

Bill No.....of 2023

Sustainable Waste Management Bill for County



REPUBLIC OF KENYA

(NAME) COUNTY ASSEMBLY BILLS, 2023

(Date.....)

Bill for introduction into the County Assembly of -----
County

(DRAFT – MAY 2023)

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An ACT of the County Assembly of _____ County to implement the devolved function of waste management, to ensure the realization of the Constitutional provision on the right to a clean and healthy environment, to make provision for the sustainable management of waste in the County and for connected purposes.

ENACTED by the County Assembly of _____ County as follows—

PART I – PRELIMINARY	
Short title and	1. This Act may be cited as the _____ County Sustainable Waste Management Act, [2023] and shall come into

<p>commencement</p>	<p>force on the [ninetieth] day after its publication in the Kenya Gazette.</p>
<p>Interpretation</p>	<p>2. In this Act, unless the context otherwise requires—</p> <p>"Authority" means the National Environment Management Authority established under section 7(1) of the Environmental Management and Coordination Act, (No. 8 of 1999);</p> <p>"Authorized officer" means the chief officer, the director of environment or any other officer authorized by the county government in writing for the purposes of the enforcement of the provisions of this Act;</p> <p>"County Executive Committee Member" means the County Executive Committee member responsible for matters relating to waste management;</p> <p>"County Government " means the County Government of ----- -----County;</p> <p>"disposal site" means any area of land on which waste disposal facilities are physically located or final discharge point without the intention of retrieval but does not mean a re-use or re-cycling or composting plant or site;</p> <p>"extended producer responsibility" means an environmental management approach in which a producer’s responsibility for a product is extended to the post-consumer stage of a product life cycle;</p>

“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;

“Landfill” is a sanitary engineered controlled and regulated disposal site for residual waste with basic operations and site management that has a controlled access, recording facilities for incoming waste control and prevents the release of pollutants to soil, water and air.

"materials recovery facility" means a specialised facility that receives, separates and prepares recyclable material for marketing to end user manufacturers;

“Waste receptacle” means a properly maintained and leak proof container, bag, bin, box, skip or vessel used to store and collect waste.

"non-organic waste" means dry recyclable and non-recyclable materials;

"organic waste" means compostable materials derived from plants and animals;

"payment for environmental services" and **"payment for ecosystem services"** means payments to farmers or land users to encourage the conservation of natural resources;

"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 affect 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 licence under the Environmental Management and Co-ordination Act, (No. 8 of 1999);

"precautionary principle" means that where the lack of scientific certainty shall not be used to postpone measures to prevent environmental degradation where there are threats of damage to the environment;

"polluter pays principle" means that the cost of cleaning up any element of the environment that has been damaged by pollution, the cost of the beneficial uses of the environment that have been lost as a result of the pollution, and any other costs associated with or incidental to the pollution shall be paid by the polluter;

"producer" means an entity that introduces goods, products and packaging into the country using authorised means by manufacturing, importing, converting, filling, refilling, repackaging or rebranding;

"proximity principle" means that waste should be managed closest to where it is generated;

"public participation" means that the public and all stakeholders are engaged in any decision making process and

consideration is given to public and stakeholders input in making that decision;

"recovery" means the controlled extraction of a material or retrieval of energy from waste for the production of another product;

"recycle" means the process by which materials are reclaimed from waste for further use as product, raw materials or input in the production process;

"Residual Waste"- Non recyclable waste with no commercial value left after any waste treatment process

"re-use" means the action or practice of using something again whether for its original purpose or to fulfil a different function;

"sustainable waste management" means using material resources efficiently as prioritized by waste hierarchy, circular economy and clean production in order to reduce the amount of waste that is generated, deposited or discarded in the environment including the management of materials that would otherwise have been dumped or wasted in a way that contributes to environmental, social and economic goals of sustainable development;

"treatment" means any method, technique or process for altering the biological, chemical or physical characteristics of wastes to reduce the hazards it presents;

"waste" means— (a) any substance, material or object that is intended or required to be discarded or disposed of by its holder, whether or not it can be reused, recycled or recovered and include municipal waste, domestic waste, waste from agriculture,

construction waste, commercial waste, waste from horticulture, aquaculture and forestry, medical waste, chemical waste, hazardous waste, toxic waste, industrial waste, pesticides, e-waste and toxic substances but does not include radioactive waste; (b) a substance, material or object that may be designated as waste by the Cabinet Secretary in accordance with the provisions of the Sustainable Waste Management Act, No. 31 of 2022, Laws of Kenya;

Waste generator – refers to any person or entity whose production and consumption processes and activities including waste management activities result in generation of waste.

"waste management facility" means a site or premises licensed in accordance with this Act for the purposes of receiving, accumulation, depositing, recovery, recycling, treatment, storage and disposal of waste and includes waste processing areas, transfer stations, reusing areas, materials recovery facilities, recycling plants, food waste treatment facilities, composting plants, waste disposal areas, waste-to-energy facilities and sanitary landfills;

"waste management activity" means any administrative or operation activity for the- (a) importation or exportation of waste as prescribed by regulations; (b) segregation of waste including any activity or process that is likely to result in generation of waste; (c) accumulation and storage of waste; (d) collection and handling of waste; (e) reduction, reusing, recycling and recovery of waste; (f) trading in waste; (g) transportation of waste; (h) transfer of waste; (i) treatment of waste; and (j) disposal of waste;

	<p>"waste minimisation programme" or "waste reduction programme" means a programme that is intended to promote reduction in generation and disposal of waste;</p> <p>"Waste receptacle" means container, bag, bin, box, skip or vessel used to store and collect waste.</p> <p>"waste service providers" includes collectors, transporters, waste processors, material recovery operators, recyclers and landfill operators;</p> <p>"zero waste principle" means that products and processes are designed and managed to reduce the volume and toxicity of waste and materials, and to conserve and recover all resources, and to prevent the burning or burying of resources, in order to treat waste as a resource that can be harnessed for wealth creation, employment and the reduction of pollution; and achieving sustainable waste management goals.</p>
<p>Object and purpose</p>	<p>3. The object and purpose of this Act is to provide for the establishment of an appropriate legal and institutional framework to promote sustainable waste management in _____ County and in particular to—</p> <ul style="list-style-type: none">(a) establish an appropriate implementation mechanism for sustainable waste management function in the County;(b) set forth the guiding principles for sustainable waste management in the County;(c) ensure a clean and healthy environment through sustainable waste management;

	<p>(d) catalyse transition towards a circular economy by mainstreaming resource efficiency principles in sustainable consumption and production practices;</p> <p>(e) ensure efficient delivery of sustainable waste management services in the County;</p> <p>(f) establish an environmentally sound infrastructure and system for sustainable waste management;</p> <p>(g) create an enabling environment for employment and investment in the green economy in sustainable waste management</p> <p>(h) incentivise investment opportunities in the green and circular economy</p> <p>(i) inculcate responsible public attitude, behaviour and culture on waste and environment.</p>
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PART II – GUIDING PRINCIPLES

<i>Guiding principles</i>	<p>4. In implementing this Act, the County Government, its officials, agents, committees and/or any other lawful organs or institutions of the County Government shall be guided by the following general guiding principles—</p> <ul style="list-style-type: none"> (i) the right to a clean and healthy environment; (ii) the precautionary principle; (iii) the polluter pays principle; (iv) payment for ecosystem services or payment for ecological services; (v) zero waste principle; (vi) public participation; and (vii) proximity principle. (viii) environment stewardship principles (ix) intra- and inter-generational equity
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PART III – ADMINISTRATION AND IMPLEMENTATION

***Role of
County
Executive
Committee
Member.***

5. The County Executive Committee Member shall be responsible for—

- (a) formulation of county policy on sustainable waste management;
- (b) coordination of the administration, implementation and enforcement of the provisions of this Act and any regulations made thereunder;
- (c) Coordination and development of regulations, standards and guidelines for the better administration and implementation of this Act;
- (d) Convening quarterly meetings for the county Environmental Committee to discuss sustainable waste management affairs
- (e) Coordinate development and implementation of the annual county waste management plan and quarterly monitoring reports;
 - (f) monitor the process of planning, formulation and adoption of the sustainable waste integrated development plan within the decentralized units in the county;
 - (f) Coordinate development and management of the County Waste Management Information System
 - (g) mobilize resources for the implementation of this Act.
 - (h) establish collaborations and partnerships in sustainable waste management.
 - (i) preparation and submission of annual reports to the County Assembly on the implementation of this Act
 - (j) coordinate and collaborate with the national government’s relevant lead agencies and other county

	<p>governments in the implementation of this Act and other policies, plans and strategies on sustainable waste management in the county</p> <p>(k) Development of regulations on Incentives in conjunction with service providers</p>
<p><i>Role of County department and County Agencies</i></p>	<p>6. The County department and County agencies responsible for waste management, shall—</p> <ul style="list-style-type: none">(a) coordinate, promote and facilitate effective implementation of this Act and any county policies, plans and strategies on sustainable waste management;(b) Development the County Integrated Sustainable Waste Management Plan according to guidelines;(b) review the implementation of the County Integrated Sustainable Waste Management Plan;(c) enforce the provisions of this Act and any other written laws and guidelines related to sustainable waste management;(d) promote and facilitate compliance with this Act and any policies, plans and strategies on sustainable waste management;(e) in collaboration with relevant stakeholders carry out awareness creation, mobilization and capacity development on sustainable waste management;(f) mobilize and facilitate formation of local community or neighbourhood initiatives or programmes for sustainable waste management;(g) provide public services including infrastructure for sustainable waste management;(h) Register, supervise and coordinate private actors and Stakeholders in waste management;

	<p>(i) administer any licenses or permits that may be required under this Act or any regulations made thereunder;</p> <p>(j) in consultation with County Executive Committee, provide such incentives as may be necessary to promote circular economy</p> <p>(k) carry out any other function that may be assigned by the County Executive Committee for the purposes of implementing the objects of this Act.</p> <p>(l) implement collaborations and partnerships in waste management.</p> <p>(m) formulate the necessary education promotion and information campaign strategies to promote sustainable waste management and encourage private sector initiatives, community participation and investments in waste management and resource recovery based livelihood programs for local communities;</p> <p>(o) development of the five-year integrated county waste management plan and ensuring its inclusion in the county integrated development plan, and its implementation;</p> <p>(p) development, management and maintenance of the county waste management information system integrating climate change resilience in Sustainable Waste Management</p> <p>(q) formulate the necessary education promotion and information campaign strategies to promote sustainable waste management and encourage private sector initiatives, community participation and investments in waste management and resource recovery- based livelihood programs for local communities;</p> <p>(r) establish criteria, guidelines and formula that are fair, equitable and reasonable in establishing various charges and rates for sustainable waste management;</p>
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	<p>(s) develop criteria and guidelines for formalization and inclusion of informal waste service providers in the County waste management system;</p>
<p>Role of County Environment Committee</p>	<p>7. The County Environment Committee established under section 29 of the Environmental Management and Co-ordination Act (No. 8 of 1999), in the exercise of its functions for the proper management of the environment within the county as relates to waste management, shall—</p> <ul style="list-style-type: none"> (a) Review the progress of the implementation of the County Integrated Sustainable Waste Management Plan (b) ensure proper management of waste in the county (c) Monitor the implementation of the five-year integrated county waste management plan (d) Ensure integration of the Sustainable waste management in the County environment action plans and county state of environment reports
<p>Education and awareness</p>	<p>8. (1) The County shall conduct public awareness on waste management strategies and programmes;</p> <p>(2) The County shall ensure that waste management is streamlined in its operations in all institutions within its jurisdiction;</p> <p>(3) EPR schemes shall provide consumers with information on management of post-consumer products and packaging they introduce in the County;</p>
<p>PART IV – MEASURES AND ACTIONS</p>	
<p>Segregation of waste at source</p>	<p>9. Every person or entity whose activities generate waste shall segregate such waste at source in the manner prescribed below—</p>

	<p>(i) Non-hazardous waste shall be separated into organic and non-organic waste.</p> <p>ii) Hazardous waste shall be separated from non-hazardous waste.</p> <p>(iii) The segregated waste shall be placed in properly labeled and colour coded receptacles, bins, containers and bags.</p> <p>(iv) The department and/or licenced or contracted waste service providers shall provide colour coded receptacles, bins, containers and bags to all waste generators in the areas served by the department or licenced or contracted waste service providers.</p> <p>(v) The labeling and colour coding for waste receptacles, bins, containers and bags shall conform to the National Colour Coding System established under the Sustainable Waste Management Act (No.31 of 2022, Laws of Kenya)</p> <p>(vi) The relevant department or licensed or contracted waste service provider should conduct awareness campaigns to ensure segregation at source</p>
<p>Handling of hazardous waste</p>	<p>10. Every person or entity whose activities generate hazardous waste shall handle, manage and/or dispose of such waste in the manner prescribed by the Environmental Management and Co-ordination Act, (No. 8 of 1999, Laws of Kenya), the regulations made thereunder, and any other written law.</p>
<p>County Waste Management Plan</p>	<p>11. (1) The County Executive Committee Member shall submit to the County Assembly for approval an integrated county waste management plan once every five years.</p> <p>(2) The Executive Committee Member shall submit for approval the integrated county waste management plan and should ensure that this is included in the county integrated development plan.</p>

<p>County Sustainable Waste Management Integrated Information System</p>	<p>12. (1) The County Government shall establish a County Sustainable Waste Management Integrated Information System for recording, collecting, management and analysis of waste data and information including—</p> <ul style="list-style-type: none">(a) a register of all licensed waste management activities;(b) updated record of all licenced waste service providers(b) the status of the generation, collection, reduction, reuse, recycling, composting, recovery, transportation, treatment and disposal of waste;(c) the impact of waste on health and the environment;(d) the levels and extent of waste management services provided by County Government and other registered waste service providers in the County;(e) information on compliance with this Act and the Sustainable Waste Management Act (No. 31 of 2022, Laws of Kenya) ; and other related Acts and regulations which Kenya is party to; that is necessary for the purposes of the effective administration of this Act.f. Information on extended producer responsibilityg. The County Government shall develop guidelines on how to operationalize the County Sustainable Waste Management Integrated Information System. <p>(2)(a) The department shall maintain data and information outlined in sub-section (1) above and shall share the same with the Authority through the national waste information management</p>
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	<p>system annually and/or at such other times as may be required by the Authority.</p> <p>(b) The information shall be shared between the County Governments and Authority and vice versa</p>
<p>Waste minimisation</p>	<p>13. (1) Any owner or operator of a manufacturing or processing facility, plant or premises which generates waste shall implement a waste minimization programme by adopting cleaner production principles including—</p> <ul style="list-style-type: none">(i) improvement of production processes through conservation of raw materials and energy;(ii) eliminating the use of toxic raw materials as provided under the EMCA;(iii) reducing toxic emissions and waste;(iv) monitoring the product cycle by—<ul style="list-style-type: none">(a) identifying and eliminating potential negative impacts of the product;(b) enabling the recovery and reuse of the product;(c) reclamation and recycling; and(d) incorporating environmental concerns in the design process and disposal of a product. <p>(2) The owner or operator of a manufacturing or processing facility, plant or premises which generates waste shall report on waste minimization through the environmental audit report submitted to the Authority as per EMCA 1999.</p>

<p><i>Extended Producer Responsibility</i></p>	<p>14. Any producer who introduces into the County any product or packaging shall bear and fulfil extended producer responsibility obligations to reduce pollution and environmental impacts of the products or packaging and any waste arising therefrom in accordance with the provisions of this Act and regulations, Sustainable Waste Management Act (No. 31 of 2022, Laws of Kenya) and any regulations made thereunder.</p> <p>13: 1) EPR schemes shall liaise with counties to develop an annual workplan on implementation of EPR at county level, indicating material and financial flow along the value chain and involvement of all players.</p> <p>2) EPR schemes shall submit annual progress reports to Counties on EPR implementation</p> <p>(3) The EPR schemes shall enter into contracts with registered waste service providers at the Counties</p>
<p>DRAFT</p>	
<p>PART V – WASTE COLLECTION AND TRANSPORTATION</p>	
<p><i>Responsibility of County Government to collect waste</i></p>	<p>15. (1) The County Government shall be responsible for the provision of solid waste collection services in County.</p> <p>(2) In undertaking the obligation set out in (1) above, the County Government may—</p> <p>(a) carry out waste collection services directly through its relevant department; or</p>

	<p>(b) contract a private person or entity to provide waste collection services on its behalf; or</p> <p>(c) enter into a public private partnership, in accordance with the Public Private Partnerships Act (No. 14 of 2021, Laws of Kenya), for provision of solid waste collection services; or</p> <p>(d) licence a private person or entity to provide waste collection services on such terms and conditions as the department may determine.</p> <p>(3) The County Government may enter into agreement with neighboring County governments to provide waste collection services in the manner prescribed under this Act or regulations thereunder.</p> <p>(4) The County Government shall provide clearly labeled and colour-coded waste collection containers or Standardized receptacles in all public streets, public markets and other open public places within the County and shall collect and dispose of such waste in the manner prescribed under this Act or regulations thereunder.</p> <p>(5) The county may provide a waste collection and transportation schedule guideline for segregated waste</p>
<p>Minimum requirements for waste collectors</p>	<p>16. The following shall be the requirements for solid waste collectors—</p> <p>(a) All solid waste collectors and other personnel directly dealing with collection of solid waste shall be equipped by the waste service provider with appropriate personal</p>

	<p>protective equipment to protect them from the hazards of handling solid wastes;</p> <p>(b) The Waste Service provider shall ensure and guarantee the safety of solid waste collectors and other personnel directly dealing with collection of solid waste according to the Work Injuries Benefit Act , 2007 and OSHA 2007 and other relevant law.</p> <p>(c) All solid waste collectors and personnel shall ensure that the waste is handled properly and in accordance with the provisions of this Act or any regulations made thereunder; and</p> <p>(d) Collection of solid waste shall be done in a manner which prevents damage to the waste container, and spillage or scattering of solid waste within the collection vicinity.</p>
<p><i>Establishment of designated waste receptacles</i></p>	<p>17. The County Government shall provide the color coded waste receptacles in public spaces for segregated non-hazardous waste and shall develop and implement a waste collection schedule to promote efficient waste collection.</p>
<p><i>Obligations of a waste generator</i></p>	<p>18. Every person or entity whose activities generate [non-hazardous] waste shall—</p> <p>(a) segregate waste at source in accordance with the provisions of this Act.</p> <p>(b) deposit such segregated waste, into a labelled and colour-coded waste receptacle as provided for under this Act or</p>

	<p>(c) hand over the waste to a licensed waste service provider in accordance with the provisions of this Act.</p> <p>(d) Any waste generator who does not segregate waste at source commits an offence and shall on conviction be liable for a fine of twenty thousand shillings or a jail term of six months or both.</p>
<p><i>Obligation of owners and occupiers of houses, buildings or premises</i></p>	<p>19. (1) Every owner or occupier of a house, building or premises shall ensure that any waste stored within their house, building or premises while awaiting collection is segregated and kept in properly labeled and colour coded waste receptacles or bins or containers or bags as provided for under this Act or regulations made thereunder.</p> <p>(2) An owner or occupier of a house, building or premises shall not dispose, cause or permit to be placed any waste in any public place or upon the frontage of any house, building or premises.</p> <p>(3) Notwithstanding the provision in subsection (2) above, it shall be lawful for an owner or occupier of a house, building or premises, to place such waste in properly labeled and colour coded waste receptacles or bins or containers or bags, at a location within or at the frontage of his house, building or premises to facilitate convenient collection of the waste by the County Government or licenced waste service providers on the designated waste collection day.</p> <p>(4). It shall be the duty of every occupier, owner or agent of a house, buildings or premises to contract a licenced waste service provider to collect waste within and around his house, buildings and premises or any area otherwise in his control</p> <p>(d) Any occupier, owner or agent of a house, buildings or premises which generates waste but fails to contract a licenced waste service</p>

	<p>provider commits an offence and shall on conviction be liable for a fine of fifty thousand shillings or a jail term of six months or both.</p>
<p><i>Informal waste pickers</i></p>	<p>20. (1) The County Government shall register the informal waste pickers who are members of established associations and/ or Community Based Organizations.</p> <p>(2) The County Government shall provide opportunities and incentives to facilitate waste pickers in sustainable waste management.</p> <p>(3) The waste pickers may be allowed to collect valuables from waste and take them to the material recovery facilities.</p> <p>(4) In undertaking their roles, the waste pickers shall ensure that littering is eliminated</p> <p>(5) The County government and Producer Responsibility Organisations shall develop capacity building and empowerment programmes for the waste pickers including access to finance.</p>

<p>Waste collection and transportation</p>	<p>21. (1) The County Government department responsible for waste collection and any person or entity contracted or granted a license by the department responsible for environmental matters to collect and/or transport waste shall not collect or handle or transport any waste that is not segregated in the manner prescribed under this Act.</p> <p>(2) The County Government department responsible (waste collection and any person or entity contracted or granted a license by the County Government to collect and/or transport waste shall ensure that—</p> <ul style="list-style-type: none">(a) they provide clearly labelled color-coded waste receptacles to the persons or entities served by them;(b) the containers, vessels, vehicle or other means of conveyance used for the transportation of waste are well covered or designed to prevent spillages, scattering, littering and/or emission of obnoxious odours during transportation.((c) there is no spillage, scattering, littering and/or emission of obnoxious odours during transportation.(d) transport only segregated waste to Material Recovery Facilities as provided under this Act. <p>(3) The County Government shall develop guidelines to ensure waste is transported in its segregated form.</p> <p>(4) Any Waste Service Provider who fails to transport segregated waste commits an offence and shall on conviction be liable for a fine of fifty thousand shillings or a jail term of six months or both</p>
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<i>License to collect and transport waste</i>	<p>22. No person shall be granted a license to collect and transport waste under this Act unless such person owns or operates a transportation vehicle or other means of conveyance approved by the County Government in accordance with regulations established under this Act.</p> <p>(a) All vehicles transporting waste must be clearly labelled with dark green color.</p> <p>(b) All waste collection and transporters should be members of a registered waste management association.</p> <p>(c) Any person or entity who collects and transports waste without a license commits an offence and shall on conviction be liable for a fine of fifty thousand shillings or a jail term of six months or both</p>
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PART VI – MATERIAL RECOVERY, RECYCLING AND COMPOSTING

<i>Establishment of Material Recovery Facilities</i>	<p>23. (1) The County Government shall establish or designate and/or operate Material Recovery Facilities for the purpose of recovering recyclable, re-usable or compostable materials.</p> <p>(2) Notwithstanding the provisions of sub-section (1) above, the County Government may enter into public private partnerships or licence private persons or enterprises or Producer Responsibility Organizations to establish and/or operate Material Recovery Facilities for the purposes of recovering recyclable, re-usable or compostable materials.</p> <p>(3) The County Government may recognize and incentivize the private sector to establish material recovery facilities.</p> <p>(4) A County Government can enter into collaboration with other counties to establish common Material Recovery Facility.</p>
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	<p>(5) The County government shall develop guidelines on designation of material recovery facilities.</p> <p>(6) The authority shall issue environmental licenses for operationalization of MRFs based on EIA and annual environmental audit reports – Counties disagreed with this clause and propose to issue the license.</p> <p>Proposals:</p> <ol style="list-style-type: none">1. NEMA to issue guidelines or standards and counties to issue the annual MRF license.2. Counties had no objections on issuance of EIA license by NEMA.3. NEMA can consider giving a free approval permit after the Audit report and share the same with Counties.4. Maybe the Waste Management Council can resolve this matter.5. Establish enforcement teams at county level.6. License to be issued by County but through County Environment Committee where NEMA County Director of Environment is Secretary. <p>(7) MRFs shall adhere to environmental standards set out by the authority to ensure they do not become dumpsites.</p>
<p>Requirement for Environmental Impact Assessment</p>	<p>24. (1) The County Government shall not construct or establish or designate and/or operate any Material Recovery Facility before carrying out Environmental Impact Assessment (EIA) and obtaining an EIA Licence from the Authority in accordance with the provisions of the Environmental Management and Co-ordination Act (No. 8 of 1999, Laws of Kenya) and regulations made thereunder.</p> <p>(2) The County Government shall not licence any private person or enterprise or Producer Responsibility Organization to construct or establish or operate a Material Recovery Facility unless such (person or enterprise or Producer Responsibility Organization) has carried out Environmental Impact Assessment (EIA) and obtained an EIA Licence</p>

	<p>from the Authority in accordance with the provisions of the Environmental Management and Co-ordination Act (No. 8 of 1999, Laws of Kenya) and regulations made thereunder.</p>
<p><i>Environmental Audits for material recovery facilities</i></p>	<p>25. The County Government and any private person or enterprise or Producer Responsibility Organization operating a Material Recovery Facility shall carry out annual Environmental Audits and submit the same to the Authority in accordance with the provisions of the Environmental Management and Co-ordination Act (No. 8 of 1999) and regulations made thereunder.</p>
<p><i>Obligation to channel waste through Material Recovery Facilities</i></p>	<p>26. (1) All waste service providers and Producer Responsibility Organizations operating within the County shall ensure that all waste collected, transported and/or handled by them after collection, other than hazardous waste, is first channeled through a licensed Material Recovery Facility for further sorting and recovery of resources before final processing and/or disposal.</p> <p>(2) Any Waste Service Provider who fails to channel segregated waste through licensed material recovery facilities commits an offence and shall on conviction be liable for a fine of two hundred thousand shillings or a jail term of one year or both</p>
<p><i>Access to recovered materials</i></p>	<p>27. (a) Licensed entities may obtain recyclable, re-usable or compostable materials from a Material Recovery Facility at the prevailing market price or upon such terms or conditions as may be prescribed by any regulations made under this Act or any other written law.</p> <p>(b) The County government may from time to time facilitate market linkages for the products recovered from the material recovery facility.</p>

	<p>(c) County government shall develop regulations to enhance secondary markets and uptake of organic waste products and other materials recovered from waste.</p>
<p>Compliance with Act</p>	<p>28. The County Government and/or any private person or enterprise or Producer Responsibility Organization licenced to establish and/or operate a Material Recovery Facility shall ensure that all activities related to such establishment or operation comply with the provisions of this Act and any other written law.</p>
<p>Recycling of recovered materials</p>	<p>29. (1) No person or entity shall establish or operate a waste recycling or composting plant or facility within the County without a license issued by the County Government in accordance with regulations made under this Act. NEMA does not agree with this clause.</p> <p>Proposals:</p> <p>Option 1: Waste Management Council to resolve this matter.</p> <p>Option 2: License could be issued by County but through County Environment Committee where NEMA County Director of Environment is Secretary.</p> <p>Option 3: NEMA to issue guidelines or standards and counties to implement.</p> <p>Option 4: NEMA to issue license for free based on the EA report.</p> <p>Observation: If NEMA and County visit a facility, they check same things and is therefore a waste of resources.</p> <p>(2) The County Government shall not licence any person or entity to establish or operate a waste recycling or composting plant or facility within the County unless such person or entity has carried out Environmental Social Impact Assessment (ESIA) and obtained an EIA Licence in accordance with the provisions of the Environmental Management and Co-ordination Act (No. 8 of 1999, Laws of Kenya) and regulations made thereunder.</p>

<p><i>Environmental Audits for waste recycling and composting plants</i></p>	<p>30. Every person or entity operating a waste recycling or composting plant or facility shall carry out annual Environmental Audits and submit the same to the Authority in accordance with the provisions of the Environmental Management and Co-ordination Act (No. 8 of 1999, Laws of Kenya) and regulations made thereunder.</p>
	<p>PART VII – RESIDUAL WASTE AND DISPOSAL</p>
<p><i>Prohibition of residual waste disposal in non-designated places</i></p>	<p>31. (1) Residual waste from Material Recovery Facilities shall be disposed at the designated sanitary engineered landfills. (2) No entity shall dispose of any residual waste in any public or private place except in a designated disposal facility.</p>
<p><i>Soil / construction waste</i></p>	<p>32. (1) No person shall dispose waste soil or construction and demolition waste in an undesignated site. (2) The County Government shall develop guidelines on disposal of waste soil, construction and demolition waste. (3) Any person who dispose waste soil or construction and demolition waste at a site not designated by the County commits an offence and shall on conviction be liable for a fine of two hundred thousand shillings or a jail term of one year or both.</p>
<p><i>Obligations to deliver residual waste to designated disposal facilities</i></p>	<p>33. (1) The County Government department responsible for waste management and all contracted and/or licenced waste service providers shall deliver all residual waste collected from Material Recovery facilities to designated licensed final disposal facilities in accordance with the provisions of this Act and any regulations made thereunder. (2) A waste service provider who fails to handle or manage residual waste in accordance with the provisions of this Act or regulations</p>

	<p>made thereunder commits an offence and shall, upon conviction, be liable to a fine not exceeding five hundred thousand shilling or imprisonment for a term not exceeding twelve months or both.</p>
<p>Management of residual waste disposal</p>	<p>34. (1) County government shall be responsible for control and management of waste disposal facility and landfills (2) All residual waste shall be weighed and treated before final disposal (3) The landfill operator shall measure toxicity of residual waste before final disposal (4) Landfill operators shall charge tipping fees informed by volume and toxicity level of residual waste (5) The County Government shall develop guidelines on residual waste disposal</p>
<p>Obligation of County Government to provide waste disposal facilities</p>	<p>35. (1) All waste generated within the County shall be disposed of within the County’s boundaries except where there is an agreed framework for inter-county transportation and disposal of such waste. (2) The County Government shall be responsible for the provision of sanitary engineered landfills for residual solid waste disposal in the County. (3) In undertaking the obligation set out in subsection (1 and 2) above, the County Government may— (a) construct or establish or designate and operate sanitary engineered landfills /landfill through its relevant department; or (b) contract private persons or entities to construct and/or establish and/or operate sanitary engineered landfills for residual waste on its behalf; or (c) licence a private person or entity to provide sanitary engineered landfills for residual waste disposal services on commercial basis.</p>

<p>Decommissioning of current dumpsites</p>	<p>36. (1) Counties shall develop a decommissioning plan for existing dumpsites to be approved by the Authority within one year after enactment of this Act.</p> <p>(2) Counties shall implement the approved decommissioning plan within two years after approval by the Authority.</p>
<p>Environmental Impact Assessment for waste disposal facilities</p>	<p>37. (1) The County Government shall not construct or establish or designate and/or operate any waste disposal facility before carrying out Environmental and Social Impact Assessment (ESIA) and obtaining an EIA License in accordance with the provisions of the Environmental Management and Co-ordination Act (No. 8 of 1999) and regulations made thereunder.</p> <p>(2) The County Government shall not contract or license any private person or entity to construct or establish or operate a waste disposal facility unless such person or entity has carried out Environmental and Social Impact Assessment (ESIA) and obtained an ESIA License in accordance with the provisions of the Environmental Management and Co-ordination Act (No. 8 of 1999) and regulations made thereunder.</p>
<p>Environmental Audits for waste disposal facilities</p>	<p>38. The County Government and any private person or entity operating a waste disposal facility shall carry out annual Environmental & Social Audits and submit the same to the Authority in accordance with the provisions of the Environmental Management and Co-ordination Act (No. 8 of 1999) and regulations made thereunder</p>
<p>Waste disposal license</p>	<p>39. All landfills shall be licensed by the Authority.</p>
	<p>PART VIII – FINANCIAL PROVISIONS</p>
<p>Fees, levies and charges</p>	<p>40. (1) All Waste generators shall pay for waste management services provided by Waste Service Providers.</p>

	<p>(2) Any owner/occupier/agent /landlords of any premises receiving waste collection service shall pay or ensure payment to the waste collection service provider that may have rendered services.</p> <p>(3) The Waste Service Providers shall charge fees for waste service delivery including waste collection, transportation, material recovery facility services, residual waste collection, tipping, pretreatment and disposal and respective administrative charges fees or levies for the efficient provision of waste management services.</p> <p>(4) Any fees or other charges levied on waste management services by the county government shall be exclusively allocated to the county waste management fund for the provision and improvement of waste management services in the County.</p> <p>(5) The county shall allocate 1% of the development kitty to the Waste Management Fund.</p> <p>(6) Every waste generator shall provide sufficient proof of engagement with a licensed waste service provider and sustainable waste management in place.</p> <p>(7) Any person or entity that fails to pay or ensure payment for waste management services shall be guilty of an offence and is liable on conviction to a fine of twenty thousand shillings or imprisonment for three months or both.</p>
<p><i>Incentives for waste management</i></p>	<p>41. The County Executive Committee Member for the time being responsible for matters relating to waste management may, in consultation with the County Executive Committee Member for the time being responsible for the County Treasury and relevant</p>

	<p>stakeholders, and with the approval of the County Assembly, introduce fiscal incentives—</p> <p>(a) for investment in sustainable waste management including waste segregation collection, separation, treatment, processing recycled product marketing / procurement, recovery and sanitary final disposal of waste; and</p> <p>(b) for adoption of locally produced and/or imported sustainable waste management equipment and materials including collection machines, equipment for recycling, composting, transporting and waste compacting.</p> <p>(c) adoption of efficient waste management technology</p> <p>(d) Promote use of organic manure including uptake in green spaces.</p> <p>(e) Provision of land and amenities for setting up of waste management infrastructure</p> <p>(f) The County Government shall develop regulations on incentives for waste management.</p> <p>(g) Counties shall develop regulations to promote green procurement.</p>
	<p>PART IX – REGULATIONS</p>
<p>Power to make Regulations.</p>	<p>42. (1) The County Executive Committee Member shall, in consultation with relevant stakeholders and with the approval of the County Assembly, make regulations for the better administration and operationalization of the provisions of this Act.</p> <p>(2) Without prejudice to the generality of subsection (1), the regulations made under this section may provide for—</p> <p>(a) anything required to be prescribed under this Act;</p> <p>(b) fees or levies or charges for waste service provision.</p> <p>(c) requirements for solid waste segregation and handling at source.</p>

	<p>(d) requirements for the establishment or designation of waste collection points, waste collection schedules and routes and other related waste collection services.</p> <p>(e) requirements for waste transportation services.</p> <p>(f) requirements for establishment or operation of material recovery facilities.</p> <p>(g) requirements for establishment or operation of solid waste recycling or composting facilities;</p> <p>(h) requirements for establishment or operation of waste disposal plants or facilities or sites;</p> <p>(i) requirements for solid waste processing, treatment and disposal for various waste streams or types of solid waste;</p> <p>(j) requirements and procedure for application, issuance, suspension, cancellation or revocation of any licence or permit required under this Act or any regulations made thereunder; and</p> <p>(k) regulations promoting marketing of recovered materials and products</p> <p>(l) Registration and organization of the informal waste service providers</p> <p>(m) Training and assisted compliance for the informal waste service providers</p> <p>(n) any other matter relevant for the sustainable management of solid waste as provided for under this Act.</p>
<p><i>Enforcement of the Act</i></p>	<p>43. The CECM shall designate authorized officers , who shall be gazzeted by the Governor for the enforcement of this Act</p> <p>(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</p> <p>(2) For an officer to be designated as authorized officer under subsection (1), the officer shall be qualified in matters related to environment management.</p>

<p>Powers of an authorized officer</p>	<p>44. Powers of an authorized officer include</p> <p>(a) carry out inspections for the purposes of ensuring compliance with this Act,</p> <p>(b) issue an order in writing prohibiting a person from carrying on with an action that contravenes the provisions of this Act, or /and</p> <p>(c) issue an order requiring a person who has disposed waste contrary to this Act, to remove the waste, restore the site and dispose waste at the appropriate designated place and in the appropriate manner</p>
<p>Intergovernmental collaboration</p>	<p>45. (1) The national and county government shall promote intergovernmental collaboration in implementation of the Act.</p> <p>(2) Notwithstanding the generality of clause (1) all Counties shall be subject to supervision by the Authority in implementation of this Act.</p> <p>Counties disagreed with this clause</p>
<p>PART X – OFFENCES AND PENALTIES</p>	
<p>Offences where penalty is prescribed</p>	<p>46. Any person who contravenes any provision of this Act or regulations made thereunder commits an offence and shall, upon conviction by a court of law, be liable to such fine or term of imprisonment as is prescribed by the relevant section of the Act or regulations.</p>
<p>General penalty</p>	<p>47. Any person or entity who contravenes a provision of this Act for which a penalty has not been prescribed shall, upon conviction by a court of law, be liable to a fine of not exceeding [five hundred thousand shillings] or to imprisonment for a term not exceeding one year or to both.</p>
<p>Liability for offences</p>	<p>48. (1) Where an offence is committed against the provisions of this Act or regulations made thereunder by a body corporate, the body corporate and responsible officer or agent of the body corporate who had knowledge of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance</p>

	<p>with this Act or regulations made thereunder, shall be guilty of an offence</p> <p>(2) Where an offence is committed against the provisions of this Act or regulations made thereunder by a partnership, every partner or officer of the partnership who had knowledge of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act or regulations made thereunder, commits an offence.</p> <p>(3) A person shall be personally liable for an offence against this Act or regulations made thereunder, whether committed by him on his own account or as an agent. .</p> <p>(4) An employer or principal shall be liable for an offence committed by an employee or agent against the provisions of this Act or regulations made thereunder, unless the employer or principal proves that the offence was committed against his express or standing directions.</p>
	<p>PART XI – MISCELLANEOUS PROVISIONS</p>
<p>Public Participation</p>	<p>49. Any decision or action requiring public participation under this Act shall be made or conducted in accordance with the principles set out in the Second Schedule of the Sustainable Waste Management Act (No. 31 of 2022, Laws of Kenya)</p>
<p>Research and Innovation</p>	<p>50. (1) The County Government shall establish research, innovation and development centre dedicated to sustainable waste management and it's related activities to encourage Innovation.</p> <p>(2) The County Government may enter into partnerships with other entities to establish the research, innovation and development centre</p>

<p>Access to information</p>	<p>51. (1) All records pertaining to waste management in the County, whether internally generated by the County Government or submitted to the County Government by third parties shall be kept by the department which shall maintain their confidentiality where the circumstances so require.</p> <p>(2) Any person or entity may, upon written application, have access to the records kept by the County Government pertaining waste management in the County.</p>
<p>Conflict of Interest</p>	<p>52. (1) No officer of the County Government or a member of any committee or any other organ of the County Government shall transact any business or trade relating to waste management with the County Government.</p> <p>(2) If a person is present at a meeting of the County Government or any department, committee or any other organ of the County Government at which a particular matter relating to waste management is the subject of consideration and in which matter that person or that persons spouse or other family member is directly or indirectly interested in a private capacity, that person shall, as soon as is practicable after the commencement of the meeting, declare such interest and shall not take part in any consideration or discussion of, or vote on any question touching such matter.</p> <p>(3) A disclosure of interest made under subsection (2) shall be recorded in the minutes of the meeting at which it is made.</p> <p>(4) A person who contravenes the provisions of subsections (1) and/or (2) above commits an offence and is liable, upon conviction by a court of law, to a fine not exceeding [one million shillings] or to</p>

	imprisonment for a term not exceeding [two years] or to both such fine and imprisonment.
<i>Dispute and conflict resolution</i>	53. (1) Any grievances related with EIA or any license related with waste management shall be resolved through the National Environment Tribunal. (2) An aggrieved party shall go to NET within 3 months of issuance of the license. (3) All complaints related with waste management shall be reported to the National Environment Complaints Committee for purposes of dispute resolution. (4) National Environment Complaints Committee shall provide annual reports of its recommendations to the Authority.

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