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THE NAROK COUNTY ENVIRONMENT MANAGEMENT BILL,
2017

A Bill for

AN ACT of the County Assembly of Narok to give effect to the Fourth Schedule of the Constitution, to control and regulate air pollution, noise pollution, forests protection, public nuisances, waste management and outdoor advertising, and for connected purposes

ENACTED by the County Assembly of Narok as follows—

PART I—PRELIMINARY

Short title and Commencement

1 This Act may be cited as The Narok County Environment Management Act, 2016 and shall come into operation as the Executive Committee Member may appoint

Interpretation

2 In this Act, unless the context otherwise requires—

“air quality” means the concentration prescribed under or pursuant to this Act of a pollutant in the atmosphere at the point of measurement,

“beneficial use” means a use of the environment or any element or segment of the environment that is conducive to public health, welfare or safety and which requires protection from the effects of wastes, discharges, emissions and deposits,

“council” means the Narok County Environment Management Council established under this Act,

“county executive member” means the County Executive Committee Member for the time being responsible for matter relating to environment and natural resources unless otherwise stated,

“conservation” means sustainable use of a resource within the natural ecosystem and habitat of the biological organism,

“county forest” means—

(a) any forest situated on community land which set aside as a forest by a County Government pursuant to the provisions of the Act,

(b) any arboretum, recreational park or mini-forest created of this Act,
“effluent” means gaseous waste, water or liquid or other fluid of domestic, agricultural, trade or industrial origin treated or untreated and discharged directly or indirectly into the environment,

“environment” includes the physical factors of the surroundings of human beings including land, water, atmosphere, climate, sound, odour, taste, the biological factors of animals and plants and the social factor of aesthetics and includes both the natural and the built environment,

“environmental education” includes the process of recognizing values and clarifying concepts in order to develop skills and attitudes necessary to understand and appreciate the inter-relatedness among man, his culture and his biophysical surroundings,

“farm forestry” means the practice of managing trees on farms whether singly, in rows, lines, boundaries, or in woodlots or private forests,

“forest area” means any land declared to be a forest land under this Act,

“forest conservancy area” means an area established by the council,

“forest conservation committee” means a committee established in each forest conservancy area or part thereof to advise the council on all matters relating to the management and conservation of forests in that area,

“forest officer” includes the Chief Conservator of Forests, a forester, a disciplined officer assigned roles under the Second Schedule of the Forests Act, or an honorary forester,

“forest produce” includes bark, animal droppings, beeswax, canes, charcoal, creepers, earth, fibre, firewood, frankincense, fruit, galls, grass, gum, honey, leaves, flowers, limestone, moss, murram, myrrh, peat, plants, reeds, resin, rushes, rubber, sap, seeds, spices, stones, timber, trees, water, wax, withies, and such other things as may be declared by the Minister to be forest produce for the purpose of this Act,

“forestry” refers to the science of establishing, tending, utilizing and protecting forest and tree resources, and includes the processing and use of forest and tree products,

“hazardous waste” means any waste which has been determined by the council to be hazardous waste or to belong to any other category of waste provided for in this Act,

“indigenous forest” means a forest which has come about by natural regeneration of trees primarily native to Narok County,
"lead agency" means any Government ministry, department, parastatal, state corporation or County Government, in which any law vests functions of control or management or any element of the environment or natural resources,

"licence" means a permit or other written authorization issued under any of the provisions of this Act,

"management plan" refers to a systematic programme showing all activities to be undertaken in a forest or part thereof during a period of at least five years, and includes conservation, utilization, silvicultural operations and infrastructural developments,

"mini-forest" refers to a group of trees occupying less than ten hectares of land,

"ministry" means the Ministry for the time being responsible for matters relating to the environment,

"natural resources" has the meaning provided under Article 260 of the Constitution,

"non-consumptive use" in relation to a forest, means non-extractive use of forest,

"noise" means any undesirable sound that is intrinsically objectionable or that may cause adverse effects on human health or the environment,

"occupier" means a person in occupational or control of premises, and in relation to premises different parts of which are occupied by different persons, means the respective persons in occupation or control of each part,

"person" means a legal person,

"pollutant" includes any substance whether liquid, solid or gaseous which—

(a) may directly or indirectly alter the quality of any element of the receiving environment,

(b) is hazardous or potentially hazardous to human health or the environment, and includes objectionable odours, radio-activity, noise, temperature change or physical, chemical or biological change to any segment or element of the environment,

"private forest" refers to any forest owned privately by an individual, institution or body corporate,
“provisional forest” means any forest which has been declared a provisional forest by the council under this Act,

“pollution” means any direct or indirect alteration of the physical, thermal, chemical, biological, or radio-active properties of any part of the environment by discharging, emitting, or depositing wastes so as to affect any beneficial use adversely, to cause a condition which is hazardous or potentially hazardous to public health, safety or welfare, or to animals, birds, wildlife, fish or aquatic life, or to plants or to cause contravention of any condition, limitation, or restriction which is subject to a licence under this Act,

“premises” include messages, buildings, lands, and hereditaments in every tenure and machinery, plant or vehicle used in connection with any trade carried on at any premises,

“refuse” means domestic or municipal solid waste, including garbage and rubbish, that require collection and transport to a processing or disposal site,

“regulations” mean Regulations made under this Act,

“soil” includes earth, sand, rock, shales, minerals, vegetation, and the flora and fauna in the soil and derivatives thereof such as dust,

“standard” means the limits of discharge or emissions established under this Act or under regulations made pursuant to this Act or any other written law,

“timber” means—

(a) any tree which has been felled or which has fallen, or

(b) the part of any tree which has been cut off or fallen, and all wood whether sawn, split, hewn, or otherwise fashioned,

“tree” means any timber producing plant, or shrubs, bush of any kind, and includes a seedling, sapling or reshoot of any age, or any part thereof,

“trade” means any business or undertaking whether originally carried on at fixed premises or at varying places which may result in the discharge of substances and energy and includes any activity prescribed to be a trade, business or undertaking for the purposes of this Act,

“waste” includes 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,
“water” includes drinking water, river, stream, water-course, reservoir, well, dam, canal, channel, lake swamp, open drain, or underground water,

“woodland” means an open stand of trees less than ten metres tall which has come about by natural regeneration

Objects and Purpose of the Act

3 The purpose of this Act is to provide for a legislative framework to give effect to Part II of the Fourth Schedule of the Constitution and to ensure sustainable exploitation, utilization, management and conservation of the environment and in particular to—

(a) promote and enhance county forest cover,
(b) regulate charcoal production,
(c) regulate public nuisances, including waste and disease control,
(d) control of air pollution,
(e) control of noise pollution, and
(f) to ensure a clean and healthy environment


4 The provisions of this Act shall be in addition to other requirements imposed by or under the Environmental Management and Co-ordination Act, 1999, the Environmental Management and Co-ordination (Amendment) Act, 2015, and the Forest Conservation and Management Act of 2016 or any other written law

PART II—ADMINISTRATION

Narok County Environment Management Council

5 (1) There is established a County Environment Management Council

(2) The council shall be chaired by the County Executive Member of the ministry for the time being responsible for matters relating to the environment

(3) The Director for the time being responsible for matters relating to the environment shall be the secretary to the council

(4) The Directorate of Environment shall serve as the Secretariat of the Council
(5) The headquarters of the council shall be in Narok, but the council may establish offices in the sub-counties

**Overall Functions of the Council**

6 The council shall—

(a) exercise general supervision and co-ordination over all matters relating to the environment,

(b) be the principal instrument of County Government in the implementation of all policies relating to the environment,

(c) take stock of the natural resources in the county and their utilization and conservation,

(d) co-ordinate audit and determine the net worth or value of the natural resources in the county and their utilization and conservation,

(e) advise the County Government on measures for the management of the environment or the implementation of relevant international conventions, treaties and agreements in the field of environment,

(f) initiate and evolve procedures and safeguards for the prevention of accidents which may cause environmental degradation and evolve remedial measures,

(g) encourage voluntary environmental conservation practices,

(h) enhance environmental education, public awareness and public participation,

(i) co-ordinate with other lead agencies to issue guidelines and prescribe measures to achieve and maintain a tree cover of at least ten per cent of the land area of the county, and

(j) collaborate with such other bodies or organizations within or outside Narok as it may consider desirable or appropriate to aid in furtherance of the purposes for which the council is established

**Composition of the Council**

7 (1) The council shall comprise not more than nine members who shall be appointed by the County Executive Member of the ministry for the time being responsible for matters relating to the environment

(2) The council shall be constituted as follows—
(a) the County Executive Member of the Ministry for the time being responsible for matters relating to the environment who shall be the Chairperson,

(b) the Director for the time being responsible for environment affairs shall be the secretary to the council,

(c) a representative of the County Executive Member responsible for the County Treasury,

(d) a representative from Kenya Forest Service,

(e) a representative from Office of the President in charge of security at the county level,

(f) a representative from the National Environmental Management Authority,

(g) a representative of the private sector nominated by the body representing the largest number of institutions in the private sector in Narok, and

(h) a representative of the Civil Society Organizations nominated by the most representative registered national umbrella association of civil societies working on environment in Narok

(3) A person shall be qualified for appointment under sub-section (2) (g), and (h), if the person has expertise and experience either in matters of climate change, economy, finance, law, environment or public administration

(4) A person shall be qualified for appointment as member of the council if such person—

(i) is a citizen of Kenya,

(ii) fulfills the requirements of Chapter 6 of the Constitution,

(iii) has at least 5 years’ experience in the relevant field

(5) The names of persons nominated for appointment under subsection (2) (g) and (h) shall be submitted to County Assembly for approval

(6) County Executive Member of the Ministry for the time being responsible for matters relating to the environment shall in the appointment of members ensure compliance with the two thirds gender principle

(7) The council may co-opt members with relevant expertise when needed to advice on specific matters
(8) The members of the council shall be paid such allowances as may, from time to time, be determined by the Executive Committee Member in charge of County Treasury on the recommendation of the Salaries and Remuneration Commission

(9) The council shall meet at least four times in a year

Committees of the Council

8 (1) The council may from time to time establish *ad hoc* committees for the better carrying out of its functions and in the exercise of its powers

(2) The council may co-opt into the membership of the committees established under subsection (1) persons whose knowledge and skills are necessary for the functions of the council

(3) A person co-opted under subsection (2) may not vote on any matter before the committee

Guiding Principles

9 The Council shall, in discharging its mandate—

(a) be guided by the provisions of Article 1 of the Constitution on Sovereignty of the people,

(b) be guided by provisions of Article 10 of the Constitution on National Values and Principles of Governance,

(c) be guided by the provisions of Article 27 of the Constitution on the Equality and Freedom from Discrimination,

(d) be guided by the provisions of Articles 35 of the Constitution on Access to Information,

(e) be guided by the provisions of Article 42 of the Constitution on Environment,

(f) be guided by the provisions of Article 47 of the Constitution on Fair Administrative Action,

(g) be guided by provisions of Article 176 of the Constitution on Objects of Devolution, and

(h) be guided by the provisions of Article 232 of the Constitution on Values and Principles of Public Service

Code of Conduct

10 The council shall, by Regulations, prescribe a Code of Conduct for members of the council and staff of the council
PART III—FORESTS PROVISIONS

County Forests

11 The council shall declare any land under the jurisdiction of the Narok County to be a county forest where—

(a) the land is an important catchment area, a source of water springs, or is a fragile environment,

(b) the land is rich in biodiversity or contains rare, threatened or endangered species,

(c) the forest is of cultural or scientific significance, or

(d) the forest supports an important industry and is a major source of livelihood for the local community

Private and Farm Forestry

12 (1) The council shall register a forest under this section where such forest meets the criteria prescribed in Regulations made under this Act

(2) Upon registration under subsection (1), the owner of a private forest which includes arboreta and recreational parks, shall be entitled to receive from the council—

(a) technical advice regarding appropriate forestry practices and conservation,

(b) subject to availability of funds, loans from the Fund for the development of the forest, provided that the funds are obtained and utilized in accordance with the procedures set out by the council

(3) A person who owns a private forest, including a forest in the course of establishment, on land owned by the person may apply to the council for registration under this section

(4) A person who establishes or owns a private forest may apply to the relevant authorities for exemption from payment of all or part of the land rates and such other charges as may be levied in respect of the land on which the forest is established

Declaration of Provisional Forest

13 Upon the recommendation of the council, the County Executive Member may, by order published in the Gazette, declare any private forest, which in the opinion of the council is mismanaged or neglected, to be a provisional forest
Reversion of Provisional Forests

14 A provisional forest shall revert to the owner where the council is satisfied that it has been adequately rehabilitated and the owner has given an undertaking to efficiently manage it.

Conditions for Reversion

15 The council may, upon reversion of a provisional forest, prescribe for observance by the owner such conditions as may be necessary to ensure compliance with the provisions of this Act.

Arboreta, Recreational Parks, Mini-Forests

16 In every sub-county, there shall be established and maintained an arboretum, mini-forests or recreational parks for the non-consumptive use of persons residing within its area of jurisdiction.

Power to Prescribe conditions

17 For purposes of this section, the County Government may in consultation with the council prescribe conditions as to the species of trees to be planted in a mini-forest, arboretum or recreational park.

Management of Indigenous forests

18 All indigenous forests and woodlands shall be managed on a sustainable basis for purposes of—

(a) conservation of water, soil and biodiversity,
(b) riverine and shoreline protection,
(c) cultural use and heritage,
(d) recreation and tourism,
(e) sustainable production of wood and non-wood products,
(f) carbon sequestration and other environmental services,
(g) education and research purposes.

Council to prepare Forest Management Plans

19 In pursuance of subsection (21), the council shall, in consultation with the Community Forest Associations and Forest Conservation Committees for the forest conservancy area where the indigenous forest is situated, prepare Forest Management Plans.
PART IV—CHARCOAL REGULATION AND CONTROL PROVISIONS

Charcoal Producers Associations

20 All commercial charcoal producers are required to organize themselves and form Charcoal Producer Associations.

Responsibilities of a Charcoal Producer Association

21 The responsibilities of a Charcoal Producer Association are—

(a) facilitate sustainable production of charcoal by members,

(b) ensure that members implement the restoration and conservation plans,

(c) develop and implement a code of conduct for its members for self-regulation, and

(d) assist the County Government and the Kenya Forest Service in enforcing the provision of this Act relating to sustainable charcoal production, transportation and marketing.

Formation and Licensing

22 (1) The charcoal producer association formation shall include—

(a) list all members and their addresses,

(b) prepare their constitution and rules,

(c) register as an association with the Registrar of Societies and comply to all statutory requirements,

(d) list operational areas of the group and their scope of work,

(e) list the group’s record of activities relating to charcoal production and transportation,

(f) give information relating to land ownership,

(g) give a record of the present activities on the land,

(h) provide list of intended technologies to be used in charcoal production,

(i) provide information on the quantity of charcoal they produce.

(2) A Charcoal Producer Association that meets all the requirements shall be issued with a licence.
Enforcement Officers

23 The enforcement under this Act shall be carried out by the county enforcement officers under the department, and shall be assisted by other state agencies where necessary.

Powers of the Enforcement Officers

24 The enforcement officers may—

(a) demand from any person the production of an Authority or licence for any act done or committed by that person in a county or provisional forest, or in relation to any forest produce for which a licence required under this Act or under any rules made hereunder,

(b) require any person found within or without a county or provisional forest who has in his possession any forest produce suspected to have been taken from such forest, to give an account of the manner in which he became possessed thereof, and, where the account given is not satisfactory, arrest and take such person before a magistrate,

(c) search any person suspected of having committed an offence under this Act or of being in possession of any forest produce in respect of which an offence has been committed, and arrest the person, seize conveyance, tent, hut or building under the control of that person or his agent or servant,

Provided that no person shall be arrested under this section unless the enforcement officer has reasonable cause to believe that that person may fail to appear to answer summons, or unless that Person refuses to give his name and address or gives a name and address which there is reasonable cause to believe is false,

(d) search any vehicle or any vessel and seize and detain any forest produce in respect of which there is reason to believe that an offence has been committed, together with any tools, equipment, vessels, vehicles or livestock used in the commission of the offence,

(e) confiscate any equipment or receptacle placed without Authority in a county forest

Offences and Penalties

25 (1) Any person who, without lawful Authority—

(a) marks any forest produce, or affixes upon any forest produce, a mark ordinarily used by a forest officer to indicate that the forest
produce is the property of the County Government, or that it may or has been lawfully cut or removed,

(b) alters, obliterates, removes or defaces any stamp, mark, sign, licence, permit or other document lawfully issued under Authority of this Act, or removes or destroys any part of a tree bearing the stamp or other mark used by any forest officer,

(c) covers any tree stump in any county forest or any county alienated land with brushwood or earth, or by any other means whatsoever conceals, destroys, or removes or attempts to conceal, destroy or remove such tree stump or any part thereof,

(d) wears any uniform or part of a uniform, or any badge or other mark issued under the regulations of the enforcement officers, or who in any other way holds himself out to an employee of a disciplined force, or

(e) possess, counterfeits or issues any licence or document purporting it to be a licence or document issued under this Act or any rules made hereunder,

Commits an offence and shall be liable on conviction to a fine of not less than two hundred thousand Kenya shillings, or to imprisonment for a term of not less than three years, or to both such fine and imprisonment

(2) Any person who—

(a) commits a breach of, or fails to comply with the provisions of this Act,

(b) commits a breach of, or fails to comply with any of, the terms or conditions of a licence issued to him under this Act,

(c) fails to comply with a lawful requirement or demand made or given by a law enforcement officer,

(d) obstructs a person in the execution of his powers or duties under this Act,

(e) makes or is found in possession of charcoal in a county and/or private farmland without a licence or permit of the owner as the case may be,

Commits an offence and is liable on conviction to a fine of not less than fifty thousand Kenya shillings or to imprisonment for a term of not less than one year, or to both such fine and imprisonment
(3) Any person who, in any forest area—
(a) introduces any exotic genetic material or invasive plants without Authority from the County Government,
(b) dumps any solid, liquid, toxic or other wastes,
(c) grows any plant from which narcotic drugs can be extracted, or
(d) extracts, removes or causes to be removed, any tree, shrub or part thereof for export,
(e) destroys or cuts down an endangered species of tree, shrub or other plant thereof

Commits an offence and is liable on conviction to a fine of not less than two hundred thousand shillings, or a jail term of not less than three years or both

PART V—PUBLIC NUISESANCES REGULATION AND CONTROL PROVISIONS

Duties and Responsibilities of the Council

26 The council in furtherance of its duties and responsibilities under this part shall—
(a) compel occupiers or, in the case of vacant premises, owners, to keep their premises free from offensive or unwholesome matter,
(b) monitor the keeping of animals, birds and bees at their premises by any owner or occupier, so that their keeping or the premises are not constructed, situated, used or kept in such manner as to be a public nuisance, or otherwise offensive, or injurious to public health,
(c) take such steps and measures as may be necessary for securing the prevention and destruction of insects, fungi and any other pests which attack timber in buildings and felled timber, and for preventing and eradicating the infestation of any such timber,
(d) take measures for the destruction and suppression of rats and vermin within the county, and to set traps or take other measures necessary for the purpose on any land whether within or outside its area, with the consent of the County Government,
(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

**Notice to Remove Nuisance**

27 (1) The council 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

(2) The council may further instruct the owner or occupier under subsection (1) to take additional measures in order to prevent a recurrence of the nuisance

**Offences and Penalties**

28 (1) A person who fails to comply with a notice issued under section (27) to remove the nuisance within the period specified in the notice commits an offence

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

(3) Upon conviction, such person shall be liable to a fine of fifty thousand shillings or imprisonment for a term not exceeding six months or to both

(4) The council may remove any of the species of animals referred to in sub section (2) which has been kept or left in a street in contravention of this Act, and impound the same

(5) The keeper of any of the species of animals which has been removed in pursuance of subsection (4) shall not be entitled to recover the same until he or she pays such fees and expenses as may be prescribe by the council for the upkeep of the animal

(6) If a keeper fails to pay the fees and expenses under subsection (5), the council may sell or otherwise dispose of the animal, by auction or any other means, and the proceeds of such disposal shall be set off against the outstanding fees and expenses incurred by the council in the removal or disposal of the animal
Street offences and Penalties

29 Any person who, on any street—
(a) ignites any firework,
(b) without a permit for the purpose of hawking, selling, distributing or otherwise outdoor advertising any article or event, shouts or uses any bell, gong, or other noisy instrument or loudspeaker,
(c) without a permit, draws, wheels or drives any vehicles or carries any placard used solely or chiefly for the purpose of exhibiting advertisements,
(d) without a permit for the purpose of outdoor advertising, distributes any hand bill or other paper,
(e) performs any act contrary to public decency,
(f) without statutory authority, defaces the footway or roadway by writing or other marks,
(g) places or deposits and leaves any glass, china, earthenware, tin, carton, paper, sawdust or other rubbish so as to create or tend to create litter,
(h) throws down or leaves any orange peel, banana skin, or other substance likely to cause a person to fall down,
(i) to the inconvenience or danger of any person, carries or conveys any bag of lime, charcoal, or other offensive material, timber or any pointed or edged tools or implements not properly guarded,
(j) plays any game in such a manner as to cause the likelihood of damage to any property, or danger to any person,
(k) while being in charge of any dog, allows such dog to foul any path and fails to remove the stool,
(l) without a permit, lights or maintains, or causes to be lit or maintained, any fire or brazier in the protected area,
(m) rides or drives any animal on a footpath,
(n) defecates or urinates,
(o) touts for passengers, or
(p) fails to observe traffic lights or the zebra crossing or any other public directional signs,
commits an offence and shall be liable, upon conviction, to a fine of fifty thousand shillings or imprisonment for a term not exceeding six months or to both

PART VI—WASTE MANAGEMENT PROVISIONS

Duties and Responsibilities of the Council

30 (1) The council shall—
(a) establish and implement a solid waste management strategy,
(b) enforce all Regulations aimed at keeping a clean environment,
(c) collect, store and dispose of waste from public places in an appropriate manner, and
(d) establish, empower and maintain towns, estates and market environment committees

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

(3) The council shall take all such steps as are necessary—
(a) for the effective management of solid waste in order to safeguard public health, ensure that the waste is collected, stored, transported, recycled, reused or disposed of, in an environmentally sound manner and promote safety standards in relation to such waste,
(b) to promote public awareness of the importance of efficient solid waste management and foster understanding of its importance to the conservation, protection and proper use of the environment

To perform such other functions pertaining to solid waste management as may be assigned to it or under this Act or any other enactment

(4) In performing the functions specified in subsection (3) the council may—
(a) provide facilities for the collection, treatment and disposal of solid waste,
(b) institute measures to encourage waste reduction and resource recovery,
(c) introduce cost recovery measures for services provided by or on behalf of the council,
(d) establish procedures and develop, implement and monitor a plan and other plans and programmes relating to solid waste management, and

(e) formulate standards, guidelines and codes of practice relating to solid waste management and monitor compliance with such standards, guidelines and codes

**Enforcement of Waste Management Regulations**

31 (1) The council shall prepare and enforce all Regulations on Waste Management in liaison with the office of the Governor

(2) Every person who generates waste shall control such waste from the time of generation, store and to take them to constructed or installed bins for the purposes of final disposal

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

**Offences and Penalties**

32 A person who—

(a) 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,

(b) unlawfully removes any solid waste from a disposal facility or from any place under the control of the council,

(c) interferes or tampers with any disposal facility or any place where solid waste is stored or kept by the council,

(d) disposes off solid waste in any area or in any manner not approved by the council under this Act or any regulation hereunder,

Commits an offence and shall be liable to imprisonment for a term of 6 months or a fine of one hundred thousand shillings or both

**Defenses**

33 In any proceedings under this section, it shall be a defense to prove that the act that is the subject matter of the proceedings was authorized by law or was done with the consent of the owner or occupier of the public place or building, wall, fence or structure, as the case may be
Burden of Proof

34 Where any person having thrown, dropped or otherwise deposited or left any litter in any premises owned or occupied by another person without the consent of that other person, and the offender is charged in a court of law, the burden proof of the offence shall be on the person charged.

PART VII — AIR POLLUTION REGULATION AND CONTROL PROVISIONS

Duties and Responsibilities of the Council

35 The council in furtherance of its duties and responsibilities under this part shall—

(a) promote alternative cooking technologies that are non-polluting,

(b) recommend the grant of licenses to operators of private premises,

(c) recommend for development of well-ventilated buildings,

(d) establish smoking zones and regulate smoking in public spaces,

(e) set limits of aerial spraying within farmlands and issue the clearances for such spraying,

(f) promote tree planting and expansion of forest cover in abatement of air pollution,

(g) designate and licence controlled facilities for purposes of regulating air emissions deemed harmful to the environment,

(h) recommend the pollution levels from various sources necessary for protection of the environment,

(i) perform such other functions that are necessary for the control of air pollution under this Act and any other written Act.

Responsibility of Owner or Operator of Controlled Facility

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

Responsibility of Occupier or Operator of Premises

37 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.
Inspection

38 The County Department responsible for matter related to environment shall make regular inspection and ensure indoor pollutants do not exceed the recommended levels.

Permitted Operations

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

(a) back-burning to control or suppress wildfires,
(b) firefighting rehearsals or drills conducted by county fire service agencies,
(c) traditional and cultural 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.

Granting or Renewal of Licences

40 The council may raise objection in granting or renewing a licence relating to—

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

Liaison with Other Departments and Agencies

41 The council shall, in collaboration with other county departments and relevant agencies of the National Government—

(a) provide methods of abating and regulating air pollution, and
(b) determine protected areas and special areas for the purpose of this Act.

Offences and Penalties

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

(2) Any person found acting in contravention of this part commits an offence and shall upon conviction be liable to a fine of up to a maximum of two million shillings or imprisonment for a term not exceeding six months or to both.
PART VII— NOISE POLLUTION REGULATION AND CONTROL PROVISIONS

Duties and Responsibilities of the Council

43 The council in furtherance of its duties and responsibilities under this part shall—

(a) control noise in special areas including but not limited to schools, hospital, laws courts, hospital, research institutions, residential areas, and libraries,

(b) regulate high noise levels associated with commercial machinery, public transportation and social activities,

(c) regulate the businesses, factories and workshops which, by reason of noise, or other cause, become a source of danger, discomfort or annoyance to the neighborhood,

(d) monitor the fulfilment of the conditions subject to which such businesses, factories and workshops shall be carried on under this Act, and

(e) take any other steps for implementing the county policy and strategy on control of noise pollution under this Act

PART VIII— MISCELANEOUS PROVISIONS

Power to make Regulations

44 (1) The council may, with the approval of the County Executive Committee, make Regulations for the better carrying out of the purposes and provisions of this Act

(2) The County Executive Member may, on the recommendation of the council and upon consultation with the relevant lead agencies, make regulations prescribing for matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for giving full effect to the provisions of this Act

Scope of the Regulations

45 (1) Without prejudice to the generality of section 44, 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,
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(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 neighborhood,

(d) regulating the use and passage of advertising vans, lanterns, flags, screens or other moveable advertising devices,

(e) regulating the distribution of handbills in or along any street or other public places,

(f) controlling street decorations, and prohibiting or controlling the erection and removal of temporary platforms, seats and other structures for the use of the public at any meeting or entertainment or for the accommodation of spectators at any procession,

(g) regulating the size of the bill boards 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 48, 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

(2) Regulations made under section 47 (1) may—

(a) make provisions for the issue, amendment and revocation of any licence,

(b) provide for the charging of fees and levying of charges,

(c) adopt wholly or in part or with modifications any rules, standards, guidelines, regulations, bylaws, codes, instructions, specifications, or administrative procedures prescribed by any lead agency either in force at the time of prescription or publication or as amended from time to time

Application for Outdoor Advertising Permit

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

(2) The procedure and manner of application and issuance of a permit under subsection (1) shall be prescribed by Regulations
Offences and Penalties

47 Any person who, in or in view of any street or public place, erects, fixes, places, maintains, displays or uses, or permits to be erected, fixed, placed, maintained, displayed or used, any advertisements devise without first obtaining a permit, or otherwise than in accordance with the terms and conditions of permit, commits an offence and shall be liable, upon conviction, to a fine of fifty thousand shillings or imprisonment for a term not exceeding six months or to both.

PART X—SCHEDULES

FIRST SCHEDULE

Provisions on Public consultation

1 Where this Act imposes a requirement for public consultation in matters relating to environment policy, strategy, programme, plan or action, the council or respective public or private entity shall publish a notice—

(a) in the Gazette,

(b) in at least two newspapers with national circulation,

(c) in at least one newspaper circulating in the locality to which the environment policy, strategy, programme, plan or action relates, and

(d) in at least one Kenyan radio station broadcasting in that locality.

Contents of Notice

2 The notice shall in each case—

(a) set out a summary of the policy, strategy, programme, plan or activity,

(b) state the premises at which the details of the policy, strategy, programme, plan or action may be inspected,

(c) invite written comments on or objections to the policy, strategy, programme, plan or action,

(d) specify the person or body to which the comments are to be submitted, and

(e) specify a date by which the comments or objections are required to be received, not being a date earlier than sixty days after publication of the notice.
Public to Access documents

3. The council or public or private entity shall make arrangements for the public to obtain copies, at a reasonable cost, of documents relating to the policy, strategy, programme, plan or action which are in the possession of the respective entities.

Council to Consider comments

4. The council or the respective public or private entity shall consider the—

(a) written comments or objections received on or before the date specified under Paragraph 2(e), and

(b) comments, whether in writing or not, received at a public meeting held in relation to the policy, strategy, programme, plan or action at which the council or respective public or private entity was represented, or by any other invitation, to comment.

Council to Publish notice

5. The Council or the respective public or private entity shall publish, in accordance with Paragraph 1 of this Schedule, notice of the fact that a copy of the written decision of the council or the respective public or private entity relating to the policy, strategy, programme, plan or action, and the reasons thereof, is available for public inspection at the same premises as were notified under Paragraph 4(b).

Council to convene Public Meeting

6. Where Regulations made under this Act so require, the council or respective public or private entity shall cause a public meeting relating to a policy, strategy, programme, plan or action to be held before the council or the respective public or private entity makes its decision on the policy, strategy, programme, plan or action.
**SECOND SCHEDULE**

<table>
<thead>
<tr>
<th>Provisions as to the conduct of the business and affairs of the council</th>
<th>1 The council shall meet as often as may be necessary for the purpose of carrying out of its business but it shall meet at least four times in every year</th>
</tr>
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<tbody>
<tr>
<td>Meetings of the council</td>
<td>2 A meeting of the council shall be held on such date and at such times as the Chairperson shall appoint</td>
</tr>
<tr>
<td>Special meetings</td>
<td>3 The Chairperson shall on the written application of at least one-third of the members convene a special meeting of the council</td>
</tr>
<tr>
<td>Duration of notice of meeting</td>
<td>4 Unless the majority of the total membership of the council otherwise agree at least fourteen days written notice of every meeting of the council shall be given to every member of the council</td>
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<tr>
<td>Quorum</td>
<td>5 The quorum for the conduct of business at a meeting of the council shall be five members of the council</td>
</tr>
<tr>
<td>Chairing meetings</td>
<td>6 The Chairperson shall preside at every meeting of the council and in the absence of the Chairperson at a meeting the members present shall elect one of their members to preside and that member shall with respect to that meeting and the business transacted at that meeting have all the powers of the Chairperson</td>
</tr>
<tr>
<td>Decisions of the council</td>
<td>7 Unless a unanimous decision is reached a decision on any matter before the council shall be by concurrence of a majority of all the members</td>
</tr>
<tr>
<td>Proceedings not to be invalidated</td>
<td>8 Subject to Paragraph 5, no proceedings of the council shall be invalid by reason only of a vacancy among the members thereof</td>
</tr>
<tr>
<td>Secretary of meetings</td>
<td>9 The Director for the time being responsible for environment affairs shall be the secretary at all meetings of the council</td>
</tr>
<tr>
<td>Minutes</td>
<td>10 The council shall cause minutes of all proceedings of meetings of the council to be entered in books for that purpose</td>
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<tr>
<td>Procedure of the council</td>
<td>11 Except as provided by this Schedule the council may regulate its own procedure</td>
</tr>
</tbody>
</table>
MEMORANDUM OF OBJECTS AND REASONS

Part I of the Bill provides for the administration of the Bill

Part II of the Bill has provisions relating to forests

Part III of the Bill has charcoal regulation and control provisions

Part IV of the Bill has provisions relating to regulation and control of public nuisances

Part V of the Bill has provisions relating to waste management

Part VI of the Bill has air pollution regulation and control provisions

Part VII of the Bill provides for outdoor advertising and other miscellaneous provisions

Dated the 13th June, 2017

ATETI NCHOE,
Chairman, Environment and Natural Resources Committee