

**SPECIAL ISSUE**

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REPUBLIC OF KENYA

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**MANDERA COUNTY GAZETTE  
SUPPLEMENT**

**BILLS, 2014**

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**NAIROBI, 28th August, 2014**

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**THE MANDERA COUNTY PUBLIC WORKS BILL,  
2014**

**A Bill for**

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

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

**PART I—PRELIMINARY**

1. This Act may be cited as the Mandera County Public Works and Services Act, 2014. Short Title.

2. In this Bill unless the context otherwise requires— Interpretation.

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

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

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

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

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

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

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

## **PART II—STORM WATER MANAGEMENT**

**3.** The Executive Member may —

Provision of infrastructures.

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

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

**4.** A person shall not, unless with the written consent of the Executive Member and subject to any conditions it may impose —

Protection of storm water system.

- (a) discharge, permit to enter or place anything other than storm water into the storm water system;
- (b) damage, endanger, or destroy the storm water system or its operation;
- (c) construct or erect any structure or thing or over or in such a manner to interfere with or endanger the storm water system or its operation;
- (d) discharge, permit to enter or place anything likely to cause storm water pollution;
- (e) make an opening into a storm water pipe, canal or culvert;
- (f) drain, abstract or divert any water directly from the storm water system; or
- (g) fill, excavate, shape, landscape, open up or remove the ground above, within, under or immediately next to any part of the storm water system.

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

Prevention of flood risk.

**6.** (1) The conditions which the Executive Member may impose in Section 3 and 4 may include—

Studies and assessments.

- (a) the establishment of flood lines;
- (b) the undertaking of impact assessments; and
- (c) environmental impact studies or investigations which may be required by any applicable environmental laws.

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

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

Water pollution incidents.

(2) The Executive Member may in its opinion require that such persons take all reasonable measures to minimize the effects of the pollution at their own cost.

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

Storm water systems on private land.

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

(2) the provisions of subsection 1(b) do not apply to the extent that the county has accepted responsibility for any of the duties in a formal agreement or in terms of a condition of a servitude.

**9.** The county executive member for the time being responsible formatters related to public works may make regulations relating to the manner of disposing water falling or coming to rest within private property.

Regulations.

**PART III—WATER AND SANITATION SERVICES**

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

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

- (a) by a person to his employees; or
- (b) on the premises of an institution including a hospital, factory, school, hotel, research station or other institution of a like nature to the occupants thereof, in cases where the source of supply of the water is lawfully under the control of the institution or where the water is supplied to it in bulk by a licensee.

**11.** (1) The Executive Member may, in consultation with Executive Member Responsible for water, may set up a water supply system and may authorize any persons to use its services by issuance of a licence. Water supply systems.

(2) The Executive Member may, in consultation with Executive Member Responsible for water, may provide metred water supply.

**12.** (1) The Executive Member may, in consultation with Executive Member Responsible for water, grant to any person a license to provide water upon such terms and conditions as it may prescribe. Water Service Providers.

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

(3) No person may obtain water for industrial use from any source other than the distribution system of a water services provider nominated by the county government.

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

**14.** (1) The Executive Member may, in consultation with Executive Member Responsible for water, may at any reasonable time take water samples from any water supply for the purpose of making an analysis thereof. Taking of Water sample.

(2) where upon making such analysis it finds that the water is unfit for human consumption, the department shall

take all such reasonable steps to warn inhabitants of that area that the water is contaminated.

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

**15.** (1) The Executive Member may, in consultation with Executive Member Responsible for water, may by order prohibit the erection or retention of temporary dwellings on any land or water in their sanitary district if they are of opinion that such erection or retention would be prejudicial to public health or the amenities of the locality.

Prohibition of temporary dwellings in sanitary district.

(2) A person who erects or retains a temporary dwelling in contravention of an order in force under this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty thousand shillings, in the case of a continuing offence, to a further fine not exceeding fifty thousand shillings for each day on which the offence is continued.

**16.** The Executive Member may, in consultation with Executive Member Responsible for water, make, at its discretion, charges for the use of or admission to a bath, swimming bath, bathing place, convenience for bathers or washhouse maintained by them.

Charges for use of public bath.

**17.** The Executive Member may, in consultation with Executive Member Responsible for water, take such steps as are reasonably necessary to prevent injury being caused to public health or the amenities of any locality by reason of obstructions in any river or watercourse.

Obstructions in rivers and watercourses.

**18.** The owner of a public place at which toilet facilities are provided shall ensure that—

Indoor toilet Facilities.

- (a) the toilet facilities are installed and maintained so that they are accessible to the persons for whom they are intended;
- (b) the toilet facilities are maintained in a clean and sanitary condition and in good working order; and
- (c) hand washing facilities are provided at or near the toilet facilities.

**19.** The owner of an outdoor privy shall ensure that—

Outdoor toilet facilities.

(a) the outdoor toilet—

- (i) is located and maintained so that no nuisance is created;
- (ii) is maintained in a clean and sanitary condition and in good working order; and
- (iii) is protected so that vermin do not have access to the contents; and

(b) in the case of an outdoor pit latrine, the contents are covered with earth or other suitable material when the outdoor pit latrine is abandoned or removed.

**20.** The county executive may make regulations on any matter necessary for the carrying out of the provisions of this Bill.

Regulations.



**MEMORANDUM OF OBJECTS AND REASONS**

A Bill for An Act of the Mandera County Assembly to make provision for storm water management, county water services and sanitation and for related matters.

ADAN ABDI NURROW,  
*Chairman, Roads, Public Works and Transport Committee.*