b) aids or abets another person a person to commit a breach of any condition imposed by under any licence or permit issued under this Act;
- (c) forges or through fraud obtains any document with intent to have a licence or permit issued or renewed;

commits an offence and on conviction shall be liable to a fine of not more than shillings five hundred thousand or to imprisonment for a period not exceeding two years or both such fine and imprisonment.

(2) The county may, by law, further prescribe that, in addition to any penalty, any expenses incurred by the county in consequence of the breach of any law made by it under this Act or in the execution of any work directed by any such law to be executed by any person and not executed by him, shall be paid by the person committing such breach or failing to execute such work.

26. Every person who violates or fails to comply with any provision of this Act for which no other penalty is provided, commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or imprisonment of a term not exceeding six months.

General penalty.

27. The County Executive Committee Member may make Regulations —

Regulations.

- (a) prescribing the fees payable for a licence or permit; and
- (b) generally for the better carrying out of the purposes and provisions of this Act.