Natural Resource Management Bylaws for Khorweyne, Habarow-Saka and Kasha Sub-catchments - Garissa County
Preamble

These bylaws were developed through a consultative process involving stakeholders of the Building Drought Resilience (BDR) Project implemented by IUCN with funding from Austrian Development Cooperation (ADC). The goal of the bylaws is to support the sustainable management of land and water resources in the Lower Tana River Catchment through enhanced natural resource governance in order to build resilience of communities to drought. Upon their adoption/endorsement by the County Governments, these bylaws will be implemented through the framework of the Council of Elders.

The BDR project team is very grateful to the stakeholders who participated in the development of these bylaws, especially to the communities and Members of County Assemblies from Al-Amin Moju, Tula, Bangale, Saka, Khorweyne and Kasha sub-catchments. Appreciations also to FaIDA, WRMA, National Drought Management Authority, Administration and Ministries of Environment and Natural Resources; Mining, Water and Irrigation, Agriculture and Livestock; Kenya Forest Service (KFS); Kenya Wildlife Service (KWS) for their contributions. The bylaws were compiled by the Kenyan BDR Team including Dr Ahmed Mohamed, Yasin Mahadi, Jaafarsadiq Hassan, Hassan Aress, Omar Abdi and John Owino. The team is also grateful to Dr. Eliot Taylor and Rob Wild for the very useful comments and inputs.

Disclaimer:

The views expressed in this publication are the authors’ and do not necessarily reflect those of IUCN and/or the participating partners and organizations.


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Natural Resource Management
Bylaws for Khorweyne, Habarow-Saka and Kasha Sub-catchments - Garissa County

Made pursuant to provisions of Articles 63(1), (2)(d) and 174(d) of the Constitution of Kenya 2010 and Part 2 Paragraph 10 of the Fourth Schedule thereto

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Part I: Preliminary

1. Title and Application

These are the bylaws for Khorweyne (in Balalmabala and Tana North, Garissa and Tana River Counties) and Habarow-Saka and Kasha (in Balambala, Garissa County) Sub-catchments and shall apply to any person living in the area and engaged in any activity associated with the use of natural resources in the two sub-catchments.

2. Interpretation

In these bylaws unless the context suggests otherwise:

‘Bylaws’ means these Natural Resource Management Bylaws for Khorweyne (in Balalmabala and Tana North, Garissa and Tana River Counties), and Habarow-Saka and Kasha (in Balambala, Garissa County) Sub-catchments and any amendments thereto;

‘Council’ means the Council of Elders constituted under Clause 7 of these bylaws;

‘County Government’ means the County Government of Garissa or Tana River as appropriate;

‘Government’ means the Government of the Republic of Kenya;

‘Lead Agency’ means any government ministry, department, parastatal, state corporation or county government in which any law vests functions of control and management of any element of the environment or natural resources;

‘Non-resident’ means a person who is not ordinarily resident within the sub-catchments;

‘Occasional user’ means a person who is not ordinarily resident within the sub-catchments but regularly uses the natural resources within the sub-catchments;

‘Sub-catchment’ means the sub-catchment of Khorweyne, the sub-catchment of Habarow-Saka or Kasha as the context may determine;

‘Sub-catchments’ means the three sub-catchments of Khorweyne, Habarow-Saka and Kasha;

‘Village’ means any of the villages of the sub-catchments as listed in Clauses 8 and 9 of the bylaws;

‘Village Level Sub-Committee’ means a Village Level Sub-Committee of the Council of Elders constituted under Clause 11 of the bylaws;

‘WRMA’ means the Water Resources Management Authority established under section 7 of the Water Act, 2002;

‘WRUA’ means the Water Resource Users Association for the sub-catchments.

3. Goal of the bylaws

The goal of the bylaws is to support the sustainable management of land and water resources in the Lower Tana River Catchment through enhanced natural resource governance in order to build resilience of communities to drought.
4. Objectives of the bylaws

1. To provide for the recognition and use of customary law and norms, indigenous knowledge systems and institutions in the management of natural resources.

2. To provide for the establishment of a Council of Elders “Duqheey” to coordinate the sustainable management of water and land resources within the Khorweyne, Habarow-Saka and Kasha Sub-catchments.

3. To ensure that all natural resources occurring within the sub-catchments are properly conserved, protected and sustainably used.

4. To ensure that all members of the community have equitable access to the water, natural vegetation, land, wildlife and mineral resources available within the sub-catchment.

5. To provide for penalties for failure to comply with the provisions of these bylaws.

5. Principles of the bylaws

The following principles underpin the development and enforcement of these bylaws:

1. Integration of customary rules and institutions with modern rules and institutions emanating from existing statutes.


6. Coming into effect of the bylaws

1. These bylaws shall come into effect upon their adoption by the community of Khorweyne, Habarow-Saka and Kasha at a general meeting of community members called for the purpose of adopting the bylaws.

2. The Council shall forward the bylaws to the County Government for endorsement and adoption as appropriate.
Part II: Establishment and Composition of Councils of Elders

7. Council of Elders

1. There is hereby established a Council of Elders known as Duqheey headed by a Rage to oversee the use and management of natural resources at the sub-catchment level on behalf of the Water Resource Users Association (WRUA) and any other statutory institution responsible for natural resource management. Provided that the WRUA or any other such institution shall sign a Memorandum of Understanding with the Council of Elders stipulating the terms of their engagement.

2. There shall be one Council of Elders for Khorweyne sub-catchment, Habarow-Saka sub-catchment and Kasha sub-catchments respectively.

3. Each Council of Elders shall be composed of 12 members representing the villages within the sub-catchment and elected by members of each village in the manner specified under clause 10 of the bylaws.

8. Composition of Council of Elders for Khorweyne Sub-catchment

The members of the Council for Khorweyne Sub-catchment shall be distributed across the villages in the following manner:

- Jarajara Village.......................... 2 members
- Kone Village ............................. 2 members
- Kuno Village .............................. 2 members
- Dirisa/Tokola Village ..................... 2 members
- Balambala Centre ........................ 2 members
- Libiley ................................... 1 member
- Bura Dansa ................................. 1 member

9. Composition of Council for Habarow-Saka Sub-catchment

The members of the Council for Habarow-Saka Sub-catchment shall be distributed across the villages in the following manner:

- Darderey Village ......................... 1 member
- Daley Village .............................. 1 member
- Magathow Village ....................... 1 member
- Mathah Libah Village .................... 1 member
- Qabobey Village .......................... 1 member
- Hadley Village ............................. 1 member
- Saka Junction Village .................... 1 member
- Hirbai Village ............................. 1 member
- Balambala Junction Village .......... 1 member
- Fadiweyne Village ...................... 1 member
- Saka Centre ............................... 2 members
10. Composition of Council for Kasha Sub-catchment

The members of the Council for Kasha Sub-catchment shall be distributed across the villages in the following manner:

- Kasha Village .................. 6 members
- Bulla Hagar Village ........... 1 member
- Dabeley Village ............... 2 members
- Abdigab Village ............... 1 member
- Hirbai Village ................ 2 members

11. Election of members of Council

1. Members of the Council shall be elected at the village level at a meeting called for that purpose and to which all adult members of the village shall be invited.

2. The procedure to be followed in electing Members of the Council shall be determined at the village meeting called for that purpose and shall be in accord with the practice of the local community for electing members of representative bodies.

3. The election of members of the Council shall take into account the diversity of the membership of the village, including ethnicity, gender and natural resources user groups, and every effort shall be made to ensure that the diversity is represented in the election meeting.

4. The record of the election meeting shall include a list of the members of the village participating in the meeting, disaggregated by ethnicity, gender and natural resources user group.

5. Members of the Council shall be elected from amongst persons with proven knowledge of local traditional natural resource management practices who are of good standing and have resided and/or owned property within the village for not less than five years immediately preceding the date of the election meeting.

6. The members of the Council shall elect the Chairperson or Rage of the Council at the first meeting of the Council by such procedure as they shall agree amongst themselves. Provided that the election of the Chairperson shall be the first agenda item at the first meeting of the Council.

12. Village Level Sub-Committees of the Council

1. The member or members of the Council from a village shall with the concurrence and participation of the members of the village constitute a Village Level Sub-Committee of the Council.

2. The Village Level Sub-Committee shall be composed of the member(s) of the Council from the Village and three members representing respectively women, youth and male elders.

3. The Council member from the village shall chair the Village Level Sub-Committee, provided that where there is more than one member of the Council from the Village, they will agree among themselves as to who shall be the chair. In such event, the members of the Council may choose to rotate the chairing of the Sub-Committee on such terms as they deem appropriate.

4. A Village Level Sub-Committees shall represent the Council at that level and shall deal with all matters related to natural resource management at the village level before referring the same to the Council. Every Council shall issue guidelines to its village level sub-committees in this regard.
13. Meetings of Council

A Council may invite to its meetings such categories of people as can provide information and ideas to strengthen deliberations of the Council. Such persons include, but are not limited to:

- Elected ward representatives;
- Chiefs and Assistant Chiefs;
- Representatives of resource users associations; and
- Representatives of government ministries, Lead Agencies and other national and county government frameworks responsible for land and natural resources;
- Any other person whose attendance the Council considers useful for a specific matter or generally.

14. Term of office for Members of Council

Members of the Council serve for life but at the pleasure of the communities, which can terminate their services in the manner provided under Clause 15 of the bylaws.

15. Cessation of Membership

A member of the Council shall cease to be a member of the Council if he or she:

- resigns from the Council by writing a letter to that effect to the Chairperson of the Council; or
- is convicted of a felony; or
- is unable to perform the functions of the office of member of the Council by reason of mental or physical infirmity; or
- dies.

16. Removal of a member of the Council

1. A member of the Council may only be removed from that position on one or a combination of the following grounds:

- corruption;
- bias or prejudice in the discharge of functions;
- incompetence or neglect of duty;
- relocation from the sub-catchment or continuous absence from the area for a period in excess of three months;
- gross misconduct, whether in the performance of a member’s functions or otherwise;
- failure to attend three consecutive meetings of the Council without leave of the Chairperson.

2. Whenever the issue of the removal of a member of the Council arises, the Chairperson of the Council shall convene a meeting of the Council specifically for the purpose of discussing the matter and reaching a decision thereon. Provided that where the member whose removal is in issue is the Chairperson, then the meeting shall be convened by the Ward Administrator on receiving a written request signed by a majority of the members of the Council, and in that event the members of the Council shall elect the person to chair the meeting from amongst themselves.

3. A meeting convened to discuss the removal of a member of the Council shall only have that single agenda item. The Council shall discuss the matter fully and reach a decision by vote. In the event of a tie, the person chairing the meeting shall have a casting vote.
4. Provided that no decision for removal of a member of the Council shall have effect until it is adopted by a majority of community members in attendance at a General Meeting of the community convened specifically for the purpose. Provided further that such meeting shall be convened no later than 30 days from the date of the decision by the Council.

5. A decision reached by the Council of Elders and adopted by the community in the manner hereinabove stipulated shall be final and binding on the member of the Council and the community.

17. Filling of Vacancy in the Council

Where a vacancy occurs in the membership of the Council under clause 14 or 15 of the bylaws, members of the village represented in the Council by the departing member shall elect a new member in accordance with the procedure set out in Clause 10 of the bylaws.

18. Functions of the Council

The Council shall provide day to day oversight and coordination of the use of natural resources in the sub-catchment, and shall for this purpose:

a) Regulate access, use and sharing of water sources and other natural resources to ensure equity and sustainability;

b) Promote the implementation of measures for proper land use and the conservation of soil and water resources;

c) Regulate seasonal access to pastures, woodlands and forests to ensure equity and sustainability;

d) Facilitate negotiated access to communal water and land resources between different user groups within the community and with neighbouring or outsider communities;

e) Grant permission for the introduction of any tree or plant species into pasture lands and forest;

f) Promote the protection of wildlife resources and their habitat within the sub-catchment;

g) Regulate the extraction of mineral resources;

h) Enforce rules for the proper management of natural resources within the sub-catchment;

i) Manage the revenues collected through fines imposed for breach of rules for the benefit of the communities;

j) Promote participatory land and natural resource use planning having particular regard to dry and wet season grazing areas;

k) Make recommendations for consideration by the WRUA, county and national governments over the use and management of natural resources;

l) Negotiate the sharing of benefits emanating from the exploitation and use of natural resources within the sub-catchment with local communities;

m) Settle disputes and resolve conflicts relating to access and use of water and land resources using traditional dispute resolution mechanisms;

n) Represent the County Government, WRUA, and other resource users associations in the management of the environment and natural resources;

o) Perform such other functions as may be entrusted to it by bylaws of the County Government or laws of the National Government.
Part III: Bylaws Governing the Use of Specific Natural Resources

19. Application of bylaws
   1. The bylaws specified below shall apply to the use of the respective natural resources within the two sub-catchments.
   2. The bylaws shall be binding on all residents of the sub-catchments and any non-resident accessing or otherwise using the natural resources within the sub-catchments.
   3. The bylaws shall reinforce laws enacted by the National and County Governments for the sustainable management of natural resources and shall not limit or otherwise undermine their application within the sub-catchment.
   4. Where there is any conflict between these bylaws and the laws enacted by the National and County Governments on the same issues, the latter shall prevail.

20. Issuance of permits
   1. The Village Level Sub-Committee responsible for a particular village shall, in consultation with relevant natural resource management institutions of county and national governments, be responsible for issuance of permits for the extraction of natural resources within the sub-catchments.
   2. Any person seeking to engage in any activity for which a permit is required shall make a formal request in writing to the Village Level Sub-Committee responsible for the respective village.
   3. The Village Level Sub-Committee shall consider the request for a permit at a full meeting of the Sub-Committee and communicate the decision thereon in writing to the applicant. Such decision shall be made and communicated to the applicant with due dispatch and not later than 14 days from the date the application is lodged with the Village Level Sub-Committee.
   4. Any person aggrieved by a decision of the Village Level Sub-Committee on an application for a permit shall appeal against the decision to the Council.

21. General Provisions on Sanctions and Penalties
   1. Any person who fails to comply with these bylaws in the use of the natural resources within the sub-catchments shall be liable to the penalties specified.
   2. The Council may issue any of the following orders against a person found to be in contravention of any of these bylaws:
      a. Pardon the offender;
      b. Issue a warning to the offender;
      c. Detain the livestock of the offender pending his compliance with an order, provided that such detention shall not be for a period in excess of 7 days;
      d. Impose fines payable through small stock (goats), provided that the maximum number of goats payable as fine shall not exceed ten;
      e. Refer the case to a lead agency, the police or County Enforcement Authority as appropriate.
3. Any person who fails to comply with orders of the Council issued as punishment for contravening these bylaws shall be reported to the County Enforcement Authorities who shall support the Council in the enforcement of these bylaws.

4. The penalties provided hereunder shall apply to a first contravention of the bylaws. A second contravention shall attract twice the fine provided, while a third contravention shall be reported to the County Enforcement Authorities or a lead agency to deal with.

5. For as long as a person is in violation of the orders of the Council of Elders issued under the bylaws he shall not be allowed to participate in communal activities or to access and use communal natural resources.

22. Bylaws on water resources

1. All residents shall have reasonable access to water pans, ponds, springs, wells, boreholes and *Hila/Malkas* for their domestic use and for the watering of their livestock as long as they comply with the rules and procedures laid down for ensuring orderly use thereof.

2. Residents shall have access to water sources on first come first served basis, but priority shall be given to elders and persons with disability.

3. Accessing water for domestic use shall get priority over the watering of livestock.

4. Non-residents may have access to water sources for their use and for the use of their livestock with the authority of the Council and subject to such conditions as the Council may impose.

5. Wild animals are allowed to access water sources.

6. Every resident shall be responsible for ensuring the protection and conservation of the environment around and along water sources.

7. Diversion of water from a water source for purposes of fish farming by individuals and groups shall be subject to approval by the Council.

8. The Council shall be consulted before any water permits are issued in the sub-catchments.

9. The Council shall be involved in any planning of water works to increase water availability within the sub-catchments.

10. Every resident shall adhere to these bylaws, and any others that the Council may stipulate for the management of specific water sources.
### 23. Penalties for contravening bylaws on water resources

The penalties specified in the second column shall be imposed for contravention of bylaws specified in the first column.

<table>
<thead>
<tr>
<th>Contravention</th>
<th>Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Washing of materials (clothes, skin, fibre), bathing, swimming in open water sources (large ponds, pans and wells)</td>
<td>Fine of one mature healthy goat or cash equivalent</td>
</tr>
<tr>
<td>Direct watering of livestock into open water source without the use of troughs</td>
<td>Fine of a minimum of one mature healthy goat or cash equivalent</td>
</tr>
<tr>
<td>Setting up new settlement (pastoral or permanent) within a five km radius of a water source (river bank, borehole and dam/pan)</td>
<td>Eviction from site and fine of one mature healthy goat or cash equivalent</td>
</tr>
<tr>
<td>Watering of livestock owned by non-residents without the permission of the Council</td>
<td>a) First offender will be warned and sensitized on the procedure; and b) Repeat offender shall be fined two mature healthy goats or cash equivalent</td>
</tr>
<tr>
<td>Mixing of sick and healthy animals at watering points</td>
<td>Fine of two mature healthy goats or cash equivalent per case</td>
</tr>
<tr>
<td>Illegal abstraction or use of water for any purpose not authorized by the Council</td>
<td>a) Forcible cleanup and fine of one mature healthy goat or cash equivalent if a river is polluted; b) Forcible cleanup and fine of two mature healthy goats or cash equivalent for pollution of still water</td>
</tr>
<tr>
<td>Obstruction of watering corridors to rivers “Malkas/Hilla” and other watering points “Doow”</td>
<td>a) Forceful opening in consultation with relevant authorities, and b) Fine of three mature healthy goats or cash equivalent</td>
</tr>
<tr>
<td>Pollution of water sources including dumping waste</td>
<td>Fine of one mature healthy goat or cash equivalent</td>
</tr>
<tr>
<td>Denying access to water especially to vulnerable persons (elderly, disabled, women, etc.) and their livestock, or lost livestock</td>
<td>Forced to follow allocation plan and fine of one mature and healthy goat or cash equivalent</td>
</tr>
<tr>
<td>Failing to abide by directives of the Council on water allocation plans and use of water sources</td>
<td>Meet the cost of any damage/injury/death resulting from subsequent conflict, and fine of two mature healthy goats or cash equivalent</td>
</tr>
<tr>
<td>Watering one’s livestock by/drawing water from private water source without authority</td>
<td>Return materials and replace fence, and fine of one mature healthy goat or cash equivalent</td>
</tr>
<tr>
<td>Destruction or unauthorized removal of fence or part thereof from a water source</td>
<td>Meet the cost of any damage/injury/death resulting from subsequent conflict, and fine of two mature healthy goats or cash equivalent</td>
</tr>
<tr>
<td>Fighting, causing a fight, quarrelling or otherwise creating disturbance at water source</td>
<td>Fine of two mature healthy goats or cash equivalent per incident</td>
</tr>
<tr>
<td>Making use of water source reserved by the Council for future communal use</td>
<td>Forcible eviction and stoppage of the works and offender to meet the cost of rehabilitating the site</td>
</tr>
<tr>
<td>Discriminating against a person in water allocation on grounds of membership of a tribe, clan or for any other reason</td>
<td>Forcible eviction and stoppage of the works and offender to meet the cost of rehabilitating the site</td>
</tr>
<tr>
<td>Water livestock at a water point exclusively for domestic purpose</td>
<td>Return the drawn water to source, and fine of one mature healthy goat or cash equivalent</td>
</tr>
<tr>
<td>Starting new water source without authority from the Council, WRUA and WRMA</td>
<td>Forceful refilling of the dug wells and fine of one mature and healthy goat or cash equivalent</td>
</tr>
<tr>
<td>Extracting or drawing water from a water source by use of any mechanical device (pumps, tankers) without prior consent of the WRUA and the Council</td>
<td>Offender shall pay cost of recruiting labor for de-silted water pan</td>
</tr>
<tr>
<td>Digging shallow wells in dried up water pans</td>
<td>Forcible eviction and fine of one mature healthy goat or cash equivalent</td>
</tr>
<tr>
<td>Failing to obey order of the Council to de-silt water pan</td>
<td>Fine of one mature healthy goat or cash equivalent per incident</td>
</tr>
<tr>
<td>Farming or destruction of river banks and breaking the 30m river bank protection rule</td>
<td>Forcible eviction and fine of one mature healthy goat or cash equivalent</td>
</tr>
<tr>
<td>Fencing of communal water sources for individual use</td>
<td>Fine of two mature healthy goats or cash equivalent per incident</td>
</tr>
<tr>
<td>Disconnect, cut or damage water pipeline</td>
<td>Meet the cost of repair/damages and then fine of a minimum of two mature healthy goats or cash equivalent</td>
</tr>
</tbody>
</table>
24. Pasture and Forest/woodland Resources

1. Pastures around settlements shall be reserved for grazing of calves and sickly, weak, or lactating animals only.

2. During the dry season, mature animals may graze near settlements solely for the purpose of accessing water points.

3. Mature dry herds shall graze in the pastures farthest from settlements during the wet season.

4. Residents are free to:
   a. collect dead wood for firewood and non-wood products for domestic use;
   b. cut tree branches for the purpose of building animal sheds or kraals and as fodder for sick calves, lambs and kids;
   c. graze their livestock in pastures, woodlands and forests as long as they abide by these bylaws with reference to dry and wet season grazing;
   d. harvest and store pasture from their farms;
   e. use forests and woodlands for cultural and spiritual practices;
   f. extract wild honey, so long as in the process they do not use fire or cut down trees and big branches;
   g. clear invasive species such as *Prosopis juliflora* (Mathenge) for use within the sub-catchment;
   h. re-seed pasture and forest lands and plant indigenous and other approved species which don’t have negative effects on the environment, fauna and flora;
   i. take photographs of and enjoy aesthetics and beauty of the environment including pastures and forests.

Provided that in undertaking the foregoing activities, residents shall have regard to the need to conserve the environment and natural resources and to respect the interests of other members of the community in the said resources.

5. The following activities shall only be undertaken with the prior authorization of the Council:
   a. Cutting trees and branches thereof for construction of houses, home craft, making of containers and other household equipment and charcoal burning;
   b. Collection of acacia pods for local use within the sub-catchment.

6. Non-residents shall only graze within the sub-catchment with the permission of Council and in so doing shall comply with the bylaws and any other conditions imposed by the Council.

7. Dry season grazing reserves shall only be used when authorized by the Council and in accordance with guidelines issues for the purpose.

8. The Council shall be consulted by the county and national governments regarding any long term investments in natural resources within the sub-catchment, including carbon trading.

9. All residents of the sub-catchment shall be responsible for ensuring that these bylaws are followed and shall report any breach thereof to the Council.

10. The Council shall work closely with the Kenya Forest Service (KFS), Department of Livestock Production and the County Government to conserve and protect pasture and forest resources in the sub-catchment, and they shall for this purpose conduct joint surveillance and monitoring of the resources.
## 25. Penalties for contravening bylaws on pasture and forest resources

The penalties specified in the second column shall be imposed for contravention of bylaws specified in the first column.

<table>
<thead>
<tr>
<th>Breach</th>
<th>Penalty</th>
</tr>
</thead>
</table>
| Cutting of trees, big branches and back ringing (girdling) or killing trees using chemicals, fire etc. without authority from the Council and KFS | a) Big tree branch - fine of five mature healthy goats or cash equivalent  

b) For medium size tree and shrub - fine of three mature healthy goats or cash equivalent  

c) Big/ceremonial tree - fine of ten mature healthy goats or cash equivalent  

Maximum fine of ten mature healthy goats or cash equivalent |
| Start uncontrolled fire for any reason                                | Forcible eviction, and/or fine of three mature healthy goats or cash equivalent                                                        |
| Unauthorized use of pastures reserved by the Council for future       | a) Compensation based on assessment by agricultural experts and the Council. However,  

b) there will be no penalties imposed if the farm is not fenced or the animals involved were lost livestock |
| Destruction of crops, fruits and pastures on farm land by livestock   | Forcible eviction and fine of five mature healthy goats or cash equivalent  

Forcible eviction and fine of five mature healthy goats or cash equivalent |
| Keeping livestock for commercial and dry herd “jill” within eight kilometer radius of settlement (locally known as TOM) meant to protect pastures and fodder for milking and weak animals within settlements | Forcible eviction and fine of five mature healthy goats or cash equivalent  

Forcible eviction and fine of five mature healthy goats or cash equivalent |
| Fencing of communal pasture and fodder trees for personal/commercial use | Forcible eviction and fine of five mature healthy goats or cash equivalent  

Confiscation of tool(s) and fine of minimum of three mature healthy goats or cash equivalent |
| Commercial harvesting or collection of wood and non-wood products without the consent of the Council and KFS | a) The Products confiscated and if offender is non-resident he/she will be fined at least five mature healthy goats or cash equivalent and ordered to leave the sub-catchment  

b) Any resident accomplices shall be fined one mature healthy goat or cash equivalent  

Fine of five mature healthy goats or cash equivalent per cut tree  

The non-resident offender and resident accomplices shall each be fined two mature healthy goats or cash equivalent  

Forcible eviction from the site and fine of three to ten mature healthy goats or cash equivalent depending on severity of impact  

Snares destroyed and fine of one mature healthy goat or cash equivalent |
| Use or possession of hooked poles “LULA” for shaking of Acacia tree pods, power saw and cutting tools except AXE | a) The offender pays twice value of livestock killed based on the customary rule of Laba guud  

b) To court if offender refuses above punishment  

Forceful destruction of plant and fine of a minimum of one mature healthy goat or cash equivalent |
26. Land Resources

1. Every resident is entitled to access land for settlement and farming provided that they follow the procedures laid down herein and abide by the traditions and practices of the community.
2. Every resident shall plant, conserve and protect trees and other plants on their farms.
3. Residents with farms along river banks will take special care to manage the land in such a manner as to avoid degradation.
4. Every resident shall endeavour to achieve and maintain a tree cover of at least ten per cent on their land holdings.
5. Residents are free to cut trees in their farmlands when preparing the land for farming.
6. Steps shall be taken to progressively ban polythene bags from the sub-catchments and in this connection, shopkeepers shall be sensitized to replace them with cloth bags.
7. Every household shall construct a ventilated pit latrine, in particular within urban and peri-urban areas.
8. The following activities shall only be undertaken on land with the authority of the Council and the County Government:
   a. Leasing land to investors;
   b. Sale and purchase of land;
   c. Reclamation of degraded land.
9. Disputes relating to inheritance of land shall be arbitrated in accordance with Sharia.

27. Penalties for contravening bylaws on land

The penalties specified in the second column shall be imposed for contravention of bylaws specified in the first column.

<table>
<thead>
<tr>
<th>Contravention</th>
<th>Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grabbing of communal land without the consent of the Council and Government</td>
<td>a) Offender forcibly evicted and land repossessed, and</td>
</tr>
<tr>
<td></td>
<td>b) If resident fined five mature healthy goats or cash equivalent</td>
</tr>
<tr>
<td>Grabbing of the 40m corridor between two group farms</td>
<td>Forcible eviction and repossession of the corridors and fine of</td>
</tr>
<tr>
<td></td>
<td>five mature healthy goats or cash equivalent</td>
</tr>
<tr>
<td>Construction of physical infrastructure without the Council and Government</td>
<td>Forcible eviction and fine of two mature healthy goats or cash equivalent</td>
</tr>
<tr>
<td>Staking claim on communal land on the basis of past settlement</td>
<td>Forcible eviction and fine of two mature healthy goats or cash equivalent</td>
</tr>
<tr>
<td>Fencing of plots for speculation purposes</td>
<td>Forcible removal of fence and fine of two mature healthy goats or cash equivalent</td>
</tr>
<tr>
<td>Disposing of waste (garbage) haphazardly and away from official disposal site</td>
<td>Forcible removal of the garbage and made to dispose it off in</td>
</tr>
<tr>
<td></td>
<td>official disposal site failure to which disposal will be done at</td>
</tr>
<tr>
<td></td>
<td>offender’s cost</td>
</tr>
<tr>
<td>Failure to construct pit latrine/waste disposal pit in urban or peri-urban</td>
<td>The offender shall be compelled to construct the latrine/waste</td>
</tr>
<tr>
<td>area</td>
<td>disposal pit and fined two mature healthy goats or cash equivalent</td>
</tr>
<tr>
<td>Alternation of plot/farm boundaries</td>
<td>Fence restored to original boundary and marked with permanent</td>
</tr>
<tr>
<td></td>
<td>visible beacons, and offender fined two mature healthy goats or cash</td>
</tr>
<tr>
<td>Blocking of roads or paths</td>
<td>equivalent</td>
</tr>
<tr>
<td>Unattended farm plots within farm groups</td>
<td>Forcibly reposes and plot given to active farmers</td>
</tr>
<tr>
<td>Unplanned and mushrooming settlements and water sources without consent of</td>
<td>Forcible eviction and offender(s) to rehabilitates affected site at</td>
</tr>
<tr>
<td>the Council and relevant government authorities</td>
<td>own cost</td>
</tr>
<tr>
<td>Refusal to observe customary laws in the area</td>
<td>Expulsion from the area and to court</td>
</tr>
</tbody>
</table>
28. Mineral Resources

1. Residents of the sub-catchment are free to benefit from mineral resources found in the area including through small-scale extraction for local construction purposes as long as they abide by these bylaws and practices of the community.

2. The following activities shall only be undertaken with the prior authorization of the Council and the relevant Government Department:
   a. Mapping and surveying for mineral exploration;
   b. Commercial extraction of hard core, gravels, ballast, sand and other minerals within the sub-catchments;
   c. Establishment of mining site in pasture land.

3. In authorizing commercial extraction of minerals in the sub-catchments, the Council shall impose conditions for ensuring community benefit, including but not limited to:
   a. Requiring that priority be given to residents in recruitment of labour;
   b. Support to infrastructure and other community developments as a means of benefit-sharing;
   c. Proper environmental management and rehabilitation of excavated sites through landscaping, tree planting and reseeding.

4. Only duly registered firms and companies with proven capacity shall be issued with mining permits and allowed to explore and/or extract minerals in the sub-catchments.

5. Any companies that have engaged in unfair practices and those associated with them shall not be issued with permits for mineral extraction in the sub-catchments, and the Council shall investigate the record of every company applying for such permits.

6. Those authorized to undertake commercial extraction of minerals in the sub-catchments may install machinery and plants and construct fences to secure their properties for the duration of the permit.

7. Any company authorized to explore and/or extract minerals in the sub-catchment shall comply with national policies and laws governing mining and environmental management, including those on Environmental Impact Assessment (EIA) and waste management.

8. The Council shall monitor operations of mining companies in the sub-catchment and deal with any breaches of these bylaws and/or report them to the County Enforcement Authorities and relevant agencies of the National Government.
29. **Penalties for breach of bylaws on mineral resources**

The penalties specified in the second column shall be imposed for contravention of bylaws specified in the first column.

<table>
<thead>
<tr>
<th>Contravention</th>
<th>Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fencing of mineral sites by individuals, families or sub-clans</td>
<td>Forcible eviction, and fined five mature healthy goats or cash equivalent</td>
</tr>
<tr>
<td>Exploration of minerals (by individuals, companies) without consent of the Council and Government</td>
<td>Forcible eviction and offender meets cost of rehabilitating affected site(s)</td>
</tr>
<tr>
<td>Exploitation of minerals (by individuals, companies) without consent of the Council and Government</td>
<td>a) Impounding of minerals extracted, b) Impounding and retention of equipment used until offender meets the cost of rehabilitating the site, c) Fine of ten mature healthy goats or cash equivalent, and d) Eviction</td>
</tr>
<tr>
<td>Mining of minerals other than those for which permit is issued</td>
<td>a) Confiscation of the minerals in hand (repossession) and follow up to reposes/compensate what was stolen b) Termination of mining permit c) Pay for compensation for breach of agreement, and d) Fine of ten mature healthy goats or cash equivalent</td>
</tr>
<tr>
<td>Failure to comply with conditions of mining permit</td>
<td>Cancellation of mining permit and fine of ten mature healthy goats or cash equivalent</td>
</tr>
<tr>
<td>Failure to rehabilitate degraded/mining sites</td>
<td>a) Forcible rehabilitation of site b) Pay compensation of any injury/death caused, and c) Barred from mining in the area</td>
</tr>
<tr>
<td>Collecting mineral(s) from degraded/fragile sites</td>
<td>a) Compelled to refill the degraded site at own cost, and b) Fine of a minimum of two mature healthy goats or cash equivalent</td>
</tr>
<tr>
<td>Disposal of hazardous waste</td>
<td>Offender reported to Ministry of Mining and NEMA for prosecution</td>
</tr>
<tr>
<td>Refusal to participate in planting of trees on degraded sites</td>
<td>Fine of one mature healthy goat or cash equivalent</td>
</tr>
</tbody>
</table>

**30. Wildlife Resources**

1. The Council shall work closely with the Kenya Wildlife Service (KWS) and the County Wildlife Conservation and Compensation Committee to protect wildlife in the sub-catchment and promote their conservation; and they shall for this purpose conduct joint surveillance and monitoring of wildlife.
2. The Council shall report to KWS and the County Wildlife Conservation and Compensation Committee any activities that threaten wildlife in the sub-catchment.
3. The Council shall work closely with the County Wildlife Conservation and Compensation Committee and KWS to protect residents from wildlife and shall in this connection ensure full and prompt compensation for any damage, injuries or death caused by wildlife in accordance with the provisions of the Wildlife Conservation and Management Act, 2013.
4. KWS shall involve the Council in activities related to the promotion of wildlife conservation within the sub-catchments including the establishment of wildlife corridors, conservancies and other protected areas.
5. KWS shall consult with the Council and involve them in any translocation of wildlife from or to the sub-catchment.
6. Every resident has the right to enjoy the aesthetics and beauty of wild animals in the sub-catchment and for this purpose may view them and take photographs at no cost.
7. No wild animal shall be domesticated or captured for commercial purposes without a permit from KWS and the Council.
8. Every resident has a duty to protect wild animals in the sub-catchment and shall report any threats to the Council.
9. The following activities shall only be undertaken with the written authority of the Council, which shall only be issued after consultation with KWS and in conformity
with the relevant laws:
- a. Shooting of guinea fowl and other birds;
- b. Domestic farming of wild game such as quail, guinea fowl, and crocodiles;
- c. Establishment of wildlife conservancies or sanctuaries;
- d. Promotion of ecotourism through the construction of hospitality facilities such as lodges;
- e. Conducting research on wildlife resources within the sub-catchments.

### 31. Penalties for breach of bylaws on wildlife resources

The penalties specified in the second column shall be imposed for contravention of bylaws specified in the first column.

<table>
<thead>
<tr>
<th>Contravention</th>
<th>Penalties</th>
</tr>
</thead>
</table>
| Hunting, poisoning and killing of wild animals                               | a) If the animal is endangered species especially elephant and leopard, the person is handed over to KWS for prosecution  
|                                                                               | b) For all other animals common in the area the following fines shall be imposed:  
|                                                                               |   - A giraffe for a camel or ten mature healthy goats or cash equivalent  
|                                                                               |   - Buffalo size animal for a cow or five mature healthy goats or cash equivalent  
|                                                                               |   - An antelope for a mature healthy goat or cash equivalent  
|                                                                               |   - Guinea folk/bird for a mature healthy chicken or cash equivalent  
| Domestication or commercialization of wildlife in captivity without consent of the Council and KWS | Forcible release of the animal to KWS  |
| Obstruction of wildlife from accessing water, pasture or both               | Fine of one mature healthy goat or cash equivalent  |
| Fencing of wildlife corridors, settling therein or otherwise interfering access by wildlife thereto | Forcible removal of fence, eviction and fine of one mature healthy goat or cash equivalent  |
| Translocation of wildlife without the consent of the Council and a license from KWS | Forcible return of the wildlife to the sub-catchment or release to KWS and fine of three mature healthy goats or cash equivalent  |
| Setting up of snares on farms and communal grazing lands                    | Snares destroyed and offender fined one mature healthy goat or cash equivalent for setting up a snare  |
| Causing death of wildlife by snares                                           | Offender shall be fined as follows according to the nature of the animal:  
|                                                                               |   - A giraffe for a camel or ten mature healthy goats or cash equivalent  
|                                                                               |   - Buffalo size animal for a cow or five mature healthy goats or cash equivalent  
|                                                                               |   - An antelope for a mature healthy goat or cash equivalent  
|                                                                               |   - Guinea folk/bird for a mature healthy chicken or cash equivalent  
| Disturbance of wildlife when giving birth or immediately thereafter         | Fine of not less than two mature healthy goats or cash equivalent  |
| Trapping of wildlife in flood zones or muddy areas                          | The trapped animal shall be freed if alive. If animal is dead the offender shall be fined in accordance with the type of animal killed:  
|                                                                               |   - A giraffe for a camel or ten mature healthy goats or cash equivalent  
|                                                                               |   - Buffalo size animal for a cow or five mature healthy goats or cash equivalent  
|                                                                               |   - An antelope for a mature healthy goat or cash equivalent  
|                                                                               |   - Guinea folk/bird for a mature healthy chicken or cash equivalent  
|                                                                               |   - Hippos and crocodile fine of four mature healthy goats or cash equivalent  |
| Fencing of wildlife hotspot to Privatize public land for conservancy or sanctuary without the consent of the Council and KWS | Reposes land and evicted, offender rehabilitates site at own cost, and then pays fine of three mature healthy goats or cash equivalent  |
| Destruction of crops, fruits and farm pastures by wildlife                  | Report to KWS for compensation  |
| Killing livestock, injury, death and destruction of property by wildlife     | Report to KWS for compensation  |
32. Proceedings before Council of Elders

1. Any resident of the sub-catchment may lodge a complaint with the Council against any person for breach of these bylaws. Every such complaint shall be lodged with the Village Level Sub-Committee in the first instance.

2. The Council may of its own motion initiate proceedings against any person for breach of these bylaws.

3. The Village Level Sub-Committee shall upon receipt of a complaint against a person for breach of any of these bylaws summon the person to appear before it within a reasonable time not being less than 7 days from the date of the summons to respond to the complaint.

4. Summons for appearance before the Village Level Sub-Committee to respond to a complaint shall be issued under the hand of the Chair or in his absence the Vice-Chair of the Village Level Sub-Committee and shall state clearly the nature of the charge and the time and place where the person is to appear.

5. A person against whom a complaint is filed before the Village Level Sub-Committee shall appear in person to answer the complaint and may call witnesses in support of his case.

6. The Village Level Sub-Committee shall hear and determine every complaint lodged before it with due dispatch.

7. Proceedings of the Village Level Sub-Committee shall be held in public unless for good cause a party requests and the Sub-Committee agree that the hearing should be held in private.

8. A written record of every complaint that comes before the Village Level Sub-Committee shall be kept with details of the parties, and a summary of the evidence, the decision and reasons for the decision.

9. A person aggrieved by a decision of the Village Level Sub-Committee may appeal against the decision to the Council.

10. The Village Level Sub-Committee shall depend on the Office of the Village Administrator for secretarial and technical support.

33. Referrals

1. The Village Level Sub-Committee and the Council shall refer any case before them to the County Enforcement Authority or the Police as appropriate where in their opinion the facts of the case disclose a breach of county bylaws or the national law.

2. In making such referral, the Village Sub-Committee or the Council shall forward the written record of the proceedings up to the point of referral to the relevant authority.

34. Management of Fines

1. The Council for each sub-catchment shall be responsible for enforcement of the bylaws herein. They shall impose and collect fines as appropriate, manage the revenue generated thereby and be accountable to the community and the county government for the same.

2. The Council in each sub-catchment shall open and operate a specific bank account in which shall be deposited all the fines received from the enforcement of the bylaws herein.
3. The signatories to the said bank account shall be the chairman of the respective Council plus one youth representative and one women’s representative. Where there are more than one youth representative and one women’s representative in the Council, the youth and women representatives will agree among themselves on the bank signatories. If they are unable to agree, then the Council shall conduct an election to determine who among the youth and women representatives on the Council shall become signatories to the bank account.

4. The revenue from fines shall be shared between the community and the county government at the ratio of 70:30, such sharing to be done and remittances to the county government done on a quarterly basis or such period as shall be agreed between the Council and the County government.

5. The Council shall determine how the community’s share of the revenue from fines shall be used giving priority to:
   a. Environmental conservation and catchment restoration including agroforestry, pasture and crop farming, rehabilitation of degraded sites, conservation and protection of pastures, forests and woodlands and wildlife;
   b. Development and improvement of water sources and resources;
   c. Strengthening of community structures for natural resource management, including enforcement of these bylaws and capacity building for the Council;
   d. Cost-sharing with county government during emergencies and disasters;
   e. Develop a social fund to support needy cases of support within the community.

6. The accounts of the Council shall be audited annually by auditors from the county government and the audit report shared with community members at a general meeting. The report shall also be shared with the county government.

35. Review and amendment of bylaws

1. These bylaws shall be reviewed at the end of five years from the effective date; provided that amendments may be made to specific clauses of the bylaws at any time.

2. Responsibility for these bylaws rests with the Council with the support of the Management Committees of Khorweyne, Habarow-Saka and Kasha WRUAs, WRMA, the County Government, and other natural resource management institutions of both County and National Governments operating within the sub-catchments.

3. Review of the bylaws shall be initiated by the Council and undertaken through a participatory process that shall involve the active participation, guidance and inputs by the WRUA, WRMA, and the County Government.

4. Once the review is completed, the amended bylaws will be approved by a full meeting of the Council, and then forwarded to the County Government for endorsement and adoption as appropriate.

5. The Council shall organize sensitization campaigns to create awareness about the bylaws and any amendments thereof.