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NAKURU COUNTY BILLS, 2020

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THE NAKURU COUNTY WASTE MANAGEMENT BILL, 2020

A Bill for

AN ACT of the County Assembly of Nakuru to make Provision for the management of waste in The County and for the related purposes

ENACTED by the county Assembly of Nakuru, as follows—

PART I—PRELIMINARY

Short title

1 This act may be cited as the Nakuru County Waste Management Act, 2020 and shall come into effect upon assent

Interpretation

2 In this Act unless the context otherwise requires—

“agricultural waste” is waste generated from animal rearing and the production or harvesting of crops or trees and include animal carcasses

“authorized officer” means Chief Officer, the Director of Environment or any other officer authorised by the County Executive Committee member in charge of environment in writing the purposes of enforcement of the provisions of this Act

“Biomedical or clinical waste” means all waste arising from medical, nursing, dental, veterinary, pharmaceuticals or similar practices, which by nature of its toxic, infectious or dangerous content and include human or animal tissue excretions, drugs and medical products, swabs, dressings and instruments or similar substances,

“Environment officers” Means an officer appointed and designated in writing by the County Director of Environment charged with the execution of this Act

“County Director” means the county director in charge of environment

‘Chief Officer’ means the chief officer responsible for environment,

“County Executive Committee Member” means the County executive committee member in charge of environment,

“construction and demolition waste” means waste generated from construction, renovation, repair and demolition of structures including buildings and roads,

“disposal” in reference to waste means the final placement of waste in the designated site without intention of retrieval and may include the
disposal or raw or intermediary handled inert or otherwise unwanted residues,

"occupier" means a person in occupation or control of a premises and in relation of premises, different parts of which are occupied by different persons means the respective persons in occupation or control of each part

"Premises" includes passages, buildings, lands and segments in every tenure and machinery, plants or vehicles used in connection with any trade carried on at any premise,

"Recycling" means the processing of waste material into a product of similar chemical composition,

"Re-Use" means use of waste with or without cleaning or repair,

"solid waste" include any waste in solid form which is deposited in the environment in such volumes of composition likely to cause an alteration of that environment,

"Solid-Waste-Management" means the activities that are used in reducing, handling, segregation, treatment, storage, material recovery, transportation and disposal of solid waste so as to protect the environment against the possible adverse effects,

"Transport" in reference to solid waste means the transfer of solid waste from any point including but not limited to generation, intermediate handling, and collection points and final disposal,

"Waste-Generator" means any person whose activities under his or her direction produces waste or if that person is not known, the person who is in possession or control of that waste,

"Zone" means area that has been subdivided and allocated for the purpose of this Act,

"Air Quality" means the concentration prescription under or pursuant to this Act of a pollutant in the atmosphere at the point of measurement,

"Enforcement Officer" means a Government Officer employed to enforce the Act among other duties

"Authority" means County Government of Nakuru,

"Chemical" means a chemical substance in any form whether by itself or in a mixture or preparation whether manufactured or derived from nature and for the purposes of this Act includes industrial chemicals, pesticides, fertilizer and drugs,
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"Developer" means a person or an agent who is developing a project, which is subject to any environmental impact assessment process under the this Act. "Disposal site" means any area of land on which waste disposal facilities are physically located and includes a final waste discharge point without the intention of retrieval but does not mean a reuse or recycling plant or site.

"Ecosystem" means a dynamic complex of plants, animal, microorganism communities and their non-living environment interacting as a functional unit. "Effluent" means gaseous waste, water or liquid or other fluid of domestic, agricultural, trade or industrial origin treated or untreated and discharged directly or indirectly into the aquatic environment.

"Environment" includes physical factors of the surroundings of human beings including land, water, atmosphere, climate, sound, odour, taste, the biological factors of animals and plants and the social factor of aesthetics and includes both the natural and the built environment.

"Environmentally-Friendly" includes any phenomenon or an activity that does not cause harm or degradation to the environment.

"Good Environmental Practice" means practice that is in accordance with the provision of this Act or any other relevant law.

"Hazardous Waste" means any waste, which has been determined by the authority to be hazardous waste, or to belong to any other category of waste provided for by this Act and or the Environmental Management & Coordination Act (EMCA) 1999, amended 2015.

"Hazardous Substance" means any chemical, waste, gas, medicine, drug, plant, animal, microorganism or any other substance, which is likely to be injurious to human health or the environment.

"Occupier, Owner or agent" means a person in occupation or control of premises and in relation to premises different parts of which are occupied by different persons means the respective persons in occupation or control of each part.

"In relation to any premises" means—

(a) the registered proprietor of the premises,
(b) the lessee, including a sub-lessee of the premises,
(c) the agent or trustee of any other owners described in paragraph a and b of this interpretation section or where such owner as described in paragraph a and b cannot be traced or has died, his legal personal representative d) the person for the time being receiving the rent of the premises whether on his own account or
as an agent or trustee for any other person or as a receiver or who would receive the rent if such premises were let to a tenant, and,

“In Relation to any Vehicle, Water Vessel, Locomotive” means the person or company registered as the owner of the vehicle, water vessel, locomotive or in the absence of registration the person owning the vehicle, water vessel, locomotive, except in the case of a vehicle, water vessel, locomotive owned by another government is registered,

“Pollutant” includes any substance whether liquid, solid or gaseous which-

(a) May directly or indirectly alter the quality of any element of the receiving environment,

(b) Is hazardous or potentially hazardous to human health or the environment and includes objectionable odours, radioactivity, noise, temperature change or physical, chemical or biological change to any segment or element of the environment,

“Polluter-Pays Principle” Means that the cost of cleaning up any element of the environment damaged by pollution, compensating victims of the pollution, cost of beneficial uses lost as a result of an Act of pollution and other costs that are connected with or incidental to the foregoing, is to be paid or borne by the person convicted of pollution under this Act or any other applicable law,

“Pollution” means any direct or indirect alteration of the physical, thermal, chemical, biological or radio-active properties of any part of the environment by discharging, emitting or depositing wastes so as to effect any beneficial use adversely to cause a condition which is hazardous or potentially hazardous to public health, safety or welfare or to animals, birds, wildlife, fish or aquatic life, or to plants or to cause contravention of any condition limitation or restriction which is subject to a license under this Act,

Unless otherwise stated, the premises in the context of this Act shall include but not limited to restaurants, hotels, bars and lodgings, schools, offices, mosque, churches, hospitals, parks, hostels, factories, supermarkets, petrol stations, and/or any other place frequented by members of the public,

“Premises” include messuages, buildings, lands and hereditaments in every tenure and machinery, plant or vehicle used in connection with any trade carried on at any premises,
"Trade" means any business or undertaking whether originally carried on at fixed premises or at varying places which may result in the discharge of substances and energy and includes any activity prescribed to be a trade, business or undertaking for the purpose of this Act.

"Industrial Undertaking" means any place or premises where there are commercial undertakings which are likely to have environmental impacts.

"Waste" includes any matter prescribed to be waste and any matter whether liquid, solid, gaseous or radioactive, which is discharged, emitted or deposited in the environment in such volume, composition or matter likely to cause an alteration of the environment.

"Waste Collection Point" means any premises or any designated area where solid waste is deposited temporarily before being collected and transported to a transfer station or a waste disposal site.

"Waste Collection Service" means any services that entail removal, transportation and proper disposal of waste.

"Waste Generator" means any person whose activity or an activity under the person's direction produces waste or if that person is not known, the person who is in control of that waste and includes a person in charge of an outdoor activity, function or event that is permanently or temporarily held in a public place where waste is generated.

"Waste/Grey-water" means the discharge from baths, sinks and similar appliances which does not contain excretal liquid or substance.

"Black Water" means the mixture of urine, faeces and flush water and or dry cleansing materials and lavatory basins.

"Wetland" means area of marsh, fen, peat lands or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt including areas of marine waters the depth of which at low tide does not exceed 6 meters.

PART I – ADMINISTRATION ROLE OF THE DEPARTMENT

3 The department shall—

(a) co-ordinate, promote and facilitate effective implementation of this Act and policies, plans and strategies adopted on solid waste management,

(b) co-ordinate and collaborate with national government's relevant lead agencies in the implementation of this Act and other policies, plans and strategies adopted on solid waste management in the county,
(c) enforce laws and guidelines related to solid waste management,
(d) promote and facilitate compliance with this Act and policies, plans and strategies adopted on solid waste management,
(e) in collaboration with relevant stakeholders carry out awareness creation, mobilization and capacity development on solid waste management,
(f) mobilize and facilitate formation of local community or neighbourhood initiatives or programmes for solid waste management,
(g) provide public services related to solid waste management,
(h) supervise and coordinate private actors in solid waste management,
(i) issue licences required under this Act,
(j) in collaboration with county treasury provide such incentives as may be necessary to promote community and private sector participation in sustainable solid waste management, and
(k) carry out any other function for the purposes of implementing the objects of this Act

Multi-sectoral approach on county solid waste management. This will involve departments, entities (public or private), or any other relevant agencies who have a role or stake in matters of solid waste management

PART II—GENERAL PROVISIONS

Objects of the act

4 The objectives of this Act is to—

(a) Provide a county legal framework for solid waste management function as spelt out in part 2 of the Fourth Schedule of the Constitution of Kenya

(b) Pursuant to Article 69 (1) (d) of the Constitution provide a framework to encourage public participation in the management, protection and conservation of the environment,

(c) Provide for and regulate the participation of the various actors in the solid waste management in the country

Shared responsibilities entitlements

5 Solid waste management shall be a shared responsibility among all actors including the county government, generators, owners and occupiers of premises and contracted solid waste service providers
Public and private sector participation

6 (1) The County Executive Committee Member, in charge of environment, shall allow for, and facilitate the participation of persons including individuals, corporate entities, community, neighbourhood associations, and organizations in all aspects of solid waste management in order to attain and maintain high and sustainable standards in solid waste management within the county.

(2) The County Executive Committee Member, in consultation with the governor, shall establish mechanisms for the environment of the various actors in solid waste management in the county and these mechanisms may include—

(i) Franchise systems,

(ii) Management contracts paid by the county government, or

(iii) Any other arrangement for the provision of specified solid waste management services,

(3) The mechanisms referred to in subsection (2) may be applied in a specified zone and for a definite duration of time as determined by the executive committee member in consultation with the governor.

(4) Every actor in solid waste management services including generators and services including generators and service providers shall operate within the frameworks in place for their particular zones.

Environmental levy

7 The County Executive Committee member in consultation with the governor, may by the notice in the gazette, impose a charge on the generations of solid waste within the county for purpose of meeting the cost of solid waste management within the county.

Material recovery

8 (1) The county Executive Committee Member responsible for finance, in consultation Environmental levy with the governor, by order impose at the rate of not more than two percent of the property rates payable in respect of a rateable property, a charge to be known as environment levy to be applied in waste management, dealing with environmental nuisance and to improve the quality of the environment generally.

(2) The Order mentioned in subsection (1) shall provide the manner in which the environment levy may be imposed and its administration.
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Solid waste categorization and handling

9 The County Executive Member shall establish guidance undertake activities to facilitate and promote recovery of waste materials through reduction, re-use, recycling and composting of waste by the various actors in solid waste management.

Zoning

10 (1) The County Executive Committee Member shall, by regulation, divide solid waste generation in the county into various categories depending on their physical or chemical characteristics and provide for the necessary manner of handling of such waste so as to guarantee the health and safety of all, including but not limited to the waste handlers, as well as the well-being of the environment.

The categories of solid referred to in subsection (1) include:

(a) Municipal waste,
(b) Market waste,
(c) Construction and Demolition waste,
(d) Industrial solid waste,
(e) Agricultural waste,
(f) Biomedical or clinical waste,
(g) Hazardous Waste,
(h) E-waste,
(i) Plastic waste,
(j) Trade waste,
(k) Any other category of waste as the County Executive Committee Member may, in writing, determine.

(2) The executive committee member may by notice in the gazette divide the county into such in zones for purpose of convenient management of waste collection and transportation and may from time to time alter such zones.

(i) The department responsible for solid waste collection management shall in collaboration with other relevant system Public and private actors establish an efficient, responsive and coordinated countywide solid waste collection services system.

(ii) The system described under subsection (1) shall include among others—
(a) Stakeholder consultation, mobilization and participation,
(b) Compliance with public and environment health standards,
(c) Collection of solid waste from private and public places, and
(d) Maintenance of clean public streets and places
(e) Any person or firm authorized to collect and transport waste shall be guilty if he or she operates outside the area of he or she should

(3) Any person or firm unauthorized to collect, transport, store, sort or recycle shall be guilty of an offence

Prohibition of certain operations

11 AnAuthorized officer may order any person to immediately cease an operation involving the generation, handling, transportation, storage, or disposal of any waste whose such generation, storage, handling, transportation, storage or disposal presents an imminent or substantial danger to public health or to the environment

Failure to produce proof on demand is an offence

12 Any owner/ occupier of any premises receiving garbage/waste collection service shall pay or ensure payment to council of the private firm, or group that may have rendered service on monthly basis the approved garbage/waste collection fee Failure to pay or ensure payment of the prescribed garbage/waste collection fees shall be guilty of an offence

Proof of safe disposal of refuse

13 (1) It shall be sufficient proof of safe disposal of refuse if an authenticated payment receipt from a licensed private garbage collector, in case of domestic refuse or a conservancy certificate issued by the council in case of trade or commercial refuse is produced

(2) Every occupier, tenant, agent, or owner shall cause to be separated any class of waste or all wastes as may be directed by the Director of Environment and such wastes shall be stored in separate receptacles until collected or otherwise disposed off in an approved manner

Power of entry

14 An authorized officer, upon introduction may at any hour reasonable, for proper performance of his or her duty, under this Act, enter any land or any premises to make any inspection, inquiry, investigation or
to perform any other work or do anything which is required or authorized by this Act or any other law to do is such inspection, inquiry, investigation or work is necessary for or is incidental to the performance of his or her duties or the exercise of his or her powers under this Act

No license for non-compliance business etc

15 A person shall not be licensed to carry on a business or an activity that generates solid wastes unless that person demonstrates that he or she has established measures to minimize solid waste generation by adopting the following cleaner production principles

(a) Improvement of production process through conserving raw materials and energy

(b) Incorporating environmental concerns in the Design, process and disposal of a product,

(c) Monitoring the product cycle from beginning to end in order to—

(i) Enable the recovery and re-use of the product where possible,

(ii) Facilitate reclamation and recycling

(d) Incorporating Solid Waste storage room in the building plans and designs

Prohibition against manufacture etc of certain plastics

16 (1) No person or firm shall manufacture, import, distribute, use or handle any banned material under the National law

(2) The County Executive Committee Member in charge of Environment may by notice in the gazette impose a ban for the importation, manufacturing, distribution, use or handling of any material that may pose danger to health and or environment

(3) Any person, organisation, firm or an institution who contravenes this section commits an offence

Part III—RIGHTS, DUTIES, AND RESPONSIBILITIES

Right to clean and health environment, etc

17 (1) Every person within the county is entitled to a clean and healthy environment and has a duty to safeguard and enhance the quality of the environment

(2) Specifically, a person, entity, landlord, occupier, and agents in the county shall have a duty to—
(a) Maintain the premises occupied by the person in clean condition free of litter or garbage,

(b) Dispose solid waste only in the manner prescribed by law,

(c) Prevent or reduce, where appropriate, the generation of solid waste,

(d) Reuse materials that are reusable and in good condition instead of disposing off the materials as solid waste,

(e) Segregate solid waste at source in accordance with the prescribed requirements and guidelines,

(f) Handle and store waste in accordance with the prescribed guidelines and standards,

(g) Participate in and support solid waste management services and programmes initiated by the county, and

(h) Comply with the national standards and policy about production processes and management of solid waste

PART IV—SOLID WASTE GENERATION

Classification of waste

18 For purposes of this Act, a waste generator may be classified as—

(a) Domestic which entails generation of waste from households and residential areas

(b) Commercial, which entails generation of waste from all types of business premises

(c) Industrial which entails generation of waste from factories, industries, and mills

(d) Institutional which entails waste from institutions such as schools, colleges and universities

(e) Hazardous and Toxic wastes such as biomedical, e-waste, asbestos etc

(f) Construction and demolition which entails generation of waste from construction or demolition or renovation sites

(g) Outdoor events, which include generation of paper, cans and food, waste among others

Promotion of prevention of solid waste generation

19 The department shall in collaboration with national government and relevant stakeholders adopt strategies for prevention of waste
generation among all categories of waste generators or product users through—

(a) Awareness creation on behavior change, consumer choices and practices to reduce excessive consumption,

(b) Promotion of reuse of materials, and

(c) Promote adoption of production or manufacturing processes that minimize generation of solid waste.

20 The department shall in collaboration with other relevant stakeholders create initiatives and programmes for encouraging material reuse, which may include provision of incentives.

Segregation of solid waste

21 (1) A waste generator shall segregate or separate waste at source or point of generation into dry waste or recyclables and wet waste, which include food waste and organic matter and store the waste in appropriate receptacles in accordance with the prescribed guidelines and standards.

(2) The owner, landlord, occupier and the agents shall provide the prescribed waste collection or storage receptacles appropriate for waste segregation in accordance with the contract of service entered into between the parties.

(3) Where a waste generator fails to segregate or separate waste as required under subsection (1), a waste service provider or transporter may decline to collect and transport the waste if the waste service provider or transporter can identify the waste generator of the unsegregated waste.

(4) Where a waste service provider or transporter establishes that the solid waste is not segregated, the waste service provider or transporter shall notify and request the waste generator to separate the waste as prescribed.

(5) Where a waste generator continuously fails to segregate the waste for a period of fourteen subsequent days after the notification under subsection (4), the waste service provider or transporter shall notify an authorized officer appointed under this Act.

(6) An authorized officer shall, upon notification under subsection (5) issue a notice to the waste generator in writing of the requirement to comply with the waste segregation requirements under this Act within fourteen subsequent days upon the issuance of the notice.

(7) A waste generator who fails to comply with the notice issued under subsection (6) commits an offence and shall be liable upon conviction—
(a) In the case of an individual to a fine not exceeding two thousand Shillings, and

(b) In the case of an industrial or commercial enterprise to a fine not exceeding fifty thousand Shillings

(8) A person who fails to pay the fine prescribed under subsection (7) shall be liable to imprisonment for a term not exceeding one month

(9) Notwithstanding subsection (3), a waste collector or transporter may, where the waste generator fails to segregate waste, separate the waste at the point of collection before transporting the waste to the transfer station or disposing the waste in any of the prescribed methods

(10) The waste service provider shall ensure that the vehicle is compartmentalized to collect and transport segregated wastes to designated sites

**Liasing and engagement with national government on production processes**

22 The department shall liaise and engage with national government and industry players for adoption of measures to promote—

(a) Production processes that prevent excessive waste generation during production, and

(b) Production of packaging material that may be reusable or recyclable upon use or consumption of a product Partnership with manufacturers, wholesalers and retailers

**Partnership with manufacturers, wholesalers and retailers**

23 The department shall establish partnerships and collaboration with manufacturers wholesalers and retailers, to adopt appropriate measures and strategies for preventing waste generation during and after sale or distribution

**Duty not to transfer unsegregated waste**

24 (1) A waste service provider or transporter shall not transfer knowingly transfer or transport waste to a transfer station unsegregated or dispose any waste, which is not segregated as waste Prescribed under this Act

(2) A person who contravenes subsection (1) shall, upon conviction be liable to a fine not exceeding ten thousand Shillings

(3) A person who fails to pay the fine prescribed under subsection (2) shall be liable to imprisonment for a term not exceeding one month
(4) Notwithstanding, subsection (1) and (2), It shall be a defence to the waste collector or transporter if the waste collector or transporter demonstrates or proofs that reasonable measures were taken to ascertain that the waste had been segregated at source.

(5) Notwithstanding subsection (1) and (2), a waste collector or transporter shall not be held liable where the waste was segregated at source but some parts of the waste were found to be incorrectly segregated.

**Waste segregation in public markets**

25 (1) A person operating an enterprise in a public market shall deposit waste generated in a waste collection container designated for the specific type of waste.

(2) The department shall in consultation and coordination with operators of enterprises in a public market adopt rules for segregation, handling and storage of waste generated in the public market.

(3) The rules adopted under subsection (2) shall provide for self-regulation by operators of a public market through public private co-regulation and partnership.

**Adoption of standards and policy**

26 (1) The department shall adopt the national standards and policy and international best practices for solid waste segregation.

(2) Notwithstanding subsection (1), the department may, in consultation with relevant stakeholders modify the application of standards where due to cultural or social context prevailing in the county, such modification would result in better compliance with the requirements under this Act. Provided that such modification will not render the standards ineffective.

**Handling and storage of hazardous waste**

27 A person or an entity that generates hazardous waste shall handle and store it in accordance with the standards and requirements prescribed under the Environment Management and Coordination Act.

**PART IV—COLLECTION**

**Prohibition on waste disposal**

28 (1) A waste generator shall not dispose waste generated in any area other than in a waste collection point designated under section 33 and in conformity with requirements prescribed under section 20.
(2) A person who contravenes subsection (1) commits an offence and shall be liable upon conviction—

(a) in the case of an individual to a fine not exceeding ten thousand Shillings, and

(b) in the case of an industrial or commercial enterprise to a fine not exceeding one hundred thousand Shillings

Designation of solid waste collection points

29 (1) The department shall in consultation with National solid waste Environment Management Authority and local residents collection points representing residential, commercial, institutional and industrial areas, designate, gazette and develop waste collection points in each ward according to the solid waste management spatial plan prepared under section 68

(2) Notwithstanding subsection (1), a waste collection point in an area with an existing neighbourhood or residential association and served by private waste collection services shall have a waste collection point as may be designated by the neighbourhood or resident association in consultation with the service provider

(3) The department shall clearly mark the waste collection points where appropriate to facilitate ease of visibility

Adoption of standards and policy for solid waste collection

30 The department shall adopt the national standards and policy and international best practices for solid waste collection

Compliance with waste collection standards

31 (1) A public or private service provider in solid waste collection shall comply with the standards, policy and international best practices adopted under section 36

(2) The department shall facilitate capacity development and technical assistance to waste collection service providers for purposes of promoting compliance with the standards, policy and appropriate best practices

Waste collection in private premises

32 (1) Solid waste collection services from residential, commercial, institutional or industrial premises shall be carried by private sector waste collection service providers

(2) Notwithstanding subsection (1), the department shall adopt measures to facilitate or provide services for solid waste collection in
areas or zones that have no access to private solid waste collection services such as informal settlements

(3) A service provider described under subsection (1) shall provide waste storage and disposal bags in accordance with the prescribed standards

**Waste collection in public place**

33 (1) The department shall be responsible for collecting solid waste in public places.

(2) Notwithstanding subsection (1), the department may enter into partnership with private sector, neighbourhood or residential associations or community based organizations to collect waste in public places within their localities.

(3) The department shall within three months upon the coming into force of this Act, remove all solid waste and refuse that is disposed or dumped in public streets, public spaces, public parks, public play grounds other than in a the land fill.

**Maintaining of waste collection points in conformity with health and environmental standards**

34 The department shall in collaboration with the department responsible for public health maintain waste collection points in conformity with prescribed public and environment health standards.

**Participation of vulnerable groups in co-management of waste collection points and services**

35 (1) The department shall in collaboration with the department(s) responsible for women, youth, persons with disabilities or other vulnerable groups and in consultation with county treasury, develop initiatives for the groups to participate in co-management of waste collection points and waste collection services for purposes of creating employment for the groups.

(2) An initiative established under subsection (1) may include waste transfer services from small waste collection receptacles or containers to large waste collection receptacles or containers.

**Procurement of waste collection services**

36 (1) The department may procure provision of waste collection services in accordance with the Public Procurement and Disposal Act.
Access to government procurement opportunities

37 (1) Pursuant to Access to Government Procurement Opportunities Policy, the county government shall provide preferential treatment to youth, women and persons with disabilities in accessing thirty percent of county government contracts for provision of solid waste collection services.

(2) The department shall publicize and mobilize the target groups described under subsection (1) to participate in supply of waste collection services to the county government.

Waste transfer stations

38 (1) The department shall, in collaboration with local residents, neighbourhood or resident associations and in consultation with National Environment Management Authority designate and gazette an area or facility to be a solid waste transfer station for the purposes of sorting and segregating solid waste in accordance with this Act.

(2) A transfer station shall not be designated adjacent to residential building, a health facility or a school or within such reasonable distance as may be prescribed.

(3) A transfer station shall be constructed as an enclosed facility to minimize open exposure of the waste.

(4) A transfer station shall be the drop off and sorting area or facility for all recyclable solid waste or waste that may be subject to processing for material recovery.

(5) A transfer station may also be used for material recovery processes such as recycling or composting.

(6) A transfer station shall meet the requirements under the Environment Management and Coordination Act and shall adopt modern international best practices taking into consideration the economic status of the county.

(7) A person or entity may establish a waste transfer station which would be privately operated provided that the transfer station meets the requirements of this Act and the Environment Management and Coordination Act.

(8) The department may enter into public-private partnership with an operator of a privately managed waste transfer station for purposes of waste transfer, separation and materials processing.
Waste transportation services conformity to standards

39 (1) Solid waste collection and transportation services including plant and equipment shall conform to the prescribed standards

(2) Subject to subsection (1) a person intending to transport waste to a waste transfer station, material processing facility or landfill shall—

(a) be a registered entity or be trading as a registered entity,

(b) possess a business permit for that year,

(c) be the owner or leasee of a waste or refuse collection vehicle or garbage truck that—

(i) is licensed under the Traffic Act as a commercial transport vehicle,

(ii) has a valid inspection certificate in (Cap 403) accordance with the Traffic Act,

(iii) is insured,

(iv) has rear or side loaders,

(v) has a cabin for waste collection and loading crew that is separate from the waste carrying cabin,

(vi) is enclosed in the area where waste or garbage is loaded, and

(vii) any other structure or system as may be prescribed,

(d) have necessary approved waste collection bins or bags where the entity also provides waste collection services,

(e) have such staff as may be necessary for collection and transportation of waste from the area of operation,

(f) have put in place measures for health and safety,

(g) Possess the necessary approvals under the (Cap 387) Environment Management and Coordination Act,

(h) Describe the neighbourhoods, zone or geographical area where the person intends to transport the solid waste from, and

(i) Meet any other condition as may be prescribed

(3) Notwithstanding subsection (2)—

(a) a local community group from poor neighbourhoods or informal settlements may be licensed to collect and transfer waste to a waste collection receptacles at designated waste
collection points. Provided that such a group is registered under a relevant law, or

(b) a person transferring waste from a small waste receptacle to a large waste receptacle or container may use a motor vehicle, tricycle, pushcart, handcart, wheelbarrow or any non-motorized transport as may be appropriate

Incentives for promoting waste separation and materials processing

40 (1) The county government shall adopt appropriate economic incentives to promote private sector investment in solid waste separation, processing and transformation such as reduced fees, charges and levies for enterprises involved in waste processing and transformation.

(2) The department shall in collaboration with other relevant stakeholders promote investment in wholesale and retail sale of recycled materials or products made of recycled materials.

(3) Where there is no adequate local capacity in the county to engage in solid waste materials processing, the department shall in collaboration with relevant stakeholders facilitate market linkages between local and external investors for purposes of supply chain management.

County may directly collect waste

41 (1) The county Government may directly or indirectly undertake collection of solid waste from the street or any other public spaces.

(2) It shall be the duty of every occupier or owner or agent of a house, or other premises to clean, cause, or permit to be cleaned five meters radius around his or her control but which shall not include a main road or street.

(3) No person shall place, cause, or permit to be placed upon frontage of a house building or any other premises any waste other than for purposes of enabling the convenient collection of such waste by a waste service provider or transporter.

(4) Any person or firm who contravenes this section shall be guilty of an offence.

County government to provide containers

42 (1) The county government shall provide appropriate litterbins for disposal of solid waste in public streets and other public places.

(2) Any person who places or causes or permit to be placed any solid waste anywhere except in a designated waste container shall be guilty of an offence.
(3) Any person who places or allows usage of a waste container in a public place or private premises which is not of such a design, size, shape and quality prescribed by or under this act shall be guilty of an offence

(4) The County Government may hire out to the owner, or occupier or agent of any premises approved waste container at such charges and in accordance with such conditions as the county government may determine

Approval of waste containers

43 (1) Every waste container shall be of size and pattern approved by the county government and shall—

(a) Have suitable handles where appropriate,

(b) Be close fitting, water and fly-proof

(c) Fitted with appropriate liner bags

(2) Any person who uses or allow to be used waste containers of a size, shape, material, design, colour or pattern not approved by the county government under this section shall be guilty of an offence

Designation of solid waste collection points

44 (1) The department shall designate, gazette and develop waste collection points within the county in consultation with relevant authorities

(2) The department shall clearly mark the waste collections points where appropriate to facilitate ease of visibility

Colour coding of waste containers

45 (1) Litter bins, liner bags and other solid waste bags shall be coded as follows in order to facilitate waste segregation—

(a) Green liner container for organic waste

(b) Blue liner containers for plastic and paper waste

(c) Brown liner container for any other waste

(2) The County Executive Committee member in charge of environment, may by regulation prescribe other colour codes to be used in the segregation of further categories of solid waste matters

(3) The department shall facilitate capacity building for waste service providers on solid waste management

(4) Any person or firm who deposits solid waste and or litter or any other material in a waste container centrally to colour coding prescribed in this Act shall be guilty of an offence
Branding of bags and other containers

46 (1) The following information shall be clearly printed or marked on one side of the liner bags and the container—

(a) name and logo of the service provider,
(b) the logo address and phone number of service provider,
(c) any information that may be prescribed by County Executive member in charge of environment

(2) Any person who uses or being a service provider provides for use of a liner bag or container that does not comply with sub section (1) commits an offence.

Provision, placement and maintenance of waste containers

47 (1) Every owner, occupier or agent of any premises shall provide it with appropriate waste container in accordance with this act and shall cause all domestic waste from his or her premises to be placed in such a container and not anywhere else

(2) Every such owner or occupier shall cause all waste containers upon his or her premises to be placed and kept in an approved place upon his or her premise or elsewhere as directed by authorized officer so as to be accessible to the service provider that he or she has subscribed to for the purpose of its removal

(3) Every such owner or occupier or agent of any house or premises shall cause all refuse containers upon his or her premises to be continuously covered so as to prevent any escape of the content thereof or any soakage there from into the ground, save when refuse is being deposited therein or discharged thereof

(4) Every owner or occupier or agent of any premises shall cause all waste containers on his or her premises to be kept reasonable clean and maintained in good condition

(5) It shall be the duty of such owner or occupier or agent to ensure a safe sanitary disposal of his or her waste and show proof thereof failure to which he or she shall be guilty of the offence

(6) Any unauthorized person may issue a notice requiring the owner, or occupier or agent of any premises within the county to provide such number of waste containers and of specific types as he/she reasonably thinks as necessary for reception of domestic or trade waste

(7) Provision of required number of waste containers shall be a condition to be fulfilled for the purpose of granting of occupation permits
and other licenses required for public, residential and commercial buildings

(8) Any person or firm who contravenes any of these measures and requirements or fails to comply with lawful direction issued by an authorized officer under this section shall be guilty of an offence.

(9) Any person or firm who places, causes or permits to be placed in any waste container, any waste, substances or matter which in the opinion of the authorized officer has been exposed to infections or is contaminated or is infectious or which is in anyway hazardous in nature shall be guilty of an offence.

(10) Every owner or occupier or agent of any dwelling or any premises shall show proof, if required to do so by the authorized officer of safe disposal of refuse from his or her dwelling or premises.

(11) Any person or firm who contravenes any of these measures and requirements or fails to comply with a lawful direction issued by an authorized officer under this section shall be guilty of an offence.

**Proof of arrangements for waste collection services**

48 (1) Any person(s) or firm(s) whose waste is being collected by the county government shall have proof of such arrangement, which shall include, but not limited to a payment receipt from the county government for such services.

(2) Any person or firm whose waste containers are being serviced by an authorized private service provider shall have proof of such arrangement, which shall include, but not limited to a payment receipt from service provider for such services.

(3) It shall be sufficient proof of safe disposal of refuse if an authenticated payment receipt from a licensed private sector provider, in case of domestic waste or a conservancy certificate issued by the county government in case of trade or commercial waste is produced.

(4) It shall be an offence for any waste generator to subscribe to a solid waste collection service provider who is not approved by the county government.

(5) Every owner, occupier, or agent of any dwelling or premises shall show proof, if required to do so by the authorized officer of safe disposal of refuse from his or her dwelling or premises.

(6) Any person or firm who contravenes any of the requirements of this section or fails to comply with a lawful direction issued by an authorized officer under this section shall be guilty of an offence.
Destruction of waste containers

49 (1) Any person who makes away with or damages any solid waste container or any part thereof, the property of the county government, shall be guilty of an offence and in addition to any penalty that may be imposed by court shall pay to the county government cost of replacement or repair such container.

(2) Any person who makes away with or damages any solid waste container, or any part thereof, the property of anyone duly authorized by the county government to install and maintain such container shall be guilty of an offence, and in addition to any penalty that may be imposed by the court shall pay to the owner of the container cost or replacement or repair of such container.

Separation of waste

50 (1) Every generator of solid waste shall separate or cause to be separated the waste into various categories including—

(a) Organic,
(b) Plastics,
(c) Paper,
(d) metals, or
(e) Any others that may be provided for in regulations

(2) The segregated waste referred to in subsection (1) shall be respectively contained separately in the approved containers for such category of waste prior to collection or other handling as appropriate.

(3) Every waste generator shall ensure appropriate collection and transportation of the different waste separated.

(4) A person who contravenes this section shall be guilty of an offence.

(5) A person who commits an offence under any of this section shall upon conviction be liable to a fine not exceeding three hundred thousand shillings or to an imprisonment of a term not exceeding three years to both such fine and imprisonment.

PART IV—TRANSPORTATION

Licence to transport waste

51 (1) Any person intending to collect and transport solid waste within the country shall prior to commencing such activity apply to
County Director in charge of Environment for a license in the prescribed manner to transport waste

(2) Where the County Director rejects an application from application made under the section, he or she shall within twenty one days of that decision, notify the applicant of the decision and shall specify the reasons for the decisions in the notice

Licence to transport waste

52 (1) The County Director may revoke a license in respect of any vehicle if such vehicle does not maintain the set operational guidelines as may be prescribed

(2) Any vehicle used for transportation of waste or any other means of conveyance shall be labelled in such a manner as may be prescribed

(3) An owner, driver or operator of any other facility used for transporting solid waste that is likely to be blown by wind or dropped while being transported shall provide and maintain cover material enough to contain any possibility of the material being dropped or blown and deposited upon any street, road, highway or other public or open space

(4) Any person who contravenes this section commits an offence and shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding three hundred thousand shillings or to an imprisonment not exceeding three years or to both such fine and imprisonment

Registration of tenants

53 (1) Any owner, occupier or agent of any premises where solid waste is generated shall register or ensure that his or her tenants register for waste collection

(1) Any person or firm who registers with any service provider as described in 27 (1) and fails to pay the prescribed fee commits an offence

(3) Any person who contravenes this section commits an offence and shall be guilty of an offence and upon conviction shall be liable to a fine not less than twenty thousand shillings and not exceeding three hundred thousand shillings or to an imprisonment not exceeding three years or to both such fine and imprisonment

PART V—TREATMENT

Treatment licences

54 (1) Any person who wishes to install and operate—
(a) An incinerator
(b) A recycling facility
(c) A composting facility
(d) Waste treatment plant
(e) Waste recovery facilities
(f) Sanitary landfill
(g) Any other treatment facility the county deems right,
(h) Shall make an application to the County director for a permit

(2) The county director shall upon consideration of the applications and being satisfied that the capabilities and the design of the facility for the intended activity may grant the application permit as described in 28 (1)

(3) The prescribed operation fee which shall be subject to review from time to time shall be imposed to any applicant of an operation permit

(4) Any person, firm, hospital or any other facility which produces any solid waste that should be disposed by combustion as may be required by regulations in place shall ensure that such waste is disposed of as required

(5) Any person or firm who contravenes any of these measures and requirements or fails to comply with a lawful direction issued by an authorised officer under this section commits an offence

PART VI—DISPOSAL OF SOLID WASTE

Prohibition on waste disposal

55 (1) No person shall dispose waste in any manner waste disposal Other than as prescribed under this Act and the Environment Management and Coordination Act

(2) Pursuant to subsection (1), no person shall dispose or dump waste in—

(a) an open ground other than a designated controlled landfill,
(b) public place such as a street, public park, bus park or station, bus stop or public facility,
(c) water resource, water source, riparian to a water resource or source, or
(d) any private place or facility

(3) A person who contravenes this section commits an offence and shall be liable upon conviction —
(a) in the case of an individual to a fine not exceeding ten thousand shillings, and

(b) in the case of an industrial or commercial enterprise to a fine not exceeding one hundred thousand shillings

**Waste disposal processes**

56 (1) The solid waste that may not be processed or transformed under section 61 shall be disposed through sanitary landfill

(2) Biomedical waste shall be disposed through incineration in accordance with the standards prescribed under the Environment Management and Coordination Act

(3) Hazardous waste shall be disposed in accordance with the standards prescribed under the Environment Coordination and Management Act

(4) Pursuant to subsection (2) and (3), every public or private hospital or related health facility shall install an incinerator for purposes of disposing biomedical or hazardous waste as may be appropriate or shall notify the County Executive Committee Member the facility that provides incineration services for disposal of its biomedical waste

**Disposal**

57 (1) The county government shall undertake disposal of solid waste either by controlled tipping, sanitary landfill, recycling, composting, incineration and any other disposal method that may be in place depending on the type, quality and quantity of the waste

(2) Any person who wishes to install and operate a disposal site-

(a) Dumpsite

(b) Waste transfer station

(c) Incinerator

(d) Sanitary landfill

(e) Any other disposal facility the county government deems right as licenced under section 28 (2)

**Offence to enter disposal site**

58 (1) any person or firm who enters, uses, causes, allows use or entry to the county government disposal site without written permission from the county government shall be guilty of an offence
(2) No animal shall be allowed in such facility and any other animal found thereof shall be dealt with in a manner that the county government shall decide.

(3) Any person or firm who dumps waste or any other material in county’s waste disposal site outside the allowed hours will be guilty of an offence.

(4) No person or firm may dispose of waste in the county’s final disposal facility or transfer station unless such person has paid the prescribed disposal fee in respect of such disposal.

(5) A person or firm who contravenes section subsection (4) commits an offence.

**Junk waste disposal**

59 (1) No owner or occupier or agent may keep or allow to keep junk waste in public or private premises.

(2) Where any junk waste is abandoned in private premises, the authorised officer shall give notice to the occupier of such premises and the owner or occupier shall cause such waste to be disposed within seven days from the date of the notice and in such manner as may be directed by the authorised officer.

(3) Where any junk waste is found abandoned in any other public place, the authorized officer shall take immediate steps to remove such waste and dispose of it in such a manner as he or she may deem fit after consulting the county director.

(4) Where junk waste is not disposed in the manner envisaged in subsection (2) and within the period set out in that subsection, the authorized officer with approval of the county director, shall dispose of such waste in such a manner as may be determined.

(5) Any disposal by the authorized officer as set out in subsection (2) shall be at the expense of the owner of such premises of the junk waste, where the owner is known.

(6) The county government may hire the services of any person or firm for the purpose of ensuring safe and environmental friendly manner of disposal of junk waste.

**PART VII—SOLID WASTE MANAGEMENT PLANNING**

**Solid waste management spatial plan**

60 (1) The department responsible for spatial planning shall in coordination with the department and stakeholders—
(a) Carry out solid waste management survey using Geographical Information System (GIS), which shall consider —

(i) land use topography, drainage and soil,

(ii) Infrastructure such as transport, communications, education, water and energy,

(iii) Economic structure of the area,

(iv) Human settlements includes density and land use, and

(v) Institutions such as schools and other government institutions, industries and commercial enterprises and non-state organizations,

(b) develop the county solid waste management spatial plan which shall include details for each sub-county and ward as the core decentralized spatial units,

(c) designate the location of the collection points, transfer stations, composting sites, waste recovery facility and landfills in accordance with the solid waste management spatial plan, and

(d) regulate solid waste management in accordance with the solid waste management spatial plan

(2) A spatial plan prepared under this section shall be part of the county spatial plan

Zoning for solid waste management

61 (1) The department shall in collaboration with waste departments responsible for spatial planning and county management administration map the county into solid waste management zones for purposes of ensuring efficiency in service delivery and coordination of stakeholder participation in solid waste management

(2) The zone designated under subsection (1) shall be based on the spatial plan prepared under section 68

Integrated solid management plan

62 The department shall in coordination with national waste government and collaboration with relevant stakeholders prepare and implement an integrated county solid waste management plan which shall provide for a framework for implementing county solid waste management policy, national policy and this Act
PART VIII – RESEARCH AND DEVELOPMENT

Carrying out of research

63 (1) The department for solid waste management shall –
(a) undertake research, or
(b) collaborate with other relevant research organizations or institutions of higher learning in carrying out research and development in solid waste management

(2) The department shall –
(a) publish and publicize reports of research carried out, and
(b) disseminate research findings to county residents and relevant stakeholders

(3) The department and county executive committee shall ensure that appropriate measures are adopted on the basis of research findings generated from the research carried out

Capacity and development

64 The department shall in collaboration with national government promote and facilitate capacity development for officers and relevant stakeholders in research and development related to solid waste management

Data management system

65 The department shall in collaboration with the departments responsible for information technology and county statistics establish a research and analysis data management system which shall be based on modern technology

PART IX—LIQUID WASTE MANAGEMENT

Liquid waste management

66 (1) It shall be the duty of every factory, garage, petrol station, car wash or any firm where there is effluent to procure samples of such effluent and have it analyzed by a recognized laboratory at least at an interval of six months. The copies of analysis report of such samples shall be made available to the County Director

(2) It shall be the duty of the owner, manager, Director and or person in charge of a firm or any other establishment generating liquid waste to ensure that any discharge into a public sewer or any other water receiving body is within the stipulated Waste water quality standards
(3) It shall be the duty of any person, owner, agent, firm, factory, transporter, industry, residential or commercial premises to provide approved onsite waste water, effluent or any other liquid waste treatment facility

(4) Any person who discharges any vexatious matter or waste water, flowing or discharging into public street, into the gutter or side channel of any street, or into any nullah or waste course, irrigation channel or bed or any area thereof not approved for the reception of such discharge commits an offence and upon conviction be liable to a fine not less than fifty thousand Shillings and not more than two million Shillings or the imprisonment not less than six months and not more than two years or to both such fine and imprisonment

Offences to discharging liquid waste without approval

67 Failure to submit such analytical reports and within the specified period shall be an offence and upon conviction be liable to a fine not less than one fifty thousand Shillings and not more than two million Shillings or the imprisonment not less than six months and not more than two years or to both such fine and imprisonment

PART X—ENFORCEMENT

Authorised officers

68 (1) The County Executive Committee Member shall designate by notice in the county gazette, such officers to be authorized officers for the purpose of enforcing this Act

(2) For an officer to be designated as authorized officer under subsection (1), the officer shall be qualified in matters related to environment management

(3) Notwithstanding subsection (1)—

(a) a public health officer licensed under the Public Health (Training, Registration and Licensing) Act and appointed as a county public officer,

(b) an authorised officer appointed by the county government,

(c) a police officer appointed under the National Police Services Act, or

(d) an officer appointed under a national law as an authorized officer in environment related matters, shall be authorized officers for the purpose of this Act
Powers of an authorized officer

69 An authorized officer described in section 87 may—

(a) carry out inspections for the purposes of ensuring compliance with this Act,

(b) issue an order in writing prohibiting a person from carrying on with an action that contravenes the provisions of this Act, or

(c) issue an order requiring a person who has disposed waste contrary to this Act, to remove the waste and store it or dispose it in the appropriate designated place and in the appropriate manner

Compliance with an order

70 (1) A person shall comply with an order issued under section 90

(2) A person who fails to comply with an order issued under section 90 commits an offence and shall be liable upon conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one month

Entry into premises

71 An authorized officer may enter premises for purposes of ensuring compliance with this Act

Provided that an authorized officer shall not enter a dwelling place unless the officer has reasonable grounds to believe that the waste management or disposal in the premises poses a health threat to adjacent premises and—

(a) unless with the consent of the occupant or with a warrant issued by a court for the purposes of searching the premises,

(b) at any time between 6:00 pm and 8:00 am, and

(c) on a Saturday or Sunday

PART XI – FINANCIAL PROVISIONS

Appropriation for implementation of the Act

72 The county executive and county assembly shall ensure that in each year, there is appropriated such monies in each financial year for purposes of effective implementation of this Act

User fees and charges

73 (1) The county government may levy fees and charges for services rendered under this Act
(2) A waste generator shall pay such user fees and charges for solid waste collection, transportation and disposal services.

(3) The fees and charges for providing public services for solid waste collection, transportation and disposal shall be in accordance with the tariff policy stipulated under the County Governments Act.

(4) The user fees and charges stipulated under subsection (1) shall be differentiated on the basis of the type of the waste generator as described under section 18.

Utilization of fees collected

74 Subject to the Public Finance Management Act, the user fees and charges collected under this Act, or a portion thereof shall be utilized for the purpose of defraying operational costs associated with—

(a) implementation of this Act,

(b) implementation of the County Solid Waste Management Policy,

(c) generally the provision of public solid waste management services as stipulated under this Act.

Incentives

75 The county government may in collaboration with national government provide such incentives for promoting and facilitate private sector investment in solid waste management.

Donations and grants

76 The county government may mobilize resources in the form of grants and donations from development partners for financing implementation of this Act, the County Solid Waste Management Policy and generally the provision of public solid waste management services as stipulated under this Act.

Effluent to be discharged only into sewer

77 (1) Every owner or operator of a trade or industrial undertaking if within a distance of one hundred meters from a public sewer shall discharge any effluent or any other liquid waste originating from the trade or industrial undertaking into an existing sewerage system.

(2) Every person whose premises is within 100m from a public sewer line shall be required to connect all the waste water, sewage or any effluent from his/her premises into the sewer line failure to which it shall be an offence.
(3) Any person who discharges effluent that does not conform to the set trade effluent standards shall be guilty of an offence

**Discharge of Trade effluents**

78 (1) where the discharge of effluent is into a water course, such effluent should be within the standards set in the relevant Schedules of this Act failure to which shall be an offence

(2) Where the discharge of effluent is into a public sewer or any other receiving body, effluent shall be within the standards set in the relevant Schedule of this Bill failure to which shall be an offence

(3) Any person or firm who commits an offence under this section shall upon conviction be liable to a fine of not less than five hundred thousand and not more than three million or the imprisonment not less than one year and not more than three years or to both such fine and imprisonment

**Effluent Pre-treatment units Offences**

79 (1) Any firm, factory, petroleum station, or any other facility which discharges waste water shall have an approved waste water or effluent pre-treatment unit or oil interceptor and mud traps as the case may be. Failure to which it shall be an offence and upon conviction shall be liable to a fine not less than five hundred thousand shillings and not more than four million shillings or the imprisonment not less than two years and not more than four years or to both such fine and imprisonment

(2) Any person operating a car wash business shall obtain a car wash operation and regulation permit and shall install a mud trap, oil and grease interceptor of approved standards and discharge waste water into an approved facility Failure to which commits an offence and upon conviction shall be liable to a fine not less than twenty thousand shillings and not more than one hundred thousand shillings or the imprisonment not less than three months and not more than six months or to both such fine and imprisonment

(3) Any person, firm or company who operates a garage, service station, and service bay shall employ measures from generation to final disposal to prevent oil and grease spillage, sprays, and any other liquid waste emanating from said activities from being discharged into the environment

(5) Any person or firm who contravenes the above commits an offence and upon conviction shall be liable to a fine not less than fifty thousand shillings and not more than five hundred thousand shillings or the imprisonment not less than six months and not more than three years or to both such fine and imprisonment
Procedures analysis

80 (1) The Director may, designate such number of laboratories as he/she may consider necessary, as the analytical or reference laboratories for the purposes of this Bill. Such laboratories shall be those recognized by law.

(2) The Director shall prescribe the form and manner in which samples will be taken for analysis.

Certificate of analysis and its effect

81 The laboratory accredited as an analytical or reference laboratory by law—

(1) Shall issue a certificate of analysis of any substance submitted to it under this Act.

(2) The certificate of analysis shall be signed by the analyst or the reference analyst as the case may be.

(3) A certificate issued under sub-section (1) and complying with sub-section (2) shall be sufficient evidence of the facts stated in the certificate for all purposes under this Act.

(4) The results of any analysis made by the laboratory shall be open to inspection by all interested parties.

Waste water monitoring

82 (1) Waste water monitoring techniques shall be subject to standard monitoring procedures to monitoring.

(2) The Director may undertake water quality monitoring periodically.

Additional procedures

83 The Director may establish additional procedures for application and licensing of any person or firm and impose such conditions as he/she may deem appropriate.

Offences Relating to Standards

84 Any person or firm who—

(1) Contravenes any Environmental standard prescribed under this Act.

(2) Contravenes any measure prescribed under this Act.

(3) Uses the environment or natural resources in a wasteful and destructive manner contrary to measures prescribed by this Act.
(4) Commits an offence and shall be upon conviction be liable to a fine of not less than shilling one million and not more than two million Shillings or to imprisonment not exceeding two years or to both such a fine and imprisonment

**Offences relating to waste Water pollution**

85 Any person or firm who

(1) Pollutes the environment contrary to the provisions of this Act

(2) Discharges injurious materials, substances, oil, oil mixtures into land, water, air, or aquatic environment contrary to provisions of this Act

(3) Discharges any pollutant into the environment contrary to the provisions of this Act

(4) commits an offence and shall on conviction, be liable to a fine of not less than shilling one million and not more than two million Shillings or to imprisonment not exceeding two years or to both such a fine and imprisonment

(5) In addition to any condition that the court may impose upon a polluter under sub-section (1) of this section, the court may direct that person to—

(a) Pay the full cost of cleaning up the polluted environment and of removing the pollution

(b) Clean up the polluted environment and remove the effects of pollution to the satisfaction of the Director

(6) Without prejudice to the provisions of sub-section (1), (ii) of this section, the court may direct the polluter to meet the cost of pollution to any third parties through adequate compensation, restoration or restitution

**Penalty where not expressly stated**

86 Any person who contravenes any section of this Act in the preceding part where no penalty is expressly stated shall be guilty of an offence and upon conviction be liable to a fine not exceeding Two million Shillings or to imprisonment not exceeding two years or to both such a fine and imprisonment

**PART VIII—MISCELLANIOUS PROVISIONS**

**General offences**

87 A person commits an offence if he or she—

(a) Hinders or obstructs an authorize officer in the exercise of his or her duties,
(b) Refuses and authorised officer entry upon any land or into any premises, or motor vehicle which he is empowered to enter under this Act,

(c) Impersonates an authorized officer,

(d) Refused an authorised officer access to records or documents kept pursuant to the provisions of this Act,

(e) Fails to state or wrongly state his or her name or address to an authorized officer in the cause of his or her duties,

(f) Misleads or give wrongful information to an authorized officer,

(g) Fails, neglects or refuses to carry out an improvement order issued,

Offences to deploy hazardous, etc, waste containers etc

88 (1) Any person who places, causes or permits to be placed in any waste, substance or matter which has been exposed to infection or is contaminated or is infectious or which is in any way hazardous in nature commits an offence

(2) Any person or firm who requires a permit to remove, cause to be removed any hazardous waste and disposes the same to the waste and disposes the same to the waste disposal facility instead of the designated disposal site, commits an offence

(3) Any person or firm who contravenes provisions in section (1) and (2) shall be guilty of an offence and upon conviction shall be liable to a fine not less than two million and not more than four million or default to imprisonment of not less than two years

Public education on solid waste management

89 The county government shall, through such means as it shall determine, promote, facilitate and ensure public education on solid waste management in order to—

(a) Enhance the levels of awareness and knowledge of all stakeholders on general and specific aspects of sound solid waste management

(b) Promote and sustain individual’s practical steps to ensure that waste is managed in a manner which will protect human health and environment against the adverse effects which may result from the waste
General penalties

90 (1) Any person or firm which dumps cause, or allows waste disposal in any premises land or any other place not approved for such disposal shall be guilty of an offence

(2) Any person or firm which contravenes this section shall be liable to a fine not exceeding two hundred thousand shilling or in default to imprisonment not exceeding two years or to both such fine and imprisonment

(3) Any firm which contravenes any provision of this act for which no penalty has been prescribed shall be guilty of an offence stated and upon conviction be liable to a fine not less than two hundred thousand shilling and not more than five hundred thousand shilling or in default to imprisonment not less than six months and not more than two years or to both such fine and imprisonment

When offence by body corporate, partnerships etc

91 (1) Where an offence is committed under this Act by a body corporate, the body corporate and every director or officer of the corporate who had knowledge of the commission of the offence and did not exercise due diligence, efficiency and economy to ensure compliance with this Act shall be guilty of the offence

(2) Where an offence is committed under this Act by a private party, every partner or officer of the private party who had knowledge of the commission of the offence and did not exercise due diligence, efficiency and economy to ensure compliance this Act commits an offence

(3) A person shall be personally liable of an offence against this Act, whether committed by him or his or her own account or as an agent or servant of another person

(4) An employer or principal shall be liable for an offence against this Act unless the employer or principal proves that the offence was committed against his or her express or standing directions

Regulations

92 (1) The County Executive Committee Member in charge of environment may make regulations generally for the better carrying out of the provisions of this Act

(2) Without prejudice to generality of subsection (1), the executive committee member of Environment with approval of the governor, may make regulations—
(a) Regulating the management of various categories of waste from generation thereof to recycling or disposal

(b) Regulating the use of plastics waste and the safe disposal thereof

(c) Providing for the standards applicable in the waste management generally

(d) Establishing mechanisms for participation of the private sector in solid waste management
MEMORANDUM OF OBJECTS AND REASONS

PURPOSE OF THE BILL

The principal object of the Bill is to establish appropriate legal and institutional framework for the efficient and sustainable management of waste and to provide a mechanism for the realization of the Constitutional requirements under of Article 42 on right to a clean and healthy environment and Article 43 on health, sanitation and implementation of section 2 (g) of the Fourth Schedule of the 2010 Constitution on refuse removal and disposal.

Secondly, this Bill seeks to facilitate and promote sustainable development in the county through effective and efficient solid waste management.

PART I (Clause 1-5) of the Bill provides for preliminary provisions such as interpretation of terms used in the Bill as well as the objects of the Bill so as to ensure there is better clarity in adoption and implementation of the Bill.

PART II (Clause 6-15) of the Bill seeks to provide for an effective and coordinated administrative mechanism and structure for solid waste management. The part provides for establishment of County, Ward, and Municipality or Town solid waste management committees as structures that bring together public and private sector stakeholders in solid waste management planning and programmes implementation.

PART III (Clause 16-17) of the Bill seeks to facilitate realization of the rights related to environment Article 42 of the Constitution of Kenya 2010 provides that every resident in the Country has the right to clean and healthy environment. It also seeks to anchor core citizen duties in accordance with international constitutional law standards of balancing rights and duties pursuant to Article 69(2) of the Constitution of Kenya.

PART IV (Clause 18-67) of the Bill provides for promotion and regulation of solid waste management in order to facilitate effective control, regulation and management system on matters such as waste generation, waste handling, storage and processing, waste collection, waste transfer and transportation, waste separation, processing and transformation as well as solid waste disposal.

PART V (Clause 68-70) of the Bill seeks to provide for establishment of solid waste management planning process in order to facilitate effective and efficient implementation of the policy as well as adoption of effective land use management process in relation solid waste management.
PART VI (Clause 71-79) of the Bill provides for licensing mechanism for entities involved in collection, transfer, transportation and processing of solid waste. The Part seeks to ensure effectiveness and accountability in regulation of solid waste management.

PART VII (Clause 80-81) of the Bill provides for stakeholder participation and partnership in order to ensure citizen engagement and stakeholder coordination in solid waste management.

PART VIII (Clause 82-85) of the Bill provides for information, communication and technology so as to promote information management and adoption of modern technology in solid waste management.

PART IX (Clause 86-88) of the Bill provides for research and development so as to promote evidence-based approach to policy process.

PART X (Clause 89-92) of the Bill provides for an enforcement mechanism to ensure effective compliance with the requirements of the Bill.

PART XI (Clause 93-101) of the Bill provides for the management of liquid waste as well as the offences of discharging the same liquid waste without approval.

PART XII (Clause 102-107) of the Bill provides for Financing Mechanism so as to ensure and facilitate access to financing for implementing the Bill. This includes the management of water revenues, utilization of fees collected, incentives and donations.

PART XIII (Clause 108-111) of the Bill provides for General Provisions such as dispute resolution mechanisms, powers to make regulations by the County Executive Member and transition.

FINANCIAL CONSIDERATION

The enactment of this Bill shall occasion limited additional expenditure of public funds which shall be provided for in the annual estimates. The Bill therefore is not a money Bill within the meaning of Article 114 of the Constitution.

ELIZABETH GICHUKI,  
Member of County Assembly