

REPUBLIC OF KENYA



BOMET COUNTY ASSEMBLY



**Bomet County Environmental Health and
Sanitation Bill 2017**

MAY 2017

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ACKNOWLEDGEMENTs

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BOMET COUNTY ENVIRONMENTAL HEALTH AND SANITATION BILL

AN ACT of the County Assembly to give effect to the right to a clean and healthy environment, the right to reasonable standards of sanitation and the right to clean and safe water; to provide for the functions and roles of the County Government in environmental health and sanitation; to provide for a regulatory and enforcement framework for environmental health and sanitation; to provide for the establishment of environmental health and sanitation standards; to provide for sanitation services development and investment plans; to provide for a performance management and financing framework for sanitation services; to provide for collection and dissemination of environmental health and sanitation information through a county information management system; to provide for certain general powers of the County Executive Committee Member responsible for environmental health and sanitation; and for connected purposes.

ENACTED by the County Assembly, as follows—

PART 1: PRELIMINARY

Short title and
commencement.

1. (1) This Act may be cited as the Bomet County Environmental Health and Sanitation Act, 2017.

(2) This Act shall come into force on such date as the County Executive Committee member may, by notification in the Gazette, appoint, provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Interpretation.

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

“authorized officer” means the Director of Health, Director of Public Health, County Public Health Officer, Medical Officer of Health, Public Health Officer, Environmental Health Officer, Public Health Assistant or any other person(s) authorized in writing by the Chief Officer of Health, for the purpose of this Act;

“Chief Officer” means the Chief Officer of the County Government responsible for environmental health and sanitation matters;

“Collection” means the gathering of waste, including the preliminary sorting and storage of waste for the purposes of transport to a waste treatment facility;

“Constitution” means the Constitution of Kenya, 2010;

“County” includes, where appropriate, the County Government unless otherwise provided;

“Department” means the County Government Department responsible for health matters;

“Director” means the Director appointed under Section 22 of this Act by the County Public Service Board;

“Directorate” means the County Government directorate responsible for environmental health and sanitation matters;

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

“Premises” include misuses, buildings, lands, and hereditaments in every tenure and machinery, plant or vehicle used in concretion with any trade carried on at any premises;

“recovery” means any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function or waste being prepared to fulfil that function, in the plant or in the wider economy, and waste recovery activity shall be construed accordingly;

“Recycling” includes the reclamation of waste, recovery of materials, reprocessing of wastes, resource recovery and re-use of waste;

“Refuse” includes garbage, tins bottles, ashes, sweeping from dwellings, refuse from gardens or stables or waste products from any factory or workshop;

“Regulations” mean regulations made under this Act;

“Re-use” means any operations by which products or components that are not waste are used again for the same purpose for which they were conceived;

“Rules” include regulations and by-laws made or deemed to be made under this Act; “sanitary convenience” includes closets and urinals;

“Sanitation promotion” means activities undertaken to stimulate household demand for, and the supply of, the sanitation hardware necessary to maintain a healthy environment: latrines, toilets and sewer connections;

“sell” includes offer, advertise, keep, expose, transmit, convey, deliver, or prepare for the sale or exchange, dispose of for any consideration whatsoever or transmit, convey or deliver in pursuance of a sale, exchange or disposal as aforesaid;

“Sewerage” means a system of sewer pipes, manholes, pumps etc. for the transport of sewage;

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

“Trade premises” means any premises (other than a factory) used or intended to be used for carrying on any trade or business;

“treatment” means subjecting waste to any process including resource recovery, re-use, reprocessing, reclaiming or recycling; and the term ‘treat’ shall be construed accordingly;

“Village committee” means a Village Environmental Health and Sanitation Committee established under section 26 of this Act;

Object of Act.

3. The object of this Act is to:-

- a) provide an institutional framework for the promotion of environmental health and provision of sanitation services by the County Government and other authorized service providers;
- b) provide an institutional framework for the licensing of sanitation service providers and the regulation of sanitation services;
- c) provide an enabling environment for the realization of the right to reasonable standards of sanitation and to clean and healthy environment;
- d) provide for the preparation and adoption of environmental health and sanitation services integrated development and investment plans;
- e) provide a framework for resource mobilization, financing and performance management for environmental health and sanitation;
- f) establish a system for county environmental health and sanitation information management systems;
- g) provide fiscal and other non-financial incentives to promote compliance and reward exemplary services, performance and innovation in environmental health and sanitation promotion;
- h) provide for disincentives or fees to induce proper sanitation management or prevent or abate poor environmental sanitation practices; and
- i) transpose national standards and norms in respect of environmental health and sanitation within the county context.

Application of Act.

4. (1) This Act shall bind the County Government, its organs and agents.
(2) Nothing in sub-section (1) shall be construed to debar the County Assembly from amending or repealing this Act, so far as its legislative power permits.

Right to clean and safe water.	9. (1) Every person has the right to clean and safe water in adequate quantities. (2) The County Government shall take legislative, policy and other measures, including the setting of standards, to achieve the progressive realization of the right under sub-section (1).
Duty to protect and improve the environment.	10. (1) It shall be the duty of every person to protect and improve the environment and ensure ecologically sustainable development and use of natural resources, including surface and groundwater. (2) The duty of every person to protect and improve the environment under subsection (1) includes the obligation to:- a) prevent, stop or refrain from any act or omission deleterious to the environment; and b) cooperate with state organs and other persons to protect and conserve the environment and ensure ecologically sustainable development and use of natural resources.
Precautionary principle.	11. (1) It shall be the duty of every person or governmental agency or any other entity whose act causes, has caused or may cause significant harm to the environment or public health to take all reasonable precaution to prevent or minimize such harm from occurring, continuing or recurring. (2) The County Government shall adopt a cautious and risk-averse approach in legislation, policy formulation and administration in matters affecting environmental health and sanitation.
Polluter pays principle.	12. (1) Subject to any other law, it shall be the duty of every person, governmental agency or any other entity whose act causes, has caused or may cause significant pollution to the environment or otherwise pose a risk to public health to take reasonable measures to bear the costs of measures to eliminate or reduce such harm or risk. (2) Regulations prescribed under this Act may exempt a person, group of persons, governmental agency or any other entity from the application of this principle in the application of this Act.

Power to
commission inquiry
or require reports.

- 14.** (1) The County Executive Committee member may cause to be made such inquiries as he or she may see fit in relation to any matters concerning environmental health and sanitation in any place within the area of jurisdiction of the County Government.
- (2) Subject to any other written law, the County Executive Committee member may require any authority to provide a report on any matter relevant to the administration or operation of this Act.
- (3) A requirement under subsection (2) may be that a report be provided—
- a) on a periodic basis specified by the County Executive Committee member; or
 - b) on or in relation to the occurrence of an act or event specified by the County Executive Committee member.
- (4) The authority must provide the report in accordance with the requirements of the County Executive Committee member.

Delegation by
County Executive
Committee member.

- 15.** (1) The County Executive Committee member may delegate a function or power conferred on the County Executive Committee member under this Act—
- a) to a specified person or body; or
 - b) to a person occupying or acting in a specified office or position.
- (2) A delegation—
- a) may be made subject to conditions or limitations specified in the instrument of delegation; and
 - b) if the instrument of delegation so provides, may be further delegated by the delegate; and
 - c) is revocable at will and does not prevent the delegator from acting personally in a matter.

Functions of the
Chief Officer.

- 16.** (1) The functions of the Chief Officer responsible for environmental health and sanitation matters in connection with the administration of this Act shall be:
- a) to develop and implement strategies to protect or promote environmental health and sanitation;
 - b) to ensure that this Act, and any designated health legislation, are complied with;
 - c) to advise the County Executive Committee member about proposed legislative or administrative changes related to environmental health and sanitation, and about other matters relevant to public health;
 - d) to oversee and foster collaboration and coordination to promote environmental health and sanitation and the furtherance of the objects of this Act;
 - e) at the request of the County Executive Committee member or on his or her own initiative, to investigate and report on matters of public health significance;
 - f) after advising the County Executive Committee member, to make public statements on matters relevant to public health;
 - g) any other functions assigned to the Chief Officer of Health by this Act or any other Act or by the County Executive Committee member.
- (2) The Chief Officer in the performance of functions under this Act, insofar as the Chief Officer thinks necessary and appropriate, consult with other persons or bodies involved in the administration of this Act.

Delegation of
powers by
Chief Officer.

19. (1) The Chief Officer may delegate a function or power conferred on the Chief Officer under this or any other Act—

- a) to a specified person or body; or
- b) to a person occupying or acting in a specified office or position.

(2) A delegation—

- a) may be made subject to conditions or limitations specified in the instrument of delegation; and
- b) if the instrument of delegation so provides, may be further delegated by the delegate; and
- c) is revocable at will and does not prevent the delegator from acting personally in a matter.

Establishment of
Directorate.

20. There shall be established a Directorate in the County Government Department responsible for environmental health and sanitation matters to be known as the Directorate of Environmental Health and Sanitation.

Functions of
Directorate.

21. (1) The Directorate shall have the following powers and functions:-

- a) undertake the promotion and preservation of public health through the enforcement of environmental health and sanitation laws and standards throughout the county;
- b) monitor food hygiene, environmental pollution, vector control and waste management within the jurisdiction of the county;
- c) develop and implement county policies and plans to ensure maximum enjoyment of the right to reasonable standards of sanitation and provision of appropriate sanitation services to the people in urban and rural areas having regard to those who cannot afford such services by reason of vulnerability or marginalization;
- d) enhance sector-wide and cross-sector coordination by developing annual, medium term and long term plans to guide the environmental health and sanitation sector and its intersection with other related sectors;
- e) develop, administer and coordinate environmental health and sanitation activities and interventions which shall include public health, preventive and rehabilitative programmes;
- f) issue licenses or permits for sanitation services where the powers are vested in the Department by law or executive order issued in accordance with the law;
- g) develop mechanisms for public participation, public awareness, education and stakeholder engagement in environmental health and sanitation;
- h) promote and co-ordinate human resources development and institutional capacity within the County Government to effectively implement environmental health and sanitation programmes;
- i) order immediate restoration, restitution, improvement or remediation or prohibition notices or orders on grounds of contravention of this Act or any other law;
- j) perform such other functions as may be provided by law or as may be necessary to achieve the objectives of the Act.

(2). In the performance of its functions under this Act, the Directorate shall have due regard to the collective interests of the people of the county and of national interests over the interests of any specific interest group or sector of society.

Technical Advisory Group.

24. (1) The Committee shall constitute a Technical Advisory Group whose members shall be experts in fields relevant to environmental health and sanitation.

(2) Subject to subsection (1), the Committee shall appoint seven persons from the public, private and civil society sectors as members of the Technical Advisory Group on such terms and conditions as the Committee may determine.

(3) The functions of the Technical Advisory Group shall be to advise the Committee on:-

- a) the formulation of county policies, standards, guidelines and regulations relating to environmental health and sanitation;
- b) the areas of research and development in respect of environmental health and sanitation; and
- c) Any other matter referred to it by the Committee.

(4) The Committee may by regulations delegate regulatory powers to the Technical Advisory Group where a sanitation service is provided directly by the Department, Directorate or another Department of the County Government.

Sub county and ward environmental health and sanitation committees.

25. (1) The Committee may establish Sub-county and Ward Environmental Health and Sanitation Committees to coordinate, monitor, evaluate and review environmental health and sanitation activities and interventions in their respective sub counties and wards, and to perform such other functions as may be deemed necessary to achieve the objectives of this Act.

(2) The County Executive Committee member responsible for environmental health and sanitation shall prescribe regulations relating to the functions, powers and procedures of the sub county and ward Environmental Health and Sanitation Committees.

Village environmental health and sanitation committees.

26. (1) There shall be established in every village, a Village Environmental Health and Sanitation Committee, which shall consist of the area village administrator, assistant chief, area public health officer and area community health extension worker and an additional seven (7) to thirteen (13) members representing residents, sanitation service providers, community health committees, women, youth and persons with disabilities.

(2) The village committees established under sub-section (1) shall so far as practicable promote a community based approach to the provision of environmental health and sanitation services by:-

- a) promoting community ownership of environmental health and sanitation programmes;
- b) providing local leadership in environmental health and sanitation matters;
- c) facilitating quarterly community dialogue and feedback on environmental health and sanitation activities;
- d) conducting household surveys in the village and maintaining a village environmental health and sanitation register;
- e) generating local solutions to local environmental health and sanitation problems;
- f) creating public awareness about the essentials of environmental health and sanitation;
- g) facilitating development of village-level environmental health and sanitation plans in accordance with published guidelines;
- h) facilitating and coordinating provision of environmental health and sanitation services in the village.
- i) sensitization of communities on their environmental and health and sanitation rights and responsibilities;

PART 4: PROVISION OF SANITATION SERVICES

Establishment of a sanitary authority and sanitary service providers.

- 28.** (1) The County Government is hereby designated as a sanitary authority.
(2) The County Government may perform the function of sanitation service provision through the department responsible for environmental health and sanitation or it may arrange for the exercise and performance of that function by one or more agents, to be known as a sanitation service provider.
(3) A sanitation service provider shall be responsible for –
- a) the provision of sanitation services within the area specified in its authorizing legislation, regulations, order or license; and
 - b) the development of assets for sanitation services provision.

Duty of County Government to provide sanitation services.

- 29.** (1) It shall be the duty of the County Government to ensure efficient, affordable, economical and sustainable provision of and access to sanitation services within its area of jurisdiction.
(2) Subject to the provisions of this Act, the County Government may:-
- a) establish a company, firm or other body for the delivery of a particular service or carrying on of a particular function; or
 - b) contract any person, company, firm or other body for the delivery of a particular service or carrying on a particular function.
- (3) The duty to provide environmental health and sanitation services shall be subject to:-
- a) the need for an equitable allocation of resources to all users and potential users within the jurisdiction of the county;
 - b) the duty of sanitation services users to comply with reasonable conditions in respect of provision of sanitation services including payment reasonable charges for such services;
 - c) the obligation not to discriminate directly or indirectly against any person or group of persons;
 - d) the right of the relevant sanitation service authority to limit or discontinue the provision of sanitation services if there is a failure to comply with reasonable conditions set for the provision of such services; and
 - e) the power to differentiate between categories of users and geographical areas when setting standards, costs and levels of services.
- (4) For the purposes of this Act, sanitation services include but are not limited to the activities specified in the First Schedule.

Duty of sanitation service users.

- 30.** A user of sanitation services has the duty to –
- a) to adhere to the rules of a sanitation service or facility when using the services or using the facility;
 - b) to cooperate with the sanitation service provider in the provision of sanitation services;
 - c) to treat sanitation service providers and workers with dignity and respect;
 - d) to make accessible his or her premises or land for the purposes of the performance of any duty by a service provider or any authorized officer under this Act; and
 - e) to make payments in respect of charges or fees in respect of sanitation services.

Issuance or denial
of sanitation
services licenses.

33. (1) The County Government or other sanitation authority shall assess the conformity of the application for the issuance of a license with the provisions of this Act and any other written law.

(2) Within fifteen (15) days after the submission of an application for the issuing of a license, the County Government or other sanitation authority shall make public the said application and shall ensure any interested parties access thereto.

(3) The County Government or other sanitation authority shall, within a reasonable time after receipt of the application, pronounce a decision, to issue or refuse to issue the license to the utility or service provider.

(4) The issuance of a sanitation license may be subject to any conditions set by any other law.

(5) A decision of the County Government or other sanitation authority rejecting an application shall be accompanied by the reasons for rejection.

Duty to display
documents.

34. (1) At all times while a person holds a sanitation service license, the holder of the license shall cause copies of the license to be displayed on the premises or other place in such characters and in such positions as to be conveniently read by persons having duties on those premises which are or may be affected by the matters or conditions set out in the license.

(2) Any person who puts up a false document or without reasonable cause pulls down or defaces any document posted in pursuance of sub-section (1) shall be guilty of an offence and liable on conviction to a fine not exceeding fifty thousand shillings (Sh50,000) or to imprisonment for a term of not less than three (3) months.

Conditions
of license.

35. A utility or sanitation service provider issued with a license shall –

- a) comply with the provisions of this Act and any other written law;
- b) enforce regulatory standards, notices, and orders;
- c) keep a record of its sanitation services in a form specified by law and submit to the County Government every year from the commencement of the license;
- d) comply with any other condition which the sanitation authority may consider relevant for the proper operation of the utility or service provider; and
- e) not transfer to a third party, directly or indirectly, without the prior approval of the County Government or other issuing authority.

Amendment
of license.

36. The County Government or other issuing authority may amend a license on the application of the holder of a license –

- a) where some other person has succeeded to the interest in the business enterprise belonging to the holder of the license, by substituting for the name of the holder the name of the successor;
- b) where the name of the business enterprise is altered, by substituting the name so altered; or
- c) for any other reasons submitted by the applicant of the license which the County Government may consider to be necessary for the improvement of the provision of sanitation services.

Surrender of
sanitation
service licenses.

39. (1) Where the holder of a license is unable to commence operations within twelve (12) months from the date of issue of a license, the holder of such license shall, forthwith, notify the issuing authority of such failure giving reasons thereof, and the issuing authority shall, if satisfied with the reasons, specify the period within which such holder shall comply with the terms of the license.

(2) Where the holder of a license is unable to supply sanitation services, in accordance with the license, the holder of the license shall notify the issuing authority, of such fact, in writing, and shall surrender the license thereto.

(3) Where a period of twelve months from the date of issue of a license has expired without the holder of the license supplying sanitation services in accordance with the terms of the license and no notification has been made in accordance with this section, the license shall lapse and shall, subject to this Act or any other applicable law, be cancelled.

(4) The licensing authority shall publish such information to the public.

Register of utilities
and service license.

40. The County Government shall keep a register of utilities and service providers issued with licenses under this Part and shall, at least once every year, publish a list of all utilities and service providers holding a license under this Act or county legislation.

Requirement to
notify infectious
disease.

43. (1) Every medical practitioner who has reason to believe or suspect that any person attended or treated by him or her is suffering from a notifiable infectious disease or is a carrier of that disease shall notify the public health officer, officer in charge of the nearest government health facility or the Director within the prescribed time and in such form as prescribed by regulations made under this Act.

(2) Every person in charge of a laboratory used for the diagnosis of disease who becomes aware of the existence of a notifiable infectious disease in the course of his work shall notify the officer in charge of the nearest government health facility or the Director within the prescribed time and in such form as prescribed by regulations made under this Act.

(2) Any person who is aware or who suspects that any other person is suffering or has died from or is a carrier of an infectious disease shall notify the area village administrator, assistant chief, local public health officer, local community health extension worker, officer in-charge of the nearest government health facility or the Director within the prescribed time and in such form as prescribed by regulations made under this Act.

(3) Any person in-charge of any school, educational institution or other boarding facility shall, with the least practicable delay, notify the area village administrator, assistant chief, area public health officer, area community health extension worker, officer in-charge of the nearest government health facility or the Director within the prescribed time and in such form as prescribed by regulations made under this Act, if he or she knows or has reason to believe that any person in the school, educational institution or other boarding facility is suffering from or has died of an infectious disease.

(4) Any area village administrator, assistant chief, area public health officer, area community health extension worker or officer in charge of the nearest government health facility receiving notification under this section shall, with the least practicable delay, notify the Director.

(5) Any person who contravenes this section commits an offence.

Medical
examination
and treatment.

44. (1) The Director may require any person who is, or is suspected to be, a case or carrier or contact of an infectious disease to submit to medical examination or medical treatment within or at such time, and at such place, as the Director may determine.

(2) Where the person who is, or is suspected to be, a case or carrier or contact of an infectious disease is a minor, the Director may require the parent or guardian of the minor to have the minor medically examined or treated at such times and at such hospital or other place as the Director may determine.

(3) Any person who fails, without reasonable excuse, to comply with the requirement of the Director under this section shall be guilty of an offence.

Destruction and disposal of infected animals, food and water.

48. (1) An authorized officer may order the destruction of any animal and the disposal of any food or water wherever found if he considers such animal, food or water to be a source for the transmission of an infectious disease.

(2) Without prejudice to any proceedings under sub-section (2), where an order made by an authorized officer under sub-section (1) has not been complied with, an authorized officer, health officer or a police officer may —

- a) without warrant and with such force as may be necessary, enter the premises where the animal, food or water (as the case may be) is to be found, and
- b) take or cause to be taken such measures as have been specified in the order for the destruction of the animal or the disposal of the food or water.

(3) The costs and expenses incurred by the authorized officer or health officer under sub-section (3) shall be paid by the person in default and may be recovered as a debt due to the Government.

Isolation of infected persons and suspects.

49. (1) The Director or an authorized officer may order any person who is, or is suspected to be, a case or carrier or contact of an infectious disease to be detained and isolated in a hospital or other place for such period of time and subject to such conditions as the Director may determine.

(2) The Director may order any person who is, or is suspected or continues to be suspected to be, a case or carrier or contact of an infectious disease, or who has recently recovered from or been treated for such disease, to remain and to be isolated and (if necessary) be treated, in his own dwelling place —

- a) for such period of time as may be necessary for the protection of the public, and
- b) subject to such conditions as the Director may consider necessary for this purpose.

(3) Where the person who is to be isolated under sub-section (1) or (2) is a minor, the Director may order the parent or guardian of the minor —

- a) to take the minor, within the time specified in the order, to the place in which he or she is to be isolated,
- b) to ensure that the minor remains in isolation in his or her own dwelling place, for such period of time and subject to such conditions as may be specified by the Director.

(4) Any person against whom an order under sub-section (1) or (2) is made shall be guilty of an offence if he or she —

- a) fails, without reasonable excuse, to proceed to the place in which he is to be isolated within the time specified in the order,
- b) without the permission of the Director, leaves or attempts to leave the place in which he or she is being isolated, or fails, without reasonable excuse, to comply with any condition to which he or she is subject.

(5) Any person, being the parent or guardian of a minor, who fails, without reasonable excuse, to comply with an order of the Director under sub-section (3) shall be guilty of an offence.

Order for
examination
of corpse.

52. Where any person has died whilst being, or suspected of being, a case or carrier or contact of an infectious disease, the Director or an authorized officer may order a postmortem examination of the body of that person for the purpose of —

- a) determining the cause or circumstances of the death of that person, or
- b) investigating into any outbreak or suspected outbreak of, or preventing the spread of, that disease.

Disposal of
remains of a person
who has died of an
infectious disease.

53. (1) Where—

- a) a person has died or is suspected to have died of an infectious disease; and
- b) an authorized officer has given directions as to the manner in which the corpse of such person is to be buried or cremated,

no person shall bury or cremate such corpse otherwise than in accordance with the directions of the authorized officer.

(2) Any person who contravenes subsection (1) commits an offence.

Disinfection and
closure or disuse of
premises or vessels.

54. 1) The Director or an authorized officer may, where he or she has reason to believe that there has been a person with an infectious disease on any premises, or that there exist on any premises conditions likely to lead to the outbreak or spread of any infectious disease, do any or all of the following:

- a) examine or cause to be examined any person found on the premises with a view to ascertaining if the person is suffering or has been suffering from an infectious disease;
- b) examine the premises and any article or animal on the premises with a view to ascertaining if they are contaminated or infected, as the case may be;
- c) prohibit the sale or distribution of food or water in the premises for such period as may be specified in the notice;
- d) order the premises or any part thereof to be disinfected, disinfected and deratted;
- e) order the premises or any part thereof to be closed until the premises have been thoroughly disinfected, disinfected and deratted;
- f) order the disinfection of all contaminated articles and infected or contaminated animals on the premises or, if such article or animal is incapable of being thoroughly disinfected, order its destruction;
- g) do any other act to prevent the outbreak or the spread of any infectious disease.

(2) Any owner or occupier who fails to comply with the requirements of the notice served under sub-section (1) shall be guilty of an offence.

(3) Without prejudice to any proceedings under sub-section (2), where a notice issued by the Director or an authorized officer under sub-section (1) has not been complied with, a person authorized in that behalf by the Director or an authorized officer may, without warrant and with such force as may be necessary, enter the premises or vessel to which the notice relates and take or cause to be taken such measures as have been specified in the notice.

(4) The cost and expenses incurred by the Director under sub-section (3) shall be paid by the person in default and may be recovered as a debt due to the Government.

PART 6: FOOD SAFETY AND SANITATION CONTROL

Food hygiene and sanitation plans.

58. (1) The County Government department responsible for environmental health and sanitation matters shall develop a plan to be reviewed every five years for food safety and sanitation.

(2) Notwithstanding the generality of sub-section (1), a food sanitation and hygiene plan shall define:-

- (a) the scope and items for which monitoring and enforcement shall be implemented intensively;
- (b) the infrastructural requirements for food testing and analysis;
- (c) financial and human resource requirements;
- (d) mechanisms for guidance to promote self-regulation or voluntary food sanitation management;
- (e) mechanisms for coordination with other relevant regulatory organs.

(3) The County Government department responsible for environmental health and sanitation matters shall advise the County Government and its organs on the development of the necessary human capital, financial resources, institutional arrangements and enabling infrastructure to implement the plan under sub-sections (1) and (2).

Powers of authorized officers in respect of food hygiene and sanitation.

59. An authorized officer of the department of the County Government responsible for environmental health and sanitation matters shall have the power:-

- a) at all reasonable hours to enter any institution or food establishment within the jurisdiction of the county for the purpose of ascertaining compliance with the requirements of this part or orders made under this Act;
- b) at all reasonable hours to enter any other premises, vessel or facility used for the production, preparation, processing, storage, sale or distribution of food for the purpose of ascertaining whether there is any evidence of any contravention of the requirements of this part or orders made under this Act;
- c) to inspect and examine, detain, seize or remove for the purpose of examination any article of food in any premise or place where such food is sold, prepared, processed, packaged, stored, or displayed;
- d) where he or she is of the opinion that any food article is unfit for human consumption, to order it to be treated, disposed of, or destroyed.

Licensing and control of undertakings that sell food to the public.

60. (1) No person or entity shall operate a food establishment for public patronage without securing a sanitary license from the County Government department responsible for environmental health and sanitation matters.

(2) No person or entity to whom a license has been issued under the provisions of this section shall lend, hire, sell, transfer or otherwise dispose of such permit to any other person or entity except in accordance with regulations made under this Act.

(3) A license issued under this section shall be valid for a prescribed period and may be renewed for the same period where the applicant has complied with permit conditions and the requirements of this Act or other applicable law.

Prohibition of
sale of food.

- 62.** (1) No one shall sell, collect, prepare, manufacture, keep, transmit, display or otherwise offer for sale any food for human consumption which is:-
- a) rotten, stale, unwholesome or unripe foods which are likely to harm the human body;
 - b) foods which contain or are likely to contain poisonous or harmful substances;
 - c) foods that are or are likely to be contaminated by microbes which may cause disease or harm to the body; or
 - d) foods that are likely to harm the human body due to uncleanness or adulteration.
- (2) No person shall sell, collect, manufacture, import, process, use, cook, store, sub-divide, transport or offer for sale any milk, meat, bones, organs or blood of animals which have contracted or are likely to contract disease.
- (3) An authorized officer may issue a closing order prohibiting the sale, preparation, packaging, display or distribution of food on grounds of public health.

Conditions for
sale of food in
public places.

- 63.** (1) It shall be the duty of every person who sells, prepares, packages, stores, or displays any food for sale or distribution in a fairground, public park, market or similar place or event to ensure that such food –
- a) is adequately protected from flies, dust, vermin, and spoilage; and
 - b) is kept in safe and sanitary conditions free of contamination.
- (2) The County Executive Committee member responsible for environmental health and sanitation matters shall prescribe rules for the purposes of subsection (1).

Production of
food articles and
raw materials.

- 64.** (1) Every person who owns, operates or is in charge of the growing or harvesting of food articles or raw materials to be used in the preparation of food shall ensure that such operations are conducted under clean and sanitary conditions free from any contamination.
- (2) Notwithstanding the generality of sub-section (1), the harvesting operations for food articles or raw materials shall ensure that:-
- a) unfit food articles or raw materials are segregated out during harvesting and disposed of in such place and such manner that they may not contaminate any other food or water supply; and
 - b) harvesting devices do not constitute a source of contamination to food articles or raw materials.

Power of inspection
and seizure of food.

- 65.** (1) An authorized officer may, at any reasonable time enter any food establishment, facility or premise used for the sale, preparation, packaging, conveyance or storage of food to inspect and examine any food found therein and:-
- a) take samples of food from such food establishment, facility or premise;
 - b) seize any food or item during the course of such inspection; or
 - c) prevent the sale or distribution where it is found, or there is reason to believe, that such food is unfit for human consumption.
- (2) An authorized officer shall take the necessary care and issue the necessary orders or guidance to the owner, operator or person in charge of a food establishment, facility or premises with regard to food hygiene and sanitation in order to prevent sanitation hazards or violation of this Act or orders issued under it or any other written law.

(4) The County Executive Committee member responsible for environmental health and sanitation matters shall prescribe rules in respect of the construction, equipment, operation and maintenance of food plants.

Slaughterhouses and abattoirs.

68. (1) The County Government department responsible for environmental health and sanitation matters may:-

- a) establish, construct, maintain, let and manage slaughterhouses and abattoirs; and
- b) authorize and regulate the operation or closure of slaughterhouses or abattoirs by whomsoever established.

(2) No person shall slaughter or dress livestock for human consumption in locations other than designated slaughterhouses and abattoirs except:-

- a) cases of persons, other than persons carrying on meat retail businesses or other businesses handling meat principally for consumption by said persons and their family members;
- b) cases where livestock have been injured or have fallen into an incurable state due to unforeseen accidents and have to be immediately slaughtered;
- c) cases where the meat therefrom is not intended for consumption by humans, animals or birds and suitable means are available for the disposal of every part of such animal;
- d) cases where livestock suffer from difficult delivery or other conditions designated by law or order and have to be immediately slaughtered;
- e) cases where it is necessary to destroy any dangerous animal and where it could not safely be taken to any authorized place of slaughter;
- f) cases where the livestock is intended for consumption by such person or the household, exclusively; or
- g) other cases designated by lawful executive order.

(3) No livestock shall be slaughtered in a slaughterhouse or abattoir other than livestock approved upon inspections performed in accordance with the law.

(4) The County Executive Committee member responsible for environmental health and sanitation matters shall in consultation with the County Executive Committee members responsible for trade, water, livestock and public works prescribe regulations respecting the establishment, construction, equipment, control and closing of slaughterhouses and abattoirs.

Health and sanitation precautions in food plants or establishments.

69. (1) Every person who owns, operates or is in charge of a food plant or establishment shall take all reasonable measures and precaution to ensure that:-

- a) no person suffering from any communicable disease or while a carrier of such disease, or while affected with boils, sores, infected wounds, open lesions or other sources of microbiological contamination, shall work in a food establishment, facility or plant in a capacity in which there is a reasonable possibility of food ingredients becoming contaminated by such person or such disease being transmitted to the other employees, customers and users;
- b) thorough medical examination is carried out in a public health facility or by a medical officer of health on all employees prior to their employment and at regular intervals of not more than six (6) months, and the health certificates are kept at the food plant or establishment and on demand by the authorized officers should be produced;

PART 7: CONTROL OF HOUSING AND PUBLIC NUISANCES

Control of use of
land and buildings.

71. (1) The County Government may, subject to any other applicable law, control the development and use of land and buildings in the interest of public health and sanitation and the proper and orderly development of its area.

(2) Notwithstanding the generality of sub-section (1), the County Government shall:-

- a) consider and approve all development applications and grant development permissions;
- b) ensure the proper execution and implementation of approved development plans;
- c) formulate zoning regulations in respect of use and density of development; and
- d) acquire, reserve and maintain land planned for any public facility.

(3) A person shall not develop or use land other than in accordance with the county spatial development plan, physical planning laws and any other relevant laws, regulations and by-laws.

(4) Any land classified or building erected for any purpose shall not be subsequently used for other purposes materially different from its purpose without prior consent of the County Government as to the intended change of user.

Application for and
approval and
disapproval of
development license.

72. (1) No person shall construct a building or an extension of a building within the county except in accordance with the requirements relating to environmental health and sanitation as provided for under this Act and any other applicable law.

(2) For the purposes of this Act, an application for approval under sub-section (1) shall be made on a form prescribed under regulations made pursuant to this Act which shall contain:-

- a) the name and address of the applicant and, if the applicant is not the owner of the land on which the building in question is to be erected, the owner of such land;
- b) a location plan, site plan, layout drawing, fire installation drawing, and drainage installation drawing; and
- c) such other plans and specifications as may be required under law.

(3) The department shall consider each application and the plans and specifications accompanying it and, and may within forty-five (45) days after service of the application,

- a) where it is satisfied that the plans and specifications meet the requirements of this Act and any other applicable law, approve or approve subject to conditions; or
- b) where plans and specifications do not meet the requirements of this Act and any other applicable law, disapprove thereof.

(4) Any person erecting any building or extension of a building in contravention of the requirements of this section shall be guilty of an offence and be liable on conviction to a fine not exceeding five hundred thousand shillings (Sh500,000) or an imprisonment for a term not exceeding one year or both.

- v) regulation of the height of buildings, and the height of chimneys above the roof of the buildings of which they form part;
 - vi) obligation of owners to repair or demolish unsafe, dangerous or dilapidated buildings or walls; and
 - vii) prohibition of the use of or occupation of any building erected or altered otherwise than in accordance with this Act or any other law.
- b) as regards works and fittings —
- i) requirement that all new buildings or additions to existing buildings, particularly outbuildings, latrines and all drains and sanitary apparatus of any kind pertaining thereto shall be situated in a manner as to ensure the best practicable hygienic and sanitary conditions;
 - ii) requirement that all new buildings shall be so sited on a plot as to ensure hygienic and sanitary conditions and to avoid as far as possible any public nuisance or annoyance to the owners or occupiers of neighboring plots;
 - iii) regulation of wells, tanks and cisterns for the supply of water for human consumption in connection with buildings;
 - iv) regulation of sanitary conveniences in connection with buildings and building works, the drainage of buildings, the cleansing, drainage and paving of courts, yards and open spaces used in connection with buildings and cesspools, and other means for the reception or disposal of foul matter in connection with buildings;
 - v) regulation of private sewers and communications between drains and sewers and between sewers; and
 - vi) regulation of excavations of any kind in connection with buildings and the enclosure of unenclosed land with excavations by suitable fences or the filling thereof.

(3) Regulations prescribed under this Act may exempt a person, group of persons, governmental agency or any other entity from the application of the provisions of this Act.

Maintenance of buildings and dwellings in sanitary state.

74. (1) Except as otherwise provided under this Act, an owner or occupier of premises or a building shall:-

- a) provide and maintain the prescribed or sufficient and satisfactory latrine or toilet facilities;
- b) provide suitable and effective means of drainage and disposal of all waste liquids and storm water;
- c) maintain all buildings, hardened areas and storm water drains and private sewers in good order and condition;
- d) maintain all sanitary fitments, waste pipes, soil pipes, drains, drainage connections and other drainage fittings and accessories in good order and condition;
- e) cause all sewage discharged from any building to be conveyed by a drain to a connecting sewer;
- f) ensure that every room or other structure or accommodation used for human habitation or occupation is adequately lighted and ventilated;
- g) paint, colour-wash, lime-wash or otherwise suitably renovate any exterior part of the premises when so required by the Director; and
- h) avoid any insanitary condition thereon or any interference therefrom with the healthiness of the vicinity.

Prohibition of
nuisances generally.

77. (1) No person shall create or maintain a nuisance or any other condition liable to be injurious to public health or that might hinder in any manner the prevention or suppression of disease.

(2) For the purposes of this section, the following shall be deemed to constitute a nuisance:

- a) any property that has been artificially altered from its natural condition so that it supports the development, attraction, or harbourage of vectors;
- b) any activity that supports the development, attraction, or harbourage of vectors, or that facilitates the introduction or spread of vectors;
- c) a place, condition, or building, public or private, that is not maintained in a sanitary condition;
- d) any fairground, public park, market or similar place in which food is prepared, packed, displayed, sold, or served to the public and that is not maintained in a sanitary condition;
- e) any vessel, vehicle in which food is prepared, packed, stored, transported, sold, or served to the public and that is not constantly maintained in a sanitary condition;
- f) sewage, human excreta, wastewater, garbage, or other organic wastes deposited, stored, discharged, or exposed in such a way as to be a potential instrument or medium in disease transmission to a person or between persons;
- g) a vessel, vehicle or container that is used to transport garbage, human excreta, or other organic material and that is defective and allows leakage or spilling of contents;
- h) conveyance of the carcass of any animal through any public street except under cover and so as not to be exposed to view;
- i) a place or condition harboring rats in a populous area;
- j) conditions conducive for ectoparasites, including bedbugs, lice, and mites, suspected to be disease carriers in a place in which sleeping accommodations are offered to the public; and
- k) the maintenance of an open surface privy or an overflowing septic tank so that the contents may be accessible to flies.

Abatement
of nuisance.

78. (1) A person shall abate any public health nuisance existing in or on a place the person owns, occupies or otherwise controls as soon as the nuisance exists.

(2) An authorized officer may issue a written notice ordering the abatement of the nuisance to any person responsible for the nuisance specifying the nature of the public health nuisance and designating a reasonable time within which the nuisance must be abated.

(3) A person who creates, maintains or fails to abate a public health nuisance within the time specified by the notice shall be guilty of an offense.

- c) keep the premises sanitary and provide every practical facility or appliance essential for that purpose; and provide and
- d) maintain facilities and procedures for enforcing food hygiene and sanitation standards.

Health and sanitation measures in fairgrounds, picnic camps, recreational parks and rest areas.

82. (1) No fairground, picnic camp, recreational park, rest area or similarly situated facility shall be open for public patronage without a sanitary permit issued by the County Government department responsible for environmental health and sanitation matters.

(2) A fairground, picnic camp, recreational park, rest area or similarly situated facility or event whether publicly or privately owned shall be maintained at all times free of any public health nuisance and shall provide and maintain:-

- a) an adequate supply of clean and safe water for drinking and running water for hand-washing;
- b) sanitary toilet and hand-washing facilities for its employees and users;
- c) containers or receptacles for the collection of refuse or litter which shall be collected at regular intervals;
- d) adequate number of personnel to ensure efficient operation, hygienic maintenance and elimination of harbourages of vermin;
- e) adequate drainage facilities to prevent flooding or any surface runoffs;
- f) connectivity to a sewerage system or infrastructure for the collection and disposal of excreta and sewage; and
- g) adequate comfort rooms and resting sheds for users.

(3) Any preparation, sale, offer for sale, display, or distribution of food in a fairground, picnic camp, recreational park, rest area or similarly situated facility shall be done in conformity with the provisions of this Act or any other laws or regulations concerning food safety and hygiene.

Sanitation in educational facilities and other institutional settings.

83. (1) Every school, educational institution or similar establishment whether private or public shall maintain health and environment standards to the highest level attainable to prevent, reduce or eliminate public or environmental health or sanitation risks.

(2) Subject to the provisions of this Act and any other written law, it shall be a requirement for every school, educational institution or similar establishment to obtain a sanitary license issued under this Act.

(3) The County Government department responsible for environmental health and sanitation may not issue a sanitary license to an institution which does not provide and maintain:-

- a) an adequate supply of clean and safe water for drinking and running water for hand washing;
- b) sanitary toilet facilities for each gender and for persons with disabilities;
- c) containers or receptacles for the collection of refuse or litter including facilities for safe and hygienic disposal of sanitary pads which shall be collected at regular intervals;
- d) adequate drainage facilities to prevent flooding or any surface runoffs; and
- e) connectivity to a sewerage system or where such is not available, infrastructure for the collection and disposal of effluent and sewage.

- c) provide an adequate supply of clean and safe water for drinking and running water for hand washing;
- d) provide containers or receptacles for the collection of refuse or litter which shall be collected at regular intervals;
- e) provide and maintain adequate drainage systems and facilities for the collection, treatment and disposal of effluent and sewage;
- f) ensure that the business premises, industrial plant or workplace shall not be overcrowded as to cause risk of injury to the health of the persons employed therein; and
- g) prevent any public nuisance within any such business premises, industrial establishment, agricultural plantation, mining or any other workplace.

Prohibitions of pollution to the atmosphere.

90. (1) No person shall, unless licensed, emit or discharge any wastes or pollutants into the atmosphere in contravention of the acceptable conditions established under this Act and any other applicable law.

(2) Notwithstanding the generality of sub-section (1), a person shall be deemed to emit or discharge wastes or pollutants into the atmosphere if such person:-

- a) places any noxious matter in a place where it may be released into the atmosphere;
- b) operates a motor-vehicle, motor-boat, ship, aircraft or other similar conveyance in such a manner as to cause air pollution in contravention of the established emission standards;
- c) causes or permits the discharge of odours which by virtue of their nature, concentration, volume or extent are obnoxious or offensive;
- d) burns any wastes of any trade, process or industry; or
- e) uses any fuel burning equipment not equipped with any device or control equipment required to be fitted to such equipment.

Prohibition of noise pollution.

91. (1) No person shall, unless licensed, emit or cause or permit to be emitted any noise greater in volume, intensity or quality in contravention of the acceptable conditions established under this Act and any other applicable law.

(2) Subject to the provisions of any other applicable law, any person who emits noise in excess of the noise emission standards established under this Act shall be guilty of an offence and be liable to a fine not exceeding fifty thousand shillings (Sh50,000) or a community service order or both.

Prohibition of littering.

92. (1) A person who throws, drops, spills, abandons, discards or in any other way dumps or causes or permits to be thrown, dropped, spilled, abandoned, discarded or dumped, any litter, refuse, offal, or rubbish on any land, water body, street, roadway, alley, thoroughfare or site in or on any place to which the public has access, except in a container, receptacle or place which has been specially indicated, provided or set apart for such purpose, shall be guilty of an offence.

(2) The County Government or any other public authority or person in control of or responsible for the maintenance of any premises, place or vehicle to which the public has access or use of shall:-

- a) provide litter bins, containers, receptacles or places adequate and suitable for the discarding of litter by the public; and
- b) ensure that the litter is disposed of before it becomes a nuisance, a ground for a complaint or causes a negative impact on health or the environment.

(3) Any person who removes or otherwise tampers with a receptacle shall be guilty of an offence.

Prohibition of
open defecation.

95. (1) No person shall:-

- a) urinate or defecate in or upon any land, forest, bush, street, alley, canal, drain, ditch, river, lake, beach or watercourse or in any place to which the public has access to except in a sanitary convenience provided for such purpose; and
- b) cause or permit any urine or faecal matter to flow or drain into any lake, river, canal, ditch, drain, dam or watercourse.

(2) A person who contravenes sub-section (1) shall be guilty of a misdemeanor and be liable to a fine not exceeding ten thousand shillings (Sh10,000) or a community service order or both.

(3) The County Executive Committee member responsible for environmental health and sanitation matters may promulgate regulations or issue orders for the combat of open defecation within the county.

Disposal of
dead animals.

96. (1) A person who owns, possesses or is otherwise in-charge of a dead animal, or where such person cannot be identified a person who owns, occupies or is in charge of the property on which the dead animal is found shall within twenty four (24) hours after the death or discovery of such animal dispose thereof.

(2) Any person responsible for disposal of a dead animal must dispose of it in a manner so as not to endanger public health or become a public nuisance or cause pollution of surface or groundwater.

(3) A person responsible for disposal of a dead animal may dispose of it by burial, landfilling, incineration, composting, rendering or any other method that is not otherwise prohibited under this Act or any other law.

(4) A person disposing of a dead animal by burial shall place it so that every part of the carcass is covered by at least three (3) feet of soil at a location not less than one hundred (100) feet from any well, spring, stream or other surface waters or in any other manner likely to contaminate groundwater.

(5) Where an animal dies or is accidentally killed and the owner or person in possession of the animal is unknown, cannot be found or neglects to dispose of it, the County Government department responsible of environmental health and sanitation shall immediately dispose of it.

Remediation,
reparation,
restoration,
restitution and
compensation.

97. In addition to any fine or sentence under sections 10, 10 and 10, the County Executive Committee member responsible for environmental health and sanitation matters shall prescribe rules in respect of recovery of costs by the County Government for environmental remediation or recovery or payment to any third parties of reparation, costs of restoration, restitution or compensation by an offender under this Part, subject to determinations by a court, tribunal or other agency of competent jurisdiction.

General duty in
respect of waste.

99. (1) A generator or holder of waste shall be required to, within the holder's power, take all reasonable measures:—

- a) avoid the generation of waste and where such generation cannot be avoided, to reduce the amounts or toxicity of waste that is generated;
- b) comply with requirements for collection of waste varying by type, origin and properties by placing such waste in receptacles approved, designated or provided by the service providers for that purpose in a manner and location approved or authorized;
- c) take all measures to prevent the mixing of hazardous waste with other waste or of recoverable waste with non-recoverable waste;
- d) ensure that waste is treated, and where not reusable, recyclable or recoverable, disposed of in a manner not deleterious to health or the environment or causative of a public health nuisance;
- e) provide briefing and periodic training to personnel handling hazardous waste and prevent any employee or any person under his or her supervision from contravening this Act;
- f) plan and implement the measures necessary to avoid the spread of pollution after the closure of the projects and operations, as well as of the waste disposal facility or installation;
- g) prevent waste from being used for an unauthorized purpose; and
- h) draw up a contingency plan for response to accidents as may occur upon carrying out waste-related operations.

(2) The duty of a holder of waste shall not be construed as a limitation on the obligation of the County Government in respect of waste management.

Waste management
by County
Government, town
committee city or
municipality board
department.

100. (1) The County Government, town committee or municipality board department responsible for environmental health and sanitation or waste management shall organize for the collection, transportation, treatment and disposal of waste in accordance with this Act and any other written law.

(2) The department may establish and maintain or sanction the establishment, operation and maintenance of such waste management facilities by licensed sanitation providers as may be necessary and adequate for various categories of waste.

(3) The County Government may compel the use of sanitation services by persons to whom such services are available or are required to be made available.

(4) The County Executive Committee member responsible for environmental health and sanitation matters shall in consultation with the County Environmental Health and Sanitation Committee, the National Environmental Sanitation Coordination and Regulatory Authority (NESCRA) and the National Environment Management Authority (NEMA) prescribe rules and regulations in respect of the collection, transportation, and disposal of various categories of waste and the licensing requirements therefor.

Collection of waste.

103. (1) The County Government or town committee or municipality board department responsible for environmental health and sanitation or a licensed sanitation service provider shall, for a prescribed fee, arrange for the collection of household or any other authorized category of waste.

(2) For the purposes of sub-section (1), the department or licensed service provider may by notice served on the occupier or owner of premises or vessel, require such occupier or owner to place or segregate waste for collection in receptacles approved, designated or provided, in the manner specified in such notice.

(3) The owner, occupier or any person in charge of any building or land which, by the nature of the trade, manufacture or business at any time being carried on therein, produces commercial waste shall provide or arrange to be provided one or more sound and sufficient covered receptacles for the collection of commercial waste.

(4) The department may make such arrangements, without charge, for the collection, recovery or disposal of waste from certain premises or geographical areas or in emergency situations.

Transportation of waste.

104. (1) No person other than the County Government, town committee or municipality board department responsible for environmental health and sanitation and waste management, may collect waste for removal and transportation from premises unless such person is:-

- a) authorized by law to collect such waste, where such authorization is required; or
- b) not prohibited from collecting such waste.

(2) The requirement for authorization under paragraph (1) (a) does not apply to:-

- a) the transportation of waste between different places within the same premises;
- b) the lawful transportation of waste in transit through the county and such waste is not deposited in the county; or
- c) householders transporting their own household waste from their premises to the nearest collection, recycling or disposal point.

(3) The department or any person who transports waste shall take all reasonable measures to prevent any spillage of waste or littering from a vehicle, cart or other vessel.

(4) A person who transports waste for disposal or any other purposes other than disposal shall before consigning such waste to some other person or facility, ensure that the facility or the place or person to whom the waste is consigned is authorized to deal with such waste.

(5) A person who contravenes this section shall be guilty of an offence and be liable to a fine not exceeding five hundred thousand shillings (Sh500,000) or an imprisonment for a term not exceeding five years or both.

- h) ensure containers used to collect, transport, or store medical waste are clearly labeled with a biohazard symbol or with the words "medical waste" written in clear and legible letters according to set standards;
 - i) place sharps waste in a sharps container at the point of generation and keep such waste in a sharps container at all times thereafter;
 - j) clearly indicate the name or registration number of that generator on all containers containing its medical waste by using marking or a digital identification;
 - k) seal waste containers to prevent leakage or expulsion of contents in leak resistant receptacles;
 - l) consign waste only to a transporter or facility that is authorized;
 - m) conduct an ongoing training and education programme for employees or agents involved in managing medical waste; and
 - n) Ensure adequate budgetary allocations to cover the cost of managing medical wastes including operation and maintenance costs.
- (5) The County Executive Committee member responsible for environmental health and sanitation matters shall promulgate regulations and may make any order in respect of the handling, storage, transportation, treatment, recovery and disposal of medical waste.

Vesting of sewers and
right of access thereto.

109. (1) All sewers, drains, pipes, ventilating shafts or other conveniences for the disposal of sewage or drainage constructed by or which are under the control of the County Government, shall be vested in the County Government.

(2) An authorized officer or any other servant or agent of the County Government shall at all times have a right of access to private property for the purpose of inspection, maintenance, alteration or repairs of such sewers, drains, pipes, ventilating shafts or other conveniences vested in the County Government, and may do all things necessary to uncover and expose such sewers, drains, pipes, shafts or other conveniences for the purpose of inspection, alteration or repair.

(3) The County Government in the exercise of any of the powers conferred by this section shall, in its discretion, either repair all damage done or caused thereby or pay compensation for any such damage not so repaired, the amount of any such compensation being determined, in default of agreement, by arbitration.

Owners to make
and maintain drains
to public sewers.

110. (1) The Director may, where a public sewer or any part thereof, is available, give notice in writing to the owner or occupier of any land, premises or private sewer situated within the county and capable, in the opinion of the Director, of being drained into such sewer, to construct such drains and fittings from and in connection with such land or private sewer to communicate with the public sewer in accordance with prescribed rules relating to connection to a public sewer.

(2) The Director may, after giving the prescribed notice to the owner or occupier of any drains, order such drains and fittings to be constructed by such owner or occupier within such time as it may limit in that behalf.

(3) Upon the expiry of the limit under sub-section (2), the Director may arrange to extend such drain and recover the costs thereof from the owner provided that the department shall, before carrying out such work, give not less than fourteen (14) days' notice to such owner of its intention to carry out such work.

(4) All drains and fittings communicating with any sewer shall from time to time be repaired and cleansed, under the inspection or direction of an authorized officer, at the expense of the owner or occupier of the land in respect of which the said drains shall have been constructed.

(5) Nothing in this section shall entitle any person to discharge directly or indirectly into any public sewer any liquid or other matter the discharge of which into public sewers is prohibited under this Act or any other applicable law or order made thereunder.

Application for
connection to
public sewer.

111. (1) A person who wishes or who is required to have his or her drains or private sewers made to communicate with a public sewer shall make an application for a permit in such manner as may be prescribed.

(2) The department shall within twenty-one (21) days of the receipt thereof by notice to the applicant approve the same if it is satisfied that the owner of the said building is entitled to cause such drain to empty into the said sewer, and that the making of such sewer connection would not contravene any of the provisions of this Act and that the communication would be prejudicial to the sewerage system.

(3) Subject to payment of the prescribed fee, the department shall, with all reasonable dispatch, cause the communication to be made to the public sewer in such manner as may be prescribed or as the department may decide.

Provisions for
protection of
sewers and drains.

114.(1) Any person who, without the written consent of the department:-

- a) erects or causes to be erected any building over any sewer belonging to or vested in the County Government or municipality, city or any other county authority; or
- b) excavates, removes, or causes to be excavated, opened up or removed, the ground under or near to any such sewer, drain or pipe; or
- c) makes or causes to be made any opening into any such sewer, drain or pipe, for the purpose of discharging sewage or drainage into the same or otherwise; or
- d) injures or destroys, causes to be injured, obstructed, diverted or destroyed, any such sewer, drain or pipe or any works or things in connection therewith,

shall be guilty of an offence and shall be liable to a fine not exceeding two hundred thousand shillings (Sh200,000) or to imprisonment for a period not exceeding twelve (12) months or to both.

(2) The department may alter, demolish or otherwise deal with any buildings erected over any such sewer, drain or pipe in contravention of sub-section (1) as it may think fit, and may make good any damage done to such sewer, drain, or pipe in contravention of sub-section (1) and may close up any opening made therein in contravention of sub-section (1), and the expenses so incurred shall, in addition to any fine or sentence that may be imposed under this section, be recoverable from the offender.

Sewage haulage and
disposal permits.

115. (1) Subject to the provisions of this Act relating to the provision of sanitation services, no person may provide any hauling service for the collection, removal, transfer, storage, transportation or disposal of sewage from or on any premises except in terms of a permit issued by the department.

(2) An application for a permit in terms of sub-section (1) shall be in the prescribed form and shall contain information relating to:-

- a) the type, volume, mix and constituents of the waste that is expected to be transported in the course of business daily, monthly and annually;
- b) details and plans of the duly authorized waste management facility and plans of the property where sewage will be transferred or stored;
- c) details of measures to be taken to prevent contamination to the air, ground or water on, underneath or adjacent to the site;
- d) the type, design, capacity, make and registration number of the vehicles with vacuum trucks securely mounted thereon which are to be used to carry or store the sewage; and
- e) details of the qualifications of each driver employed to drive the vehicles.

(3) A sewage hauler shall:-

- a) ensure that sewage, effluent or any wastewater under its control thereby shall be transported in a manner that will not create a health hazard, environmental harm or public nuisance;
- b) facilitate access by authorized officers responsible for ensuring observance of environmental health and sanitation standards;
- c) provide and maintain in good condition any equipment, vessel, truck or trailer used in the collection, removal, transfer, storage, transportation or disposal of sewage; and
- d) post and maintain a copy of the permit in each truck, trailer or vessel and registered office.

Reduction of
runoff water.

- 118.** (1) A proprietor of a *building shall* –
- a) install rain barrels with sufficient capacity to store water from the building;
 - b) where applicable, not permit storm water to become runoff; and
 - c) reuse or recycle storm water collected for other purposes in the premises.
- (2) A person who contravenes this section commits an offence and shall be liable to a fine not exceeding twenty thousand shillings (Sh20,000) or to imprisonment for a term not exceeding one month.

Riparian buffers.

- 119.** (1) The Directorate shall, in collaboration with other government agencies and local residents, mobilize residents to develop or restore riparian buffers along rivers, waterways or any water body.
- (2) A person shall not interfere with a restored riparian buffer in a way that exposes it to run off water.
- (3) A person who contravenes subsection (2) commits an offence and shall-
- a) if a corporate body be liable to a fine not exceeding fifty thousand shillings (Sh50,000); and
 - b) if an individual be liable to a fine of five thousand shillings (Sh5,000) or to imprisonment for a term not exceeding two months.

PART 13: SANITATION INFORMATION SYSTEMS, PERFORMANCE MANAGEMENT AND FINANCING

Establishment of county environmental health and sanitation information systems.

125. (1) The Chief Officer shall establish and maintain a county environmental health and sanitation information system which shall be kept in a prescribed format as to be a constituent part of the national environmental health and sanitation information system.

(2) Subject to any law relating to access to information or requirement for payment of a prescribed fee, a member of the public shall have the right to access to information contained in the national environmental health and sanitation information system or any county environmental health and sanitation information system.

Purpose of the county environmental health and sanitation information systems.

126. (1) The purpose of the county environmental health and sanitation information systems shall be –

- a) to provide data for the development, implementation and monitoring of policies and strategies for environmental health and sanitation;
- b) to provide a framework that facilitates the exchange of diffuse health information,
- c) to provide information to sanitation service institutions, consumers and the public—
 - i) to enable them to monitor the performance of sanitation service provision;
 - ii) for research purposes; and
 - iii) for any other lawful reason.

(2) Regulations made under this Act shall specify requirements and the nature of information required for the maintenance of the county environmental health and sanitation information systems.

County environmental health and sanitation plans and strategy frameworks.

127. (1) The Chief Officer shall establish a county environmental health and sanitation plan and strategy framework.

(2) The county environmental health and sanitation plans and strategy frameworks under sub-sections (1) and (2) shall incorporate components of

- a) the types, availability and objectives of sanitation services;
- b) the scope of demand or need for sanitation services;
- c) infrastructure necessary for provision of sanitation services;
- d) estimated capital and operational costs of sanitation services and the financial arrangements for funding those water services, including the tariff structures;
- e) a resource mobilization and financing strategy for the implementation of the plans;
- f) investment programmes, business plans and investment plans.

Establishment
of the County
Environmental
Health and Sanitation
Fund.

131. (1) There is established a sanitation sector *financing mechanism to be known as the* County Sanitation Sector Trust Fund which shall be vested in the County Government.

(2) The Fund shall be consist of –

- a) any money appropriated by the County Assembly for the purposes of the Fund;
- b) any money contributed to the Fund by the National Government;
- c) any money received from any other Fund such as the Constituency Development Fund (CDF);
- d) any money received by way of grant, gift, endowment or bequest or any other contribution for the purposes of the Fund;
- e) any income from investment of money belonging to the Fund; and
- f) any money paid into the Fund under any other Act.

(3) The County Executive Committee member shall promulgate regulations in respect of the structure and powers of the governance and management of the Fund.

Objects of
the County
Environmental
Health and Sanitation
Fund.

132. (1) The objects of the Fund are to

- a) aggregate funds from different sources to ensure sustainable funding for programmes, projects and activities for the protection and promotion of environmental health and sanitation;
- b) ensure equitable financing of environmental health and sanitation by supporting the development and management of sanitation services in marginalized areas or any area which is considered to be underserved including rural areas and poor urban areas;
- c) provide financial support for training and research on environmental health and sanitation;
- d) provide financial resources for capacity building for county governments and community level initiatives; and
- e) provide financial support for community education and awareness programmes related to environmental health and sanitation.

(2) Without limiting the generality of subsection (1), the County Executive Committee member may by regulations detail more specific objects of the Fund.

(3) The Fund may be used to pay for the operating costs for the administration of the Fund, provided that regulations may set a limit on use for such purposes.

Prohibition order,
improvement notice
and other
administrative orders.

138. (1) Any authorized officer may serve an improvement notice or prohibition order on the occupier or owner of land, building, premises or vessel where the authority considers on reasonable grounds:-

- a) that the land, building, premises or vessel does not comply with an enforceable requirement under this Act or regulations made thereunder;
- b) that a public facility in the vessel or on the land, building or premises is not being operated in compliance with the requirements of this Act or regulations made thereunder; and
- c) an improvement notice or prohibition order may specify the actions to be taken to comply with a requirement of the Act.

(2) An improvement notice or prohibition order shall take the form of a direction that requires specified enforceable requirement to be complied with within a stipulated period after service of notice on the occupier or owner.

(3) An improvement notice or prohibition order may specify the actions to be taken to comply with a requirement of the Act.

(4) Any decision taken in terms of this section shall be taken in accordance with the requirements of the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.

(5) A person who contravenes the provisions of this section commits an offence.

Urgent provisional
orders.

139. (1) Where a court is satisfied from information placed before it that circumstances relating to a particular matter, which matter is a subject of an investigation under this Act, render that matter urgent in that irreparable damage would be caused to the environment or animal, plant or human life, if the matter were to be dealt with by the court at the proceedings in due course, the court may issue a provisional order:-

- a) prohibiting any person from the deleterious act of commission or omission;
- b) ordering a person to perform a particular act;
- c) preventing any potential environmental hazard or health risk; or
- d) authorizing the department to take any action specified in the order.

(2) A provisional order issued under sub-section (1):-

- a) may be amended or withdrawn by the court on application by the director or by a person affected by such order;
- b) shall remain in force for such period or extended period as the court may from time to time determine; or

shall, unless withdrawn or lapsed, remain in force until the proceedings are finalized.

Register of utilities
and service license.

143. The Department shall keep a register of utilities and service providers issued with licenses under this Act and shall, at least once every year, publish a list of all utilities and service providers holding a license under this Act.

Notices may be
printed or written

144. Notices, orders and other documents under this Act may be in writing or print, or partly in writing and partly in print, and where the same requires authentication by the County Government, the signature thereof by the Chief Officer shall be sufficient authentication.

Service of notices.

145. (1) Any notice required to be served in pursuance of this Act shall be served by delivering it personally to the person required to be served, or, if such person is absent or cannot be found:-

- a) by delivering it personally to the person required to be served, or, if such person is absent or cannot be found—
 - i) by leaving it at the person's usual or last known place of abode or place of business;
 - ii) by sending it by electronic communication or post, addressed to the person's usual or last known address;
- b) in the case of a notice required to be served on a state organ, company or other corporate body, by delivering it to its principal officer or by leaving it at his or her office with a person employed there, or by registered post.

(2) If any landholder is not known and, after diligent inquiry, cannot be found, such notice may be served on him or her by leaving it, addressed to him or her, with an occupier of the land or, if there is no apparent occupier, by causing it to be put in a conspicuous position on the property in Kenya last known to have been occupied by him or her.

(3) Any notice required to be given to a landholder may be addressed to the owner of land or premises described in the address in respect of which the notice is given.

(4) Any person who without reasonable cause pulls down or defaces any notice posted in pursuance of subsections (1) and (2) shall be guilty of an offence and liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term of not less than three months.

Public Private
Partnerships

(4) A power or function conferred by a license or otherwise conferred under this Act may be exercised or performed by another entity or person acting under an agreement with the licensee and shall be deemed, when exercised or performed by that other entity or person, to have been exercised or performed under the license.

SANITATION SERVICE ACTIVITIES

1. Refuse or garbage removal.
2. Refuse or garbage collection.
3. Refuse storage.
4. Refuse transportation.
5. Refuse or waste recovery or recycling.
6. Refuse or waste disposal.
7. Refuse or waste treatment.
8. Sewage haulage.
9. Maintenance of sanitary facilities for refuse disposal.
10. Incineration.
11. Establishment or operation of landfills.
12. Water treatment and distribution services.
13. Wastewater treatment and disposal.
14. Cleaning services for public places and buildings.
15. Control of pests and vectors and vermin services including fumigation.
16. Cemeteries, crematoria and funeral parlour services.
17. Collection, transportation and disposal of dead animals.

MEMBERSHIP AND PROCEDURES OF A VILLAGE ENVIRONMENTAL HEALTH AND
SANITATION COMMITTEE

Application of this 1. This Schedule applies to Village Environmental Health and Sanitation Committees.
schedule.

Membership.

2. (1) In the constitution of a Village Environmental Health and Sanitation Committee, appointments shall have regard to—
- a) the guiding principles under section 5 of the Act;
 - b) the educational qualifications, relevant experience, character and integrity of persons proposed for appointment;
 - c) gender and community diversity; and
 - d) representation of diversity of users of sanitation services.
- (2) Except for members serving by virtue of their office, members of a Committee shall be identified for appointment through an open, consultative and competitive process.
- (3) The Committee may coopt a member by a resolution supported by a half of the members.

Term of office. 3. (1) A member other than one serving by virtue of their office shall hold office for such term, not exceeding three (3) years, as may be specified in the instrument of appointment.

(2) A member shall be eligible for re-appointment for one further term.

Vacancy in office
of member.

4. (1) The office of a member shall become vacant if—
- a) he or she dies, resigns or is removed from office;
 - b) he or she absents himself or herself from four consecutive meetings of the committee of which reasonable notice has been given to the member, unless—
 - i) the committee has granted the member leave to be absent from those meetings; or
 - ii) within four weeks after the last of the four meetings, the member is excused by the committee for having been absent from the meetings;
 - c) the member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
 - d) he or she is adjudged or declared by any competent court or tribunal to be of unsound mind; or
 - e) he or she is convicted of an offence punishable by imprisonment for twelve months or more.
- (2) If the office of a member becomes vacant, the appointing authority shall fill the vacancies as prescribed in this Act.

Chairperson.

4. (1) A Village Committee shall elect a Chairperson from among its members.
- (2) A member may be elected to act in the office of Chairperson during the illness or absence of the Chairperson, and a member so appointed shall have all the powers and be able to carry out all the functions of the Chairperson.

General procedure.	7. (1) Except as otherwise provided by or under this Act — a) meetings of a Village Committee shall be held as often as maybe necessary for the dispatch of their business but they shall not be less than four (4) any financial year. b) a meeting of a Village Committee shall be held on such date time and place as the chairperson may decide; c) the chairperson shall, on the written application of one-third of the members convene a special meeting of the Committee; d) unless the majority of the total membership of the Committee otherwise agree, at least fourteen days written notice of every meeting of the Committee shall be given to every member of the Committee; and e) the procedure for the convening of meetings and for the conduct of business at those meetings shall be as determined by the Chairperson. (2) Subject to the provisions of this schedule, a Village Committee shall regulate its own procedures.
Quorum.	8. A third of the members of a Village Committee shall constitute a quorum at any meeting of the Committee.
Presiding members.	9. The Chairperson or, in the absence of the Chairperson, the acting Chairperson or in his or her absence, a member appointed by the members then present shall preside at a meeting of a Village Committee.
Decisions.	10. A decision supported by a majority of the votes cast at a meeting of a Village Committee at which a quorum is present shall be the decision of the Committee.
Record of proceedings.	11. (1) The chairperson, acting chairperson or any other presiding member at a meeting of a Village Committee shall cause a record of the proceedings at the meeting to be made. (2) Records made for the purposes of this paragraph may be destroyed after the expiry of the period prescribed by Regulations made under this Act.
Convening of first meeting.	13. The first meeting of the Committee shall be called by the Sub-County Public Health Officer or a responsible authority.
Establishment of subcommittees	14. (1) A Village Committee may for the purpose of performing its functions under this Act constitute any sub-committee, the chairperson of which shall be a member of the Committee, and may delegate to that sub-committee any of its functions. (2) The Committee may appoint as members of a sub-committee established under sub-section (1), persons who are or are not members of the Committee and such persons shall hold office for such period as the Committee may determine: Provided that at least half of the members of a committee shall be members of the Committee. (3) Subject to any specific or general directions of the Committee any subcommittee established under subsection (1), may regulate its own procedure.

PART 6 establishes standards for food quality, hygiene and safety. This Part stipulates requirements in respect of food handlers and food establishments generally and the functions of the County Government in respect of licensing and control of undertakings that sell food to the public.

PART 7 makes provision for control of the use of land and buildings as well as the prohibition and prevention of public health nuisances. This Part outlines the powers of authorized officers and the County Government generally in respect of control of its area of jurisdiction.

PART 8 regulates sanitation standards in public and institutional settings. It establishes requirements for sanitation in schools and other institutional settings. In addition, provision is also made for occupational health and sanitation.

PART 9 provides for the control of pollution. It prohibits pollution of water courses, pollution of soil, air pollution and noise pollution. It also prohibits open defecation. This Part also establishes the duty of owners or occupiers of premises or land to arrange for removal of litter from such premises or land.

PART 10 provides for waste management. This part defines the general duty in respect of waste and the role of the County Government in the provision of waste management services and control of waste management activities.

PART 11 provides for the provision, maintenance and control of sewerage and drainage systems. The second section of this Part establishes requirements for storm water management.

PART 12 deals with the establishment, operation and maintenance of cemeteries, crematoria and funeral parlours.

PART 13 provides for county information management, performance management and financing for environmental health and sanitation.

PART 14 contains provisions on enforcement powers by authorized officers.

PART 15 contains miscellaneous and general provisions.

Statement of Financial Implications

The enactment of the Bill will occasion additional expenditure of public funds which will be provided for through the annual estimates.

Dated the day of 2017.

**Chairperson,
Health and Sanitation Committee
Bomet County Assembly**