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No. 5 of 2021

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THE NAKURU COUNTY WASTE MANAGEMENT ACT, 2021

AN ACT of County Assembly of Nakuru to 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**Short title commencement**

1. This Act may be cited as the Nakuru Waste Management Act, 2020 and shall come into force on the day of publication in the *County Gazette* and *Kenya Gazette*.

Interpretation

2. In this—

“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 enforcements of the provisions of this Act;

“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 and includes categories of waste specified under the Environment Management and Coordination Act and its subsidiary legislations;

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

“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, excavation, repair and demolition of structures including buildings and roads;

“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;

“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;

“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 Bill 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 (Cap. 387);

“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;

“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 section 71;

“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;

“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;

“public market” means market for wholesale or retail sale of household goods or products, food, agricultural products and clothing among others;

“recycling” means the process of transforming non- biodegradable waste into secondary resources or new products or as raw materials for producing other materials or new products which may be of similar or different composition or nature with the original 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;

“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;

“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;

“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;

“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 prevention” means measures taken before a substance, material or product has become waste, that reduce —

- (a) the quantity of waste, including through the re-use of products or the extension of the life span of products;
- (b) the adverse impacts of the generated waste on the environment and human health; or
- (c) the content of harmful substances in materials and products;

“waste recovery” means the process of reclaiming particular components or materials for producing other products through value addition, or using the waste as energy and involves a variety of mechanical or biological processes that remove a variety of materials or chemical components from the waste stream;

“waste segregation” means the separation of waste into dry waste such as wood, metal, packaging materials, paper, electronics, and wet waste such as organic matter;

“waste transporter” means a person licensed under this Act to provide waste transport services;

“waste to energy” means the process of generation of energy from waste;

“waste transfer station” means a station, an area, facility or premises designated under this Act for temporarily depositing waste collected in order to allow for final sorting and collection of recyclable waste.

Objects of the Act

3. The objective of this Act is to facilitate fulfillment and 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 on refuse removal, refuse dumps and waste disposal through—

- (a) provision for an effective, equitable, responsive and sustainable waste management system;
- (b) protection of public, occupational and environmental health;
- (c) provision of affordable services in waste management that address local needs of the residents;
- (d) contribution to sustainable use of natural resources through prevention of waste, materials recovery and recycling;
- (e) contribution to employment creation and enterprise development;
- (f) enhancement of capacity development and empowerment of local residents in sustainable waste management;
- (g) promotion of acquisition and adoption of modern technology and innovation in waste management; and
- (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) handling or disposal of hazardous waste; and
- (c) 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 where possible and practical, each urban area or zone should manage its own waste;
- (d) polluter pays principle whereby those who generate waste should bear the cost of managing the waste to minimize risk to human health and the environment;
- (e) precautionary principle where by appropriate policy measures may be take in order to safeguard human health and environment even if scientific evidence is not conclusive it would be essential to adopt precautionary approach;
- (f) sustainable development which is development that meets the needs of the present without compromising the ability of future generations to meet their own needs;
- (g) inter-generational equity which implies that waste should not be managed in a way that bequeaths legacy problems to subsequent generations;
- (h) intra-generational equity which implies that waste management resources and services should be equitably accessible to all citizens or residents, all interested parties should have equitable possibilities to provide services and equitable burden-sharing in terms of waste management facilities; and
- (i) public participation which implies stakeholder participation in waste management.

PART II—ADMINISTRATION

Role of the department

- 6.** The department shall—
- (a) coordinate, promote and facilitate effective implementation of this Act and policies, plans and strategies adopted on waste management;
 - (b) coordinate and collaborate with national government’s relevant lead agencies in the implementation of this Act and other policies, plans and strategies adopted on waste management in the county;
 - (c) enforce laws and guidelines related to waste management;
 - (d) promote and facilitate compliance with this Act and policies, plans and strategies adopted on waste management;
 - (e) in collaboration with relevant stakeholders carry out awareness creation, mobilization and capacity development on waste management;
 - (f) mobilize and facilitate formation of local community or neighborhood initiatives or programmes for waste management;
 - (g) provide public services related to waste management;
 - (h) supervise and coordinate private actors in waste management;
 - (i) issue licenses 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 waste management; and carry out any other function for the purposes of implementing the objects of this Act; and
 - (k) 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 III—RIGHTS AND DUTIES

Right to clean and healthy environment

- 7.** (1) Pursuant to Article 42 of the Constitution of Kenya, every resident in the county has the right to clean and healthy environment.

(2) Pursuant to Article 43 of the Constitution of Kenya, every resident in the county has the right to reasonable standards of sanitation.

(3) The county government shall protect, promote and progressively fulfill the rights described under subsection (1) and (2) in relation to waste management.

(4) Pursuant to subsection (1), (2) and (3), every person in the county has the right to—

- (a) accessible, available, efficient and responsive county public services in waste management;
- (b) clean environment in public places, free of litter or garbage; and
- (c) inclusive participation in waste management processes.

Duties

8. (1) Pursuant to Article 69 (2) of the Constitution of Kenya, every person in the county has the duty to cooperate with the county government, its agent and other county residents to protect and conserve environment in relation to waste management.

(2) Specifically, a person 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 waste only in the manner prescribed by law;
- (c) prevent or reduce, where appropriate, the generation of waste;
- (d) reuse materials that are reusable and in good condition instead of disposing off the materials as waste;
- (e) segregate 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 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**

Waste Generation

Classification of waste generators

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

- (a) domestic which entails generation of waste from households and residential areas such as waste food, glass, bottles, trash papers, food cans and packaging, junk waste, tree cuttings and e-waste;
- (b) commercial which entails generation of waste from retails 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 markets such as food waste, vegetables, fruits waste including peels and animal waste;
- (e) institutional which entails generation of waste from institutions such as schools, colleges and universities such as food waste, paper cuttings, electronic waste, food cans, packages and e-waste;
- (f) biomedical which entails generation of waste by a health facility such as human tissues, blood, clinical tools, blood-soaked bandages, discarded surgical gloves, discarded needles, cultures, swabs, stocks, discarded surgical instruments and discarded lancets;
- (g) hazardous and Toxic wastes 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

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- (h) construction and demolition which entails generation of waste from excavation, construction or demolition or renovation sites and includes was debris, steel, timber, iron sheets; and
- (i) outdoor events which include generation of paper, cans and food waste among others.

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

Prevention of waste generation

10. The department shall in collaboration 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 consumption practices to reduce excessive consumption;
- (b) promotion of reuse of materials; and
- (c) awareness creation and promotion of adoption of production or manufacturing processes that minimize generation of waste.

Coordination and collaboration with national government

11. The department shall collaborate with relevant stakeholders in adopting measures for resource conservation and management to prevent or avoid excessive utilization of resources which lead to excess production of waste.

Liaising and engagement with national government on production processes

12. 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

13. 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

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

Waste handling, storage and processing are source

Segregation of waste

15. (1) A waste generator shall—

- (a) segregate or separate waste at source or point of generation into dry waste or recyclables and wet waste or such other manner as may be prescribed; and
- (b) 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 collector or transporter may decline to collect and transport the waste if the waste generator of the unsegregated waste 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 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 collector 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 (9) shall be liable to imprisonment for a term not exceeding one month.

(10) 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.

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

Duty not to transfer unsegregated waste

16. (1) A waste collector or transporter shall not knowingly transfer or transport waste to a transfer station or dispose 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.

Waste segregation in public markets

17. (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

18. (1) The department shall adopt the national standards and policy and international best practices for 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 Installation of waste handling and storage containers

19. (1) In accordance with the building code and regulations, the owner or lease of a premises where applicable 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 accordance with public health standards.

(2) The areas described under subsection (1) (a) shall be enclosed to avoid open exposure and emission of obnoxious smell of the waste within the premises or to the adjacent premises in accordance with public and environmental health standards.

Handling and storage of hazardous waste (Cap. 387)

20. 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

21. 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.

Waste Collection

Prohibition on waste disposal

22. (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 24.

(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.

Establishment of waste collection system

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

(2) 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 waste from private and public places; and
- (d) maintenance of clean public streets and places.

(3) A manufacturer or distributor of products whose packages are classified as waste such as bottles, containers and receptacles shall establish take-back mechanisms for their products so as to ensure effective and sustainable collection.

(4) The take back mechanism described under subsection (3) shall include among others—

- (a) establishment of monetary or non-monetary compensation scheme or reward for a person who returns any package or packaging materials;
- (b) setting up of collection centers for the waste materials through linkages with retail trade; and
- (c) establishment of promotion and public awareness initiatives on the take-back mechanisms.

Designation of waste collection points

24. (1) The department shall in consultation with National Environment Management Authority and local residents representing residential, commercial, institutional and industrial areas, designate,

gazette and develop waste collection points in each ward according to the waste management spatial plan prepared under section 68.

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

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

Waste collection containers or receptacles

25. (1) The department shall where appropriate place or install appropriate waste collection containers, receptacles or bins at the waste collection points for purpose of collection of waste deposited by waste generators which shall meet the prescribed standards.

(2) Pursuant to subsection (1), the department shall in collaboration with other stakeholders place adequate light waste collection bins in public streets or public areas where members of the public ordinarily frequently access.

Waste collection containers and receptacles in institutions

26. 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

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

Compliance with waste collection standards

28. (1) A public or private service provider in 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

29. (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

30. (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 and shall store the waste in the appropriate receptacle or container.

(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

31. (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 spaces, public parks, public play grounds other than in a the land fill.

Waste picking

32. (1) A waste picker may pick or collect waste in a manner that does not litter or scatter any waste that has been deposited in a waste collection points.

(2) A waste picker shall register with the respective subcounty environment officer in accordance with the prescribed procedure.

(3) The department shall facilitate capacity building for waster pickers on waste management.

Integration of waste picking into waste management system

33. The department shall in collaboration with relevant stakeholders adopt measures for integrating waste picking into waste management system.

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.

Public private partnerships for waste collection services (No. 5 of 2013)

36. The department may where appropriate initiate and adopt public private partnership in provision of waste collection services in provisions under the Public-Private Partnership Act.

Procurement of waste collection services (No. 33 of 2015)

37. (1) The department may procure provision of waste collection services in accordance with the Public Procurement and Disposal Act and Nakuru County waste management guidance.

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

Integration of youth, women and persons with disabilities in service delivery chain

38. In procuring for services under section 45 and 46, the department shall consider a supplier's inclusion and integration of youth, women and persons with disabilities in the service delivery model.

Access to government procurement opportunities

39. (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 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

40. (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 station 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 (Cap. 387)

(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. (Cap. 387)

(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 transfer and transportation

Transfer or transportation of waste

41. (1) waste shall be transferred from a waste collection point to—

- (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 transferring or transporting waste from a collection point shall exercise due care so as not to litter or scatter waste at the waste collection point or while transferring the 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.

Transfer or transportation of waste to transfer stations or materials processing facility

42. (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 demolition waste shall be transported to a specific material processing facility for

construction and demolition waste or to a designated landfill as approved by the department in accordance with the appropriate standards.

Waste transportation services conformity to standards

43. (1) Waste collection and transportation services including plant and equipment shall conform to the prescribed standards. (Cap. 403)

(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; and
 - (c) be the owner or lease 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 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; (Cap. 387)
 - (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 Environment Management and Coordination Act;
 - (h) describe the neighborhoods, zone or geographical area where the person intends to transport the waste from; and
 - (i) meet any other condition as may be prescribed.
- (3) Notwithstanding subsection (2)—

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- (a) a local community group from poor neighborhoods 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.

Public private partnerships for waste transfer and transport services (No. 5 of 2013)

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

Procurement of waste transfer and transportation services (No. 33 of 2015)

45. (1) The department may procure provision of waste transfer and transport services in accordance with the Public Procurement and Disposal Act and Nakuru County waste management guidelines.

(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.

Division of waste collection and transportation services

46. (1) Pursuant to section 45, 46, 53 and 54 and for 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.

- (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.
- (3) Waste transportation services may be designed to include—

- (a) transportation 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) transportation of waste from large waste receptacles or containers to waste transfer stations, material processing facility or to landfill.

Designation of routes for waste transportation

47. (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.

County Government to provide Containers

48. (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 determined.

Approval of waste containers

49. (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; and
- (c) fitted with appropriate liner bags.

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

Designation of solid waste collection points

50. (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

51. (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; and
- (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 of 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

52. (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; and
- (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

53. (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 premises 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 leakage 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

54. (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—

- (a) 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;
- (b) 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; and
- (c) 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

55. (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.

Waste separation, processing and transformation

Separation of recyclable materials

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

- (a) organic;
- (b) plastics;
- (c) paper;
- (d) metals; or
- (e) any others that may be provided for in regulations.

(2) A person or entity may establish a system and process of collecting recyclable waste materials from waste collection points or directly from waste generators.

(3) A person who or entity which establishes a system under subsection (2) shall notify the department of the system or process and the geographical areas that the system or process is undertaken.

(4) The department shall provide relevant and appropriate support to facilitate the person or entity implementing the system or process.

Promotion and facilitation of waste separation and materials processing

57. (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.

(2) The systems and programmes stipulated under subsection (1) shall include facilitation of enterprises involved in waste processing and transformation—

- (a) access waste placed in transfer stations;

- (b) acquire modern technology for waste processing;
- (c) access technical assistance; and
- (d) develop capacity to undertake waste materials processing and transformation.

(3) The department shall maintain a register of persons and entities operating enterprises for processing waste materials or for exporting such materials.

Separation of waste at a transfer station

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

Access to materials for processing

59. (1) The department shall facilitate persons registered under section 54 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 54.

(3) The department shall levy a charge for accessing materials from a transfer station which shall be utilized for covering operational costs of the transfer stations.

Waste materials processing, recovery and transformation

60. (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—

waste re-use;

- (a) waste recycling;
- (b) waste;
- (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.

Incentives for promoting waste separation and materials processing

61. (1) The county government shall adopt appropriate economic incentives to promote private sector investment in 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 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.

Procurement of products made from waste materials (No. 33 of 2015).

62. The county government may 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.

*Waste disposal***Prohibition on waste disposal**

63. (1) No person shall dispose waste in any manner 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 any waste in—

- (a) any non-designated place;
- (b) an open ground;;
- (c) a public place; including a street, public park, bus park or station, bus stop or public facility;
- (d) 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.

(2) 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 five 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

64. (1) The waste that may not be processed or transformed under section 61 shall be disposed through sanitary landfill. (Cap. 387)

(2) Biomedical waste shall be disposed through the appropriate modern technology and in accordance with the standards prescribed under the Environment Management and Coordination Act. (Cap. 387)

(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 health facility shall install modern technology for purposes of disposing biomedical or hazardous waste as may be appropriate, and in accordance with the Environment Management and Coordination Act. (Cap. 387)

(5) Where a private health facility does not have capacity to install appropriate modern technology for disposal of biomedical waste, the health facility may enter into service delivery agreement with the county government for purposes of accessing the services for disposal of biomedical waste in a public health facility, on such terms and conditions as the county government may stipulate.

Designation of sanitary landfills

65. (1) The department shall in collaboration with the department responsible for physical planning, 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 a landfill, the department shall differentiate landfills for hazardous and non-hazardous waste.

Control of landfills

66. (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.

Junk waste disposal

(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 authorized 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 authorized 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 environmentally friendly manner of disposal of junk waste.

PART V—SOLID WASTE MANAGEMENT PLANNING

Solid waste management spatial plan

67. (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 include 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
- (d) regulate waste management in accordance with the waste management spatial plan.

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

Zoning for waste management

68. (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 wellbeing of the environment.

(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.

- (a) 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; and
- (b) the system described under subsection (1) shall include among others—
 - (i) consultation, mobilization and participation;
 - (ii) compliance with public and environment health standards;
 - (iii) collection of solid waste from private and public places; and
 - (iv) maintenance of clean public streets and places;

(c) 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.

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

(2) The zone designated under subsection (1) shall be based on the spatial plan prepared under section 64.

Integrated waste management plan

69. The department shall in coordination with national government and collaboration with relevant stakeholders prepare and implement an integrated county waste management plan which shall provide for a framework for implementing county waste management policy, national policy and this Act.

PART VI—LICENSING

Prohibition of certain operations

70. An Authorized 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

71. 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

72. (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 County 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

73. 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.

Licensing officers

74. The County Executive Committee Member shall designate such officers who are qualified in matters related to environment to be licensing officers for the purpose of this Act.

Requirements for license

75. (1) No person or private entity shall provide waste collection and transport services unless in accordance with the conditions of a license issued under this Act.

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

Application for license

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

(2) An applicant for a license under this section shall be required to meet the required conditions under section 48 or any other condition in this Act or any other written law.(Cap 387)

(3) The licensing officer shall within fourteen days review the application and ascertain that the applicant—

- (a) has met the conditions stipulated under section 48 (2);

- (b) has met the conditions stipulated under the Environment Management and Coordination Act;
- (c) has a valid business permit or trade license; and
- (d) has met any other prescribed condition.

Grant of license

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

(2) Where the licensing officer is not satisfied that the application meets the requirements of this Act, the licensing officer shall reject the application and shall within fourteen days of such rejection communicate to the applicant of the decision giving reasons for the rejection of the application.

(3) An applicant whose application for a license is rejected under subsection (2) may re-submit an application upon meeting the requirements of this Act.

Conditions of a license

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

Validity of a license

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

Cancellation or withdrawal of license

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

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

License to be displayed

81. (1) A person issued with a license under this Act shall display or cause the license 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 licenses

82. (1) The County Executive Committee Member shall prescribe the different classes of licenses that may be issued under section 74 which shall be based on the geographical coverage of the service for which the license is applied.

(2) Pursuant to subsection (1), the classes of licenses issued shall include—

- (a) waste collection services;
- (b) waste transportation services;
- (c) waste recycling; and
- (d) waste treatment;
- (e) waste transfer station where such a station is privately owned or operated; and
- (f) waste landfill where such a landfill is privately owned or operated.

Prohibition against manufacture etc of certain plastics

83. (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, organization, firm or an institution who contravenes this section commits an offence.

PART VII—PARTNERSHIPS AND PARTICIPATION

Stakeholder participation

84. (1) The department shall in collaboration with relevant Stakeholders—

- (a) initiate programmes for mobilizing and creating awareness among residents, local communities and neighborhoods to participate in sustainable waste management;

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- (b) establish mechanism to receive and handle complaints related to waste management service delivery from the respective localities;
- (c) facilitate community or locally based forums for users and providers of waste management services to deliberate on emerging issues in waste management so as to enhance efficiency in service delivery; and
- (d) promote and facilitate stakeholder led initiatives on waste management.

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

Partnerships

85. (1) For purposes of sustainable implementation of this Act and waste management policies, the department shall establish partnerships with, national government entities, development partners private sector, academic and research institutions, non-governmental organizations and community-based organization.

(2) The department shall establish partnership and collaboration programmes with entities involved in manufacturing, processing or distribution of products for purposes of taking back used packaging materials that is disposed as waste and facilitating recycling or reusing the materials.

PART VIII—INFORMATION, COMMUNICATION AND TECHNOLOGY

Information, communication and technology system

86. The department shall in collaboration with relevant stakeholders develop and implement an integrated information management system which shall provide among others—

- (a) data related to types or forms of waste generated and respective quantities;
- (b) information on service delivery as disaggregated data per ward including service providers; and
- (c) any other information as may be required by the County Executive Committee Member.

Information and communication strategies and programmes

87. (1) 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 on waste management that target basic education schools, youth and local community.

(2) The department ensure that the strategies and programmes developed under subsection (1) are suitable and relevant to diverse users and providers of waste management services.

Technology based communication strategies

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

Annual status report

89.(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.

(2) The County Executive Committee Member shall—

- (a) submit the report to the county executive committee for consideration;
- (b) publicize the report to county residents and waste management stakeholders; and
- (c) take necessary policy and administrative measures to implement any matters raised in the report as an emerging issue.

PART IX—RESEARCH AND DEVELOPMENT

Carrying out of research

90. (1) The department for 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 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

91. 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

92. 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 X—ENFORCEMENT

Authorized officers

93. (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. (No. 12 of 2013)

(3) Notwithstanding subsection (1)—

- (a) an authorized officer appointed by the county government;
- (b) a police officer appointed under the National Police Services Act; or
- (c) an officer appointed under a national law as an authorized officer in environment related matters;
- (d) shall be authorized officers for the purpose of this Act.

Powers of an authorized officer

94. 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

95. (1) A person shall comply with an order issued under section 86.

(2) A person who fails to comply with an order issued under section 86 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

96. 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) that the time is not between 4:00pm and 8:00am; and
- (c) on a Saturday, Sunday or public holiday.

PART XI—LIQUID WASTE MANAGEMENT

Management of liquid waste

97. (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 wastewater 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 wastewater, 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

98. 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.

Effluent to be discharged only into sewer

99. (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 one hundred metres from a public sewer line shall be required to connect all the wastewater, 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.

(4) A person who commits an offence under this section 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.

Discharge of Trade effluents

100. (1) Where the discharge of effluent is into a water course, such effluent should be within the prescribed standards, 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 prescribed standards failure to which shall be an offence.

Effluent Pre-treatment units Offences

101. (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 year 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 wastewater into an approved facility.

(3) A person who fails to comply with subsection (2) 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.

(4) 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, 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.

(6) Any person or firm who contravenes subsection (5) 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

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

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

(3). A certificate issued under sub-section (1) which, comply 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.

Wastewater monitoring

103. (1) Wastewater monitoring techniques shall be subject to standard monitoring procedures to monitoring.

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

Additional procedures

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

Offences relating to wastewater pollution

105. (1) Any person or firm who—

- (a) pollutes the environment contrary to the provisions of this Bill;
- (b) discharges injurious materials, substances, oil, oil mixtures into land, water, air, or aquatic environment contrary to provisions of this Act; or
- (c) discharges any pollutant into the environment contrary to the provisions of this Act, 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.

(2) In addition to any condition that the court may impose upon a polluter under this section, the court may direct the 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;
- (c) without prejudice to the provisions of sub-section (i), (ii) of this section, the court; and
- (d) may direct the polluter to meet the cost of pollution to any third parties through adequate compensation, restoration or restitution.

PART XII—FINANCIAL PROVISIONS

Appropriation for implementation of the Act

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

106. (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 waste collection, transportation and disposal services. (*No. 17 of 2012*).

(3) The fees and charges for providing public services for 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 the type of the waste generator as described under section 18.

Utilization of fees collected (No. 18 of 2012)

107. 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 Waste Management Policy; and
- (c) generally, the provision of public waste management services as stipulated under this Act.

Incentives

108. (1) The county government may provide such incentives for promoting and facilitate private sector investment in waste management.

- (a) 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; and
- (b) 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

109. (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.

(4) 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.

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

(6) The County executive committee may establish an award scheme for recognition of owners or operators of waste collection, separation, recycling and composting facilities whose innovation, efficiency or compliance status has been exemplary.

(7) The county shall establish an award scheme for citizens who credibly bring to the authority cases of illegal dumping and littering.

Donations and grants

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

Public private partnerships

111. In addition to section 39 and 47, the county government may finance services described under this Act through public-private partnership.

General penalties

112. (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, partnership etc

113. (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 office 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.

PART XIII—GENERAL PROVISIONS**Shared responsibilities entitlements**

114. 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

115. (1) The County Executive Committee Member, in charge of environment, shall allow for, and facilitate the participation of persons including individuals, corporate entities, community, neighborhood 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—

- (a) Franchise systems;
- (b) Management contracts paid by the county government; or
- (c) 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 specialized 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

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

Material recovery

117. (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 rateables 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.

Dispute resolution

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

Community service order (No. 10 of 1998)

119 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

120. A license 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

121. (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 regulating the management various categories of waste from generation thereof to recycling or disposal;
- (b) prescribe guidelines, standards applicable for waste segregation;
- (c) methods of waste processing, transformation and disposal for various waste streams or types of waste;
- (d) prescribe waste storage and disposal bags;
- (e) rules for managing waste in public markets;
- (f) prescribe distance of location of transfer stations within proximity of social amenities;

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- (g) prescribe standards and guidelines for waste transport services;
- (h) prescribe guidelines of operations of landfills;
- (i) prescribe standards for trade effluent;
- (j) prescribe the forms applicable under the Act;
- (k) prescribe the fees and charges payable under this Act;
- (l) Establishing mechanisms for participation of the private sector in solid waste management; and
- (m) prescribe dispute resolution mechanism.