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KISUMU COUNTY BILLS, 2020

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3— Purpose of the Act (*Wach maduong’*): *Gi momiyo olos chike gi en mondo Kisumu county okau okang’ mager kendo ewang’ saa mondo ochop weche madwarore kete maber, weche loso kaka ibiro yudo kendo tiyo gi pesa mag thiro gik maricho ma lokruok mag luasi kelo*

4— Guiding values and principles (*Chike ma oteno wachni kendo ma oyengoree*)

THE KISUMU COUNTY CLIMATE CHANGE BILL, 2020

A Bill for

AN ACT of the County Assembly of Kisumu to provide for a regulatory framework for enhanced response to climate change; to provide for mechanism and measures to achieve low carbon climate development; financial mechanism for implementation of climate change adaptation activities and connected purposes.

ENACTED by the County Assembly of Kisumu as follows—

PART I— PRELIMINARY

Short title

1. This Act may be cited as the Kisumu County Climate Change Act, 2020.

Objects and Purpose

2. The purpose of this Act is to ensure that Kisumu County takes effective and timely action to meet its obligations under the Convention and Protocol by facilitating the establishment of a mechanism to finance climate change programs and projects in the County through—

- (a) mainstreaming of climate change in different sectors;
- (b) initiating and coordinating financing of climate change adaptation and mitigation projects at the community level; enhancing climate finance mechanisms;
- (c) facilitating community-initiated climate change adaptation and mitigation projects;
- (d) coordinating collection and dissemination of climate change information to the public to create awareness and preparedness;
- (e) seeking and receiving grants from the National government and relevant implementing partners;
- (f) providing support to the national climate change policy and legislative framework.
- (g) implementing any relevant obligations of the State under international agreements related to climate change;
- (h) strengthening the Climate Change Department and provide it with adequate mandate and authority to enable it to coordinate, supervise,

regulate and manage all activities related to climate change,

- (i) requiring lead agencies including government, departments, and agencies, private sector, and individual citizens to undertake their own respective roles in climate change response measures;
- (j) Providing for procedural and administrative matters.

Guiding values and principles

- 3.** (1) In fulfilling its mandate, the County Government, the Directorate and Values and principles the Council shall act in accordance with the values and principles set out in the Constitution and any other written law.
- (2) The guiding values and principles of low carbon climate change resilience and development in this section shall bind the County Government and all persons when—
- (a) enacting, applying or interpreting any provisions of this Act; and
 - (b) making or implementing public policy decisions on climate change

PART II—INSTITUTIONAL ARRANGEMENTS

Establishment of the Fund

- 4.** (1) There is established the Kisumu County Climate Change Fund, which shall be a financing mechanism for climate change actions and interventions in the ward approved by the Climate Change Council
- (2) The administration of the fund shall be done as per the Kisumu County Climate Change Fund Regulation, 2020
- (3) There is established the office of the Fund Administrator which shall be administered as per the Kisumu County Climate Change Fund Regulation, 2020.

Climate Change Directorate

- 5.** (1) There shall be established, the Climate Change Directorate within the relevant Department where climate change mandate is domiciled.
- (2) The Directorate shall be headed by a Director of Climate Change who shall be recruited and appointed by the County Public Service board.
- (3) The Directorate shall, on behalf of the Council, perform functions as may be specifically set out in this Act and in Regulations.
- (a) advising the CECM on policy and strategic planning and all matters related to Climate Change in the County.
 - (b) providing secretarial services to the County Climate Change
 - (c) Council Committee;
 - (d) implementing policies adopted by the Committee;
 - (e) coordinating, mainstreaming and integrating climate change programs into the sectoral strategic plans,
 - (f) establishing and maintaining a relationship with County, regional and international organizations, institutions and agencies as may be appropriate for the implementation of the climate change policy and recommendations of the committee;
 - (i) promoting and cooperating in the development, application and diffusion, including transfer of technologies, practices and

Reports

The Directorate shall prepare an annual report on climate change and shall submit the report to County Executive Committee Member for consideration and presentation before the Executive for approval and for onward submission to the Assembly by the 31st March of every year immediately following the year that is the subject of the report.

The annual report shall contain information on the implementation of this Act, and of the County Climate Change Policy, including—

-the state of mitigation of and adaptation to the adverse effects of climate change within Kisumu;

County Climate Change Council

There is established a Council to be known as the Kisumu County Climate Change Council.

The Council shall comprise the following members—

- (a) the Governor, who shall be the Chairperson and in his absence the deputy governor shall be the chairperson;
- (b) the Committee Executive member (CECM) of the relevant department where Directorate of Climate Change is domiciled who shall be the secretary.
- (c) chief officer of the department responsible for Finance and economic planning;
- (d) chief officer of the department responsible for agriculture, livestock and fisheries;
- (e) chairperson of the relevant committee from the County Assembly;
- (f) the city manager;
- (g) a representative of the private sector;
- (h) a representative of the civil society organization whose activities are related to climate change; and
- (i) a representative of the academic and private institutions.

(2) In making these appointments to the Council, consideration has to be made to the two-thirds gender rule and the provisions of Article 27 of the Constitution shall apply.

(3) A person shall be qualified for appointment under S.8(2) (g), (h) and (i) respectively if the person—

- (a) is a resident of Kisumu County.
- (b) has knowledge and experience in any of the following fields

Remuneration

1. The County Climate Change Council, Climate Change Planning Committee and the Ward Climate Planning Committee shall draw an allowance for every sitting done based on the recommended rates from the Salaries Remuneration Commission (SRC) for committees of such mandates.

Functions of the Council

2. (1) The council shall—

advise the Department on policy and other strategic matters relating to climate change; approve the County climate change fund; ensure coordination among institutions

implementing climate change programs so as to minimize duplication of effort; liaise with the respective Department on issues affecting climate change; identify obstacles to the implementation of climate change policies and programs and make proposals for resolving the obstacles; act as the steering committee for climate change adaptation and mitigation projects; mainstream climate change projects, programs and activities in county planning and budgeting and ensure their approval and inclusion in the county integrated development plan; monitor disbursement; oversee budget execution; advice on partners' collaboration and domestication and implementation of the five year National Climate Change Action Plan through Council of Governors; ensure smooth flow of information across the lead agencies; mobilize resources for climate change actions in the county; and perform any other functions that may be assigned by the Governor.

The Council shall in the performance of its functions be responsible for Policy on climate change

Tenure of office

3. (1) A member of council under Section 8 (2) (g), (h) and (i) shall hold office for three years and is eligible for reappointment for a further term of three years only.

County Climate Change Planning Committee

There is established a County Climate Change Planning Committee

The committee shall comprise of—

- (i) Chief Officer responsible for Climate Change Directorate who shall be the Chairperson;
- (ii) County Director, Climate Change who will be the Secretary
- (iii) County Director, Agriculture
- (iv) Fund Administrator (ex-officio member)
- (vi) County Director, NEMA
- (vii) County Director, Economic Planning
- (viii) County Director, Environment
- (ix) County Director, Renewable energy/Industry
- (x) Representative from NGO consortium-Kisumu County
- (xii) A representative of persons living with disability
- (xiii) Representative of academia and research institutions

Functions of committee

The County Climate Change Planning Committee shall: Identify county wide climate change needs and vulnerabilities; Internal and external resource mobilization; Review, prioritize and sequence projects submitted by Ward Climate Change Planning Committees based on the set criteria; Provide additional technical support to improve the Sub- County Climate and ward Climate Change Planning Committees proposals; Organize inter-ward meetings to review, refine and collate proposals from wards into a list of prospective proposals for funding; Approve the successful proposals; Forward the approved project proposals to the County Climate Change Council through the County Executive Committee Member within which Climate Change Directorate falls for funding; Capacity build and train ward planning committees.

Service

The County Climate Change Directorate shall serve as the Secretariat of the Planning Committee.

Council Meetings

The Planning Committee shall meet at least once every two months Council Meetings

Remuneration

4. Members of the Planning Committee shall be paid such allowances as Remuneration the Salaries and Remuneration Commission may determine.

Ward Climate Change Planning Committee

5. There shall be established a Ward Climate Change Planning Committee in each ward.

Ward climate Change Planning Committee

The Ward Climate Change Planning Committees shall-

- (i) Hold consultative meetings with communities together with relevant government sectors, planners, agencies and local organizations
 - (ii) Participate in livelihood and resilience assessments to enable different community groups identify challenges arising from increasing climate variability.
 - (iii) Prioritize and design investments that will promote climate change resilience;
 - (iv) Prepare project proposals, aggregate and coordinate Ward resilience needs
 - (v) Prioritize proposals and submit them to the County Climate Change Planning Committee for consideration and approval.
- (b) Composition of WCCPC shall be as follows:
- (i) Chairperson elected by members of the committee and ratified by the Planning Committee.
 - (ii) Ward administrator (Secretary)
 - (iii) Village Council Administrators (Alternate Secretary)
 - (iv) Sub-County Agriculture Officer
 - (v) Sub-County Environment/ Water/ Climate Change Officer
 - (vi) Representative of Member of County Assembly
 - (vii) A Youth representative
 - (viii) Woman representative
 - (ix) A representative of the Community based Organizations actively operating in the ward on climate change actions
 - (x) A representative of people living with disability (PWDs)
 - (xi) National Government representative (Chief or assistant chiefs-Ex-official)
- (c) For appointment to the Committee a member shall;
- (i) Member of the committee must fulfill requirement of Chapter Six of the Kenya Constitution 2010.
 - (ii) Shall have basic knowledge of climate change.
 - (iii) Shall have a minimum basic education; preferably form four or its

equivalent.

- (iv) Shall be committed persons willing to serve the community
- (v) A resident of the given Ward Members nominated from the Community under this section 17(b) (vii – ix) shall be

subjected to public vetting facilitated by the Sub-County Climate Change/Environment officer.

- (d) The Ward Climate Change Planning Committee member will serve for a period of three years renewable once subject to performance.
- (e) The allocation of County Climate Change Fund to various projects in the Ward and County levels shall be done by the County climate change council using agreed criteria.
- (f) Members of the Ward Planning Committee shall be paid such allowances as the Salaries and Remuneration Commission may determine

Frequency of meetings

- (g) The Ward Planning Committee shall meet at least once in every quarter.

Period of meetings

- (h) Save for the inaugural and emergency meetings, which shall be held at the ward headquarters, regular meetings of the Ward Planning Committee shall be convened and held in the different locations of the ward on a rotational basis
- (j) The quorum for meetings of the Ward Planning Committee shall be two thirds of the members
- (k) A resolution of the Ward Planning Committee shall require an affirmative vote of more than one half of the membership present at a meeting, excluding the chairperson's vote which shall be a casting vote.
- (l) In the absence of the chairperson, the vice chairperson shall preside over a meeting, and in the absence of both the chairperson and the vice-chairperson, the members in attendance shall elect one of them to chair the meeting
- (m) Regular meetings of the Ward Planning Committee shall be scheduled in such a manner as to ensure that resolutions thereof are available in time for the next regular meeting of the Planning Committee

PART III – COUNTY CLIMATE CHANGE RESPONSE MEASURES AND ACTIONS

Framework Strategy and Program on Climate Change

The Department shall, within six months, from the coming into force of this Act, develop a Framework Strategy on Climate Change. The Framework Strategy shall serve as the basis for a program for climate change planning, research and development, extension, and monitoring of activities to protect vulnerable communities from the adverse effects of climate change.

- (2) The Framework Strategy shall contain information on the following—
 - (a) county priorities;
 - (b) impact, vulnerability and adaptation assessments;

- (c) compliance with international obligations;
- (d) research and development;
- (e) database development and management;
- (f) academic programs, capability building and mainstreaming;
- (g) advocacy and information dissemination monitoring and evaluation; and
- (h) gender mainstreaming

County Climate Change Action Plan

The Executive Committee Member shall in consultation with the Council Committee and relevant sectors and through a participatory process involving relevant stakeholders, formulate a County Climate Change Action Plan.

Every County Climate Change Action Plan shall be for a period of five years and shall run concurrently with the current National Climate Change Action Plan.

- (i) enhancing public awareness for effective participation in climate change response;
- (ii) monitoring, evaluation and periodic review to integrate learning and best practice in the implementation of the County Climate Change Action Plan

Approval of County Climate Change Action Plan

20. The County Climate Change Action Plan shall be approved by the Council and laid before the County Assembly for adoption

Biennial review of County Climate Change Action Plan

21. The Planning Committee shall undertake a biennial review of the implementation of the County Climate Change Action Plan and report to the Steering Committee

Local Communities Climate Change Action Plan

22. (1) The Local Communities Climate Change Action Plan referred to in subsection (1) shall be consistent with the Framework Strategy referred to in section 19 and the County Climate Change Action Plan referred to in section 20.

Mitigation and adaptation measures by multiple sectors

23. (1) the officers responsible for the sectors shall constitute a Forum referred to as the Multi-Sectoral Forum on Climate Change.

(2) The Forum shall be responsible for addressing climate change mitigation and adaptation matters that cut across all the sectors

Records

24. (1) A person or entity that carries on an activity in a sector specified under this Part shall collect data and keep records of-

- (a) the emission of greenhouse gases into the atmosphere;
- (b) the removal of greenhouse gases to a sink in the County; and
- (c) Such other matters as may be prescribed by regulation.

Mitigation by Lead Agencies

Mitigation of greenhouse gas emissions shall be undertaken in sector specific approach for matters that are specific to lead agencies; or in a multi sector approach for matters on climate change that cut cross all lead agencies.

Mitigation in land use

The officer responsible shall promote and enforce urban, peri-urban and rural planning of settlements, control and monitor land development and other land-use changes in a sustainable manner so as to better manage Greenhouse gas sources and sinks;

Mitigation and Adaptation in forestry

- 25.** (1) The officer responsible shall –
- (a) establish forest plantations through afforestation and reforestation programmes in non-forested areas and intensify afforestation and reforestation efforts in other areas

Mitigation and Adaptation in Wetlands

- 26.** (1) The officer responsible for promoting a balance between conservation and sustainable use of wetlands to reduce Greenhouse gas emissions.

Mitigation in agriculture

- 27.** (1) The officer responsible shall mainstream climate change mitigation matters in order to promote climate smart agriculture practices

Mitigation in energy generation

- 28.** (1) The officer responsible shall promote the use of renewable energy and the development of new clean energy technologies in order to reduce Greenhouse gas emissions.

Mitigation in energy utilization

- 29.** (1) The officer responsible shall promote conservation and efficient utilization of energy to reduce Greenhouse gas emissions and encourage the use of alternative fuels.

- (2) The officer responsible shall in the performance of the responsibilities in subsection (1)

–

- promote the development of energy conservation and efficiency projects in all sectors;

Mitigation and Adaptation in works and transport

- 30.** (1) The officer responsible shall in consultation with relevant departments, authorities and agencies–

- develop and implement a county transport policy and plan that addresses greenhouse gas mitigation matters;

Mitigation in waste management

- 31.** (1) The officer responsible shall promote sustainable use of solid and liquid wastes for energy generation and other uses.

Mitigation in Industries

- 32.** (1) The officer responsible shall promote cleaner production processes in industries to reduce the increase in Greenhouse gas emissions.

- (2) The officer responsible shall in the performance of the responsibilities in subsection (1)

–

- (a) promote new technologies in industries;
- (b) promote use of alternative fuels for lime kilns; and
- (c) consult with other relevant stakeholders to regulate and enforce emission reduction in industries

Adaptation to climate change

- 33.** (1) Adaptation to climate change shall be undertaken –
- (a) in a sector specific approach for matters that are specific to the lead agency; or
 - (b) in a multi sector approach for matters that cut across all lead agencies.

Functions of officer

- 34.** (1) The officer responsible shall—
- (a) promote climate change adaptation strategies that enhance resilient, productive and sustainable agricultural systems; and promote value addition and improve food storage and management systems in order to ensure food security as a factor of resilience.

Adaptation in water management

- 35.** (1) The officer responsible shall develop and implement measures for sustainable and long-term conservation, access and effective utilization and management of water resources.

Adaptation in fisheries and aquaculture

- 36.** (1) The officer responsible shall promote integrated fisheries and aquaculture resource management in order to ensure sustainable fisheries production

Adaptation in Biodiversity and Ecosystem Services

- 37.** (1) The officer responsible shall address the challenges posed by climate change impacts on biodiversity and ecosystems to ensure ecosystem health and provision of ecosystem services crucial to sustainable and resilient development.
- (2) The officer responsible shall in the performance of the responsibilities in subsection (1) –
- (a) identify biodiversity hotspots where only restricted development should be allowed, and establish programs and systems for sustainable land management in fragile ecosystems, such as grazing fields and hilly ecosystems;

Adaptation in health

- 38.** (1) The officer responsible shall establish adaptive mechanisms and early warning systems for diseases related to climate change.

Adaptation in wildlife and tourism

The officer responsible shall in consultation with relevant lead agencies develop a County wildlife adaptation strategy and conserve wildlife resources and plan for improved resilience of tourism resources and infrastructure to climate change;

PART IV – PARTICIPATION IN COMMUNITY CLIMATE CHANGE PROJECTS AND ACCESS TO INFORMATION

Participation in climate change projects

A village, ward or entity shall benefit or participate in the climate change projects in

Kisumu County.

(2) The Ward Climate Change Planning Committee shall provide guidelines on climate change projects indicating—

- (a) the type and size of the project;
- (b) the location of the project;
- (c) number of beneficiaries;
- (d) the anticipated contribution to sustainable development goals of Kisumu County; and
- (e) the anticipated total amount of greenhouse gas reduction if the project is on mitigation.

(3) The project brief shall be in the form prescribed in Schedule 1.

Project brief

39. (1) The Ward Climate Change Planning Committee shall, within thirty days after receipt of the project brief submitted under section 40, assess the viability of the intended project brief and where the Committee is satisfied that the intended project is viable it shall recommend that the

Village or the Community submit to the Ward Climate Change Planning Committee detailed project design document.

Approval for small scale projects

The beneficiary shall, in submitting an application for a small-scale climate change project—

- (a) state the location of the land on which the proposed project is to be situated, the approximate area of the land and evidence of ownership;

Obligations of the project applicant

40. (1) A project applicant under this Act shall carry out his or her activities in accordance with the terms and conditions set out in the letter of approval and this Act.

Monitoring and Evaluation of compliance

41. (1) The County Climate Change Planning Committee shall monitor, investigate and report on whether approved projects are in compliance with the conditions of approval or any requirement of this Act.

(2) In the performance of this function, the Climate Change Inspectors shall have powers necessary for purposes of monitoring and investigation including—

- (a) the power to enter premises of any entity and make an enquiry;

(3) A climate change project which has been cancelled from the register shall not benefit from the County climate change fund until it meets the compliance standards.

County strategy for climate change education and public awareness

Within one year of this Act coming into force, the Planning Committee shall develop a comprehensive county strategy for public education and awareness creation on climate change

Public sensitization to precede formulation of climate change response

Notwithstanding the provisions of section 49(3) the Planning Committee and Ward Planning Committees shall ensure that the development of any climate change response programme, plan, project or activity in the county is preceded by comprehensive campaign

of public sensitization and awareness creation to facilitate informed public participation.

The Planning Committee and the Ward Planning Committees shall report to the Steering Committee on public sensitization campaigns undertaken with reference to every climate change response programme, plan, project or activity in the county and demonstrate how the sensitization has made impact on the threshold of decision making.

The report on public sensitization and awareness creation on climate change programmes, plans, projects and activities shall be included in the reports of the Steering Committee under sections 31 and 36 of this Act.

Capacity building for effective public participation

The Steering Committee shall ensure that the Planning Committee and Ward Planning Committees implement comprehensive programmes of capacity building to equip individual citizens and communities in the county for effective participation in climate change governance and response.

Access to information

The Steering Committee, the Planning Committee, the Ward Planning Committee shall publish, publicise and ensure access to all important climate change information in their possession

PART V – MEASURING, REPORTING AND VERIFICATION

Measurement of emissions and removals of greenhouse gases

42. (1) The targeted greenhouse gas emissions, reductions of such emissions and removals of targeted greenhouse gases from the atmosphere shall be measured or calculated in tonnes of carbon dioxide equivalent.

County reference level

43. (1) The County reference level is the aggregate amount of –

- (a) net emissions of carbon dioxide for the baseline year; and
- (b) net emissions of each of the other targeted greenhouse gases for the baseline year and increased every calendar year following the baseline year by the percent of growth in gross domestic product.

(2) The County reference level shall be published in the Gazette

County reporting

44. (1) The Director of Climate Change shall cause to be prepared and delivered to the Council for its review annually, the County reports prescribed under subsection (5).

(2) The Council shall review the report within three months of receiving the report and if satisfied with the content, authorize the County Executive Committee Member to sign the County reports and forward them to the Climate Change Directorate in the discharge of the County obligations under the Convention.

(3) If the Council is not satisfied with a report, the Council may direct the Director to review the report and resubmit the revised version for further deliberation by the Council.

(4) The County Executive Committee Member shall table before the Assembly reports approved by the Council under subsection (2).

(5) The County communication report and bi-annual update report and such other reports required to be submitted to the Climate Change Directorate shall be prepared in accordance with the Climate Change Act, 2016.

County and international verifiers to be registered

45. (1) A person who intends to perform verification shall be registered with the Department as a registered verifier.

(2) A person registered under subsection (1), shall be a natural person.

Unregistered verification prohibited

46. (1) A person shall not verify or publish any oral or written statement that appears to comprise a verification or rejection of a County record of –

(a) emissions of carbon dioxide and other greenhouse gases into the atmosphere; or

others

Requirements for registration

47. (1) A person may apply to the head of Department for registration as a verifier if that person –

(a) is a resident in Kenya;

(b) meets the verifier accreditation criteria and requirements under the Convention;

(c) possesses qualifications appropriate to conduct verification; and

(d) pay prescribed fee to the county.

PART VI — FINANCIAL PROVISIONS

Climate Change Fund

48. (1) The Fund shall be vested in the County Treasury in a Special Purpose Account. The County Assembly shall, in appropriating monies ensure that monies contained in the Fund is **two percent** of the County's annual budget.

(2) There shall be paid into the Fund Account—

(a) monies appropriated from the Consolidated Fund by Law;

(b) monies received by the Fund in the form of donations, endowments, grants and gifts; and

(c) monies under an Act payable to the Fund.

Reporting Procedures

49. (1) In collaboration with County Treasury, County Climate Change Fund will fully adhere to Public Financial Management Act, 2012, international Public Sector Accounting Standards and any other applicable regulations to ensure that Public Funds are utilized and reported thereafter accordingly (Schedule 6)

(2) Any proposed amendments that may affect fund reporting must be shared with the head of treasury for appropriate guidance.

Maintenance of Financial Records

50. (1) The Ward Climate Change Planning Committees and the County Climate Change Planning Committee shall maintain full and accurate records of their Climate Change Fund expenditures records.

Annual estimates

51. At least three months before the commencement of each financial year, the Council shall cause to be prepared estimates of the revenue and expenditure of the Council for that year

PART VII – MISCELLANEOUS

Indemnity from personal liability

52. (1) The County Executive Committee Member, a member of staff or an authorized officer of the Department, shall not be personally liable in respect of any act done in the execution of powers or duties under this Act.

Dispute resolution

53. Any dispute that will emerge during the implementation of the legislation, will be resolved through relevant existing regulations domesticated in the county policies and laws.

PART VII—DELEGATED LEGISLATION

Regulations

54. The County Executive Committee Member may make Regulations for the better carrying into effect the provisions of this Act.

MORANDUM OF OBJECTS AND REASONS

The enactment of this Bill will not infringe on the Fundamental Rights and Freedoms as envisaged in the Constitution, 2010.

The enactment of this Bill shall occasion additional expenditure of public funds.

Dated the 10th August, 2020.

SAMSON AMESO,

Chairperson, Water, Climate Change, Environment and Natural