



REPUBLIC OF KENYA



TURKANA COUNTY

**THE TURKANA COUNTY ENVIRONMENTAL (REGULATION AND CONTROL)
BILL, 2018**

(A Bill for Introduction into the Turkana County Assembly)

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ARRANGEMENT OF CLAUSES

Clause

PART I – PRELIMINARY

- 1 — Short title.
- 2 — Interpretation.
- 3 - General Principles.
- 4 — Object and purpose of the Act.
- 5 — Application of other laws.

PART II –ADMINISTRATION

- 6—Administration and establishment of the County Environment Committee.
- 7 — Establishment of the County Environment Committee.
- 8—Appointment of Authorized Officers
- 9—Appointment of officers and staff

PART III – PROTECTION AND CONSERVATION OF THE ENVIRONMENT

- 10 —Prevention of air pollution
- 11 — Prohibition of air pollution.
- 12—Air quality standards.
- 13 — Emission from compressed ignition powered vehicles.
- 14— Issuing a vehicle repair notice.
- 15— Dust emissions.
- 16— Emissions caused by open burning.

17— Emissions caused by burning of industrial, garden, domestic waste.

18— Waste burning emissions.

19— Emissions caused by burning to recover scrap metal.

20— Pesticide spraying emissions.

21— Spray painting emissions.

22— Control of air pollution.

23— Responsibility of owner or operator of controlled facility.

24— Limit of indoor air pollution.

25— Permissible activities

26—Objection to grant or renew licenses.

27— Collaboration with other departments and agencies.

PART IV – NOISE POLLUTION AND EXCESSIVE VIBRATION

28— Prohibition of loud noise.

29— Excessive vibrations.

30— Permissible noise levels.

31— Measurement and control.

32— Exemptions.

33— Radio, television and other sound amplifying devices.

34— Parties and social events.

35— Hawkers, peddlers, touts and street preachers.

36— Machinery.

37— Noise from motor-vehicles.

38— Noise from construction equipment.

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

40— Environmental impact assessment.

41— License.

42— Application for a license.

43— Improvement notice.

44— Closure notice.

45— Existing activities.

46— Responsibilities of the County Executive Committee Member to control noise pollution.

PART V – PUBLIC NUISANCES

47— Prohibited activities.

48— Discharging fireworks.

49— Littering.

50— Cleaning of sidewalks and verges.

51— Obstructions.

52— Disposal of property found in a public place.

53— Obstructions caused by plants.

54— Material from excavation activities.

55— Slaughter of animals and disposal of carcasses.

56— Control of mosquitoes, flies, rodents and other vermin.

57— Disturbance of peace.

58— Responsibility of an employer.

59— Offences and penalties.

60— Regulations.

61— Keeping vacant premises clean and safe.

62— Prohibition of keeping certain animals in urban areas.

63— Street offences.

PART VI – OUTDOOR ADVERTISING

- 64—Regulation of signage and advertisements.
- 65— Exemptions.
- 66— Consent to display an advertisement.
- 67— Approval of advertisements.
- 68— Application for display of permanent advertisements.
- 69— Consideration of application of display of permanent advertisements.
- 70— Sign-boards affixed to buildings.
- 71— Advertisement painted on buildings.
- 72— Ground sign-boards.
- 73— Flashing advertisements.
- 74— General prohibitions relating to advertisements.
- 75— Directional signs.
- 76— Construction of sign-boards.
- 77— Maintenance of permanent advertisements.
- 78— Alterations of, and additions to permanent advertisements.
- 79— Removal of permanent advertisements.
- 80— Penalty.
- 81— No outdoor advertisement without a permit.
- 82— Application for outdoor advertising permit.

PART VII– WASTE MANAGEMENT

- 83— Responsibilities of the county government.
- 84— Enforcement of waste management Regulations.
- 85— Responsibilities of waste generators.
- 86— General responsibilities of the county government.

87— Offences and penalties.

88— Land and water pollution.

89— Powers to create and amend Regulations.

**THE TURKANA COUNTY ENVIRONMENTAL (REGULATION AND CONTROL)
BILL, 2018**

A Bill for

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

ENACTED by the Turkana County Assembly, as follows—

PART 1— PRELIMINARY

1. This Act may be cited as the Turkana County Environmental (Regulation and Control) Act, 2018, and shall come into operation on such date as the County Executive Committee Member may, by notice in the Gazette, appoint.

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

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

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

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

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

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

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

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

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

“County Environment Committee” has the meaning assigned to it in Section 29 of the Environmental Management and Coordination Act, CAP 387;

“County Government” means, the Turkana County Government;

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

“decibel” means a unit of measurement indicating the magnitude of sound pressure or power;

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

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

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

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

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

“Governor” means the Governor of Turkana County.

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

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

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

“kPa” means, kilopascals a measure of barometric pressure;

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

“noise pollution” means the emission of uncontrolled noise that is likely to cause danger to human health or damage to the environment;

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

(a) Impedes, offends, endanger or inconveniences the public at large; or

(b) Causes material inconvenience in the ordinary and comfortable use or enjoyment of private property,

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

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

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

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

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

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

“protected area” means an area declared by the county government to be a protected area for grazing of animals under section 38;

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

“public place” means any square, park, recreation ground or open space which—

(a) is vested in the town or

(b) the public has the right to use; or

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

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

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

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

“solid waste” includes medical and hazardous waste and—

(a) refuse or sludge from a waste treatment facility, water supply plant, air pollution control facility and garbage;

(b) solid, semi-solid or contained gaseous or liquid matter resulting from industrial, commercial, mining or agricultural operations or domestic activities; and

(c) any contained substance or object which is or is intended to be, or required by law to be, disposed of, but does not include—

(i) animal manure and absorbent bedding used for soil enrichment;

(ii) suspended solid or dissolved material in sewage; and

(iii) industrial discharges from pipelines conveying such waste;

“solid waste management” includes—

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

(b) the characterization and measurement of solid waste;

“special area” means an area declared by the Department to be a special area under Section 38;

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

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

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

(b) It is the duty and responsibility of the County Government to ensure that this right is enforced and upheld.

(c) The entitlement to a clean and healthy environment under subsection (a) above includes the access by any person within the County to the environmental resources for cultural, educational, health, recreational, and spiritual purposes.

(d) If a person alleges that the entitlement conferred under subsection (a) has been, is being or is likely to be contravened in relation to him, then without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to a court for solution and redress. The court may:

(i) issue orders or give such direction as it may deem appropriate to:

(ii) compel any officer duly appointed by the County to take measures to prevent or discontinue any act or omission harmful to the environment.

(iii) prevent, stop or discontinue any act or omission harmful to the environment.

(iv) require that an on-going activity be subjected to an environmental audit in accordance with the provisions of the Environmental Management and Coordination Act, CAP 387.

(v) compel the persons responsible for the environmental degradation to restore the degraded environment to its immediate condition prior to the damage.

(vi) provide compensation for any victim of pollution and the cost of beneficial uses lost as a result of an act of pollution and other losses that are connected with or incidental to the foregoing.

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

(f) Notwithstanding the above, arbitration is encouraged preferable to litigation, and such arbitration shall be carried out by the arbitral authority of the Department. This however shall not deny the citizen the right to other forms of legal redress.

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

(a) air pollution;

(b) noise pollution;

(c) water pollution;

(d) public nuisances;

(e) outdoor advertising;

(f) waste management; and

(g) water and land pollution.

5. The provisions of this Act shall be read with any applicable provisions of the Environmental Management and Coordination Act, CAP 387 or any other relevant written law.

PART II –ADMINISTRATION

6. (1) This Act shall be administered by the County Department for the time being responsible for county environmental matters.

(2) The Governor shall establish the Turkana County Environment Committee as stipulated in Section 29 of the Environmental Management and Coordination Act, CAP 387.

(3) The functions of the County Environment Committee shall be as stipulated in Section 30 of the Environmental Management and Coordination Act, CAP 387.

7. Functions of the County Executive Committee Member

The Executive Committee Member shall:

- (a) be responsible for county policy and direction for the purposes of this Act;
- (b) set county goals and objectives and determine priorities for the protection of county environment;
- (c) promote cooperation among county departments, private sector, Non-Government Organizations and any other organizations involved in environmental conservation and protection programmes;
- (d) Ensure that there is public participation in county environment conservation and protection programmes;
- (e) regulate outdoor advertising and graffiti;
- (f) control public nuisances, including waste, pests and insects;
- (g) control or prevent air, land, noise and water pollution;
- (h) establish systems for waste management;
- (i) 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;
- (j) establish sufficient number of cemeteries and crematoriums, and provide for the burial of all destitute persons who die within the county, and maintain the cemeteries and crematoriums in such manner as to ensure they are not offensive, dangerous to health or attractive to pests or other nuisance; and
- (k) Perform such other functions as are assigned under this Act.

Authorized Officers

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

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

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

PART III – PROTECTION AND CONSERVATION OF THE ENVIRONMENT

Prevention of Air Pollution

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

(a) prevent any potential of air pollution from occurring; or

(b) mitigate, as far as reasonably possible, any air pollution that may occur.

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

(a) commence taking specific reasonable measures before a given date;

(b) diligently continue with those measures; and

(c) complete them before a specified date.

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

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

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

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

11. (1) A person shall not—

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

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

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

(2) To prove that air pollution was caused from premises, within the meaning of this Act, it is sufficient to prove that air pollution was caused on the premises.

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

12. (1) The County Government shall adopt the air quality standards set in Section 78 of the Environmental Management and Coordination Act, CAP 387.

(2) Any person emitting substances or mixtures of substances shall comply with the emission standards as stipulated in subsection (1).

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

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

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

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

(4) The driver of a motor vehicle shall comply with reasonable direction given by an authorized officer—

(a) to stop the vehicle; and

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

(5) Any person who fails to comply with direction given under sub-section (4) commits an offence and is liable to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding three months or both

(6) When a vehicle has stopped in compliance with direction given under sub section (4), the authorized officer may inspect and test the vehicle at the roadside, in which case inspection and testing shall be carried out—

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

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

(7) If, after having conducted the test above, the authorized person—

(a) is satisfied that the vehicle is not emitting dark smoke, then the authorized person shall furnish the driver of the vehicle with a certificate indicating that the vehicle is not being driven or used in contravention of section 13; or

(b) finds that the vehicle is emitting dark smoke, the authorized person shall issue the driver of the vehicle with a repair notice in accordance with section 14.

14. (1) A repair notice issued under section 13 (7)(b) shall direct the owner of the vehicle to repair the vehicle within a specified period of time, and to take the vehicle to a place identified in the notice for re-testing before the expiry of that period.

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

(a) make model and registration number of the vehicle;

(b) name, address and identity number of the driver of the vehicle;

(c) if the driver is not the owner of the vehicle, the name and address of the owner.

(3) A person who fails to comply with the repair notice issued under this section or fails to take the vehicle for re-testing commits an offence and is liable to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding three months or both

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

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

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

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

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

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

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

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

- (a) prior written authorization of the County Government, upon payment of an administrative fee, has been obtained, which authorization may be granted by the County Government with conditions; and
- (b) that person has notified in writing the owners and occupiers of all adjacent properties of—
 - (i) all known details of the proposed open burning; and

(ii) the right of owners and occupiers of adjacent properties to lodge written objections to the proposed open burning with the County Government within seven days of being notified.

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

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

(a) recreational outdoor activities, on private premises; and

(b) controlled fires in dwellings for the purposes of heating any area within the dwelling, cooking, heating water and other domestic purposes.

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

18. (1) A person shall not burn waste unless—

(a) prior written authorization of the county government, upon payment of an administrative fee, has been obtained which authorization may be granted by the County Government with conditions; and

(b) that person has notified in writing the owners and occupiers of all adjacent properties of the details of the proposed area to be burned including—

(i) the date and approximate time of the waste burning;

(ii) in the event of rainy weather conditions, an alternative date on which the waste burning may occur;

(iii) the right of owners and occupiers of adjacent properties to lodge written objections to the proposed waste burning with the County Government within 7 days of being notified.

(2) The County Government may not authorize waste burning under this section unless it is satisfied that the requirements set out in subsection (1) have been adequately complied with.

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

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

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

reinforcements, or of disposing of tyre rubber products or cables as waste without the permission of the County Government.

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

20. (1) A person shall not carry out the spraying of pesticides, either by tractor or air plane, within the County jurisdiction unless that person complies with the following control measures—

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

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

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

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

(i) the details of the proposed treatment area;

(ii) the pesticide to be used;

(iii) the active ingredient of the pesticide;

(iv) the date and approximate time of pesticide use;

(v) in the event of rainy weather conditions, an alternative date on which the pesticide use may occur;

(vi) The time if any, indicated on the product label specifying when the area can be safely re-entered after application; and

(vii) the right of owners and occupiers of adjacent properties to lodge written objections to the proposed spraying of pesticides with the County Government within 7 days;

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

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

(a) the management of pests that transmit human diseases or adversely impact crops, pastures or forests;

(b) the management of pests that threaten the integrity of sensitive ecosystems; or

(c) the need for the use of the pesticide is urgent.

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

(a) residential areas;

(b) buildings or inside buildings and the domestic use of pesticides; or

(c) any other defined area or defined activity to which the County Government has declared this section not to apply.

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

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

(a) that person is in possession of a spraying permit contemplated in subsection (1);

(b) the spraying, coating, plating or epoxy-coating as the case may be, is conducted in a spraying room approved by the designated fire officer, in consultation with an authorized officer, on premises registered for that purpose.

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

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

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

(6) Subject to subsection (7), before the County Executive Committee Member cancels the spraying permit as contemplated in subsection (5), County Executive Committee Member shall—

(a) give the holder of the spraying permit written notice of the intention to cancel the spraying permit and the reasons for such cancellation;

(b) give the holder a period of not less than 21 days to make written representations regarding the matter to the County Government.

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

(8) If the County Executive Committee Member cancels the spraying permit in terms of subsection (7) the County Executive Committee Member shall—

(a) furnish the holder of the spraying permit with written notice of the cancellation;

(b) give the holder of the spraying permit a period of not less than 21 days to make written representation regarding the matter to the County Government.

22. The County Executive Committee Member shall take necessary steps to control air pollution within the County, including—

(a) promotion of alternative cooking technologies that are non-polluting;

(b) promotion of the design of well ventilated buildings;

(c) regulation of smoking in enclosed spaces; and

(d) promotion of tree planting and expansion of forest cover.

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

24. (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.

(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.

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

25. Subject to any national legislation on the subject, the following operations shall be permissible within the County provided that they are not used for the disposal of refuse-

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

26. The County Executive Committee Member may raise objection to granting or renewing a license relating to—

- (a) the use of premises as a theatre, music hall, concert room or other place of amusement, or as a restaurant or eating house; or
- (b) the use of premises for the carrying on of any work or trade, on the grounds that—
 - (i) the method adopted or proposed to be adopted by the applicant for preventing noxious or offensive vapors, gases or smells arising from such premises are not efficient; or
 - (ii) the granting of such license or the renewal thereof would be calculated to cause public nuisance or annoyance to persons residing in the neighborhood, or otherwise be against public interest.

27. The County Executive Committee Member shall, in collaboration with other departments and agencies of the County Government—

- (a) provide methods of abating and regulating air pollution;
- (b) determine protected areas and special areas for the purpose of this Act;
- (c) promote public awareness campaigns relating to measures to safeguard the health of non-smokers from second-hand smoke; and
- (d) take steps to clean up any air pollution where necessary.

PART IV – NOISE POLLUTION AND EXCESSIVE VIBRATIONS

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

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

- (a) time of day;
- (b) proximity to residential area;

(c) whether the noise is recurrent, intermittent or constant;

(d) level and intensity of the noise;

(e) whether the noise has been enhanced in level or range by a type of electronic or mechanical means; or

(f) whether the noise may be controlled without much effort or expense to the person making the noise.

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

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

(a) make or cause to be made excessive vibrations which annoy, disturb, injure or endanger the comfort, repose or safety of others and the environment; or

(b) cause to be made excessive vibrations which exceed 0.5 centimeters per second beyond the boundary of the source or 30 meters from any moving source.

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

30. A person shall not make, continue or cause to be made or continue any noise in excess of the noise levels set in the Regulations under the Environmental Management and Coordination Act, CAP 287, unless such noise is reasonably necessary to the preservation of life, health, safety or property.

31. (1) A person shall not cause noise from any source which exceeds any sound level as set out in the Regulations under the Environmental Management and Coordination Act, CAP 287 .

(2) Measurements of noise levels shall be taken by an authorized officer who is knowledgeable in the proper use of the measuring equipment;

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

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

(a) the emission of noise for the purpose of alerting persons to the existence of an emergency;

(b) the emission of noise in the performance of emergency response;

(c) the emission of noise in connection with the protection of the health and safety of residents or their property during emergency conditions;

(d) warning devices necessary for the protection of public safety, such as police, fire and ambulance sirens, and train horns; or

(e) parades and national celebrations.

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

(a) interferes with the comfort, repose, health or safety of members of the public;

(b) creates a risk thereof, within any building or, outside of a building, at a distance of 30 meters or more from the source of such sound; or

(c) interferes with the conversation of members of the public who are 30 meters or more from the source of such sound.

(2) A person shall not cause noise from any source which exceeds any sound level as set out in the Regulations issued under the Environmental Management and Coordination Act, CAP 287.

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

(a) in the case of an offence that occurs on any public property where permission was obtained to use that public property, the person or persons who obtained permission to utilize that property for that event; and

(b) in case of an offence that occurs on private property, any adult person or persons who live in or on the property that is involved in the offence.

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

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

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

(a) that occurs on any public property shall include the person or persons who obtained permission to utilize that property for that event;

(b) that occurs on private property shall include the person who owns the premises involved and any adult person who lives in or on the premises involved in such party or social event;

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

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

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

(a) preach, tout, advertise, promote or sell any goods; or

(b) engage in any commercial activity in such manner as to emit noise by shouting within the Central Business District of any town, a residential area, a silent zone, or any other area declared as a silent zone by the County Executive Committee Member.

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

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

36. (1) Any person wishing to—

(a) operate or repair any machinery, motor-vehicle, construction equipment or other equipment, pump, fan, air-conditioning apparatus or similar mechanical device; or

(b) engage in any commercial or industrial activity, which is likely to emit noise or excessive vibrations,

shall carry out such activity or activities within the relevant levels prescribed in the Regulations created under the Environmental Management and Coordination Act, CAP 287.

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

37. (1) A person shall not operate a motor-vehicle which—

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

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

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

38. (1) Except for the purposes specified in subsection (2), a person shall not operate construction equipment (including but not limited to any pile driver, steam shovel, pneumatic hammer) or perform any outside construction or repair works so as to emit noise in excess of the permissible levels as set out in the Regulations created under the Environmental Management and Coordination Act, CAP 287.

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

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

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

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

- (a) machinery that may be used; and
- (b) the permitted levels of noise as stipulated by the Environmental Management and Coordination Act, CAP 287

(2) The County Government shall ensure that mines and quarries where explosives and machinery are used, are located in designated areas and not less than two kilometers away from human settlements.

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

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

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

(a) identify natural resources, land-uses or activities which may be affected by noise or excessive vibrations from the construction, demolition, mining or quarrying;

(b) determine the measures which are needed in the plans and specifications to minimize or eliminate adverse construction, demolition, mining or quarrying noise or vibration impacts; and

(c) incorporate the needed abatement measures in the plans and specifications.

41. (1) Where a sound source is planned, installed or intended to be installed or modified by any person in such a manner that such source shall create or is likely to emit noise or excessive vibrations, or otherwise fail to comply with the provisions of this Act, such person shall apply for a license to the County Executive Committee Member.

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

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

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

(a) the reasons for such usage, including a demonstration as to why it is desirable or necessary that the sounds involved be authorized by a license under this Act;

(b) plans and specifications of the use;

(c) noise-abatement and control methods to be used with respect to the sound source involved;

(d) the period of time during which the license shall apply;

(e) the name of the person(s) who is responsible for ensuring that the activity complies with any license issued for it under this Act; and,

(f) evidence that notification of the application for the license has been given to each person reasonably expected to be affected by the noise, the content of such notification and the manner in which such notification has been given, if the event is not a community-wide or public event:

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

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

(6) In order to further the purposes of this Act and to facilitate compliance and enforcement, the County Government shall have power to attach such other conditions in relation to this Act as they may deem necessary to a license or permit issued thereunder.

42. (1) An application for a license shall be made to the County Executive Committee Member and shall be accompanied by the prescribed fee.

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

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

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

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

- (a) the equipment or material to be used;
- (b) the hours during which the activities may be carried out;
- (c) the level of noise or vibrations which may be emitted in excess of the permissible levels;

- (d) the activities and the method by which they are to be carried out; and,
 - (e) the steps proposed to be taken to minimize noise or excessive vibrations resulting from the activities.
- (5) The Authority shall issue a license containing the specifications mentioned in sub-section (4) above
- (6) A license issued under this section shall be valid for a period not exceeding seven days.
- (7) An application for a permit shall be made to the County Executive Committee Member and shall be accompanied by the prescribed fee
- (8) The County Executive Committee Member may, subject to the relevant national law, on receiving an application, issue the applicant with a permit to carry out fireworks, demolitions, operating firing ranges and specific heavy industrial work, on such terms and conditions as may be contained in the permit
- (9) A permit to carry out activities such as fire works, demolitions, operating firing ranges and specific heavy industry shall be valid for a period not exceeding three months.
- (10) Any person who contravenes the provisions of this section commits an offence and is liable upon conviction to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding three months or both.
- (11) The provisions of the Factories and Other Places of Work (Noise Prevention and Control) Rules, 2005 shall apply.
- (12) Any applicant who is aggrieved by the refusal of the County Executive Committee Member to grant a license or a permit may appeal to a court for reprieve.
- 43.** (1) Where an authorized officer has reasonable cause to believe that any person is emitting or is likely to emit noise or excessive vibration in any area in excess of the maximum permissible levels, or is causing or is likely to cause annoyance, the latter may, with the approval of the County Executive Committee Member, in consultation with the County Environment Committee, serve an improvement notice on that person, directing any or all of the following—
- (a) the cessation of the noise or excessive vibration, or prevention or discontinuance of any annoyance, or prohibiting or restricting its occurrence or re-occurrence;
 - (b) compliance with the permissible noise or excessive vibration levels;
 - (c) the reduction of the level of noise or excessive vibration emanating from the premises to a level specified in the notice;

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

(2) Any person who fails or refuses to comply with the conditions in an improvement notice commits an offence and is liable, up on conviction, to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding three months or both.

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

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

46. The County Executive Committee Member shall take necessary steps in order to control noise pollution within the county, including—

- (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 fulfillment of the conditions subject to which such businesses, factories and workshops shall be carried on under this Act.

PART V – PUBLIC NUISANCES

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

- (a) defecates or urinates, except within a public facility provided by or on behalf of the county government for that purpose;
- (b) enters a toilet reserved or set aside for members of the opposite sex;
- (c) spits;
- (d) lights, uses, or benefits from a fire, other than in or on a public facility provided by the county government for that purpose;
- (d) attaches any object to, or suspends any object from, a canopy, bridge, verandah or other projection, or a pillar, pole or post, subject to the provisions of this Act; or

48. (1) A person shall not discharge fireworks from any private property or public place without the written consent of the County Executive Committee Member.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) leaves anything unattended, having introduced or placed the thing there, so as to cause or be likely to cause an obstruction to persons or vehicles;

(b) deposits on its surface anything, for the purpose of, or in the course of, loading or unloading a vehicle, or of delivering goods to premises having access to such public place, for a longer period than is reasonably necessary for that purpose;

(c) hangs or suspends anything from or above a public place, or causes or allows anything to protrude above its surface or to encroach upon it, provided that prior written consent may be obtained from the County Executive Committee Member, which consent may be given subject to conditions and restrictions deemed necessary;

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

52. (1) When anything has been left in a public place, in contravention of section 51, an authorized officer may remove it to a store established by the county government for this purpose, provided that, if such a thing, in the reasonable opinion of the authorized officer, has no commercial value, he or she may dispose of it in such manner as he or she deems fit, and the person who has committed the offence shall be liable to the county government for the cost of such disposal, as determined by such authorized officer.

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

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

(4) The proceeds of any sale under sub-section (3) shall be utilized for the payment of—

(a) the cost of removal and storage, as determined in sub-section (2);

(b) any costs which may have been incurred in attempting to trace the owner; and

(c) the costs of sale, the remaining balance being forfeited to the county government if not claimed within one year of the date of sale by a person who demonstrates his legal right thereto.

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

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

(7) The exercise of any powers conferred under section shall not render the county government or any authorized officer liable for any loss or theft of, or any damage to, anything removed in terms of sub-section (1), except where such loss, theft or damage is a direct result of the negligence of the county government or authorized officer in question.

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

(a) obstructs the view of the driver of any vehicle in such public place;

(b) obstructs or causes a nuisance to persons using such public place; or

(c) obscures a road traffic sign,

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

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

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

(a) excavates or removes soil or other material from a position in relation to other premises or public place so as to be likely to, remove later all support from such premises or public place, or to create a source of danger to life or damage to property;

(b) being the owner or occupier of such private property, allows any well, pond, reservoir, swimming pool, pit, hole, excavation, earthwork, tree or other vegetation on such private property to be in such a condition or to be un-protected so as to constitute a danger to the safety of persons or property;

(c) causes, or allows anything to project from the private property over or into a public place, except in an area zoned for industrial purposes in terms of a zoning scheme and to an extent necessarily consistent with the lawful land use thereof;

(d) being the owner or occupier of such private property, deposits, stores or causes, or allows or permits to be deposited or stored or to accumulate so as to be visible from a public place, abandoned, derelict or disused furniture, machinery, vehicles or other objects or parts thereof, or scrap metal or other derelict or waste materials;

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

(2) An authorized officer may order a person who has contravened or is contravening subsection (1) (d) or (e) to remove the item to which the contravention relates from the private property concerned within a specified time, and, if he fails to do so, then the appropriate action will be taken against him in line with this Act.

55. (1) A person shall not—

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

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

(3) A person shall not bury, or place, any carcass or part of a carcass, or permit any carcass, dead thing, or any decomposable or offensive material or thing, which is his or her property, or which is under his or her care or control, to be placed on his or her private property or elsewhere, or to remain thereon so as to cause a nuisance.

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

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

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

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

(3) If the owner or occupier refuses to carry out the measures specified in a notice issued in subsection 2 , or fails to do so within the time specified, then an authorized officer may arrange for such measures to be carried out, and the reasonable costs incurred in so doing shall be recoverable by the county government from the person upon whom the notice is served, at a charge specified in the county government's tariff of charges.

57. (1) A person being in or on any private premises, shall not disrupt the peace in the neighborhood of such premises by making therein or thereon any unseemly noise, shouting,

quarrelling, wrangling or singing or the continuous playing of musical instruments, radios, or anything similar thereto, or by the continuous or loud use of loudspeakers, or the like, which constitutes a nuisance to the neighbours and neighborhood.

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

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

58. When an employee, in the course of his or her employment, performs any act, or commits an offence of omission, the employer shall also be deemed to have performed the act, or to be guilty of the omission, and he or she shall be liable on conviction for the penalties imposed in section 60, unless it can be proved that—

(a) in performing the act, or permitting the omission, the employee was acting without his or her employer's knowledge and consent;

(b) all reasonable steps were taken by the employer to prevent the act or omission in question; and,

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

59. (1) Any person who—

(a) contravenes any provision of this Act, which contravention is not expressly stated to be an offence;

(b) contravenes any condition or restriction imposed upon the granting of any application, approval, authority, consent or permission in terms of this Act; or

(c) fails to comply with the terms of any notice served upon him or her, or instruction to him or her in terms of this Act, shall commit an offence.

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

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

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

(a) the discharge of fireworks, the disposal of litter by an occupier of premises in or on which there is carried on any business, occupation, trade or manufacturing,

(b) for the hanging or suspension of anything from or above a public place or so as to cause an obstruction,

(c) a tariff of charges for the removal and storage of items, impounded by the county government,

(d) procedures to be followed with regard to the sale or disposal of items impounded by the county government,

(e) procedures for the removal of any item from private property or the impounding of any item by the county government,

(f) the giving of instructions and notification to an occupier of private property, for the abatement or cessation of a nuisance,

(g) procedures for the entering of private property, for the extinction of fires thereon,

(h) the slaughter of any animal for own consumption, or for cultural or religious purposes, as, and the adoption and implementation of a tariff of charges for the disposal and burying of any offensive matter or thing, including carcasses,

(i) the contents and service of a notice for the removal of vegetation, and procedures for effecting the removal by the county government itself and a tariff of charges therefor,

(j) the contents and service of a notice for the control of vermin, and procedures for effecting control by the county government itself and a tariff of charges therefor,

(k) the contents and service of a notice for the cessation of noise pollution which constitutes a nuisance and a tariff of charges therefor,

(l) a tariff of charges, or schedule of costs, for the remedying of any loss or damage suffered by the county government as a result of the commission of an offence in terms of this Act;

(m) the prescription of penalties for the offences under this Act, and the amendment of such penalties from time to time;

(n) any matter which may be prescribed in terms of this Act, and any matter which may facilitate the application of this Act.

(2) The county government shall, not less than one month before promulgating a regulation under sub-section 1, cause a draft of the Regulations to be communicated to stakeholders and to

be made public together with a notice declaring the intention of the county government to issue such Regulations and inviting comments or representations.

61. (1) The county government shall—

(a) compel occupiers or, in the case of vacant premises, owners, to keep their premises free from offensive or harmful 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;

(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 this Act.

(2) The County Executive Committee Member 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 County Executive Committee Member may further instruct the owner or occupier under sub-section (2) to take additional measures in order to prevent a recurrence of the nuisance.

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

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

(2) The county government may remove any of the species of animals referred to in sub-section (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 County Executive Committee Member for the upkeep of the animal.

(4) If a keeper fails to pay the fees and expenses under subsection (3), the county government 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 county government in the removal or disposal of the animal.

63. Any person who, on any street—

(a) ignites any firework;

(b) without a permit for the purpose of hawking, selling, distributing or otherwise outdoor advertising any article or event, shouts or uses any bell, gong, or other noisy instrument or loudspeaker;

(c) without a permit, draws, wheels or drives any vehicles or carries any board or placard used solely or chiefly for the purpose of exhibiting advertisements;

(d) without a permit for the purpose of outdoor advertising, distributes any hand bill or other paper;

(e) without statutory authority, defaces the footway or roadway by writing or other marks;

(f) 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;

(g) throws down or leaves any orange peel, banana skin, or other substance likely to cause a person to fall down;

(h) 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;

(i) plays any game in such a manner as to cause the likelihood of damage to any property, or danger to any person;

(j) while being in charge of any dog, allows such dog to foul any path and fails to remove the stool;

(k) without a permit, lights or maintains, or coordinates to be lit or maintained, any fire or brazier in the protected area;

(l) defecates or urinates;

commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding three months or both.

PART VI – OUTDOOR ADVERTISING

64. The purpose of this Part is to—

(a) regulate all signage, advertisements displayed or to be displayed within the area of jurisdiction of the county government.

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

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

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

(a) an advertisement, commonly referred to as builders' or contractors' boards, displayed within the boundaries of any area during the course of building operations including plumbing, electrical wiring, painting and renovations;

(b) an advertisement relating to the immediate sale of newspapers within the public road provided the advertisement does not obstruct vehicular or pedestrian traffic or the lines of sight of drivers or pedestrians;

(c) an advertisement required to be displayed by law;

(d) an advertisement displayed on any vehicle which is being used on a public road provided that the main purpose for which that vehicle is being used is not to display such advertisement;

(e) an advertisement affixed to or painted on any part of any building other than a dwelling-house which indicates only the following—

(i) the name or address of such building;

(ii) the name of the occupier or owner thereof;

(iii) a general description of the type of business lawfully carried on in such building;

(iv) the hours of attendance or business; and

(v) the telephone number of such business:

Provided that such advertisement, including any sign-board on which it is displayed, does not exceed 0.8 m² in area and does not project more than 100 mm from the surface to which it is affixed;

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

(i) the name or address of the dwelling-house; and

(ii) the name of the owner or occupier of the dwelling house:

Provided that such advertisement, including any sign-board on which it is displayed, does not exceed 0.8 m² in area and does not project more than 100 mm from the surface to which it is attached;

(g) an advertisement designed solely for the issuing of any direction, request or warning to any person entering upon an area or premises; provided that such advertisement is displayed within the boundaries of the area and provided that the advertisement, including any sign-board on which it is displayed, does not exceed 0.8 m² in area;

(h) an advertisement advertising the sale or lease of any land, or the fact that such land has been sold; provided that such advertisement is displayed within the boundaries of the land and provided that the advertisement, including any sign-board on which it is displayed, does not exceed 0.8 m² in area; and

(i) an advertisement displayed from the interior of any building enclosed by walls, windows and doors.

66. (1) Any advertisement—

(a) intended to be displayed solely for or in connection with a particular event including but not limited to an election or referendum; or

(b) displayed on any sign-board intended or adapted to be carried or conveyed,

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

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

(a) not exceed 0.8 m² in area; and

(b) not be displayed for longer than 14 days before or after the event.

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

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

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

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

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

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

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

(a) a full specification showing the dimensions of such sign, its location or proposed location on a building or other supporting structure, the materials of construction, the name and address of the manufacturer, and where applicable, the number of electric lights and electrical details in regard thereto;

(b) a drawing indicating—

(i) the position of such sign on the site at a scale of not less than 1: 50;

(ii) the full text of the advertisement;

(iii) the colour of the material;

- (iv) the construction;
 - (v) the overall dimensions;
 - (vi) the method of attachment, suspension or support; and
 - (vii) any other details required by the County Executive Committee member on behalf of the county government;
- (c) in the case of ground signs, information in regard to all calculations upon which such size is based;
- (d) the prescribed application fee.
- (3) The county government may refuse or grant such application subject to such conditions as it may deem fit.

69. (1) The county government may grant, on such conditions as it may determine, or refuse an application referred to in section 68, but the county government shall not grant an application if it is of the opinion that, having regard to—

- (a) the design;
- (b) colour;
- (c) other characteristics of the advertisement in question;
- (d) its proposed position in relation to the building or premises upon or in which it is to be displayed; and
- (e) the neighboring properties,

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

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

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

(2) A flat signage board shall not—

- (a) extend above the top or beyond either side of the wall to which it is affixed;

- (b) project in any part more than 100 mm from the wall to which it is affixed;
- (c) exceed 15% of the height of the building or 15% of the area of the wall to which it is affixed.

(3) A projecting sign-board shall not—

- (a) be affixed otherwise than at right angles to the road line;
- (b) be affixed at a clear height of less than 2.5 m;
- (c) exceed 225 mm in thickness;
- (d) extend beyond the top of the wall to which it is affixed;
- (e) project in any part more than 1.5 m from the wall to which it is affixed;
- (f) extend over or nearer than 1.2 m to any overhead electricity wires or cables; or
- (g) be affixed otherwise than in a vertical plane.

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

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

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

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

72. Every ground sign-board shall—

- (a) be supported by poles or standards or pylons the bases of which are firmly embedded and fixed in the ground and which are entirely self-supporting, rigid and inflexible;
- (b) not exceed 2 m x 0.3 m (300 mm);
- (c) not extend or project beyond the road line; and
- (d) not exceed 6.5m in height.

73. The County government shall only approve flashing illuminated advertisements if it is of the opinion that, having regard to the proposed position and characteristic of the advertisement, the

display of the advertisement shall not be likely to distract or disturb persons using any public road or to create the conditions contemplated in section 75.

74. A person shall not display any advertisement—

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

(b) in a position which obscures, obstructs or otherwise interferes with any road traffic sign or is likely to so obscure, obstruct or otherwise interfere;

(c) which is illuminated and contains the colours, red, green or amber or any one or more of such colours, unless such sign has a clear height of 6 m or unless such sign is more than 15 m (measured horizontally) from the vertical line of the road line at the corner of a public road; or

(d) which is of such intense illumination so as to disturb the residents or occupants of adjacent or nearby residential buildings.

75. (1) Directional signs may not be erected on road reserves other than on directional signboard frames erected by the county government, and on payment of the prescribed fee and such directional signs shall be either 2m long and 0.3 (300 mm) high or 1 m long and 0.3m (300 mm) high and be constructed to the satisfaction of the county government.

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

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

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

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

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

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

(a) which shall be of metal;

(b) any two of which shall be capable of supporting the mass of the sign-board;

(c) the designed strength of which acting together shall be calculated on a mass equal to twice the mass of the sign-board with a superimposed horizontal wind pressure of 1.5 kPa; and

(d) which shall be neatly constructed as an integral part of the design of the sign-board or otherwise concealed from view.

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

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

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

(a) be constructed of a material which is not combustible;

(b) be provided with an external switch in an accessible position approved by the an authorized officer whereby the electricity supply to such sign-board may be switched off; and

(c) be wired and constructed to the satisfaction of an authorized officer.

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

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

78. (1) Any person wishing to alter or add to any permanent advertisement, including any sign-board on which it is displayed, shall first apply to the County Executive Committee Member in writing for its approval.

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

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

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

(a) for which no approval was granted under this Act; or

(b) which is displayed in contravention of this Act;

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

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

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

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

81. 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 a permit, commits an offence.

82. (1) Every application for a permit for outdoor advertising under this Act shall be made in writing to the County Executive Committee Member using a pre-scribed form.

(2) The procedure and manner of application for a permit and issuing a permit under sub-section (1) shall be prescribed in Regulations.

PART VII–WASTE MANAGEMENT

83. (1) The county government shall take all such steps as are necessary—

(a) for the effective management of waste in order to safeguard public health, ensure that the waste is collected, stored, transported, recycled, re-used 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 waste management and foster understanding of its importance to the conservation, protection and proper use of the environment;

(c) to perform such other functions pertaining to solid waste management as may be assigned to it under the Environmental Management and Coordination Act, CAP 387 or any other written law.

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

- (a) provide facilities for the collection, treatment and disposal of 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 county government;
- (d) establish procedures, develop, implement and monitor plans and programmes relating to waste management;
- (e) Subject to the Environmental Management and Coordination Act, CAP 387 or any other written national law, formulate standards, guidelines and codes of practice relating to waste management and monitor compliance with such standards, guidelines and codes;
- (f) initiate, carry out or support, by financial means or otherwise, research which, in its opinion, is relevant to waste management;
- (g) conduct seminars and provide appropriate training programmes and consulting services and gather and disseminate information relating to waste management;
- (h) Subject to the Environmental Management and Coordination Act, CAP 387 or any other written national law, define the minimum specifications of equipment used for waste management;
- (i) from time to time, designate any person (whether employed by the county government or not) possessing the prescribed qualifications to be an authorized officer for the purposes of this Act;

84. The county government shall enforce all Regulations on Waste Management in liaison with relevant national agencies.

85. (1) It shall be the responsibility of the person who generates waste to control such waste from the time of generation, to storage and taking it to constructed or installed bins or containers for the purposes of final disposal by the county government.

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

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

86. (1) The county government shall be responsible for-

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

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

87. (1) A person who—

- (a) unlawfully, removes any solid waste from a disposal facility or from any place under the control of the county government;
- (b) interferes or tampers with any disposal facility or any place where solid waste is stored or kept by the county government;
- (c) disposes of waste in any area or in any manner not approved by the county government;
- (d) operates a waste disposal facility, provides waste collection or transfer services or otherwise manages waste, without a valid license or operating certificate under this Act;
- (e) impedes in any manner the collection and disposal of waste;
- (f) throws, drops or otherwise deposits and leaves any litter in any public place;

commits an offence and is liable upon conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

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

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

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

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

PART VIII—REGULATIONS UNDER THE ACT

89. (1) The County Executive Committee Member, may make regulations for the better carrying out of the purposes and provisions of this Act.

(2) Without prejudice to the generality of sub-section (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;

(g) regulating the size of the billboards and the number that may be erected on a road reserve;

(h) the procedure and manner of issuing a permit for outdoor advertising and application for such a permit under this Act; and

(i) such fees and expenses as may be payable for any permit or other authorization relating to the control of air pollution, noise pollution, any public nuisance or outdoor advertising to be issued under the Act.