



County Government Of **KAJIADO**

WATER AND SANITATION POLICY

DRAFT FINAL REPORT

VARDE

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The Water and Sanitation Services Sector Vision

“A county with universal access to adequate, affordable, safe water and sanitation services”

Sector Mission Statement

“To develop technical capacity and mobilize financial resources to undertake water and sanitation services in the County”

FOREWORD

The County of Kajiado is predominantly a rangeland characterized with low rainfalls resulting in marked water resources scarcity. With a rapidly rising population especially in the emerging urban settlements, shrinking water sources and a drive for industrial growth to create wealth and employment; the need for an elaborate water delivery service is urgent. For this reason, the County Government of Kajiado initiated evidence-based policy formulation through public participation, to actualize development programming for water resources. By stimulating the sector growth, the primary goals are: to double water coverage from 40% to 80% within the next five years; provide adequate water for production purposes and improved sanitation; promote use of agile technology-based applications, services and enterprises; and sustainably conserve available water resources through Integrated Water Resource Management. This County Water Policy, 2019 has been developed in line with the mandate, vision and mission of the County government to ensure access to water by all county residents.

The county is endowed with local sub-catchments and low mountain catchments as well as the water towers of Chyulu Hills which it shares with the counties of Taita Taveta and Makueni; and the Mt. Kilimanjaro ecosystem on its borders with Tanzania. In an attempt to provide adequate water supply, the importance of the cross-county and trans-boundary water resources cannot be under rated. Without their protection and conservation the life-supporting ecosystem services and water security in the county would deteriorate with disastrous effects to the population. To this end, the co-operation and collaboration among counties neighbouring Kajiado; and between Kenya (in the case of this policy, Kajiado County) and Tanzania is paramount. Therefore a joint approach to cross-county and trans-boundary ecosystems' conservation covering sub-catchments and even significant water towers such as the Chyulu Hills and the Mt. Kilimanjaro, respectively; is necessary.

Kajiado County has high levels of poverty and low access to water services. The sanitation coverage is also poor such that less than 5% of the population has access to a toilet facility. Hence, the bare minimum is to deliver services to the underserved and poor populations in fulfillment of the constitutional right to adequate clean and safe water and sanitation. The target is to achieve a supply of 40 litres per capita per day.

Currently, the sanitation situation among the urban and rural populations in the County is poor. Although there is no county-wide survey data available indicating prevalence of water borne diseases, the County is known to suffer climate change and environmental conditions broadly falling into those supporting worm transmission, poor hygiene and poverty. Initial situational analysis suggests that the County is likely to have high prevalence of water borne diseases requiring intervention including provision of adequate safe and clean drinking water and sanitation. We have and still encounter challenges with regard to the governance and development of trans-boundary water resources, and more so cross-border sanitation planning and development. A case in point is the situation in Namanga Township. To this end we need to cultivate, develop and promote cross-border corporations, collaborations and partnerships.

With regard to growth of investments in the water sector, this policy recommends innovative funding arrangements and resource mobilization revolving around attracting more public and private money to water development. These include government funding, ring-fenced funding, grants from development partners, trans-boundary water resources' funding mechanisms, the Public-Private-Partnership funding model; and the private sector and other investments in the form of build-own-transfer, build-own-operate, and build-own-operate-transfer financing model. The execution of these funding strategies is expected to increase water coverage within the county while leveraging on bulk water transfer from neighbouring counties and international sources.

The framework and strategic directions provided in this policy address critical and emerging scenarios. The recommendations made should therefore cause legal reforms including the processing of a County Water Bill and associated regulations enabling optimal governance of the water sector to new highs. The CGK shall ensure that the envisaged instruments are designed to streamline the current chaotic situation in the water sector, and avert some of the County's worst sector indicators such as the proliferation of conflicts in the irrigated agriculture sub-sector. These approaches should steer the water sector to attaining gradual growth through structured development programming in provision of effective, efficient, agile, differentiated and targeted service delivery.

H.E. Hon. Joseph Ole Lenku
Governor, County Government of Kajiado

1	INTRODUCTION	1
1.1	BACKGROUND	1
1.2	PURPOSE OF THE POLICY	1
1.3	POLICY DEVELOPMENT PROCESS	1
1.4	LOCATION AND SIZE	2
1.5	PHYSICAL AND TOPOGRAPHIC FEATURES	2
1.6	ECOLOGICAL CONDITIONS	2
1.7	CLIMATIC CONDITIONS	3
1.8	ADMINISTRATIVE UNITS	4
1.9	SOCIO-ECONOMIC ACTIVITIES	4
2	WATER SECTOR REFORMS	6
2.1	HISTORICAL PERSPECTIVE	6
2.1.1	THE DRAFT NATIONAL WATER POLICY	6
2.1.2	THE NATIONAL HYGIENE AND SANITATION STRATEGY	7
2.1.3	NATIONAL WATER MASTERPLAN 2013	8
2.1.4	KAJIADO CIDP 2018-2022	9
2.1.5	2030 AGENDA FOR SUSTAINABLE DEVELOPMENT GOALS	9
2.2	LEGAL FRAMEWORK	10
2.2.1	THE WATER ACT 2016	10
2.2.2	COUNTY GOVERNMENTS ACT 2012	11
2.2.3	EAST AFRICA COMMUNITY TREATY, 1999	13
2.2.4	THE EAC REGIONAL EIA GUIDELINES FOR SHARED ECOSYSTEMS	13
2.3	INSTITUTIONAL FRAMEWORK	14
3	POLICY FORMULATION	16
3.1	OVERVIEW	16
3.2	KAJIADO COUNTY ADMINISTRATIVE UNITS	17
3.3	WATER SECTOR CHALLENGES	17
3.4	PURPOSE AND SCOPE OF THE POLICY	19
3.5	KEY GUIDING PRINCIPLES	19
3.6	POLICY DEVELOPMENT PROCESS	20
3.7	LINKAGES WITH STAKEHOLDERS	20
4	SITUATION ANALYSIS.....	21
4.1	UNCOORDINATED FRAMEWORK TO INSTITUTIONALIZE DEVOLUTION IN WATER SECTOR	21
4.2	WATER SERVICE PROVIDERS	21

4.3	ABSENCE OF A POLICY AND LEGISLATIVE FRAMEWORK TO MANAGE THE DELIVERY OF WATER AND SEWERAGE SERVICES IN THE COUNTY	22
4.4	NON-REVENUE WATER	23
4.5	RESOURCES CONSTRAINTS FOR SERVICE DELIVERY	23
4.6	INCREASE IN POPULATION	23
4.7	CLIMATE CHANGE	23
4.8	EFFECT OF SOCIAL CULTURAL PRACTICES	24
4.9	CONFLICTS DUE TO WATER RESOURCES	24
4.10	LOW AWARENESS ON WATER CONSERVATION TECHNIQUES	24
4.11	CORRUPTION	25
4.12	ABSENCE OF A SEWERAGE SYSTEM IN THE COUNTY	25
5	POLICY GOAL, OBJECTIVES AND STRATEGIES.....	26
5.1	POLICY GOAL	26
5.2	POLICY OBJECTIVES AND STRATEGIES	26
5.2.1	OBJECTIVE 1: TO PROMOTE A COORDINATED FRAMEWORK TO INSTITUTIONALIZE DEVOLUTION IN THE WATER SECTOR	26
5.2.2	OBJECTIVE 2: TO ENTRENCH GOOD CORPORATE GOVERNANCE IN THE WATER SERVICE PROVIDERS	26
5.2.3	OBJECTIVE 3: TO DEVELOP AND IMPLEMENT A LEGISLATIVE FRAMEWORK TO MANAGE THE DELIVERY OF WATER AND SEWERAGE SERVICES IN THE COUNTY	27
5.2.4	OBJECTIVE 4: TO DEVELOP AND IMPLEMENT A NON-REVENUE REDUCTION PLAN	27
5.2.5	OBJECTIVE 5: ENSURE ENHANCED DELIVERY OF WATER AND SEWERAGE SERVICES	27
5.2.6	OBJECTIVE 6: MANAGE INCREASING POPULATION AND SCARCE WATER RESOURCES	28
5.2.7	OBJECTIVE 7: MITIGATION OF CLIMATE CHANGE TO MINIMIZE SCARCITY ON WATER RESOURCES	28
5.2.8	OBJECTIVE 8: PROMOTE INCLUSION OF RURAL POPULATION IN DELIVERY OF WATER AND SEWERAGE SERVICES	28
5.2.9	OBJECTIVE 9: MANAGE CONFLICTS ARISING FROM SHARED WATER RESOURCES	29
5.2.10	OBJECTIVE 10: PROMOTE AWARENESS ON WATER CONSERVATION TECHNIQUES	29
5.2.11	OBJECTIVE 11: ELIMINATE CORRUPTION IN THE DELIVERY OF WATER AND SEWERAGE SERVICES	29
5.2.12	OBJECTIVE 12: ENSURE ENHANCED SEWERAGE SERVICES	30
6	INSTITUTIONAL STRENGTHENING	31
6.1	INSTITUTIONAL FRAMEWORK	31
6.2	MONITORING AND EVALUATION	31
6.3	TRANSITION MECHANISM INTO THE POLICY REGIME	31
6.4	POLICY REVIEW	31
6.5	PROPOSED IMPLEMENTATION MATRIX	32

7	FINANCING AND IMPLEMENTATION	35
7.1	OVERVIEW	35
7.2	KEY ISSUES	35
7.3	INTERVENTIONS	35
7.3.1	COUNTY WATER SECTOR FORUM	36
7.3.2	COUNTY WATER SECTOR STEERING COMMITTEE (CWSC)	37
7.3.3	COMMUNITY WATER PROJECT MANAGEMENT COMMITTEES	37
7.3.4	TRANS-BOUNDARY WATER MANAGEMENT MECHANISMS	38
7.3.5	POLICY FINANCING	38
7.3.6	PLANNING AND PERFORMANCE MANAGEMENT	38
7.3.7	LEGAL REFORMS	39
7.3.8	MONITORING AND EVALUATION	39
7.3.9	STRATEGIC PARTNERSHIPS	40
7.3.10	INCENTIVES	40
7.3.11	SUSTAINABILITY	40

1 INTRODUCTION

1.1 BACKGROUND

Kajiado is desirous to create a locally responsive framework for coordination and governance of water services and enable the County increase coverage of water and sanitation services, including water for livestock and irrigation. For this reason, policy, legislation and the systems that potentially address all the relevant concerns must be developed in a manner that is context responsive, cognizant of good practice and the envisaged intentions of the Constitution of Kenya, 2010 and all relevant national legislation and policy.

The overall goal of this intervention is to create a better framework for coordination and governance of water services and enable the county to increase coverage of water and sanitation services. To do this, the county governments need sound policy and planning frameworks from which institutions may be anchored to manage the county's water resources and services more appropriately. The county governments recognize that most uses of water bring benefits to the county but most also have negative impacts which may be made worse by poor management practices, lack of regulation or lack of motivation due to the water governance regime in place.

1.2 PURPOSE OF THE POLICY

The Kajiado County Water Policy is developed to facilitate the implementation of county functions stipulated under Part 2 of the Fourth Schedule to the Constitution of Kenya, 2010, which assigns specific functions related to water sector to counties. In addition, the policy seeks to facilitate realization of Art. 43 (d), which provides for the right to clean and safe water in adequate quantities.

In addition, the policy seeks to provide for a mechanism for intergovernmental collaboration, consultation and coordination in water sector so as to ensure sustainable water sector management and governance. The policy will be implemented through water sector plan, laws related to water sector including regulations and rules, guidelines, and departmental strategic plans.

1.3 POLICY DEVELOPMENT PROCESS

The process of developing the County Water Policy involved comprehensive public participation consultations and workshops and public meetings at the Sub-county and County between March and May 2015. This involving the members of the technical county experts, Civil Society in the water sector, WRUAs, private sector practitioners including owners of water boreholes, the peoples representatives in the County Assembly and the National Parliament, communities, among others. Consultative meetings were held throughout the county with useful contribution being received from water sector stakeholders. The process also entailed interdepartmental consultations with county and national government experts in water sector.

This policy has been informed the Constitution of Kenya 2010, natural resources legislations, international law for trans-boundary waters, the county government laws, the national water policy, the water laws, basin-wide and water catchments level studies undertaken in the County to inform about water policy impacts on water resources and the socio-economic development of the county, vulnerabilities of ecosystems to climate change, appropriate coping measures, the private sector investments in the water sector, and water resource development options.

1.4 LOCATION AND SIZE

Kajiado County is located in the southern part of Kenya. It borders Nairobi County to the North East, Narok County to the West, Nakuru and Kiambu Counties to the North, Taita Taveta County to the South East, Machakos and Makueni Counties to the North East and east respectively, and the Republic of Tanzania to the South. It is situated between Longitudes 36° 5' and 37° 5' East and between Latitudes 1° 0' and 3° 0' South. The county covers an area of 21,900.9 square kilometres (Km²).

1.5 PHYSICAL AND TOPOGRAPHIC FEATURES

The main physical features of Kajiado County are plains, valleys and occasional volcanic hills ranging from an altitude of 500 metres above sea level at Lake Magadi to 2500 metres above sea level in Ngong Hills.

Topographically, the county is divided into three different areas namely; Rift Valley, Athi Kapiti plains and Central Broken Ground. The Rift Valley is a low depression on the western side of the county running from north to south. It is made up of steep faults giving rise to plateau, scarps and structural plains. The depression has important physical features such as Mount Suswa and Lake Magadi. The lake has substantial deposits of soda ash and it is commercially exploited.

The altitude ranges between 600 and 1740 metres above sea level. The Athi Kapiti Plains consist mainly of gently undulating slopes, which become rolling and hilly towards the Ngong hills. The altitude ranges from 1580 to 2460 metres above sea level.

The hills are the catchment areas for Athi River, which is fed by Mbagathi and Kiserian tributaries. The Central Broken Ground is an area stretching 20-70 kilometres wide from the northeastern boarder across the county to the southwest where altitude ranges from 1220 to 2073 metres above sea level.

1.6 ECOLOGICAL CONDITIONS

The county consists of three geological regions: quaternary volcanic, Pleistocene and basement rock soils. Alluvia soils are also found in some areas. Quaternary Volcanic soil is found in the Rift Valley. Basement System Rocks which comprise various gneisses, cists, quartzite and crystalline limestone, are found mainly along the river valleys and some parts of the plains. Pleistocene soils are found in the

inland drainage lake system around Lake Amboseli. Quarrying of building materials is also done within the county.

Most rivers in the eastern part of the Rift Valley drain toward the east while those within the floor of the valley are restricted to the small depressions and lakes that have no major outlets. It is within this region that Lake Magadi is found. The occurrence of ground water depends on climate, topography as well as origin of the underlying rocks. Ground water yields vary throughout the county from 0.01 to 35.77 cubic metres per hour. Average ground water is reported as good quality and is used for domestic, livestock and irrigation purposes.

High yielding springs are found on the slopes of Mt. Kilimanjaro with an average yield of 20m³/hr to 50m³/hr. Other sources of water for domestic and livestock use are sub surface sources such as water pans, dams and shallow wells. The amount of surface water varies from area to area.

Vegetation type in the county is determined by altitude, soil type and rainfall. In many instances it has been modified by animal and human activity. Grazing, browsing, charcoal burning, extraction of fuel wood and cultivation are the major causes of vegetation reduction. In the lower parts of Mt. Kilimanjaro, indigenous trees have been cleared to create room for agriculture. Vegetation is scarce in low altitude areas and increases with altitude. Ground cover throughout the county varies seasonally with rainfall and grazing intensity. Canopy cover ranges from less than 1% on heavily settled areas to about 30% on steep hills.

The county boasts of a wide range diverse fauna and flora. The animals include Wild Beasts, Gazelles, Zebras, Warthogs, Hyenas, Giraffes, Elephants, Lions, Leopards and Elands and diverse bird species. Areas designed for game reserves are; Amboseli National Park which covers a total of 392Km² and Chyulu conservation area which is 445Km². These areas fall within range lands.

1.7 CLIMATIC CONDITIONS

The county has a bi-modal rainfall pattern. The short rains fall between October and December while the long rains fall between March and May. There is a general rainfall gradient that increases with altitude. The bimodal rainfall pattern is not uniform across the County. The long (March to May) rains are more pronounced in the western part of the County while the short (October to December) rains are heavier in the eastern part. The rainfall amount ranges from as low as 300mm in the Amboseli basin to as high as 1250mm in the Ngong hills and the slopes of Mt. Kilimanjaro.

Temperatures vary both with altitude and season. The highest temperatures of about 34^o C are recorded around Lake Magadi while the lowest of 10^o C is experienced at Loitokitok on the eastern slopes of Mt. Kilimanjaro. The coolest period is between July and August, while the hottest months are from November to April.

1.8 ADMINISTRATIVE UNITS

Kajiado County is located in the Southern Side of Kenya, and is one of the Counties in Kenya where the Great Rift Valley passes through. The County borders the Kenya Capital; Nairobi as well as other Counties which include Machakos and Makueni Counties to the North Eastern Side, Kiambu and Nakuru Counties to the North and North Western Side, Taita Taveta County to the Eastern Side, Narok County to the Western Side and the Republic of Tanzania to the Southern Side. The County Covers an area of approximately 21,902 square kilometers and has approximately 687, 312 based on the KNBS 2009 census. With a population growth of 5.5%, the County is projected to have a population of one million people.

Administratively; Kajiado County is subdivided in to 5 sub counties namely; Kajiado North, Kajiado West, Kajiado Central, Kajido East and Kajiado South. The county has 25 county wards. Table below shows population by constituency. The estimated county population growth rate of 5.5%.

	Constituency	Population (2009 Census)	No of Wards
1.	Kajiado North	202,651	5
2.	Kajiado Central	102,978	5
3.	Kajiado East	137,254	5
4.	Kajiado West	106,933	5
5.	Kajiado South	137,496	5
	Total	687,312	25

The main urban areas in the county are Kitengela, Ongata Rongai, Kiserian, Ngong, Loitokitok, Namanga, Isinya and Kajiado. The 2012 projected urban population in the county stands at 191,827 which is 23.8 percent of the total population. The population of major urban centres is as shown in tables below shows population projections for other towns in the county.

1.9 SOCIO-ECONOMIC ACTIVITIES

Kajiado County has three main livelihood zones. These include; pastoral (all species) which account for 52%, agro pastoral (31%) and mixed farming (12%). The main occupation of most household heads was livestock herding (31.9%) and waged or casual labor (25.9%). Sale of livestock and casual labor formed bulk of income source for most house hold with 29.8% and 29.1% respectively implying that the current drought situation may have a significant impact on the households' income sources and eventually households' food insecurity. Table below is a summary of other sources of income by household heads.

Household head Main Occupation			Main Income Sources		
Livestock herding	195	31.9%	Sale of livestock	182	29.8%
Waged labour (Casual)	154	25.2%	Casual labor	178	29.1%
Own farm labour	75	12.3%	Sale of crops	69	11.3%
Petty trade	65	10.6%	Petty trading e.g. sale of firewood	52	8.5%
Employed (salaried)	57	9.3%	Permanent job	51	8.3%
Other Personal businesses	22	3.6%	No income	28	4.6%
Other Personal businesses	21	3.4%	Personal Business	22	3.6%
Merchant/trader	16	2.6%	Sale of livestock products	20	3.3%
Firewood/charcoal	6	1.0%	Sale of personal assets	4	0.7%
			Others	3	0.5%

2 WATER SECTOR REFORMS

2.1 HISTORICAL PERSPECTIVE

The National Water Policy of 1999 and the Water Act 2002 triggered extensive reforms to Kenya's water sector, bringing it in line with international best practice. The objective of these reforms was to improve water resource management, meet the growing demand for water services, attract more professionals into the sector, attract greater investment, and create a modernized sector that is robust and more capable of responding to emerging challenges such as climate change and urbanization.

Years of the operation of the water services sector has yielded benefits which the sector should not lose even as it implements devolution. Key features of the reform years included the following:

- ❖ Separation of policy from other functions
- ❖ Separation of water resource management and water service provision
- ❖ Separation of regulatory functions from investments and operations
- ❖ Separation of asset holding from operations and increased user participation
- ❖ Enhanced pro-poor orientation
- ❖ Socially responsible commercialization in the provision of water supply and sanitation services
- ❖ Conflict resolution which was conferred by the Water Act to the Water Appeals Board (Now Water Tribunal)

2.1.1 The Draft National Water Policy

The Draft National Water Policy of 2012 (NWP 2012) which was developed in response to the mandate, vision and mission of the ministry responsible for Water and Irrigation in Kenya was informed by the gains made during the past decade of implementation of reforms in the water sector anchored on the National Water Policy of 1999 (NWP 1999) also referred to as Sessional Paper No. 1 on National Policy on Water Resources Management and Development, the Water Act 2002, existing related policy documents, and the globally recognized Integrated Water Resources Management (IWRM) approach. These reforms culminated into the development of the WSSP 2010 – 2015, which was designed to institutionalize a stakeholder and participatory approach to the management of water affairs in the country.

The draft policy took into account requirements of the Constitution of Kenya 2010 with regard to (1) consideration of water as a natural resource, and (2) the right to water by all; the Kenya Vision 2030;

National Water Masterplan 2030; the Sustainable Development Goals (SDGs), and other national policies and Strategies. In this regard it informed the development of the Water Act 2016 which will replace the Water Act 2002.

The policy therefore consolidates the highlights of previous Water Sector reforms and the key elements of the good governance initiatives in the sector over the past 10 years which include;

- ❖ Subsidiarity and decentralization – In line with the government's overall decentralization policy, decisions in the water sector are made at the lowest appropriate level, making sector institutions more autonomous. For example, water utilities have been transformed into autonomous, registered and regulated shareholder companies, owned by the counties.
- ❖ Separation of service delivery, policy formulation and regulation to achieve higher efficiency and transparency.
- ❖ Increased equity achieved by aligning the sector with the human right to water and sanitation and by adopting a pro-poor approach in sector policies and strategies.
- ❖ Transparency and accountability measures include efforts by sector institutions reporting regularly to the public and by stronger enforcement of regulations and complaint mechanisms.
- ❖ The participation and empowerment of water users and consumers through WRUAs, WAGs and mechanisms such as public hearings at community level.

2.1.2 The National Hygiene and Sanitation Strategy

The National Hygiene and Sanitation Strategy recognizes that sanitation is now a constitutional right in Kenya. The Kenya Environmental Sanitation and Hygiene (KESH) Policy 2016-2030 lays out a robust framework for steering environmental sanitation and hygiene interventions in Kenya for the next fifteen years. The policy takes cognizance of the new dispensation under the Constitution of Kenya 2010, the Kenya Vision 2030 and the global Sustainable Development Goals (SDGs). The Policy is rights-based, designed to enable every person to enjoy to the greatest extent possible, the right to the highest attainable standard of health, the right to reasonable standards of sanitation, and the right to a clean and healthy environment. Functionally, the Policy provides the framework for the execution of the functions related to sanitation under the Fourth Schedule of the Constitution that are respectively assigned to the National Government and the 47 County Governments.

The Policy proceeds from the perspective that the Kenyan people will only achieve full prosperity when their rights to sanitation and a clean and healthy environment are assured. It is by the protection, promotion and fulfilment of these rights that a wide range of other rights and capabilities can be enjoyed. To this end, it provides broad guidelines for

both state and non-state actors at all levels as they work together towards ensuring universal access to improved sanitation and a clean and healthy environment by 2030. Primarily, the Policy aims to increase the proportion of the population with access to improved sanitation to 100 percent and ensure a clean and healthy environment for all in Kenya by 2030.

The broad objective of the Kenya Environmental Sanitation and Hygiene Policy is to ensure sustainable access to improved sanitation and hygiene by all Kenyans by 2030. This will be achieved by strategic interventions including eradicating Open Defecation (OD); ensuring complete access to improved sanitation in all rural and urban areas in Kenya; and increasing public investment in sanitation and hygiene from 0.2 percent to at least 0.5 percent of the GDP by 2020 and ultimately to 0.9 percent of the GDP by the year 2030.

This is pursued through eight (8) key objectives developed towards attaining the goal;

- ❖ To scale up rural and urban sanitation towards an open defecation free (ODF) Kenya and universal access to improved sanitation by 2030.
- ❖ To assure a clean and healthy environment for all Kenyans through appropriate technology choices for waste management and pollution control.
- ❖ To foster strong private sector participation and investment in creating sanitation demand and increasing uptake of appropriate products and services.
- ❖ To establish an enabling legal and regulatory environment for sanitation at both national and county levels.
- ❖ To strengthen institutional and human resource capacity of the environmental sanitation sector for efficient and effective provision of sanitation and hygiene services.
- ❖ To ensure sustainable financing for sanitation through public and private investment.
- ❖ To establish an effective research and development framework for sanitation to improve appropriate technology choices and promote evidence-informed sector decision-making.

To establish a functionally effective monitoring and evaluation framework for the sanitation sector to ensure maximum accountability in policy implementation at all levels.

2.1.3 National Water Masterplan 2013

The policy goal under Vision 2030 is to increase water and sanitation coverage to 100%. The NWMP 2013 consist of the following nine component plans for all the six catchment areas in the country.

Development Plans

- 1) Water Supply Development Plan
- 2) Sanitation Development Plan
- 3) Irrigation Development Plan
- 4) Hydropower Development Plan
- 5) Water Resources Development Plan

Management Plans

- 6) Water Resources Management Plan
- 7) Flood and Drought Disaster Management Plan
- 8) Environmental Management Plan

Institutional Plan

- 9) Institutional Strengthening Plan.

2.1.4 Kajiado CIDP 2018-2022

The 2018-2022 CIDP is aligned to the Medium Term Plan III and the Kenya Vision 2030. The plan further links to the delivery of the big four agenda and the Sustainable Development Goals (SDGs) where programmes and projects are aligned to achievement of the national agenda.

The Plan was prepared through an inclusive and wide-ranging consultative process which conforms to the requirements of the Constitution of Kenya on public participation in public policy-making. Its implementation framework will be anchored the governance structures of the County Government and most importantly the role of the National Government and other stakeholders/development partners at the county.

This plan provides for institutionalization of performance management to ensure efficient and effective service delivery. Measures that the county government is putting in place include Performance Contracting, Monitoring and Evaluation and an elaborate project management framework.

2.1.5 2030 Agenda for Sustainable Development Goals

2030 Agenda for Sustainable Development Goals envisages a better world and life for every person in every country for the current and future generations. One of the most important resources is water. The 2030 Agenda encourages more international cooperation, protecting wetlands and rivers, sharing water-treatment technologies—that leads to accomplishing the Goal of ensuring availability and management of water resources and sanitation for all.

Notably, the achievement of these goals hinges on the cooperation and working together of the international community to especially eliminate

extreme poverty. The shared resources all over the globe can be utilised towards this goal. Managing these resources sustainably and peacefully can ensure that all the interested states get their fair share. Indeed, it has been argued that transboundary water cooperation is a critical component to ensuring water and sanitation for all (SDG6) and an important requirement and catalyst for achieving other SDGs on poverty, food security, health and wellbeing, sustainable energy, climate action, ecosystem protection and peace. In transboundary basins where cooperation is lacking, it will be hard to achieve sustainable development for all.¹

2.2 LEGAL FRAMEWORK

In 2010, Kenya promulgated a new constitution - the Constitution of Kenya 2010 (CoK 2010). Fundamental to the new constitution was the creation of two levels of government, the national government and county governments. The ownership, use and regulation of water resources, consumer protection and national public works was assigned to the national government while county governments were assigned water and sanitation service provision, catchment management and county public works.

Further, the CoK 2010 entrenched the right to water and sanitation in the bill of rights, effectively making water and sanitation a human right. These developments created the need to align the Water Act 2002 to the CoK 2010. Consequently, the Water Act 2016 came into effect in April 2017 and is under implementation. The Act also promotes good practices especially in the water services sector on commercial viability, ring fencing of water services revenue, mechanisms of resolving consumer complaints and good governance at utility level.

2.2.1 The Water Act 2016

In order to realign the water sector with the Constitution of Kenya 2010 (COK 2010) a draft new Water Policy 2013 has been prepared together with The Water Act 2016 which was enacted in September 2016. The law was gazetted in April 2017 thus repealing the Water Act of 2002 in order to align it to the new Constitution of Kenya (COK 2010) and also takes cognizance of the achievement of the water sector reforms initiated by the Water Act 2002. The Act among others contains the following changes;

- ❖ Vests water resources in the national government gives control of water resource use in the Cabinet Secretary
- ❖ Provides for changes to the institutional framework as follows:
 - a) WRMA to WRA

- b) CAACs to Basin Water Resources Committee
 - c) WSBs to Waterworks Development Agencies
 - d) Local Authority WSPs to county government WSPs
 - e) National Water to Water Storage Authority
 - f) WSTF to Water Sector Trust Fund
 - g) Water Appeal Board to Water Tribunal
- ❖ The Water Act 2016 provides changes to the law on water resources as follows:
 - a) Water resources remain a national resource with control vested in the Cabinet Secretary
 - b) Allocation, regulation and augmentation remain functions of the national government to be exercised by national government entities.
 - c) Charging for water use retained
 - d) Provides for shared functions including planning, water storage and flood control.
 - ❖ Further, The Water Act, 2016 provides for changes to the law on water services as follows:
 - e) County governments are provided with the statutory right to incorporate WSPs
 - f) Ring fencing of water revenues continued – through corporatization of WSPs.
 - g) Water revenues may be used to repay loans borrowed for infrastructure investments.

2.2.2 County Governments Act 2012

The County Government Act of 2012 requires that each county in Kenya develop five key plans namely:

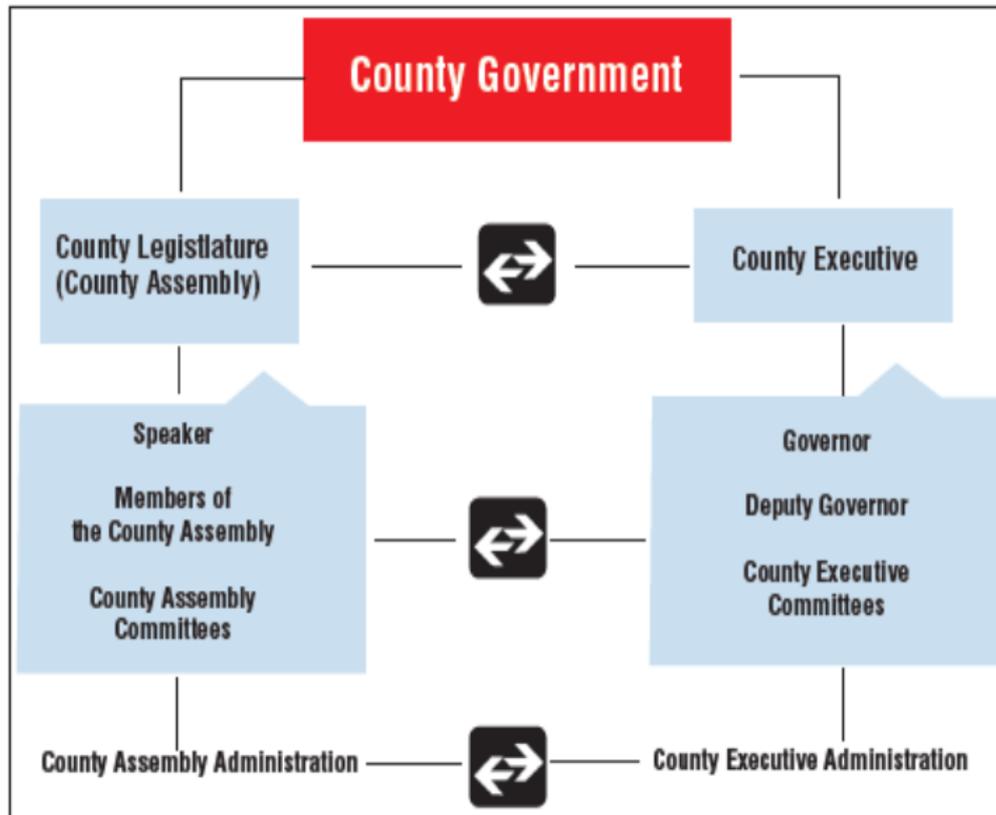
- ❖ County Integrated Development Plans (CIDP);
- ❖ County Sectoral Plans;
- ❖ County Spatial Plans;
- ❖ County Urban Areas and Cities Plans; and
- ❖ County Performance Management Plans.

Elements of Water & Sanitation Planning are covered under each of the above plans with the key plan being the CIDP.

Article 176 of the Constitution provides for County Governments which will comprise of the County Assembly and the County Executive. Each County government is allowed to decentralise its functions to the extent that is feasible.

County Governments get their mandate to provide water and sanitation services from the Fourth Schedule of the Constitution of Kenya 2010, pursuant to article 185 (2), 186 (1) and 187 (2) and the County Governments Act 2012 (CGA).

Further, article 174 (f) of the Constitution provides that one of the objects of the devolution of government is to promote social and economic development and the provision of proximate, easily accessible services throughout Kenya.



Ministry's National Water Policy of 2012 outlines the various roles of the County Government in water supply and sanitation services provision:

- ❖ Ensuring access to water and sanitation according to constitutional rights.
- ❖ Catchment management and protection by implementing water catchment activities at county level
- ❖ Provide adequate consumer protection - Interests of underserved consumers should be protected by regulations ensuring progressive achievement of the right to water.
- ❖ Financial management through investment and finance planning through development of 5- year development plan incorporating an investment and financing plan for the provision 'of water services in the rural areas.
- ❖ Safeguarding integrity, good governance and performance in water supply service delivery.
- ❖ Ring-fencing of income in the water sector and autonomy of management of WSPs. Increasing mobilization and efficient use of funds.

- ❖ Ensuring and coordinating the participation of communities in governance
- ❖ Cooperate and coordinate with other counties to ensure limited water resources make inter-county sharing of resources inevitable.
- ❖ Contribute to research and development in the water sector.

2.2.3 East Africa Community Treaty, 1999

The East African Community (EAC) as established by the East African Community Treaty is the regional intergovernmental organization of the Republics of Kenya, Uganda, the United Republic of Tanzania, Republic of Burundi and Republic of Rwanda with its headquarters in Arusha, Tanzania.

The EAC aims at widening and deepening co-operation among the partner states and other regional economic communities in, among others, political, economic, and social fields for their mutual benefit.⁷⁹ The objectives of the Community, as outlined in the treaty are, inter alia, to ensure sustainable growth and development among the partner states and to promote the sustainable utilization of the natural resources of the partner states and to take measures that would effectively protect the natural environment of the Partner States.

Articles 111 and 114 of the EAC Treaty provides for joint management and utilization of natural resources within the Community for the mutual benefit of the partner States. In particular, the Partner States are to: take necessary measures to conserve their natural resources; co-operate in the management of their natural resources for the conservation of the eco-systems and the arrest of environmental degradation; and adopt common regulations for the protection of shared aquatic and terrestrial resources.

With regard to conservation of these transboundary resources, the actions by the community shall have the objective: ensuring sustainable utilization of natural resources like lakes, wetlands, forests, and other aquatic and terrestrial ecosystems and to jointly develop and adopt water resources conservation and management policies that ensure sustenance and preservation of ecosystems.⁸

2.2.4 The EAC Regional EIA Guidelines for Shared Ecosystems

Noting the urgency to institute measures, policies, guidelines, laws and programmes that will promote their cooperation in the conservation and sustainable use of the shared ecosystems EAC has developed the regional EIA Guidelines for shared ecosystems. The regional EIA Guidelines are for enabling the identification and application of environmentally sound approaches to management and ensure the sustainability and biophysical integrity of the shared ecosystems within the East African region.

A criterion has thus been established for determining transboundary environmental impacts and the costs associated with conducting of these assessments are to be met by the developer of a certain project in

these areas. The Guidelines play an important role in the management and conservation of the shared ecosystems such as fresh water, forests and protected areas.

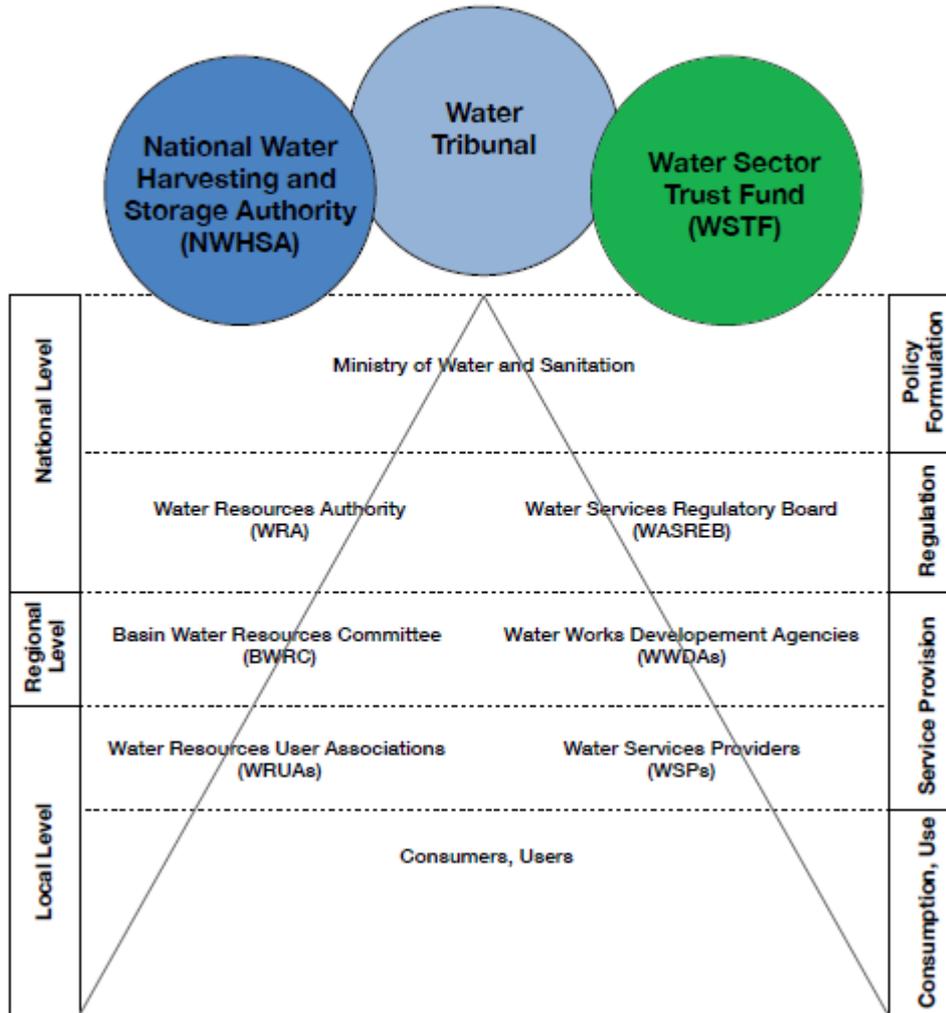
2.3 INSTITUTIONAL FRAMEWORK

The Water Act 2016 anticipates the formation and transformation of various water sector institutions to align to the constitution. Below are some highlights:

- ❖ The Water Services Regulatory Board (Wasreb), retains its name and role as a regulator of water services although with an enhanced mandate. This enhancement is particularly in the area of monitoring and the fact that the Regulator will now play a more direct role in the licensing of Water Service Providers (WSPs).
- ❖ The Water Resources Management Authority (WRMA) changes name to Water Resources Authority (WRA) with the mandate of regulation of the management and use of water resources at the national level. At the regional level, Catchment Areas Advisory Committees (CAACs) change name to Basin Water Resources Committees with the responsibility for the management of water resources at basin level.
- ❖ Water Services Boards (WSBs) are meant to transform to Water Works Development Agencies (WWDAs) with a mandate over cross-county public water works on a needs basis.
- ❖ The National Water Conservation and Pipeline Corporation changes name to National Water Harvesting and Storage Authority (NWWSA) with the mandate to undertake, on behalf of the national government, the development of national public works for water storage and flood control.
- ❖ Existing Water Service Providers (utilities) continue operating as county water service providers or cross county water service providers as the case may be. Other water service providers may be established by county governments as public limited liability companies under the Companies' Act 2015 but have to comply with the standards of commercial viability set out by WASREB. This also applies to any other bodies providing water services to the public.
- ❖ The Water Services Trust Fund (WSTF) changes from a financing mechanism to a financing institution and is renamed the Water Sector Trust Fund, with an expanded mandate for collaboration with County Governments and Water Resource Users Associations (WRUAs) over water service provision in underserved areas and catchment management respectively. Further, the WSTF has the mandate to mobilise financial resources from private investors for onward lending to creditworthy utilities and to promote research on water services and water resources. The core of its mandate is to assist in financing the development and management of water services in marginalised areas or any underserved area.

- ❖ The Water Appeals Board changes name to Water Tribunal. It has powers to hear and determine appeals from any person or institution directly affected by the decision or order of the Cabinet Secretary responsible for matters relating to water, the Water Resources Authority and the Water Services Regulatory Board. The tribunal also has powers to hear and determine any dispute concerning water resources or water services where there is a business contract, unless the parties have otherwise agreed to an alternative dispute resolution mechanism.

Figure:1.1: Institutional Framework under the Water Act 2016



3 POLICY FORMULATION

3.1 OVERVIEW

Water is the most important natural resource and is indispensable for life. It is the backbone of growth and prosperity for mankind. Water is life. Adequate supply of water is central to life and civilization. Food production as well as most of societies' other socio-economic activities depend on availability of water. Furthermore, the efficiency of food production is currently measured on the basis of a unit increase in the volume of production per unit volume of water. Water has been a very important factor in settlement development where it usually serves as human settlement boundaries.

Under Article 43(1) (d), the Constitution guarantees every person the right to clean and safe water in adequate quantities. It also demands that the State, which includes County Governments, put in place affirmative action programs designed to ensure that minorities and marginalized groups have reasonable access to water as provided for under Article 56 (e). In spite of these constitutional provisions there are a myriad of challenges facing the devolved governments that must be overcome before these aspirations can be realized.

Kajiado is considered to be averagely blessed with water resources with temporal and spatial variation in water availability in the county. The county's rangeland areas are generally characterized with low rainfalls. Historically, the county has had a bi-modal rainfall pattern that could be changing as seen in recent shifts mainly resulting in less reliability and increasing unpredictability. The short rains fall between October and December, while the long rains fall between March and May, accounting for 80% of the precipitation in the area. Since the elevation is an influencing factor, the area is associated with a general rainfall gradient that increases with altitude. However, the bi-modal rainfall pattern is highly differentiated across the county. The rainfall amounts range from as low as 300mm in Lake Magadi to as high as 1250mm in the Ngong Hills and on the slopes of Mt. Kilimanjaro. The remaining 20% of precipitation occurs at very high and potentially damaging intensities which explains the existing erosion gullies in the area.

Kajiado County has water resources which are sources of revenue. The county is well endowed with improved sources of water such as protected springs, wells, boreholes and rainfall. Kajiado is categorized as a water scarce county and most of its rivers are seasonal. The Tsavo River flows from the eastern slopes of Mt. Kilimanjaro, provides water to Loitokitok Sub County. This river is perennial in the upper parts. High yielding springs are found on the slopes of Mt. Kilimanjaro with an average yield of 20m³/hr to 50m³/hr. Ngong hills springs also provide

water in some parts of Ngong and Kiserian towns. Ground water yields vary throughout the county with reportedly good average water quality and salinity problem in some areas of the county (e.g. Amboseli region). Other sources of water for domestic and livestock use are sub surface sources such as water pans, dams and shallow wells as well as seasonal streams and lakes.

3.2 KAJIADO COUNTY ADMINISTRATIVE UNITS

Kajiado County is located in the South Western region of the Republic of Kenya. It is situated between Longitudes 36° 5' and 37° 5' East and between Latitudes 10° 0' and 30° 0' to South. The county covers a total area of 21,900.9Km². To the North East, it borders Nairobi County; to the West, Narok and Nakuru Counties; to the North, Kiambu; to the South East, Taita Taveta County; to the North East and East, Machakos and Makueni Counties, respectively and the Republic of Tanzania to the South.

The county is exclusively located within the geographical realm of the Great Rift Valley, a low depression on the western side of the county running from north to south. This depression constitutes steep faults giving rise to plateaus, scarps and structural plains. Further, the depression has important physical features, which include Mt. Suswa, Lake Magadi and Lake Natron; the latter on the Tanzanian border. Among these features, the Lake Magadi is an important natural source of soda ash that has been commercially exploited since the 1920s.

The county is divided into five administrative sub-counties, namely, Kajiado Central, Kajiado North, Kajiado South, Kajiado West and Kajiado East. The county has a total of twenty five wards.

The population of Kajiado county stood at 686,992 in 2009 and was estimated to be 807,069 of which 401,784 were females and 405,285 males in 2012 (2009 Census report). The county is estimated to have a growth rate of 5.5%. The population in the county has been rising steadily due to increase in settlement in most of the main urban areas and towns such as Kajiado, Kitengela, Ongata Rongai, Ngong, Isinya, Kiserian, Loitoktok, Namanga and Sultan Hamud. It is projected that the population will rise to 1,140,831 in 2030.

3.3 WATER SECTOR CHALLENGES

Water services in Kenya are at an important and exciting crossroad. However, the water sector lacks a clear sector-specific policy and legal framework to operationalize devolution. Devolution of the water services function has assigned responsibility for water provision to democratically elected county governments that now face the challenge of being responsive to the needs of their electorates and to honor the constitutional obligation to progressively provide water services to all people.

The County Government of Kajiado has endeavoured to understand the status of its responsiveness to provision of water services in order to address the needs of the people of Kajiado by implementing evidence based strategies. The County Government of Kajiado has aptly identified the challenges it faces such as the growing urban demand of water, effects of climate change, and the impact of socio-cultural practices on water resources in the county amongst other issues.

While County is committed to addressing the challenges facing development and provision of water and sewerage services, it continues to encounter setbacks because it lacks an adequate policy, legal and institutional framework to develop and provide water and sewerage services. The Water Act 2016 transfers the mandate for developing cross-county water infrastructure from the Water Services Boards to the Water Works Development Agencies, while giving the role of developing county assets for water service provision to (county-owned) water service providers.

In late 2016, the county governments (through the Council of Governors) sued the then Cabinet Secretary for Water and Irrigation to stop implementation of the Act, arguing that it established a centralized framework for water service provision which was unconstitutional. They challenged the role of the Water Works Development Agencies in particular. In April 2017, following an out-of-court settlement, the Cabinet Secretary, through legal notices 59 and 60, deferred sections of the Act on the transfer of functions, assets, liability and staff from Water Services Boards to Water Works Development Agencies (section 152), and of assets to the water service providers (153), and activated the transition clause on the dissolution of institutions from the 2002 Water Act, exempting the Water Services Boards.

The boards therefore continue to exist and manage projects and have signed new loans with development partners in the last two years. The uncertain legal status creates an accountability gap because it is unclear who will be held responsible in the long run – given that it remains unclear how the new loans they have taken on since 2017 will be transferred to the (countyowned) water service providers or the (national government owned) Water Works Development Agencies.

The basis on which the policy has been developed is that it is a reflection of the socio-economic, development and financial fabric within Kajiado County but with foresight to the future.

This policy promotes a new integrated and collaborative approach to development and provision of water and sewerage services in ways that are sustainable and beneficial to the people of Kajiado.

3.4 PURPOSE AND SCOPE OF THE POLICY

This policy is informed by the need for a strategic, integrated and collaborated approach to address the challenges that continue to undermine the efficacy of the development and provision of water services in the county. The County Government of Kajiado is aware and acknowledges the magnitude of the problems that are symptomatic of a dysfunctional system that cannot be effectively and sustainably addressed through reactive, ad hoc and piece meal actions.

Thus the overall purpose of the policy is to guide the County Government of Kajiado on how to develop and implement an effective water services and sewerage system where there is guaranteed clean and safe water for all.

3.5 KEY GUIDING PRINCIPLES

The key principles that will guide the provision of adequate, clean and safe drinking water in Kajiado are primarily derived from the Constitution. The County Government of Kajiado recognizes that, water has to be accessible for all, including children, elders and persons with disabilities. For purposes of this policy, five key principles among others have been identified and elaborated below to guide the implementation of this policy:

- a. **Availability of water:** This principle ensures that there is both sufficient quantities and reliability of service provisions.
- b. **Adequacy:** This principle secures both the quality and quantity of water.
- c. **Reliability:** This principle refers to continuity of the service provision for the current and future generation, and is promoted under the principle of sustainability, system robustness and resilience.
- d. **Acceptability:** This principle embodies the aesthetic value of water – the water provided should be of acceptable appearance, taste, colour and odor of water. It largely depends critically on the perceptions of the local ecology, culture, education and experience and hence, there is no set clear and objective global acceptability standards.
- e. **Accessibility to water:** This principle exemplifies accessibility to a reliable supply of water on a continuous basis close to the point of demand and within everyone's reach: home, school, work, public places. It is related to the distance of water source from the point of demand. That means the water has to be accessible for everyone, including children, elders and persons with disabilities ones.

3.6 POLICY DEVELOPMENT PROCESS

In May 2015, the County Government of Kajiado initiated county debate on the main and priority challenges facing development and provision of water and sewerage services. The purpose of this debate was to facilitate countywide participation and contribution from stakeholders and the people of Kajiado on the development of this policy.

This policy was developed through an evidence based participatory process and an extensive consultation process with stakeholders was undertaken in order to build contents of the policy.

The process was further enriched by the engagement of Kenya Law Reform Commission who provided valued technical assistance to enhance the capacity of the staff of the County Government and equip them with the necessary skills to develop the content for the policy.

In 2019, VARDE Engineering company Ltd was contracted to review and update the policy that would enable Kajiado County to create a locally responsive framework for coordination and governance of water services and enable the County increase coverage of water and sanitation services, including water for livestock and irrigation.

3.7 LINKAGES WITH STAKEHOLDERS

The County Government of Kajiado as provided in the Constitution underpins the importance of inclusivity in making policy decisions on development and provision of water and sewerage services. Besides the representation, it is imperative that all stakeholders cooperate with the County Government in the discharge of its mandate. The complexity of development and provision of water and sewerage services requires collaborative efforts between the County Government, other Government agencies and other stakeholders.

This policy takes cognizance of synergy, cooperation of the various roles that different institutions play in the development and provision of water and sewerage services.

4 SITUATION ANALYSIS

The water sector lacks a clear sector-specific policy and legal framework to operationalize devolution. Further we have also noted that the County Government of Kajiado continues to encounter setbacks because it lacks an adequate policy, legal and institutional framework to develop and provide water and sewerage services.

4.1 UNCOORDINATED FRAMEWORK TO INSTITUTIONALIZE DEVOLUTION IN WATER SECTOR

The institutional framework for the water sector within Kajiado County has myriad of players. In the county government the Department of Environment and Natural Resources has a Directorate that is responsible for water and sanitation as well as the water service providers.

There are agencies of national government that are engaged in management of water resources within the County and these include Water Resources Management Authority, Water Services Regulatory Board, Tanathi Water Services Board (Tanathi Water Works Development Agency), Athi Water Services Board (Athi Water Works Development Agency), NEMA, non-governmental organizations, community based organizations, individual residents and private sector such as water service providers, industrial players and commercial enterprises among others. Although the county government engages with these institutions at different levels depending on the functional assignment, the engagement with these institutions is uncoordinated and has since hampered the delivery of water services within Kajiado County. Poor inter-governmental relations issues has accelerated conflict between both levels of government on provision of water services thereby affecting service delivery.

4.2 WATER SERVICE PROVIDERS

There are a number of water service providers in Kajiado County which are classified as either small, medium or large water service providers depending on the number of connection that they serve. Nol Turesh Loitokitok Water and Sewerage Company which serves Loitokitok area and its environs, Kajiado town (through bulk water supply) and Makueni and Machakos counties is classified as a medium water service provider (5,000 – 9,999 connections). Namanga Water and Sewerage Company, which serves Namanga, Maili Tisa and their environs is classified as a small water service provider with less than 5,000 connections. Olkejuado Water and Sewerage Company, which serves Kajiado, Isinya and Bisil areas is also classified as a small water service provider with not more than 5,000 connections. Oloolaiser Water and Sewerage Company is

classified as large water service provider with between 10,000– 34,999 connections.

An ideal water service providers must have infrastructure such as water supply system, water treatment plant and water reservoirs. Water infrastructure also constitutes ground water wells, boreholes, surface water intakes, dams, reservoirs, storage tanks, and water distribution and reticulation pipes. The development and management of water infrastructure is undertaken by both levels of government and private sector where appropriate. However, some of the water infrastructure is in usable condition while others require replacement and high investment so as to meet the current demands for water services.

WSPs have inadequate financing to meet their demand in water supply. While the national government is expected to finance large scale water infrastructure projects, the county government as well as other development partners and private sector play a significant role in smaller scale water sector development in the county.

The County Government does not have the investments needed to deliver sustainable water and sanitation services, including the funds that are needed to operate and maintain the infrastructure, expand their coverage and upgrade service delivery to meet current social and environmental expectations.

WSPs have weak corporate governance practices and are still undergoing transitional issues whereby functions have been devolved but assets have not been transferred thus impeding operations.

4.3 ABSENCE OF A POLICY AND LEGISLATIVE FRAMEWORK TO MANAGE THE DELIVERY OF WATER AND SEWERAGE SERVICES IN THE COUNTY

Policies and legal instruments provide a framework to cope with competing demands. However, the network of instruments that govern the protection, allocation and diverse uses of water resources often reflects the fragmented state of the sector.

Subject to its functional assignment under the fourth schedule of the Constitution, the County Government of Kajiado has not developed appropriate policies and legislations to deliver on its mandate with regard to delivery of water and sewerage services. There are poor linkages between the National Water Master Plan, County Integrated Development Plan as well as the programmes in the department. Most WSPs have outdated water infrastructure which has led to inefficiency in water supply and high non-revenue water due to leaks and bursts thus high financial losses.

4.4 NON-REVENUE WATER

The county faces a huge challenge in form of Non-Revenue Water (NRW) which is produced but lost through leaks, theft and meter inaccuracies before it reaches the customers. Reducing NRW will help utilities ensure their financial viability and improve levels of service provided to customers. The lack of success of past approaches as well as increasing pressure on Water Service Providers in Kajiado to increase operational efficiencies necessitates the uptake of new and innovative methods.

4.5 RESOURCES CONSTRAINTS FOR SERVICE DELIVERY

The Department of Environment and Natural Resources faces a myriad of human resource challenges such as low and insufficient skilled staff capacity and this has directly affected the implementation of its programs and activities. The Department does not have enough of equipment for field work, field cars and machines to transport staff to meet the needs of the public across the county. There is also very weak cross-county and intra-county coordination in regards to the management of water as a beneficial resource.

4.6 INCREASE IN POPULATION

Population growth in Kajiado County is a major contributor to water scarcity. Growth in populations has translated into mounting demand and competition for water for domestic, industrial, and municipal uses. This water is also needed for agriculture and industrial use, and for the evacuation of waste materials. Kajiado County is a water stressed area because of the few water resources, high population densities, and high population growth rates. This population growth has limited the amount of water available per person, has driven people into marginal regions—which are already water stressed—and also into neighbouring towns and cities. The department has been unable to meet the growing urban demand for water

4.7 CLIMATE CHANGE

The Department of Water in the county is faced with the daunting task of evolving management strategies and policies in the face of not only the large uncertainty associated with the climate change impacts but also, to some extent, a sense of perplexity and confusion that the issue of climate change seems to have created because of conflicting views, opinions and even scientific projections on the impending regional water situations.

This sense of confusion is particularly pronounced because the capacity to understand the different issues of climate change as it affects the water systems in the County is extremely limited. The County Government is aware that it must cope with abnormal situations more frequently than it used to, that the future is not likely to be similar to the

past and that therefore it needs guidance from the scientific community in dealing with the evolving situation. The challenge that the county faces is that even a small part of the huge amount of scientific work dealing with impacts on water availability, water demands, water quality and frequencies and magnitudes of floods and droughts has, however, not yet found its way into the County policy interventions and decision making.

4.8 EFFECT OF SOCIAL CULTURAL PRACTICES

Culture traditions amongst the Maasai community in Kajiado County has resulted in conflict with social development. Due to influence from western cultures the traditional way of living of the Maasai is under threat. In the rural areas within the county, control over water determines access to all natural productive resources. People and animals in the rural parts of the County depend on deep wells and pumping stations for water delivery. Following the advent of devolution in 2013, management of these deep wells and pumping stations have been transferred to the County Government through committees. Pastoralists have to pay for this water delivery, with the idea to use the revenues for maintenance and equipment. These committees are accountable to the County Government. The first bottleneck encountered is that some of these tariffs are unsustainable for the people; responsibilities have been divided between two agents, wherein management has been devolved revenues are returned to the County Government with no appropriate reporting framework on how revenues are utilized. Secondly the new committees may be 'superimposed' on a community in which customary clan leaders do not necessarily sanction the statutory rules. This has resulted in a vicious circle of arbitrary use and payment, few revenues, dysfunctional equipment.

4.9 CONFLICTS DUE TO WATER RESOURCES

Kajiado County is experiencing conflicts, ranging from inter-county, inter-tribal and inter-clan due to sharing already scarce water resources. The county experiences trans-boundary water issues due to shared water resources and services with its neighbors namely Machakos, Makueni, Kiambu, Narok, Nakuru and Taita Taveta and Nairobi counties and Republic of Tanzania. The shared water resources include Athi River, Ewaso springs, Kilimanjaro springs. Oldoinyio orok springs and Entasopia springs. The county supplies bulk water to Makueni and Machakos counties while it depends on the water resources ecosystems situated in the neighbouring zones.

4.10 LOW AWARENESS ON WATER CONSERVATION TECHNIQUES

Over the years, Kajiado County just like other regions in the country have experienced severe droughts that have impacted on water supply security. Furthermore, and as earlier stated it is expected that climate change will increase drought risk in many areas thereby limiting the

water available to support a large population. The choice to conserve water depends on contextual factors, such as the price of water, household characteristics, the level of inconvenience and practicality of practices, as well as the attitudes and social norms of the household. There is very low awareness within the County on various water conservation practices and impacts of water related regulations. Most Kajiado residents are not aware of water conservation techniques and managements of water resources and this leads to water wastages.

4.11 CORRUPTION

In 2013/14 and 2014/15, the Ministry of Water and Irrigation channelled 40% of its water and sanitation expenditure (about USD 60 million per year) through the Water Services Providers (see National Treasury 2018, forthcoming). In addition, the Water Services Boards have taken on the largest share of loans from development partners to the water and sanitation sector, which in total amounted to more than USD 100 million per year in 2014/15 and 2016/17 (WHO, 2018).

The WSPs, however, have repeatedly been mentioned as vehicles for corruption in the Kenyan water sector and were in charge of more than 50% of the water and sanitation services funds investigated for corruption by the Ethics and Anti-Corruption Commission in the last 5 years (WIN 2019, forthcoming)

4.12 ABSENCE OF A SEWERAGE SYSTEM IN THE COUNTY

All water service providers in Kajiado County lack a comprehensive sewerage system of pipes, pumps, and force mains for the collection of wastewater, or sewage, from the community. The County Government is yet to build adequate storm water drainage systems.

5 POLICY GOAL, OBJECTIVES AND STRATEGIES

5.1 POLICY GOAL

The overall policy goal is to provide a framework for sustainable and equitable development of water resources by promotion of good governance of water harvesting, storage, affordable supply and sanitation in Kajiado County.

In response to the issues discussed in the earlier chapters, the following policy objectives and strategies have been identified. These policy objectives should be achieved in the medium term plan.

5.2 POLICY OBJECTIVES AND STRATEGIES

5.2.1 Objective 1: To promote a coordinated framework to institutionalize devolution in the water sector

Article 6(2) of the Constitution provides that the governments at national and county levels are distinct and inter dependent and shall conduct their mutual relations on the basis of consultation and cooperation.

Strategies

- a) Develop a stakeholder engagement plan to engage with National Government Ministries, Departments, and Agencies on institutionalizing devolution in the water sector.
- b) Participate in National Water Sector Dialogues
- c) Advocate for the operationalization of the Intergovernmental Water Sector Coordination Framework

5.2.2 Objective 2: To entrench good corporate governance in the Water Service Providers

As a major milestone, the Constitution of Kenya has taken significant steps to address the question of leadership, governance and management of public resources. Article 10 of the Constitution binds all public officers and institutions to uphold national principles and values such as sustainable development, integrity, transparency, accountability, inclusiveness, non-discrimination and protection of the marginalized among others. The Water Service Providers must be seen to entrench good corporate governance in order to increase efficiency and accountability of scarce public resources.

Strategies

- a) Implement the Corporate Governance Guidelines of WASREB;
- b) Promoting an enabling environment and effective regulatory framework for Water Service Providers;
- c) Ensuring effective leadership and accountability of WSPs;

- d) Ensuring ethical conduct within WSPs;
- e) Ensure the financial, governance and social audits of the Water Service Providers are undertaken
- f) Incentivize accountability and ethical conduct by rewarding any defined goals that are achieved and also stern and decisive penalties for circumventing established controls.
- g) Develop a water sector investment strategy
- h) Implement the transitional provisions of the Water Act 2016

5.2.3 Objective 3: To develop and implement a legislative framework to manage the delivery of water and sewerage services in the County

The County Government of Kajiado should develop and implement a legislative framework to manage the delivery of water and sewerage services based on its functional assignment under the fourth schedule of the Constitution

Strategies

- a) Develop and implement the Kajiado County legislative framework.
- b) Strengthen collaboration with regulatory bodies

5.2.4 Objective 4: To develop and implement a Non-Revenue reduction Plan

Non-revenue water management standards aims to provide a practical approach to reduction of Non-revenue Water thereby safeguarding the right to clean and safe water for all.

Strategies

- (a) Implement the 2014 Guidelines on Standards for Non-Revenue Water Management

5.2.5 Objective 5: Ensure enhanced delivery of water and sewerage services

Public service delivery is vital to creating healthier communities and more inclusive, sustainable outcomes. The County Government must provide demand driven services to the residents of Kajiado in regards to delivery of water and sewerage services.

Strategies

- a) Develop data driven county water sector.
- b) Activate quality assurance within the department
- c) Identify emerging challenges in the delivery of water and sewerage services;

- d) Develop innovation strategies in the delivery of water and sewerage services;
- e) Build the capacity of public servants to address emerging challenges in the delivery of water and sewerage services;
- f) Develop a resource mobilization strategy to bridge the gap of financial constraints.

5.2.6 Objective 6: Manage increasing population and scarce water resources

Article 43 (1) (d) of the Constitution guarantees the right to clean and safe water in adequate quantities and Article 56 (e) of the Constitution provides that the County Governments shall put in place affirmative action programs designed to ensure that minorities and marginalized groups have reasonable access to water.

Strategies

- a) Educate the residents to change consumption and lifestyles.
- b) Recycle waste water
- c) Appropriately price water
- d) Educate on population growth control

5.2.7 Objective 7: Mitigation of Climate Change to minimize scarcity on water resources

The County Government is bound by the Climate Change Act to ensure that it mainstreams climate change responses into development planning, decision making and implementation; build resilience and enhance adaptive capacity to the impacts of climate change and formulate programmes and plans to enhance the resilience and adaptive capacity of human and ecological systems to the impacts of climate change.

Strategies

- a) Mainstream climate change function into the water sector in the county
- b) Collaborate with other government agencies to put in place systems to mitigate climate change and sustain water resources

5.2.8 Objective 8: Promote inclusion of rural population in delivery of water and sewerage services

Pastoralist culture and other cultures and traditions amongst the Maasai communities have been built on a rich legacy of knowledge that allows them to survive in their environments. Pastoralists' rights to their land, culture, language, social norms and traditions must be acknowledged and respected.

Strategies

- a) Intentionally include pastoralist/ rural representatives in policy dialogue.
- b) Ensure access to information for all residents including revenue reporting
- c) Educate the communities on safe water practices

5.2.9 Objective 9: Manage conflicts arising from shared water resources

The Constitution promotes dispute resolution through the judicial process as well as through alternative means. Article 70 further provides that every person has a right to the enforcement of their environmental rights.

Strategies

- a) Develop inter-clan and inter-county conflict resolution mechanisms.
- b) Utilize traditional dispute mechanisms.
- c) Implement the Intergovernmental Relations Act framework on dispute resolution.

5.2.10 Objective 10: Promote awareness on water conservation techniques

Every person has the duty to cooperate with state organs and other persons to protect and conserve the environment and ensure ecologically sustainable development and use of natural resources

Strategies

- a) Develop water catchment systems and harvesting techniques
- b) Implement rain water harvesting
- c) Construct more dams and reservoirs

5.2.11 Objective 11: Eliminate corruption in the delivery of water and sewerage services

The guiding principles for leadership and integrity include honesty in the execution of public duties and accountability to the public for decisions and actions.

Strategies

- a) Disseminate code of conduct to public officers.
- b) Partner with relevant law enforcement agencies to train staff on ethics and integrity
- c) Take disciplinary action against staff and where necessary report to the relevant authorities

5.2.12 Objective 12: Ensure enhanced sewerage services

Under the fourth schedule of the Constitution, County Governments are tasked with storm water management systems in built up areas and water and sanitation services

Strategies

(a) Construct a sewerage system in built up areas.

6 INSTITUTIONAL STRENGTHENING

6.1 INSTITUTIONAL FRAMEWORK

The County Government of Kajiado is committed to addressing the challenges facing development and provision of water and sewerage services and ensuring that it guarantees safe and clean water in adequate quantities for the residents. The Constitution mandates the county to manage storm water management systems in built up areas and water and sanitation services. The County will collaborate with other relevant stakeholders to implement this policy. To give effect to this policy, a legislative framework may be developed to streamline, harmonize and institutionalize mechanisms and procedures for management of water and sanitation services in the County.

6.2 MONITORING AND EVALUATION

A monitoring and evaluation framework will be developed to evaluate the progress made in the implementation of this policy. Annual monitoring and evaluation report will be prepared and shared with all stakeholders on the implementation progress.

6.3 TRANSITION MECHANISM INTO THE POLICY REGIME

Existing guidelines, regulations and circulars on management of water and sanitation services will remain in force and shall be revised to conform to this policy. New guidelines shall be issued by implementing institutions as and when need arises to operationalize this policy. Such guidelines shall take into consideration the principles of this policy.

6.4 POLICY REVIEW

This policy will be reviewed every five years to take into account the changes in the political and socioeconomic environment.

6.5 PROPOSED IMPLEMENTATION MATRIX

Objectives	Strategies	Actor (s)	Timeframe
To promote a coordinated framework to institutionalize devolution in the water sector	<ul style="list-style-type: none"> a) Develop a stakeholder engagement plan to engage with National Government Ministries, Departments, and Agencies on institutionalizing devolution in the water sector. b) Participate in National Water Sector Dialogues c) Advocate for the operationalization of the Intergovernmental Water Sector Coordination Framework 	CECM / CO	2020
To entrench good corporate governance in the Water Service Providers	<ul style="list-style-type: none"> a) Implement the Corporate Governance Guidelines of WASREB; b) Promoting an enabling environment and effective regulatory framework for Water Service Providers; c) Ensuring effective leadership and accountability of WSPs; d) Ensuring ethical conduct within WSPs; e) Ensure the financial, governance and social audits of the Water Service Providers are undertaken f) Incentivize accountability and ethical conduct by rewarding any defined goals that are achieved and also stern and decisive penalties for circumventing established controls. g) Develop a water sector investment strategy h) Implement the transitional provisions of the Water Act 2016 	CECM / CO	2020
To develop and implement a legislative framework to manage the delivery of water and sewerage services in the County	<ul style="list-style-type: none"> a) Develop and implement the Kajiado County legislative framework. b) Strengthen collaboration with regulatory bodies 	CECM / CO	2021

Objectives	Strategies	Actor (s)	Timeframe
To develop and implement a Non-Revenue reduction Plan	Implement the 2014 Guidelines on Standards for Non-Revenue Water Management	CECM / CO	2021
Ensure enhanced delivery of water and sewerage services	<ul style="list-style-type: none"> a) Develop data driven county water sector. b) Activate quality assurance within the department c) Identify emerging challenges in the delivery of water and sewerage services; d) Develop innovation strategies in the delivery of water and sewerage services; e) Build the capacity of public servants to address emerging challenges in the delivery of water and sewerage services; f) Develop a resource mobilization strategy to bridge the gap of financial constraints 	CO / WSPs / WWDA / WSTF	2020 - 2025
Manage increasing population and scarce water resources	<ul style="list-style-type: none"> a) Educate the residents to change consumption and lifestyles. b) Recycle waste water c) Appropriately price water d) Educate on population growth control 	CO / WSPs / WWDA / WSTF	2020 - 2025
Mitigation of Climate Change to minimize scarcity on water resources	<ul style="list-style-type: none"> a) Mainstream climate change function into the water sector in the county b) Collaborate with other government agencies to put in place systems to mitigate climate change and sustain water resources 	CECM / CO	2020 - 2025
Promote inclusion of rural population in delivery of water and sewerage services	<ul style="list-style-type: none"> a) Intentionally include pastoralist/ rural representatives in policy dialogue. b) Ensure access to information for all residents including revenue 	CO	2020 -2025

Objectives	Strategies	Actor (s)	Timeframe
	<ul style="list-style-type: none"> reporting c) Educate the communities on safe water practices 		
Manage conflicts arising from shared water resources	<ul style="list-style-type: none"> a) Develop inter-clan and inter-county conflict resolution mechanisms. b) Utilize traditional dispute mechanisms. c) Implement the Intergovernmental Relations Act framework on dispute resolution 	CO	Continuous
Promote awareness on water conservation techniques	<ul style="list-style-type: none"> a) Develop water catchment systems and harvesting techniques b) Implement rain water harvesting c) Construct more dams and reservoirs 	CO	2020 -2025
Eliminate corruption in the delivery of water and sewerage services	<ul style="list-style-type: none"> a) Disseminate code of conduct to public officers. b) Partner with relevant law enforcement agencies to train staff on ethics and integrity c) Take disciplinary action against staff and where necessary report to the relevant authorities 	CECM / CO	2020 -2025
Ensure enhanced sewerage services	Construct a sewerage system in built up areas.		

7 FINANCING AND IMPLEMENTATION

7.1 OVERVIEW

The development of the water sector depends on the level of financing. Water financing in the county has been mainly through the national government in the form of infrastructure development and community water projects through Water Sector Trust Fund, CDF, county government, development partners and the private sector. Whereas there has been investment in water sector, the level of water funding has been low. In addition, there is weak institutional coordination for water financing in the county. There is therefore a need for innovative and sustainable mechanisms for water financing in the county.

7.2 KEY ISSUES

With regard to financing, a gap already exists in the provision of resources for the development of water services within the county. While the national government is expected to finance large scale water infrastructure projects, the county government as well as other development partners and private sector play a significant role in water sector development in the county. Through budget appropriation, the county government has continued investing in water sector although most of the funding has been directed to provision of underground water through drilling of boreholes.

7.3 INTERVENTIONS

The objective is to strengthen institutional arrangements for water sector financing. This will be achieved by implementing the following policy measures:

- a) The county government shall in collaboration with national government and other relevant stakeholders mobilize financial resources for water sector development.
- b) Fees, charges and tariffs collected from the water sector service delivery shall be designated for utilization specifically for water sector development in accordance with the financial management system in the county to ensure operational sustainability and viability for all county water services provided.
- c) All charges and tariffs collected from community based water projects financed by the county government shall be collected and utilized for the purposes of defraying operational costs of the water project in accordance with the established financial management systems for community based water projects.
- d) The department responsible for water shall in collaboration with the county treasury, national government, private sector and other relevant stakeholders, promote the use of Public-Private-Partnerships (PPPs) model and related investment mechanisms to finance water harvesting, storage, and distribution with inbuilt sanitation projects, and trans-boundary resource development.

7.3.1 County Water Sector Forum

There shall be established the County Water Sector Forum. The Forum shall be responsible for:

- a) Providing a platform for county water stakeholders' participation, consultation and coordination in water sector planning, implementation, financing and evaluating the measures, systems and processes in county water sector.
- b) Identifying the county water sector emerging needs, challenges and trends and identifying policy, legislative and administrative measures to be adopted.

The Forum shall consist of:

- a) The county executive committee member responsible for water who shall be the chairperson;
- b) The chief officer responsible for water who shall be the secretary;
- c) The chief officers and directors from the following county departments:
 - ❖ environment
 - ❖ livestock
 - ❖ health
 - ❖ agriculture
 - ❖ roads;
- d) National government ministries and agencies involved in water sector;
- e) The chief executive officer or officers in charge of county water service provider or providers;
- f) The sub-county administrators;
- g) The ward administrators;
- h) Representatives from non-governmental or community based organizations involved in matters related to water sector in the county;
- i) Professionals and professional organizations related to water sector;
- j) Community elders in water resources conservation and management or water services delivery;
- k) Representatives of faith based organizations engaged in water resources management or service delivery;
- l) Representatives of private sector water service providers in the county.

The Forum shall meet at least 2 times in a year.

7.3.2 County Water Sector Steering Committee (CWSC)

There shall be established the County Water Sector Steering Committee (CWSC). The Committee shall be responsible for:

- a) Facilitating implementation of the decisions of the county water sector forum;
- b) Coordinating and facilitating implementation of this policy;
- c) Advising county executive committee member in charge of water on appropriate measures, plans and programmes to be adopted in enhancing effective implementation of this policy.

The committee shall consist of

- a) The chief officer responsible for water who shall be the chairperson;
- b) The county director in charge of water who shall be the secretary;
- c) The county director in charge of environment;
- d) The county director in charge of livestock;
- e) The county director in charge of health;
- f) The county director in charge of agriculture;
- g) The chief executive officer in charge of the county water service provider or providers;
- h) One sub-county administrator;
- i) One person representing non-governmental or community based organizations involved in matters related to water sector in the county;
- j) One professional who is an expert in matters related to water;
- k) Two community elders involved in water resources conservation and management and water services delivery;
- l) One person representing faith based organizations engaged in water resources management or water service delivery;
- m) One person representing private sector water service providers in the county

Members appointed under paragraph (i), (k), (l) and (m) shall be appointed by county executive committee member responsible for water in consultation with the respective bodies being represented where applicable.

National government ministries and agencies may attend meetings and participate in the deliberations of the committee.

7.3.3 Community Water Project Management Committees

Community Water Project Management Committees (CWPMC) shall be established under the supervision of the department responsible for Water and Irrigation Services of Kajiado County. Each committee shall consist of a

chairperson and other seven (7) members elected by members of the community where a water project is designated with the approval of the county executive committee member responsible for water. The term of office of the Committee shall be a period of two years. The committees shall operate in accordance with the guidelines established by the department responsible for water.

7.3.4 Trans-Boundary Water Management Mechanisms

In order to enhance trans-boundary water management issues, the county government shall liaise and coordinate with the national government and the State Department for Foreign Affairs and International Trade to ensure establishment of mechanisms for management of trans-boundary waters affairs between Kenya and the Republic of Tanzania as well as with counties on matters related to water affecting the county.

7.3.5 Policy Financing

Financing of the implementation of this policy will determine its success in realizing the intended outcomes. The implementation of this policy shall be financed through the following mechanisms–

- a) Annual appropriations in the county budget in accordance with the Public Finance Management Act, No. 18 of 2012. The county executive committee shall ensure adequate financing of this policy. Financing of implementation of various policy measures shall be budgeted for in the respective departments responsible for their implementation.
- b) Public private partnership especially in relation to infrastructure development.
- c) Grants and donations from development partners. The department responsible for water in collaboration with county treasury shall ensure that there is effective Aid coordination for all development funds supporting environment sector in the county. The department responsible for water shall coordinate with development partners and non-state actors to finance specific programmes for implementing the policy.
- d) Private sector investment in projects and programmes related to implementation of this policy. The department responsible for water, relevant county departments and county treasury shall identify and design projects that the private sector may invest in for the purpose of implementing this policy.
- e) User fees and charges payable for use of services related to implementation of this policy.

7.3.6 Planning and Performance Management

Implementation of the policy shall be undertaken through development of environment sectoral plan. In accordance with the County Governments Act, the water sectoral plan shall be implemented through the County Integrated Development Plan for the respective planning period. The county Medium Term

Expenditure Framework (MTEF) and the County Fiscal Strategy Paper shall adequately cover the strategies and programmes provided under the environment sectoral plan. The sectoral plan shall be implemented annually through the annual development plan

Implementation of this policy shall be integrated with county performance management system through the sectoral plan. The annual performance contracting and targets for respective departments responsible for implementation of this policy shall be aligned to activities and programmes in the environment sectoral plan so as to ensure complementarity and inter-sectoral approach in implementing this policy. Data related to policy implementation shall be collected on a continuous basis in order to inform decision making by the county executive and other sector stakeholders.

7.3.7 Legal Reforms

In order to effectively implement this policy, the following legal reforms shall be undertaken–

- a) Development of a County Water Bill and subsequent regulations. These would provide for modalities for creation of water institutions and governance mechanisms; the siting, construction and operation of water infrastructure on private lands; and billings and other fees and licenses for efficient and effective management of water resources;
- b) Development of a County Wastewater Management Bill and subsequent related regulations. These would provide for modalities for collection, storage and treatment of sewerage conveyed wastes for purposes of ensuring a clean and healthy living environment, and for reclaiming organic fertilizers and recyclable water from such wastes.

7.3.8 Monitoring and Evaluation

In order to ensure effective implementation of this policy, there shall be a continuous monitoring of the results of programmes and activities undertaken to implement this policy. The department responsible for water shall in collaboration with national and county stakeholders design the core outcome indicators to be adopted in measuring the results.

This policy shall be evaluated in accordance with overall county monitoring and evaluation framework, standards and system. The following requirements shall apply in regard to policy monitoring and evaluation–

- a) The department responsible for water shall designate staff to be responsible for coordinating monitoring and evaluation of implementation of this policy.
- b) In each period of 3 months, the department responsible for water shall prepare a report on the progress made in implementing the policy, which shall be submitted to county executive committee for consideration and decision-making.

- c) There shall be annual policy review, which shall involve all water sector stakeholders. The review shall provide feedback on successes, progress and challenges related to policy implementation and whether policy outcome have been met in each year. The policy review report shall be submitted to county executive committee for consideration and decision-making.
- d) The policy shall be evaluated at the end of each period of 5 years to assess the extent to which policy outcomes have been realized including policy impact.
- e) The department responsible for water shall disseminate policy evaluation report to county water sector stakeholders
- f) There shall be established mechanisms for human and institutional capacity building for implementation of the monitoring and evaluation framework herein presented.

7.3.9 Strategic Partnerships

In order to ensure effective implementation of this policy, there will be need to build and maintain strong partnerships with internal and external county stakeholders. The county government shall establish and maintain multi-sectoral partnerships within the county as well as partnerships with national government, other counties and key stakeholders such as development partners.

7.3.10 Incentives

The county government shall in collaboration with relevant stakeholders initiate and provide such appropriate incentives for purposes of promoting effective and sustainable water resources management, water services management and generally on any matter related to the implementation of this policy.

7.3.11 Sustainability

The challenge in water sector is to ensure sub-catchment and water towers conservation. The following measures will ensure the sustainability of water catchments conservation:

- a) Setting up funding mechanisms to support and consolidate conservation efforts. Hence the proposed funding mechanisms.
- b) Supporting Private-Public-Partnerships (PPPs) and other models for development of water infrastructure.
- c) Establishing human capacity building initiatives by ensuring change of mind-sets and attitudes, thus enabling sustainability of community water projects.
- d) Creating an environment whereby funding will be demand-driven by the rural population to inform community water projects.
- e) Establishing participatory process for stakeholder involvement in grassroots' networks for active debates in peoples' forums on alternative sources of water while strengthening existing sources.