

**SPECIAL ISSUE**

*Mandera County Gazette Supplement No. 11 (Acts No. 4)*



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**MANDERA COUNTY GAZETTE  
SUPPLEMENT**

**ACTS, 2014**

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**NAIROBI, 11th July, 2014**

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**THE MANDERA COUNTY TOWNS ACT, 2014**

**No. 4 of 2014**

*Date of Assent: 19th June, 2014*

*Date of Commencement: 11th July, 2014*

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**THE MANDERA COUNTY TOWNS ACT, 2014**

**AN ACT of the County Assembly of Mandera to provide for the structure, appointment, functions, power and responsibilities of the Town Committee, to repeal by laws, or any other regulations made by the defunct Authorities pursuant to Local Government Act and for the connected purposes.**

**Enacted** by the County Assembly of Mandera as follows—

**PART I— PRELIMINARY**

1. This Act may be cited as the Mandera County Towns Act, 2014 and shall commence on the fourteenth day after the assent by the Governor or the publication in the County Gazette, whichever comes earlier.

Short title and commencement

2. In this Act unless the context requires otherwise;

Interpretation..

“Authorized person” means any officer authorized by a department or a Town Committee for the purpose of enforcing this Act;

“Carts” means an animal or human drawn vehicle used for the carriage of goods;

“Compliance Certificate” means certificate issued by the Town Committee under this Act;

“Department” means department responsible for matters relating to Towns;

“designated stop” means a specified place authorised by the Town administration to drop or pick passengers along the road;

“driver” means any person who drives or guides or is in actual physical control of any vehicle or cattle on any road;

“enforcement officer” means any officer appointed by the county government for the purpose of enforcing this Act;

“Executive Committee Member” means the county executive committee member responsible for matters relating to towns;

“Executive committee members” Executive Committee Members appointed pursuant to Section (35) of the County Government Act;

“fire brigade” means the fire brigade established under the Mandera Fire and Rescue Act;

“food” means any article or substance used for consumption or drinking by man and includes any article which ordinarily enters into or used in the composition or preparation of edibles by human but does not include liquor as defined in the Liquor Licensing Act;

“Governor” means the Governor of Mandera County Government;

“hazardous waste” means waste which is toxic, flammable, corrosive, radioactive, explosive or otherwise dangerous, and includes motor oil, diesel fuel gasoline petrol, paint, solvents, dry cells and vehicle batteries, pesticides, and infectious or medical wastes from hospitals and clinics, metallic and or oily sludge or solvents from commercial and industrial establishments, asbestos materials, radioactive wastes, and any similar waste which possesses Characteristics that make it hazardous to human beings or to the environment;

“health inspector” means a person appointed as such by the county government;

“license” means a license issued by the ministry responsible for trade;

“matatu” shall have the meaning assigned to it under the Traffic Act;

“matatu terminus” means any one of the places prescribed by the Town Committee to be a matatu terminus;

“meat” includes offal and the flesh of birds;

“open food” means food not contained in a container of such materials and so closed as to exclude all risk of contamination;

“occupier” includes any person in actual occupation of premises or residential dwelling subdivided and let to lodgers or various tenants each lodger or tenant thereof;

“owner” means any person, company, association or body of persons in whose name a matatu is registered under the Traffic Act and in the case of a building or premises “owner” means title holder and includes any person

lawfully claiming title under him or his agent or any person receiving rent or proceeds on his behalf;

“parking” means putting or leaving a motor vehicle in a parking space for a period exceeding five minutes;

“person” means for the purpose of this Act will include an individual, body corporate, or any other body established under a written law;

“premises” means permanent or semi-permanent buildings, land or travelling wholesaler; “public place” means any place or premises of common access to members of the public;

“ply for hire” in relation to a taxi-cab, includes

(i) standing on any taxi rank;

(ii) standing or travelling whilst exhibiting a “For Hire” notice or any other word or sign implying that the vehicle is a taxi cab;

“Public street” means a street maintained by the town committee or any other administrative unit of the County Government;

“shop” means any premises in or from which wholesale or retail trade is conducted and any stock room in the cartilage thereof;

“solid waste” means urban waste material generated by domestic households, institutions, commercial establishments, and industries, and all litter and clandestine piles of such wastes;

“street” includes any street, road, highways, path, sanitary lane, sand lane, thoroughfare or public space to which the public have access and includes a bridge over which a roadway runs;

“stores” means any premises other than a shop in which food is kept in connection with trade;

“taxi-cab” means a motor vehicle constructed or adopted to carry not more than four passengers, excluding the driver, which is licensed under this part to ply for hire;

“taxi rank” means any one of the places prescribed by the town committee as taxi rank;

“Town” means an area, in County Government of Mandera, granted the status of town pursuant section 10 of Urban Areas and Cities Act, 2011;

“Town administrator” means town administrator appointed under section (10) of this Act;

“Town Committee” means town committee established under section (5) of this Act;

“Town engineer” means the person for the time being holding the office of town Engineer or any other authorized officer;

“Township” means the area for the time being within the jurisdiction of the town Committee;

“Vehicle” means any motor vehicle motor cycle, taxi cab, trailer, wagon and land craft;

“waste management” includes cleansing, removal, collection, transport, separation, treatment and or disposal of waste in accordance with this part;

“waste operator” means an entity licensed by the County Government to carry out waste management operations within the town; and

“waste management services charge or refuse charge” means the charge determined by the town committee from time to time either of its own motion or on a proposal from a waste manager as a waste management services charge composition of waste pending final disposal whether or not carried out with a view to extracting useable elements;

**3.** This Act shall apply to towns in Mandera County as established under Section 10(2) of the Urban Area and Cities Act, 2011. Application

**4.** The object and purpose of this Act is to— Objects and purposes  
of this Act

- (a) give effect to Section 10 of the Urban Area and Cities Act, 2011;
- (b) provide for matters necessary to give effect to Section 48(1)(a) of the County Government Act;
- (c) give effect to Section 31 of the Urban Area and Cities Act, 2011;

- (d) provide for the administration of town office as provided in Section 31 of the Urban Area and Cities Act, 2011;
- (e) provide for governance and management of town and urban area in Mandera County Government; and
- (f) provide for the manner of nomination or appointment of persons to, and their removal from, offices in town administration;

## **PART II—ESTABLISHMENT AND GOVERNANCE OF TOWNS**

5. (1) The Governor shall in accordance with Section 10(1) confer status of a town on an area that meet the criteria set out in 10(2) of the Urban Area and Cities Act, 2011. Establishment of town

(2) The Governor may amend or alter the name of urban area or town within the Mandera County boundary by notice on a County Gazette.

(3) An urban area that meets the criteria set out in section 10(2) of the Urban Area and Cities Act, 2011 before this Act come into operation are recognized as town from the effective date of the Act and shall be gazetted in County Gazette.

(4) Nothing in this section may preclude an area from being conferred with the status of town under this Act if it has significant cultural, economic or political importance.

6. (1) There is established, for each town, a town committee comprising— Establishment and membership of Town Committees

- (a) the town administrator who shall be the Secretary of the town committee; and
- (b) not less than three and not more than five members appointed by Governor.
- (c) In appointing town committee under subparagraph (b) the Governor shall ensure observe principles set out in the constitution regarding gender equity, persons with disabilities, youth and other marginalized persons with approval of the County Assembly.

(2) The town committee established under subsection (1) has jurisdiction only within the town area;

(3) The town committee specified in subsection (1) shall not be a body corporate.

7. (1) A town committee shall be responsible for—

Functions of the  
Committee

- (a) Prepare and implement policies for the development of the town
- (b) Ensure Service delivery to the residents of the town;
- (c) Control land use, land subdivision and land development
- (d) Reserve land for any purpose including recreational areas, parks, transport hub and market stores.
- (e) Take measures to protect the town area from natural and other hazards and to mitigate the effects of such hazards;
- (f) Manage, develop, protect, restore, enhance and conserve the environment in an ecologically sustainable manner, and improve amenity;
- (g) Promote the town and to provide an attractive climate and locations for the development of business, commerce, industry and tourism;
- (h) Manage and, if appropriate, develop public areas vested in or occupied by a County Government or national Government;
- (i) Manage, improve and develop resources available to a town;
- (j) maintain a comprehensive database and information system of the administration and provide public access thereto upon payment of a nominal fee to be determined by the committee;
- (k) administer and regulate its internal affairs;
- (l) implement applicable national and county legislation;
- (m) enter into such contracts, partnerships or joint ventures as it may consider necessary for the

discharge of its functions under this Act or other written law;

- (n) monitor and, where appropriate, regulate town services where those services are provided by service providers other than the Committee; and
- (o) Undertake any other function conferred by an Act of County Assembly.

(2) In addition to the functions set out in subsection (1), a Town Committee shall initiate an urban planning process for every settlement, within the town jurisdiction, with a population of at least two hundred residents.

**8.** (1) A person shall be eligible for appointment as a town committee member if the person— Eligibility

- (a) is a citizen of Kenya;
- (b) has been a resident of or has been the owner of property in the respective town for a continuous period of not less than fifteen (15) years prior to the appointment date;
- (c) meets the requirements of Chapter Six of the Constitution; and
- (d) is not disqualified for appointment to office by this Act or any other law.

(2) A town committee member shall be paid such allowance as shall be determined by the County Executive Committee member.

**9.** (1) A Town Committee shall, at its first sitting elect Chairperson and vice Chairperson to perform such duties as may be delegated by the Committee. Sittings of the town committee

(2) The Chairperson elected under subsection (1) shall chair meeting of the committee and shall be the head of the committee.

(3) The vice chairperson elected under subsection (1) shall in the absence of the chairperson perform the functions of chairperson and shall perform such other function as may be delegated by the chairperson or the committee.

(4) A Town Committee shall hold its sittings to transact the business of the committee once every three months.

(5) The Chairperson may, and upon request in writing by at least one-third of the members of the committee shall, convene a special meeting to transact any urgent business of the committee.

(6) A Town Committee shall hold their sittings at such places within the town as may be determined by the town administrators.

(7) The sittings of a Town Committee shall be open and easily accessible to the public unless, owing to the nature of the matter and for reasons to be recorded, it becomes necessary to exclude the public.

(8) The quorum at the sitting of town committee shall be one third.

(9) The decisions of a Committee shall be by consensus and where a vote becomes necessary by a simple majority.

(10) The proceedings of the Town Committee shall be recorded in writing.

(11) a Committee Member who fails to attend three consecutive sittings of the town committee without reasonable or acceptable cause shall be dismissed.

**10.** (1) Unless otherwise removed from office under subsection (2), person appointed as town committee member shall serve on a renewable contract term of five years.

Tenure of Office of  
the town committee

(2) Despite Section (1) a town committee member who is infective or is in breach of the terms of his or her appointment may be dismissed by the Governor in consultation with the Executive Committee Member responsible for public services.

(3) The office of a town committee member may otherwise fall vacant by reason of death or resignation in writing to the town administrator, or in the case of Town Administrator, to the Governor.

(4) A vacancy arising in the office of a town committee member shall be filled within 30 days in accordance with section (7) of this Act.

**11.** (1) The Town Committee shall issue directions on waste collection charges. Shall specifying the amount of payments

charge or charges to be imposed for different categories of services or for services in different localities or zones within the area of jurisdiction of the Committee; the mode of payment and receipt of the charges; and provisions as to the penalty or penalties for failure to pay the charges.

(2) Charges shall be collected by the person who provides the waste management services for which the charge is being levied.

(3) There shall be paid by every person or entity to whom a waste management service is provided, a waste charge imposed in accordance with the directions issued by the Town Committee.

**12.** (1) The Town Committee shall establish and implement a system of monitoring, inspections and enforcement of waste management activities and shall regularly inform the public of steps it is taking to implement and improve waste management within the township and the use to which the general cleansing levy is put in each year. Enforcement

(2) In addition to such penalties for non-payment as may be stipulated in the directions issued by the Town Committee for non-payment of charges for waste management services, any waste management charge payable under section 11 shall be a debt due and owing to collector and may be recovered as a civil debt at the instance of the collector or any person authorized by the collector to collect on its behalf.

**13.** Any person who refuses or fails to comply with any provision of Sections 11, 12, and 13 of this Act or gives false information in relation to any requirements of these Sections shall be guilty of an offence, and, in addition to any other penalty which may lawfully be available, shall be liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding six months or to both. Offences Penalties

**14.** (1) Subject to subsection (3), the Governor may in consultation with the County Executive Committee Member responsible for public service dissolve a town Committee where the town committee has failed to perform functions contemplated in section (6) of this Act. Dissolution of town committee

(2) A resident of a town may, in the prescribed manner and for reasons provided in subsection (1) of this section, petition the Governor to dissolve a town committee.

(3) Removal of the town administrator from office shall be in accordance with section (12) of this Act.

**15.** (1) The management of a Town shall be vested in a town committee and administered on its behalf by— Management of Town

(a) an administrator as provided in Section 31 (2) of the Urban Areas and Cities Act, 2011;

(b) such other staff or officers as a the county public service may determine.

(2) The administrator of a town shall—

(a) implementing the decision of the town committee;

(b) overseeing efficient management of the affairs of the town;

(c) develop and adapt policies, plans, strategies and program necessary for the growth of the towns;

(d) ensure preparation and submission of the town annual plan and budget estimates to the county treasurer;

(e) implement and monitor performance management system; and

(f) perform any other functions as may be delegated by the town committee or other county government body.

(3) In carrying out the functions and obligations in subsection the town administrator shall be responsible to the Governor.

**16.** A town administrator shall be competitively recruited and appointed by public Service Board of the Mandera county. Appointment of town administrator

**17.** (1) a person shall qualify to be appointed as town administrator if the person— Qualifications for appointment of town administrator

(a) is a citizen of Kenya;

(b) holds a degree from an institution or university recognised in Kenya or its equivalent; and

(c) has proven experience of not less than five years in administration or management either in the public or private sector.

(2) In appointing an administrator under subsection (1) the body responsible for county public service shall ensure—

- (a) compliance with the national values and principles of governance under Articles 10 and 232 of the Constitution;
- (b) gender equity;
- (c) the inclusion of minorities and marginalised communities; and
- (d) person satisfies the requirements of Chapter six of the Constitution.

**18.** A Town Administrator shall be removed from the office on the following grounds—

Removal from office

- (a) is unable to perform the functions of the office by reason of mental physical infirmity or death;
- (b) is convicted of a an offence and sentenced to a term of imprisonment of six months or more;
- (c) resigns in writing to the county governor;
- (d) is disqualified from holding a public office under the Constitution;
- (e) engages in any gross misconduct; or
- (f) abuse of office.

**19.** In the cases where vacancies arise in the office of a town administrator, the institution responsible for recruiting public servants in the county shall within appropriate period filled the position in accordance with section 11 and 12 of this Act.

Filling of vacancy of the town administrator

### **PART III—INTEGRATED URBAN AREAS AND TOWN DEVELOPMENT PLANNING**

**20.** (1) Every town established under this Act shall operate within the framework of integrated development planning which shall—

Objectives of integrated urban areas and city development planning

- (a) give effect to the development of urban areas and town as required by this Act and any other written law;
  - (b) strive to achieve the objects of devolved government as set out in Article 174 of the Constitution;
  - (c) contribute to the protection and promotion of the fundamental rights and freedoms contained in Chapter Four of the Constitution and the progressive realization of the socio-economic rights;
  - (d) be the basis for—
    - (i) the preparation of environmental management plans;
    - (ii) the preparation of valuation rolls for property taxation;
    - (iii) provision of physical and social infrastructure and transportation;
    - (iv) preparation of annual strategic plans for a town or urban area;
    - (v) disaster preparedness and response;
    - (vi) overall delivery of service including provision of water, electricity, health, telecommunications and solid waste management; and
    - (vii) the preparation of a geographic information system for a town or urban area;
  - (e) nurture and promote development of informal commercial activities in an orderly and sustainable manner;
  - (f) provide a framework for regulated urban agriculture; and
  - (g) be the basis for development control.
- (2) In addition to the objectives set out in subsection (1), an integrated urban or town development plan shall bind, guide and inform all planning development and decisions and ensure comprehensive inclusion of all functions.

**21.** A town or urban area integrated development plan shall be aligned to the development plans and strategies of the county governments.

Plan to align to county government plans.

**22. (1)** A town committee shall, within the first month of its appointment, adopt a single, inclusive strategic plan for the development of the town or urban area for which it is responsible.

Adoption of an integrated development plan

(2) An integrated development plan adopted by a town committee under subsection (1) may—

- (a) be reviewed and amended from time to time during the first term of the committee in accordance with Section (20) of this Act; and
- (b) shall remain in force until a new integrated urban area or town development plan is adopted by the succeeding town committee, but the incoming committee shall ensure that the viable projects are continued or completed.

(3) A town committee shall, within fourteen days of the adoption of its integrated development plan—

- (a) give notice of the adoption of the plan to the public in such manner as a committee may determine;
- (b) inform the public that copies of or extracts from the plan are available for public inspection at specified places; and
- (c) provide a summary of the plan.

**23.** An integrated urban area or town development plan shall reflect—

Contents of integrated town and urban area development plan

- (a) a committee's vision for the long term development of the town or urban area with special emphasis on the committee's most critical development needs;
- (b) an assessment of the existing level of development in the town or urban area, including an identification of communities which do not have access to basic services;
- (c) the committee's development priorities and objectives during its term in office, including its economic development objectives, community

needs and its determination on the affirmative action in relation to the marginalized groups access to services;

- (d) a committee's development strategies which shall be aligned with any national or county sectoral plans and planning requirements binding the town or urban area;
- (e) a spatial development framework which shall include the provision of basic guidelines for land use management system for the town or urban area;
- (f) a committee's operational strategies;
- (g) applicable disaster management plans;
- (h) a regulated town or urban area agricultural plan;
- (i) a financial plan, which shall include budget projection for at least the next one years; and
- (j) the key performance indicators and performance targets.

24. (1) The administrator shall submit to the executive committee, a copy of the integrated development plan as adopted by the committee within twenty-one days of the adoption or amendment.

Submission of integrated Towns development plan to the county governor.

(2) The copy of the integrated development plan submitted to the county executive committee shall be accompanied by—

- (a) a summary of the process of its formulation plan; and
- (b) a statement that the process has been complied with, together with any explanations that may be necessary to clarify the statement.

(3) The county executive committee shall, within thirty days of receipt of a copy of the plan—

- (a) consider the integrated development plan and make recommendations; and
- (b) submit the plan to the county assembly for its approval.

25. A town committee shall review its integrated development plan annually to assess its performance and may amend the plan where it considers it necessary.

Annual review of integrated development plan.

**PART IV – FUNCTIONS BETWEEN THE EXECUTIVE COMMITTEE MEMBER AND THE TOWN COMMITTEE**

26. The Town Committee and the Executive Committee Members shall—

Cooperation between the Executive Committee Members and the Town Committee.

- (a) perform their functions, and exercise their powers, in a manner that respects the functional and legal status of each other;
- (b) assist, support and consult and, as appropriate, implement the legislation of the County Government; and
- (c) liaise with one another for the purpose of exchanging information, coordinating policies and administration and enhancing capacity.

(2) The Town Committee, and different departments of the County Government, shall co-operate in the performance of functions and exercise of powers and, for that purpose, may set up joint committees and joint authorities.

(3) In any dispute between the Town Committee and the Executive Committee Members, the County Government shall make every reasonable effort to settle the dispute, including by means of procedures provided under county legislation.

27. The Executive Committee Members shall ensure that Town Committee has adequate support to enable them to perform their functions.

Support for town committee

28. (1) Except as otherwise provided by this Act, the functions and powers of the town committee are to monitor the implementation of county policies, laws and regulations at the town level.

Respective functions

(2) A function or power not assigned by this Act to a town committee is a function or power of the relevant county executive committee member.

(3) A function or power that is conferred on the town committee by this Act is a function or power within the

concurrent jurisdiction of the Town Committee and the respective county executive committee member.

**29.** A function or power of a county executive committee members may be transferred to a town committee by agreement between the respective county executive committee member and the town committee if—

Transfer of functions  
and powers

- (a) the function or power would be more effectively performed or exercised by the town committee; and
- (b) the transfer of the function or power is not prohibited by the legislation under which it is to be performed or exercised.

(2) If a function or power is transferred from a respective county executive member to a town committee—

- (a) arrangements shall be put in place to ensure that the resources necessary for the performance of the function or exercise of the power are transferred; and
- (b) responsibility for the performance of the function or exercise of the power shall remain with the respective county executive committee member.

#### **PART V—SOLID WASTE MANAGEMENET**

**30.** (1) The Town Committee has the primary duty to regulate waste and its management within the area of jurisdiction of the town.

Solid  
Management

Waste

(2) It shall be the duty of the Town Committee to arrange for the collection, treatment and disposal of, or otherwise dealing with, all domestic waste and street and other litter generated or otherwise arising within its area of jurisdiction and to take all necessary and reasonably practicable measures to maintain all places falling within its area of jurisdiction in a clean and sanitary condition at all times.

(3) for the purpose of subsection (2), the Town Committee shall prepare a waste management plan of its arrangements for managing waste arising within its area of jurisdiction, and shall establish and maintain schemes and or arrangements for the removal and destruction of, or

otherwise dealing with, all kinds of waste generated or otherwise arising within its area of jurisdiction.

(4) The waste management plan shall be approved by the County Executive Committee Members.

(5) For the purposes of carrying out its duty under subsection (2) above the town Committee may enter into such agreements with third parties as it deems appropriate including contracts, franchises, and concessions.

(5) The third parties mentioned in subsection (5) shall have a valid license from the Department responsible for matter related license and operate in accordance with terms and conditions of the license.

(6) The department responsible for issuing shall ensure that private waste operators have satisfied such requirements as to technical and financial capability.

(7) The town committee shall from time to time review the performance of waste operators and may demand suspension or cancellation a waste operator's license if—

- (a) the permit holder has breached the terms and conditions of the license or has been guilty of negligence in managing waste whose management is authorized by the license; or
- (b) there is some other reason which, the town Committee, finds to justify such action; or
- (c) Where it appears to the Town Committee that the continuation of activities to which a waste operator's license relates is causing or would cause pollution of the environment or danger to the public health.

(8) It shall be the duty of the person who generates trade waste or on whose premises trade waste otherwise arises to arrange for the collection, treatment and disposal of thereof and to take all necessary and reasonably practicable measures to ensure that such waste is not released into the environment so as to cause pollution thereof.

(9) It shall be the duty of every occupier and every owner of premises wherein any hazardous waste or clinical

waste is generated, to make suitable arrangements, including the separation of such waste from other non-hazardous waste or non-clinical waste, to the satisfaction of the Town Committee, for the proper management of the waste and in doing so shall comply with any directions issued by the Town Committee.

(10) It shall be the duty of every occupier and every owner of premises wherein bulk waste is generated to make suitable arrangements for the disposal of such waste and in doing so shall comply with any directions of Town Committee.

(11) Every occupier or tenant of any residential dwelling shall provide and maintain to the satisfaction of the Town Committee for the collection of domestic waste, a container of a sufficient size, and fitted with a good and effective lid, in which shall be placed daily the domestic waste from the said residential dwelling in so far as the said container shall be sufficient to contain the same;

(12) Every occupier or tenant of any trade premises shall provide and maintain to the satisfaction of the Town Committee a container of a sufficient size, and fitted with a good and effective lid, in which shall be placed daily the trade waste from the said premises in so far as the said container shall be sufficient to contain the same.

(13) If it appears to the Town Committee that there is likely to be situated on any premises within its area trade waste of a kind or in quantities which, if not stored in containers of a particular kind, is likely to cause a nuisance or to be detrimental to the amenity of the locality in which the premises are situated, the Committee may, by notice served on the occupier, require him to provide at the premises, containers of such kind and number as shall be specified in the notice for the storage of such waste.

(14) Occupiers of domestic and trade premises shall separate waste which can be recycled and place it in a different container provided by the Town Committee or the waste operator, as the case may be, for the purpose.

(15) It shall be an offence to burn, throw away, or otherwise dispose of domestic and trade waste other than by handing it, or where there is an arrangement to that effect, by leaving it at an appropriate place and in an

appropriate container, for collection by a licensed waste manager or a registered waste transporter.

**31.** (1) No person shall dispose of waste other than in permitted disposal areas or at an approved disposal facility. Disposal

(2) It shall be the duty of the Town Committee to provide places at which to deposit waste before its transfer to any other place for its final disposal and places at which to dispose of waste and plant and equipment for processing or other disposal thereof.

(3) The Town Committee may permit another person to use facilities provided by it for solid waste disposal with or without a charge as may be appropriate.

(4) The person in charge of the waste disposal facility and the person delivering waste to the facility shall maintain a record of all waste loads disposed of at the facility.

(5) The record shall take the form of a delivery note signed by both parties at the time of disposal of each load and shall be kept for a period of five years and availed to the Town Committee on request within that period.

#### **PART VII—GENERAL NUISANCE**

**32.** (1) The Mandera County Air Pollution, Noise Pollution, Nuisances and Outdoor Advertisements Act, 2013 shall apply to the General nuisance in towns. Nuisance

(2) Without prejudice to the generality of subsection (1) any person who shall—

(a) in any street or in connection with any shop, business premises or other place which adjoins any street or to which the public access.

(b) upon any other premises by playing, operating, or causing to be operated or suffering to be played or operated any musical instrument wireless. Loud speaker, gramophone, amplifies or similar instrument make cause to be made or so continuous or repeated as to cause annoyance to occupants or inmates of any premises in the neighborhood or to passerby on a street shall be guilty of an offence.

(c) install maintain, or use or permit the installation maintenance and use in any factory or workshop

which, by reason of smoke, fumes, chemical, gases, smell noise dust, vibration or other cause may be or become a source of danger discomfort or annoyance to occupants of any premises in the neighborhood shall be guilty of an offence.

(d) use animal watering trough or any water fountain erect in any public place for the purpose of washing of clothes or any article shall be guilty of an offence.

(3) Any person who

(a) flies or permits to be flown any kite in any place traverse by overhead electric cables throws or permits to be thrown any string, rope or wire within the view of any overhead electric cables; or

(b) commits nuisance in a public place shall be guilty of an offence.

(4) Any person who shall without lawful authority deposit or cause or permit to be deposited any soil, regulation, refuse debris or animal waste, saw dust on any land in the township, shall be guilty of an offence.

(5) Any person who shall, keep within the township any animal or poultry which causes a nuisance to any of the residents in the neighborhood shall be guilty of an offence.

(6) Any person who shall, except with the written permission of the town committee, and subject to such condition as he may deem fit, keep within the township a game animal, reptile other than lizard or any ass, mule, or bull, cow, goat, camel, sheep or pig shall be guilty of an offence.

(7) Any person who is under control or in this custody—

(a) any game animal or reptile or any ass, mule or goat, camel, sheep or pig which causes nuisance or annoyance to any of the residents;

(b) any person with an animal, reptile poultry or bird which wanders on a street in such a manner as to cause obstruction or inconvenience to traffic shall be guilty of an offence.

**33.** (1) for the purpose of this section “structure” Roads and Streets includes a machine, pump post or other objects capable of causing an obstruction to a passenger or vehicle in a street.

(2) Where in the opinion of the town committee, any hedge, tree as unlawful structure or other growth is so placed or in such condition as—

- (a) to be a danger to any person or vehicle using the street; or
- (b) to interfere—
  - (i) the view along any street or from one street into another or
  - (ii) the use of the street by pedestrian or vehicle traffic.

The town committee may serve a notice to the owner or occupier of the land on which such hedge tree, unlawful structure or other growth is situated require him within such a period of time not being less than fourteen days shall be specified in such notice to cause the hedge tree structure, or other growth to be chopped, trimmed or removed,

(2) Any person who shall, without statutory authority or the consent of the town committee, given in writing erect or permit the erection of any structure in such a position that is cited in protrudes over a street shall be guilty of an offence.

(3) No person shall hang or erect or permit the attachment, hanging or erection of any premises in such manner that it protrudes over or into a street without permission of a town committee.

(4) The town committee may serve a notice on the owner or occupier of any premises from or alongside which an object has been attached, hung or erected in contravention of subsection (3) requiring the removal of the said object within a period specified in such notice.

(5) Any person who contravenes or fails to comply with subsections (4) and (5) or any conditions attached to a notice served under subsection (4) shall be guilty of an offence.

(6) Subsection (5) shall not apply to an advertisement licensed or permitted under any laws of the County Government for the time being in force.

(7) If in or any land adjoin a street, there source of an infected or inadequacy fenced source of danger to person using the street, the town committee, may be notice to the owner or occupier of the land, required him within such time not being less than seven days as may be specified in the notice, to excite such notice shall be guilty of an offence.

(8) Any person, who fails to comply with a notice served in pursuance of subsection (7) within the time in such notice, shall be guilty of an offence.

**34.** Any person who shall in any street or public place or in any place within the sight or hearing of any person therein— Disturbance

- (a) disturb the peace by quarrelling with any other person or use any violent scurrilous or abusive language.
- (b) commit any nuisance in any street or public place
- (c) commit any act contrary to public good
- (d) without statutory authority, deface the foot way or road way by other marks, deposit, obstruct or by writing of other marks.
- (e) cut, breakdown, a proof, chop or in any other manner destroy or injure or climb any tree or shrub growing in any street or
- (f) except in case of emergency sound any motor hour, cycle bell or any similar warning instrument shall be guilty of an offence.

**35.** (1) Any person who conducts pettily trade or places merchandise on the street with the intention of selling the goods shall be guilty of an offence. pettily trade

(2) The town committee may remove such goods, articles or materials which have been placed for sale on the street or pathways in contravention of subsection (1) and impound the same.

(3) The owner of such good, articles or materials removed from the street or pathway in pursuance of subsection (2) shall not be entitled to recover the same until he has paid to the committee fee as may be prescribed by the committee.

**36. Any person who—**

Washing car

- (a) wash or repair or paint or cause permit to be washed or repaired in any street or public place any car, cart, lorry, or vehicle of any kind of description;
- (b) circulate any depositing affixing or causing to be deposited or affixed in or upon any vehicle, whether a motor vehicle or any kind, standing in any street or public place or vacant plot within the town, any handbill or advertising matter or any description whatever; or
- (c) place or cause to be placed or left any vehicle or article or materials in a street in such a manner that it causes or is likely to cause an obstruction to a person or vehicle using the street shall be guilty of an offence.

**PART VII—FOOD AND STORES SHOP**

**37.** (1) The Town Committee shall ensure that a food shops and stores have license for the department responsible for trade. food shops and stores

**38.** Any person who is suffering from or knows himself to be carrier of any infectious or contagious or venereal disease, shall not work in any shop or store. Restriction on employment

**39.** In any shop or store where goods other than food are sold, exposed, or offered for sale, or as the case maybe, stored, the licensee or permit holder shall reserve a part of such shop or store in which nothing shall be kept or stored other than food, and no food shall be kept or stored in any other part thereof. Manner of storing food

**40.** A licensee or permit holder shall exhibit his permit in a prominent and conspicuous place in the premises to which it applies. Display

**41.** A licensee or permit holder shall take all such steps as may be reasonably necessary to protect food from risk of contamination and in particular, without prejudice to the generality of the foregoing, shall— Protecting Food

- (a) not so place food or permit it to be so placed as to involve any risk of contamination;
- (b) not place uncovered food at height of less than eighteen inches from the floor;

- (c) maintain his shop or store in a clean and wholesome condition;
- (d) comply with all the reasonable requirements of the medical officer of health intended or designed to ensure the sanitary and hygienic use of his shop or store;
- (e) permit holder shall provide and maintain a sufficient supply of hot and cold water;
- (f) maintain in a clean condition apparatus or utensils in the shop or store which is likely to come into contact with uncovered food; and
- (g) maintain in a clean condition any apparatus or utensil in the shop or store which is likely to come into contact with uncover food.

**42.** (1) A licensee or permit holder shall provide in a conveniently accessible position and maintain a sufficient number of wash-basins for the use of persons engaged in the handling of food. Wash basins.

(2) For each such wash-basin, a permit holder shall provide and maintain a sufficient supply of hot and cold water,

(3) At or near each such wash-basin, a permit holder shall provide adequate supplies of soap or other suitable detergent nail brush and a clean towel or other suitable drying facilities.

**43.** (1) A licensee or permit holder shall provide, in a conveniently accessible position and shall maintain in a condition an adequate number of suitable sanitary conveniences. Sanitary convenience.

(2) A licensee or permit holder shall not use or permit to be used for handling or storage of food any room which either—

- (a) contains sanitary convenience; or
- (b) communicates otherwise than through an intervening ventilated space with a room containing a sanitary convenience.

**44.** Any person engaged in the handling of food shall while so engaged— Manner of handling food.

- (a) keep as clean as may be reasonably practicable all parts of his clothing which may be liable to come into contact with food;
- (b) keep any open cut or abrasion on any exposed part of his person covered with a suitable and clean water proof dressing;
- (c) refrain from spitting; and
- (d) refrain from smoking.

**45.** (1) Any person engaged in the handling of food shall not use for the wrapping of open food any paper or wrapping material or container which is not clean or which is liable to contaminate the food and in particular, shall not allow any printed material other than printed material designed exclusively for wrapping or containing food to come into contact with any open food other than raw vegetables. Open food.

(2) Any person engaged in the handling of food shall not handle any unwrapped sweets, cakes, pastries or sliced cooked meat except with a suitable apparatus or instrument.

**46.** (1) The Town Committee shall ensure that a grocer's shop have a valid license from the department responsible for trade. Grocer's shop.

(2) A grocer's shop shall comply with the following requirements—

- (a) the floor is of rendered concrete or other durable and impervious material and is suitably drained; and
- (b) adequate yard space is provided, equipped with suitable refuse containers.

(2) no grocer's license or permit shall be issued in respect of a shop which does not so comply with subsection (2).

**47.** (1) The Town Committee shall ensure that a butcher's shop have a valid license from the department responsible for trade. Butcher's shop.

(2) A butcher's shop shall comply with the following requirements—

- (a) the unencumbered floor area of that part of the shop which is to be used for the sale of meat is not

less than 180 square feet and no horizontal dimension thereof is less than 12 feet;

- (b) the height from the floor to ceiling of that part of the shop which is to be used for the sale of meat is not less than 10 feet;
- (c) all walls are constructed of brick, stone or concrete with the interior surface rendered smooth and either tiled or painted with a light coloured washable paint;
- (d) the floor is of rendered concrete or other durable and impervious material and is suitably drained.
- (e) the shop front is glazed;
- (f) adequate cold storage space is provided;
- (g) suitable and adequate provision that no meat shall come into contact with any wall or be liable to obstruct or hinder the free passage of customers; and
- (h) adequate yard space is provided, equipped with suitable refuse containers.

(2) no butcher's licence shall be issued in respect of a shop which does not so comply with subsection (2).

**48.** (1) A licensee shall not trade in meat which has not been inspected by a health inspector or an officer authorized in that behalf and passed by him as being fit for human consumption.

No trading in uninspected meat.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence.

**49.** (1) A person engaged in the handling of meat shall while so engaged, wear a white outer garment of a pattern approved by the health department.

Manner of handling meat

(2) Any person who handles meat when not clothed in accordance with the provisions of subsection (1) and any licensee who permits any person to handle meat when not so clothed shall be guilty of an offence.

### **PART VIII—MISCELLANEOUS PROVISIONS**

**50.** (1) Water and sanitation services in the town shall be provided by the town in corporation with department responsible for water and sanitation.

Water and sanitation

(2) The Executive Committee Member responsible for water and sanitation shall ensure that Town Committee has adequate support to enable them to perform the functions mentioned in subsection (1) in appropriate manner.

(3) Arrangements shall be put in place to ensure that the resources necessary for the performance of the function mentioned in subsection (1).

**51.** (1) The fire brigade established under the Fire and Rescue Services Act, 2013 shall report their daily activities to the Town Committee. fire brigade.

(2) In the case of emergency the fire brigades remain under the directions of the Town Committee.

**52.** Where the Town Committee is satisfied that it is expedient for facilitating the passage of traffic, it may from time to time make an order as regards any public street in the town prohibiting the use of the street by hamali carts, donkey carts or hand carts either generally or subject to exceptions specified in the order and either at all times or at times, or days or during periods so specified. Control of hamali and handcarts

**53.** The Town Committee shall collaborate with the law enforcers to enforce the spirit and letter of the Cruelty Against Animals Act. Cruelty Against Animals

**54.** (1) The Town Committee shall ensure that any person who hawks within the town has a valid permit from the department responsible for trade. Unlicensed Hawkers

(2) There shall be issued with each permit a badge relating thereto.

(3) Every hawker shall whilst engaged in hawking, carry the permit with him and produce it on demand to an enforcement officer or to a duly authorized licensing officer of the town committee, and shall wear in a conspicuous place the badge relating to his permit.

(3) Any person who: Hawking—

- (a) hawks in the town without a permit issued by the relevant department; or
- (b) being the holder of a permit hawks in the town otherwise;
- (c) than in accordance with the terms and conditions thereof shall be guilty of an offence.

**55.** (1) No person shall engage in or carry any trade, occupation, business or profession, at any premises within the town unless such premises are permitted for the purpose of carrying on such trade, occupation, business or profession.

Unlicensed Premises  
and trades.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence.

**56.** The Town Committee or an authorized officer may remove, demolish or impound any illegal structure or kiosk business which he or she reasonably suspects is being used in connection with street trading or kiosk business at a place where street trading or kiosk business is prohibited, regardless of whether the structure is under the control of any person at the time or not.

Demolish of illegal  
structures

**57.** The Town Committee may issue a compliance certificate for any premises or business activities in the town.

Compliance  
Certificate

**58.** (1) No act, matter or thing done or omitted to be done by—

Protection against  
personal liability.

- (a) town administrator;
- (b) any member of the town committee;
- (c) any member of staff or other person in the service of the town; or
- (d) any person acting under the direction of the town administrator, shall, if that act, matter or thing was done or omitted in good faith in the execution of a duty or under direction, render that member or person personally liable to any civil liability.

(2) A person who is not exempted from liability under subsection (1) and who directs or concurs in the use of funds contrary to existing legal rules or instructions shall be accountable for any loss arising from that use and shall be required to make good the loss even if that person has ceased to hold office.

**59.** (1) The governance and management of a town shall be based on the following principles—

Principles of  
governance and  
management.

- (a) recognition and respect for the constitutional status of county governments;

- (b) recognition of the principal and agency relationship between the town and their respective county governments including—
  - (i) the carrying out, by a town, of such functions as may be delegated by the county government;
  - (ii) financial accountability to the county government; and
- (c) promotion of accountability to the county government and residents of the town;
- (d) institutionalised active participation by its residents in the management of the town;
- (e) efficient and effective service delivery; and
- (f) clear assignment of functions.

(2) All issues that may arise with regard public service, citizen participation, public communication, civic education and public services deliver shall be dealt with in accordance with the County Government Act or any other county laws.

### **PART IX—FINANCIAL PROVISION**

**60.** (1) The funds of a towns consist of—

Funds of the Towns

- (a) monies allocated by a County Government for the purposes of the management and service delivery of the town;
- (b) monies or assets that may accrue to the town in the course of the exercise of its powers or the performance of its functions under this Act or any other relevant law; and
- (c) all monies or grants from any other legitimate source provided or donated to the town;

(2) No payment shall be made out of the funds of a town unless it has been provided for in the approved annual or revised or supplementary estimates of expenditure and authorized by the Member of the County Executive responsible for finance.

(3) (1) The executive member for finance may make regulations, for the better carrying out of the provisions of this Section.

(4) Regulations made under subsection (3) shall be tabled before the County Executive Committee Members for approval, and shall not take effect until such approval is obtained.

**61.** (1) The Town Committee may make regulations <sup>Regulations</sup> on—

- (a) Daily operation of fire brigade;
- (b) Requirements of Petrol stations;
- (c) Quarrying and sand Activities
- (d) Donkey Carts
- (e) Management of Public market
- (f) Sewage
- (g) Water and sanitation
- (h) Public health
- (i) Land use
- (j) Town physical planning and unclassified roads
- (k) Street lighting
- (l) Libraries
- (m) Child care facilities
- (n) Community centres and radio
- (o) Guest houses
- (p) Miscellaneous requirements of—
  - (i) Medical facility;
  - (ii) Restaurant;
  - (iii) Eating house;

- (iv) Snack bar; and
- (v) Food, shops or stores; and
- (q) Any other matters for the administration of this Act.

(2) Regulations made under subsection (1) shall be tabled before the County Executive Committee Members for approval, and shall not take effect until such approval is obtained.

**62.** This Act repeals all by laws in the county before the coming into effect of this Act Repeal of by-laws

**63.** In case of any conflict between this Act and any other law, this Act shall prevail. Conflict of laws