NAKURU COUNTY WASTE MANAGEMENT BILL 2019

ARRANGEMENT OF CLAUSES

PART I – PRELIMINARY

1. Short title and commencement.
2. Interpretation.
5. Principles of waste management.

PART II – ADMINISTRATION

6. Role of the department.
7. County Waste Management Committee.
8. Functions of the county committee.
9. Ward, municipality or town Waste Management Committee.
10. Functions of the ward, municipality or town committee.
11. Meetings and procedures of the county and ward, municipality or town committees.
12. Term of office.
13. Removal from office.
14. Allowances for county and ward, municipality or town committee members.
15. Reports.

**PART III – RIGHTS AND DUTIES**

16. Right to clean environment.
17. Duties.

**PART IV – PROMOTION AND REGULATION OF WASTE MANAGEMENT**

}*Waste generation*

18. Classification of waste generators.
20. Coordination and collaboration with national government.
22. Partnership with manufacturers, wholesalers and retailers.
23. Reuse of materials.

}*waste handling, storage and processing are source*

25. Duty not to transfer unsegregated waste.
26. Waste segregation in public markets
27. Adoption of standards and policy.
28. Installation of waste handling and storage containers.
29. Handling and storage of hazardous waste.
30. Handling and storage of biomedical waste.

**Waste Collection**

31. Prohibition on waste disposal.
32. Establishment of waste collection system.
33. Designation of waste collection points.
34. Waste collection containers or receptacles.
35. Waste collection containers and receptacles in institutions.
36. Adoption of standards and policy for waste collection.
37. Compliance with waste collection standards.
38. Waste collection in private premises.
39. Depositing of waste at waste collection points.
40. Waste collection in public places.
41. Waste picking.
42. Integration of waste picking into waste management system.
43. Maintaining of waste collection points in conformity with health and environmental standards.
44. Participation of vulnerable groups in co-management of waste collection points and services.
45. Public private partnerships for waste collection services.
46. Procurement of waste collection services.
47. Integration of youth, women and persons with disabilities in service delivery chain.
48. Access to government procurement opportunities.
49. Waste transfer stations.

**waste transfer and transportation**
50. Transfer or transportation of waste.
51. Transfer or transportation of waste to transfer stations or materials processing facility.
52. Waste transportation services conformity to standards.
53. Public private partnerships for waste transfer and transport services.
54. Procurement of waste transfer and transportation services.
55. Division of waste collection and transportation services.
56. Designation of routes for waste transportation.

*Waste separation, processing and transformation*

57. Separation of recyclable materials.
58. Promotion and facilitation of waste separation and materials processing.
59. Separation of waste at a transfer station.
60. Access to materials for processing.
61. Waste materials processing, recovery and transformation.
62. Incentives for promoting waste separation and materials processing.
63. Procurement of products made from waste materials.

*Waste disposal*

64. Prohibition on waste disposal.
65. Waste disposal processes.
66. Designation of sanitary landfills
67. Control of landfills.

**PART V – WASTE MANAGEMENT PLANNING**
68. waste management spatial plan.
69. Zoning for waste management.
70. Integrated waste management plan.

PART VI – LICENSING

71. Licensing officers.
72. Requirements for licence.
73. Application for licence.
74. Grant of licence.
75. Conditions of a licence.
76. Validity of a licence.
77. Cancellation or withdrawal of licence.
78. Licence to be displayed.
79. Classification of licences.

PART VII – PARTNERSHIPS AND PARTICIPATION

80. Stakeholder participation.
81. Partnerships.

PART VIII – INFORMATION, COMMUNICATION AND TECHNOLOGY

82. Information, communication and technology system.
83. Information and communication strategies and programmes.
84. Technology based communication strategies.
85. Annual status report.
PART IX – RESEARCH AND DEVELOPMENT

86. Carrying out of research.
87. Capacity development.
88. Data management system.

PART X – ENFORCEMENT

89. Authorized officers.
90. Powers of an authorized officer.
91. Compliance with an order.
92. Entry into premises.

PART XI – FINANCIAL PROVISIONS

93. Appropriation for implementation of the Act.
94. User fees and charges.
95. Utilization of fees collected.
96. Incentives.
97. Donations and grants.
98. Public-private partnerships.

PART XII– GENERAL PROVISIONS

99. Dispute resolution.
100. Community service order.
101. Transition.
NAKURU COUNTY WASTE MANAGEMENT BILL 2019

A Bill for

AN ACT of County Assembly of Nakuruto provide for the realization of Article 42 on right to a clean and healthy environment and Article 43 on health and sanitation, and implementation of section 2 (g) of the Fourth Schedule to Constitution of Kenya in relation to waste management and for connected purposes.

ENACTED by the County Assembly of Nakuru as follows –

PART I – PRELIMINARY

1. This Act may be cited as the Nakuru Waste Management Act.

2. In this Act –

Authorized officer means an officer appointed by the County Assembly of Nakuru designated in the county Gazette.
“licensing officer” means an officer designated under the COUNTY WASTE NAKURU MANAGEMENT BILL, 2019

“biomedical waste” means any waste which is generated during the diagnosis, treatment or immunization of human beings or animals or in research activities pertaining thereto or in the production or testing of biological products and includes categories of waste specified under the Environmental Management and Coordination Act and its subsidiary legislations;

“composting” means the process biological decomposition of organic waste into humus;

“County Committee” means the County Waste Management Committee established under section 7;

“County Executive Committee Member” means the county executive committee member for the time being responsible for waste management;

“Department” means the county department responsible for waste management;

“electronic waste or e-waste” means any discarded electrical or electronic devices, components, parts or materials and includes computers, televisions, stereos, copiers, fax machines, telephones, electrical cables and wires and batteries;

(h Cap 387).

“hazardous waste” has the same meaning assigned under the Environmental Management and Coordination Act;

“incineration” means the controlled combustion of organic substances contained in waste materials;

“industrial waste” means waste material produced or generated by industrial processes or activity;

“licensing officer” means an officer designated under the Environmental Management and Coordination Act; and

“re-use” means any operation by which a product or a component of a product that is not waste is used again for the same purpose for which it was conceived;

“waste” means any activity used in prevention, handling, storage, segregation, transfer, transportation, waste recovery and disposal of waste; discarded electrical or electronic devices, components, parts or materials or products, food, agricultural products and clothing among others;

“waste management” means any activity used in prevention, handling, storage, segregation, transfer, transportation, waste recovery and disposal of waste;

“recycling” means the process of transforming non-biodegradable waste into secondary resources or new products;

“re-use” means any operation by which a product or a component of a product that is not waste is used again for the same purpose for which it was conceived;

“Department” means the county department responsible for waste management;

“transportation” means the transfer of waste from waste collection points to a waste transfer station or to any place for purposes of processing or disposal of waste.

“waste collection” means the gathering of waste, including the preliminary sorting and storage of waste for the purposes of transfer or transport to a waste transfer station, a materials processing facility or a waste treatment or disposal facility;
Objects of the Act.

3. The objective of this Act is to facilitate fulfillment of the objectives of Article 42 on right to a clean and healthy environment and Article 43 on health and sanitation, and implementation of section 2 (g) of the Fourth Schedule to the Constitution of Kenya, namely:

(a) the prevention of waste generation, reduction of waste, and sustainable waste management system; 
(b) the protection of public, occupational and environmental health; 
(c) the provision of affordable services in waste management; 
(d) contribution to sustainable use of natural resources through prevention of waste, material re-use, and recycling;
COUNTY WASTE NAKURU MANAGEMENT BILL, 2019

(e) contribution to employment creation and enterprise development;

PART II – ADMINISTRATION

(f) enhancement of capacity development and empowerment of local residents in waste management; and

Role of the department.

6. The department shall –

(g) coordinate, promote and facilitate implementation and adoption of modern, technology and innovation in waste management and strategies adopted on waste management;

(h) promotion of research and development in waste management.

Application of this Act.

4. This Act shall not apply to –

(a) regulation of generation of waste, including industrial processes;

(b) transportation of waste in transit and destined to another country.

Principles of waste management.

5. The following principles shall be applied in waste management:

(a) prevention which implies that where possible manufacturers of products, including packaging material, consumers and other waste generators should endeavor to prevent generation of waste;

(b) proximity principle which implies that waste should be managed close to where it is generated;

(c) self-sufficiency principle which implies that
(h) supervise and coordinate private actors in waste management;

(2) Persons described in subsection (1) (m), (n), (o), (p) and (q) shall be appointed by the County Executive Committee (j) in collaboration with county treasury provide such incentives as may be necessary to promote community and private sector participation in sustainable waste management; and

(k) carry out any other function for the purposes of implementing the objects of this Act.

(l) Embrace multi-sectorial approach on county waste management involving departments, entities (public or private), or any relevant agencies who have a role or stake in matters of waste management.

County Waste Management Committee.

7. There is established the County Waste Management Committee which shall consist of

(a) the County Executive Committee Member responsible for waste management who shall be the chairperson;

(b) the chief officer responsible for waste management who shall be the secretary;

(c) all sub-county administrators;

(d) all municipality and town managers;

(e) the director in charge of waste matters;

(f) one person representing the National Environment Management Authority;

(g) the county commissioner or the representative;

(h) one person representing the National Environment Management Authority;

(i) persons described in subsection (1) (m), (n), (o), (p) and (q) shall be appointed by the County Executive Committee from persons nominated by the respective organizations as prescribed.

(j) in collaboration with county treasury provide such incentives as may be necessary to promote community and private sector participation in sustainable waste management.

8. The county committee shall be responsible for

(a) the County Executive Committee Member responsible for waste management who shall be the chairperson;

(b) the chief officer responsible for waste management who shall be the secretary;

(c) all sub-county administrators;

(d) all municipality and town managers;

(e) the director in charge of waste matters;

(f) persons described in subsection (1) (m), (n), (o), (p) and (q) shall be appointed by the County Executive Committee from persons nominated by the respective organizations as prescribed.

(j) in collaboration with county treasury provide such incentives as may be necessary to promote community and private sector participation in sustainable waste management; and
(b) providing a platform for public-private dialogue, consultation, collaboration and participation in waste management in the county;
9. (1) There is established in each ward, municipality or town, a Ward, Municipality or Town Waste Management Committee which shall consist of:

(a) the ward administrator who shall be the chairperson or municipality or town manager in the case of municipality or town respectively;

(b) the officer in charge of environment in the ward, municipality or town who shall be the secretary;

(c) the Area Chief as designated by the national government;

(d) the officer in charge of public health matters in the ward, municipality or town;

(e) the officer in charge of trade in the ward, municipality or town;

(f) the officer in charge of public works in the ward, municipality or town;

(g) one person nominated and appointed to represent community based organizations or non-governmental organizations engaged in waste management in the ward, municipality or town;

(h) two persons representing resident or neighbourhood associations in the ward, municipality or town;

(i) one person representing entities engaged in
Meetings and procedures of the county and ward, municipality or town committees.

11. (1) The county and ward, municipality or town committees shall provide representation in the following areas:

(a) one person representing the community at large;
(b) one person representing the youth;
(c) one person representing women;
(d) one person representing the people with disabilities;
(e) one person representing private enterprises providing waste collection and transportation services in the ward, municipality or town;

(f) one person representing waste pickers in the ward, municipality or town;

(g) one person representing the environment; and

(h) one professional qualified and experienced in matters related to environment and waste management.

(2) Persons described under subsection (1) (g), (h), (i), (j), (k) shall be appointed by the County Executive Committee Member from persons nominated by the respective organizations as prescribed.

(3) A person described under subsection (1) (l) shall be appointed by the County Executive Committee Member.

12. A person appointed under section 7 (1) (m), (n), (o), (p) (q) and subsection (4) and (k) shall serve for a term of three years which may be renewed for one final term of three years.

13. A person appointed under subsection section 7 (1) (m), (n), (o), (p) and (q) or section 9 (1) (g), (h), (i), (j) and (k) may:

(a) at any time resign by issuing notice in writing to the County Executive Committee Member;

(b) be removed from office by the County Executive Committee Member for

(i) serious violation of the Constitution or any other written law;

(ii) gross misconduct, whether in the performance of the functions of the office or otherwise;

(iii) physical or mental incapacity to perform the functions of office;

(iv) any other reason determined by the County Executive Committee Member.

14. The ward, municipality or town committee shall be responsible for –

(a) coordinating public and private sector provision of waste management services in the ward, municipality or town;

(b) providing a platform for public-private dialogue, consultation, collaboration and participation in waste management in the ward, municipality or town;

(c) coordinating public participation in waste management in the ward, municipality or town;

(d) maintaining a written record of its proceedings and deliberations in matters related to environment and waste management.

Term of office.

Removal from office.

Meeting and procedures of the county and ward, municipality or town committees.

10. The ward, municipality or town committee shall be responsible for –

(a) coordinating public and private sector provision of waste management services in the ward, municipality or town;

(b) providing a platform for public-private dialogue, consultation, collaboration and participation in waste management in the ward, municipality or town;

(c) coordinating public participation in waste management in the ward, municipality or town;

(d) maintaining a written record of its proceedings and deliberations in matters related to environment and waste management.

(a) at any time resign by issuing notice in writing to the County Executive Committee Member;

(b) be removed from office by the County Executive Committee Member for

(i) serious violation of the Constitution or any other written law;

(ii) gross misconduct, whether in the performance of the functions of the office or otherwise;

(iii) physical or mental incapacity to perform the functions of office;

(iv) any other reason determined by the County Executive Committee Member.

11. (1) The county and ward, municipality or town committees shall regulate the procedures of meeting the ward, municipality or town; and

(2) The county and ward, municipality or town committees shall regulate the procedures of meeting the ward, municipality or town; and

(3) Notwithstanding subsection (2), a committee shall maintain a record of its proceedings and deliberations in matters related to environment and waste management.

12. A person appointed under section 7 (1) (m), (n), (o), (p) (q) and subsection (4) and (k) shall serve for a term of three years which may be renewed for one final term of three years.

13. A person appointed under subsection section 7 (1) (m), (n), (o), (p) and (q) or section 9 (1) (g), (h), (i), (j) and (k) may:

(a) at any time resign by issuing notice in writing to the County Executive Committee Member;

(b) be removed from office by the County Executive Committee Member for

(i) serious violation of the Constitution or any other written law;

(ii) gross misconduct, whether in the performance of the functions of the office or otherwise;

(iii) physical or mental incapacity to perform the functions of office;

(iii) any other reason determined by the County Executive Committee Member.

14. The ward, municipality or town committee shall be responsible for –

(a) coordinating public and private sector provision of waste management services in the ward, municipality or town;

(b) providing a platform for public-private dialogue, consultation, collaboration and participation in waste management in the ward, municipality or town;

(c) coordinating public participation in waste management in the ward, municipality or town;

(d) maintaining a written record of its proceedings and deliberations in matters related to environment and waste management.

(a) at any time resign by issuing notice in writing to the County Executive Committee Member;

(b) be removed from office by the County Executive Committee Member for

(i) serious violation of the Constitution or any other written law;

(ii) gross misconduct, whether in the performance of the functions of the office or otherwise;

(iii) physical or mental incapacity to perform the functions of office;

(iv) any other reason determined by the County Executive Committee Member.
13. A person appointed under subsection section 7 (1) of the County Waste NKRU Management Bill, 2019, may –

(i) at any time resign by issuing notice in writing to the County Executive Committee Member;

(ii) be removed from office by the County Executive Committee Member for –

(a) serious violation of the Constitution or any other written law;

(b) gross misconduct, whether in the performance of the functions of the office or otherwise;

(c) physical or mental incapacity to perform the functions of office;

(d) has been absent from three consecutive meetings of the committee without the permission of the chairperson;

(e) incompetence;

(f) bankruptcy.

14. The members of the county and ward, municipality or town committees may be paid such allowances as the county treasury may, from time to time determine in accordance with guidelines established under the Public Finance Management Act.

15. (1) The county committee shall prepare and submit quarterly reports on discharge of its functions to the county executive committee for consideration.
(f) handle and store waste in accordance with the prescribed guidelines and standards;

(g) participate in and support waste management services and programmes initiated by the county; and

(h) comply with the national standards and policy in regard to production processes and management of waste.

PART IV – PROMOTION AND REGULATION OF WASTE MANAGEMENT

16. (1) For purposes of this Act, a waste generator may be classified as –

(a) household which entails generation of waste from households such as waste food, glass, bottles, trash papers, food cans and packaging, junk waste, test cuttings and e-waste;

(b) commercial which entails generation of waste from retail and wholesale businesses and hotels such as packages, waste foods, food cans, waste or expired products, trash papers, clothes cuttings, bottles, glass, e-waste, tyres and junk furniture;

(c) industrial which entails generation of waste from factories, industries, mills such as plastics, paper shavings, pulp, paints, chemical solvents, e-waste, metal or wood cuttings and waste, pallets, paper boards, animal tissues, pulp, electronic waste, whey and milk cream, and hides and skins;

(d) market which entails generation of waste in

(2) Save as provided under this Act, any waste generated by waste generators described under subsection (1) shall be managed as prescribed.

18. 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) household which entails generation of waste from households such as waste food, glass, bottles, trash papers, and food consumed and packaging, junk waste, test cuttings and e-waste;

(b) promotion of reuse of materials; and

(c) awareness creation and promotion of adoption of production processes that minimize production of waste, clothes cuttings, bottles, glass, e-waste, tyres and junk furniture;

19. The department shall collaborate with national government in adopting measures for resource conservation and management such as

20. The department shall collaborate with national government in adopting measures for resource conservation and management such as
Coordination and collaboration with national government.

20. The department shall collaborate with national government on adopting measures in adopting waste management systems that shall promote the utilization of waste as acceptable products in accordance with the contract of service entered into between the parties.

Liaising and engagement with national government on production processes.

21. 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.

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

Reuse of materials.

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

Segregation of waste.

24. (1) A waste generator shall:

(a) segregate or separate waste at source or
(b) in the case of an individual to a fine not exceeding two thousand Shillings; and

(2) A person or entity providing private waste collection or transportation services to premises 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 collector or transporter may decline to collect and transport the waste if the waste generator can be identified by the waste collector or transporter.

(4) Where a waste collector or transporter establishes that the waste is not segregated, the waste collector or transporter shall notify the waste generator to separate the waste as prescribed.

(5) An authorised officer shall, upon notification under subsection (4) 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.

(6) 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
(7) A waste generator who fails to comply with the notice under subsection (6) shall be liable to a fine not exceeding two thousand Shillings; and

(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.

26. (1) A waste collector or transporter shall not knowingly transfer or transport waste to a transfer station or dispose of any waste which is not segregated as 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 defense to the waste collector or transporter if the waste collector or transporter demonstrates or proves 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.

Adoption of national standards and policy.

27. (1) The department shall adopt national standards and policy and international best practices for waste segregation. Where the application of standards would result in better compliance with the requirements under this Act, provided that such modification will not render the standards ineffective.

Installation of waste handling and storage containers.

28. In accordance with the building code and regulations, the owner or leasee of a premises where waste is generated in a waste collection container designed to receive a specific type of waste shall:

(a) designate and construct a specific area within the premises where waste generated shall be deposited or stored; and

(b) place appropriate litter bins or waste collection containers and maintain them in
Establishment of waste collection system. storage containers.

28. (1) The department shall in collaboration with premises relevant public and private actors establish an efficient, responsive and co-ordinated countywide waste collection services system within the premises where waste generated shall be deposited or stored; and

(2) The system described under subsection (1) shall include any appropriate litter bins or waste containers and mobilize them and participation;

(a) with public health standards.

Handling and storage of hazardous waste.

29. 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.

Handling and storage of biomedical waste.

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

Prohibition on waste disposal.

31. (1) A waste generator shall not dispose waste may be designated by the neighbour hood or resident generated in any area other than in a waste collection association in consultation with the service provider, point designated under section 33 and in conformity with requirements prescribed under section 24.

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

(2) A person who contravenes subsection (1) commits an
Waste collection containers or receptacles.

(2) Notwithstanding subsection (1), the department shall provide waste collection bins as the waste collection points for purpose of collection of waste deposited by waste generators which shall meet the prescribed standards.

Depositing of waste at waste collection points.

Waste collection containers and receptacles in institutions.

An institution such as a learning institution or health facility shall place or install appropriate waste collection containers, receptacles and bins in strategic places within the institution or facility for purpose of collection of waste, which shall conform to the prescribed standards.

Adoption of standards and policy for waste collection.

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

Compliance with waste collection standards.

(1) A public or private service provider in waste collection shall comply with the standards, policy and international best practices for waste collection.

(2) The department shall facilitate capacity development and provide 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.

(1) Waste collection services from residential, commercial, institutional or industrial premises shall be undertaken by private sector waste collection service providers.

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

Depositing of waste at waste collection points.

(1) A waste generator shall deposit the waste generated or stored to the appropriate waste collection point located within the geographical locality of the waste generator, in a strategic location at an appropriate waste collection containers, receptacles and bins in strategic places within the premises.

(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 two thousand Shillings; and

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

Waste collection in public places.

(1) The department shall be responsible for collecting 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 waste and refuse that is disposed or dumped in public streets, public
Public private partnerships for waste collection services.

(No. 5 of 2013.)

Procurement of waste collection services.

(No. 33 of 2015.)

Integration of waste picking into waste management system.

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

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

Access to government procurement opportunities.

COUNTY WASTE NAKURU MANAGEMENT BILL, 2019

spaces, public parks, public play grounds other than in a landfill.

46. The department may where appropriate initiate and adopt public private partnership in provision of waste collection services in accordance with the Public Procurement and Disposal Act.

47. The department shall in consultation with the county treasury, develop initiatives for the groups to participate in co-management of waste collection points and services for purposes of creating employment for the groups.

48. (1) Pursuant to Access to Government Procurement Opportunities Policy, the county government shall provide thirty percent of county government contracts for provision of waste collection services to youth, women and persons with disabilities in accordance with the Public Procurement and Disposal Act.

(2) The department shall publicize and mobilize the target groups described under subsection (1) to participate in the initiative established under subsection (1).
Waste transfer and transportation stations.

49. (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 waste transfer or material recovery facility for the purposes of sorting and segregating 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 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.

50. (1) Waste shall be transferred from a waste collection point to

(a) a larger waste collection receptacle or transport equipment; or

(b) waste transfer station, material processing facility or a landfill.

(2) A person transporting waste shall transfer it as stipulated under subsection (1).

(3) A person transporting waste from a collection point shall exercise due care so as not to litter or scatter waste.

(4) A person who contravenes subsection (2) and (3) 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.

51. (1) Save for biomedical and hazardous waste, all waste shall be transferred or transported to waste transfer stations or to a materials processing facility for sorting and separation or processing after which waste shall be transported to landfill for final disposal as appropriate.

(2) Notwithstanding subsection (1), construction and operation of waste transfer stations or materials processing facilities.
demolition waste shall be transported to a specific material processing facility or to a designated landfill as approved by the department in accordance with the appropriate standards.

52. Waste collection and transportation services conformity to standards.

(1) Waste collection and transportation services, including plant and equipment, shall conform to the prescribed standards.

(a) Waste collection and transportation services including plant and equipment shall conform to the prescribed standards.

(b) A person transferring waste from a small waste transfer station shall:

(i) be a registered entity or be trading as a registered entity;

(ii) possess a business permit for that year;

(iii) own or lease a waste or refuse collection vehicle or garbage truck that –

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

(b) has a valid inspection certificate in accordance with the Traffic Act;

(c) is insured;

(d) has rear or side loaders;

(e) has a cabin for waste collection and loading crew that is separate from the waste-carrying cabin;

(f) any other structure or system as may be prescribed;

(g) a person transferring waste from a small waste transfer station to a material processing facility, landfill, or wheelbarrow or any non-motorized transport as may be appropriate.

(b) A person transferring waste from a small waste transfer station shall:

(i) be a registered entity or be trading as a registered entity;

(ii) possess a business permit for that year;

(iii) own or lease a waste or refuse collection vehicle or garbage truck that –

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

(b) has a valid inspection certificate in accordance with the Traffic Act;

(c) is insured;

(d) has rear or side loaders;

(e) has a cabin for waste collection and loading crew that is separate from the waste-carrying cabin;

(f) any other structure or system as may be prescribed;

(g) a person transferring waste from a small waste transfer station to a material processing facility, landfill, or wheelbarrow or any non-motorized transport as may be appropriate.

53. The department may, where appropriate, initiate and adopt public private partnerships in provision of waste transfer and transportation services in accordance with the Public-Private Partnership Act.

54. (1) The department may, where appropriate, procure provision of waste transfer and transportation services in accordance with the Public Procurement and Disposal Act.

(ii) has a valid inspection certificate in accordance with the Traffic Act;

(iii) is insured;

(2) Subject to the Public Procurement and Disposal Act, in order to safeguard capital investment by service providers, a contract for waste transfer and transportation services shall be operational for a period of not less than two years and not more than three years.

55. (1) Pursuant to section 45, 46, 53 and 54 and for
collection and transportation services.

purposes of ensuring efficiency and effectiveness of service delivery and licensing, the department may in consultation with county treasury designate waste collection services as distinct from waste transport services.

waste separation, processing and transformation

(2) Waste collection services may be designed to include –

(a) collection of waste in public places or private places that do not have access to private waste collection services as stipulated under section 38 and 40; and

(b) transfer of waste from small waste collection receptacles or containers to large waste receptacles or containers.

56. (1) The department shall in collaboration with the departments responsible for physical planning and transport and National Environment Management Authority and in consultation with waste transportation service providers, designate routes to be followed in transfer and transportation of waste.

(2) A person who transports waste in a non-designated route for the person commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand.

Separation of recyclable materials.

57. (1) The department shall in collaboration with relevant stakeholders mobilize local communities and neighbourhoods to promote and facilitate collection and separation of recyclable materials.

(a) transport (2) shall not enter in public places that do not have access to waste collection points or directly from waste generators.

(3) Waste transportation services may be designed to –

(b) transport of waste from large waste receptacles or containers to waste transfer stations, material processing facility or to landfill.

58. (1) The department shall in collaboration with national government and other relevant stakeholders establish a system and programmes for facilitating and promoting waste separation, processing and transformation such as material recovery and recycling.

(a) transport (2) shall not enter in public places that do not have access to waste collection points or directly from waste generators.

Promotion and facilitation of separation and materials processing.

59. (1) The department shall in collaboration with the national and other relevant stakeholders establish a system and programmes for facilitating and promoting waste separation, processing and transport.

(a) transport (2) shall not enter in public places that do not have access to waste collection points or directly from waste generators.

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COUNTY WASTE NAKURU MANAGEMENT BILL, 2019

61. (1) Subject to the national policy and standards, the following processes for waste materials processing, recovery and transformation shall be adopted and promoted in the county –
   (a) waste re-use;
   (b) waste recycling;
   (c) composting; or
   (d) waste to energy.

   (2) The department shall in coordination with national government and relevant stakeholders prescribe guidelines for undertaking the processes described in subsection (1) which shall include the siting of materials processing facilities.

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

59. Waste transferred to a transfer station shall be separated and stored into the various categories of waste materials such as e-waste, wood, plastics, metals, aluminum, paper and paperboard, textiles, rubber and leather, glass, plant cuttings and food wastes.

60. (1) The department shall facilitate persons registered under section 58 to access respective materials for further processing.

   (2) No person shall access materials from a transfer station unless the person operates an enterprise for processing waste materials or exporting such materials and is registered under section 58.

61. The county government shall in accordance with the Public Procurement and Disposal Act undertake preferential measures to purchase appropriate products produced from processed and transformed waste materials in order to promote market development in waste management.
(2) Pursuant to subsection (1), no person shall dispose or dump any waste in–
(a) any non-designated place;
(b) an open ground;
(c) a public place, including a street, a public park, a bus park or station, bus stop or public facility;
(d) a water resource, water source, riparian to a water resource or source or
(e) any private place or facility that is not owned or occupied by the person.

(5) Where a person fails to install appropriate modern technology for purposes of the disposal of biomedical waste, the health facility may enter into service delivery agreements with the county government for purposes of accessing services for disposal of biomedical waste in a public health facility, on such terms and conditions as may be determined by the county government.

Designation of sanitary landfills.

66. (1) The department shall in collaboration with the National Environment Management Authority, residents and relevant stakeholders designate, gazette and develop controlled sanitary landfills in accordance with the waste spatial plan, the national standards and international best practices.

(2) In designating sanitary landfills, the department shall differentiate landfills for hazardous and non-hazardous waste.

Control of landfills.

67. (1) Access to a landfill shall be controlled in accordance with prescribed guidelines.

(2) No person shall be permitted entry into a landfill unless in accordance with the guidelines prescribed under this section.

Waste disposal processes.

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

(2) Biomedical waste shall be disposed through the appropriate technology that is in accordance with the standards prescribed under the Environmental Management and Coordination Act.

(3) Hazardous waste shall be disposed in accordance with the provisions of the Environmental Management and Coordination Act.
68. (1) The department responsible for spatial planning shall in coordination with the department and relevant stakeholders –

(a) carry out waste management survey using Geographical Information System (GIS), which shall consider –

(i) land use: topography, drainage and soil;

(ii) infrastructure such as transport, communications, health, education, water and energy;

(iii) economic structure of the area;

(iv) human settlements which 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 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 waste management spatial plan; and
68. (1) The department responsible for spatial planning shall in coordination with the department responsible for waste management shall carry out waste management survey using Geographical Information System (GIS), which shall consider:

(a) land use: topography, drainage and soil;
(b) infrastructure such as transport, communications, health, education and energy; and
(c) economic structure of the area;

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

73. (1) A person or entity that intends to provide waste collection and transport services shall apply for licence to the department in the prescribed form.

(a) carry out waste management survey using Geographical Information System (GIS); and
(b) develop the county waste management spatial plan which shall include details for each subcounty and ward as the core decentralized spatial units;

(2) Where the licensing officer is not satisfied that the application meets the requirements of this Act, the officer shall upon the applicant paying the licence fee, grant the licence in the prescribed form.

74. (1) Where the licensing officer is satisfied that applicant meets the requirements of this Act, the officer shall upon the applicant paying the licence fee, grant the licence in the prescribed form.

(a) develop the county waste management spatial plan which shall include details for each subcounty and ward as the core decentralized spatial units;

(b) designate the location of the collection points, transfer stations, composting sites, waste recovery facility and landfill in accordance with the waste management spatial plan; and

(d) regulate waste management in accordance...
(3) An applicant whose application for a licence is rejected under subsection (2) may re-submit an application upon meeting the requirements of this Act.

Conditions of a licence.

75. The licensing officer may impose such conditions on a licence which shall be endorsed on the licence as the licensing officer deems necessary in order to ensure compliance with this Act or any other written law.

Validity of a licence.

76. A licence issued under section 74 shall expire on the thirty first day of December in each year.

Cancellation or withdrawal of licence.

77. (1) The licensing officer may withdraw or cancel a licence issued under this Act where the licensee fails to comply with the requirements of this Act.

(2) Where a licence is withdrawn or cancelled under this section, the licensing officer shall issue a notice to the holder of the licence which shall contain the reasons for such withdrawal or cancellation.

PART VII –PARTNERSHIPS AND PARTICIPATION

78. (1) A person issued with a licence under this Act shall display or cause the licence to be displayed in a conspicuous place on the premises where the person operates business from.

(2) A person who contravenes subsection (1) commits an offence and shall be liable upon conviction to a fine not exceeding five thousand shillings.

Classification of licences.

79. (1) The County Executive Committee Member shall prescribe the different classes of licences that may be issued under section 74 which shall be based on the geographical coverage of the service for which the licence
COUNTY WASTE NAKURU MANAGEMENT BILL, 2019

82. The department shall in coordination with relevant stakeholders develop and implement an integrated information, communication and technology system.

(2) The department shall in coordination with ward committees hold a consultative forum in each ward with stakeholders in waste management at least twice each year.

83. The department shall in coordination with the department responsible for education, national government ministry responsible for education and relevant stakeholders, develop and implement information, education, information and communication strategies and programmes that target basic education schools, youth and local community organizations and community based organization.

84. The department shall in collaboration with the department responsible for information technology develop technology based communication strategies on waste management.

85. (1) The County Executive Committee Member shall in each year cause to be prepared and published an annual status report on the state of waste management in the county.

PART VIII – INFORMATION, COMMUNICATION AND TECHNOLOGY

Annual status report.
Authorized officers.

Carrying out of research.

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

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

Data management system.

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

PART IX – RESEARCH AND DEVELOPMENT

Authorised officers.

Powers of an authorized officer.

90. 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

(No. 12 of 2013).
Powers of an authorized officer
described in section 87 may –
90. 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.
91. (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.
92. An authorized officer may enter premises for purposes of –
(a) ensuring compliance with this Act;
(b) implementing the County Waste Management Policy; and
(c) providing that an authorized officer shall not enter a dwelling place unless –
(i) the authorized officer has reasonable grounds to believe that the waste management or disposal in the premises poses a health threat to adjacent premises and –
II. Incentives.
96. The county government may in collaboration with national government provide such incentives for promoting private sector investment in waste management.
(a) at any time between 6:00pm and 8:00am; and
(b) the provisions of public waste management services as stipulated under this Act.

Utilization of fees collected.
95. 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 –
(a) implementation of this Act;
(b) implementation of the County Waste Management Policy; and
(c) generally, the provision of public waste management services as stipulated under this Act.

Donations and
97. The county government may mobilize resources in the

COUNTY WASTE NAKURU MANAGEMENT BILL, 2019
grants. (2) With the purpose of the facilitation of public private partnerships, the Regulations may prescribe the process of nomination of members of the committees; prescribe guidelines for waste segregation; methods of waste processing and transformation and disposal for various waste streams or types of waste; prescribe waste storage and disposal bags; rules for managing waste in public markets; prescribe distance of location of transfer stations within proximity of social amenities; prescribe standards and guidelines for waste transport services; prescribe guidelines of operations of landfills; prescribe the forms applicable under the Act; prescribe the fees and charges payable under the Act; and prescribe dispute resolution mechanism.

98. In addition to section 43 and 51, the county government may finance services described under this Act through public-private partnership.

PART XII– GENERAL PROVISIONS

Dispute resolution. 99. The department shall prescribe guidelines for alternative dispute resolution mechanisms for resolving emerging disputes related to waste management under this Act.

Community service order. 100. Pursuant to the Community Service Orders Act, the court may make a community services order, to a person convicted of an offence under this Act in lieu of a penalty stipulated under this Act such terms and conditions as may be required under the Community Services Order Act.

Savings. 101. A licence issued prior to the commencement of this Act shall be deemed to have been under this Act and shall be effective for the time remaining until the thirty first day of December that year under the same terms and conditions.

Power to make Regulations. 102. (1) The county executive member may make Regulations generally for the better carrying out of the objects of this Act.

(2) Without prejudice to the generality of subsection (1), the Regulations may –
   (a) prescribe the process of nomination of
MEMORANDUM OF OBJECTS AND REASONS

Firstly, this Bill seeks to provide a mechanism for the realization Constitutional requirements under of Article 42 on right to a clean and healthy environment and Article 43 on health and sanitation, and implementation of section 2 (g) of the Fourth Schedule on refuse removal and disposal.

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

PART I of the Bill provides for preliminary matters 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 of the Bill seeks to provide for an effective and coordinated administrative mechanism and structure for waste management. The part provides for establishment of county, ward, municipality and town waste management committees as structures that bring together public and private sector stakeholders in waste management planning and programmes implementation.

PART III of the Bill seeks to facilitate realization of the rights related to environment. It also seeks to anchor core citizen duties in accordance with international constitutional law standards of balancing rights and duties.

PART IV of the Bill provides for promotion and regulation of 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, waste disposal.

PART V of the Bill seeks to provide for establishment of 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 waste management.

PART VI of the Bill provides for licensing mechanism for entities involved in collection, transfer, transportation and processing of waste. The Part seeks to ensure effectiveness and accountability in regulation of waste management.

PART VII of the Bill provides for stakeholder participation and partnership in order to ensure citizen engagement and stakeholder coordination in waste management.
PART VIII of the Bill provides for information, communication and technology so as to promote information management and adoption of modern technology in waste management.

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

PART X of the Bill provides for an enforcement mechanism to as to ensure effective compliance with the requirements of the Bill.

PART XI of the Bill provides for financing mechanism so as to ensure and facilitate access to financing for implementing the Bill.

PART XII of the Bill provides for general provisions such dispute resolution mechanisms, powers to make regulations and transition.

Dated this ........June 2019

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Chairman, Environment Committee