

Mombasa County Solid Waste Management Bill, 2020

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL 2020

ARRANGEMENT OF CLAUSES

PART I – PRELIMINARY

1. Short title and commencement.
2. Interpretation.
3. Objects of the Act.
4. Application of this Act.
5. Principles of solid waste management.

PART II – ADMINISTRATION

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

PART III – RIGHTS AND DUTIES

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

16. Right to clean environment.
17. Duties.

PART IV – PROMOTION AND REGULATION OF SOLID WASTE MANAGEMENT

Solid waste generation

18. Classification of waste generators.
19. Promotion of prevention of solid waste generation.
20. Coordination and collaboration with national government.
21. Liaising and engagement with national government on production processes.
22. Partnership with manufacturers, wholesalers and retailers.
23. Reuse of materials.

Solid waste handling, storage and processing are source

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

Solid Waste Collection

31. Prohibition on waste disposal.
32. Establishment of waste collection system.

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

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

Solid waste transfer and transportation

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

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

Solid waste separation, processing and transformation

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

Solid waste disposal

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

PART V – SOLID WASTE MANAGEMENT PLANNING

- 68. Solid waste management spatial plan.
- 69. Zoning for solid waste management.
- 70. Integrated solid waste management plan.

PART VI – LICENSING

- 71. Licensing officers.
- 72. Requirements for licence.
- 73. Application for licence.

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

- 74. Grant of licence.
- 75. Conditions of a licence.
- 76. Validity of a licence.
- 77. Cancellation or withdrawal of licence.
- 78. Licence to be displayed.
- 79. Classification of licences.

PART VII – PARTNERSHIPS AND PARTICIPATION

- 80. Stakeholder participation.
- 81. Partnerships.

PART VIII – INFORMATION, COMMUNICATION AND TECHNOLOGY

- 82. Information, communication and technology system.
- 83. Information and communication strategies and programmes.
- 84. Technology based communication strategies.
- 85. Annual status report.

PART IX – RESEARCH AND DEVELOPMENT

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

PART X – ENFORCEMENT

- 89. Authorized officers.
- 90. Powers of an authorized officer.

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

- 91. Compliance with an order.
- 92. Entry into premises.

PART XI – FINANCIAL PROVISIONS

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

PART XII– GENERAL PROVISIONS

- 99. Dispute resolution.
- 100. Community service order.
- 101. Transition.
- 102. Power to make Regulations.

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL 2020

A Bill for

AN ACT of County Assembly of Mombasa 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 solid waste management and for connected purposes.

ENACTED by the County Assembly of Mombasa as follows –

PART I – PRELIMINARY

- Short title commencement. 1. This Act may be cited as the Mombasa County Solid Waste Management Act, 2020 and shall come into force on the day of publication in the Kenya and county *Gazette*.
- Interpretation. 2. In this Act –
- “authorized officer” means an officer appointed or designated under section 89;
- “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;
- “County Committee” means the County Solid Waste Management Committee established under section 7;

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

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

“Department” means the county department responsible for solid 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;

(Cap 387).

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

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

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

“licensing officer” means an officer designated under section 71;

“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 any activity used in prevention, handling, storage, segregation, transfer, transport, material recovery or disposal of solid waste;

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

“sub-county Committee” means a sub-county Solid Waste Management Committee established under section 9;

“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.

“Ward Committee” means a Ward Solid Waste Management Committee established under section 9;

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

“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 service that entail waste collection;

“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 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;

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

“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 solid waste;

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

“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.

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 solid waste disposal through –

- (a) provision for an effective, equitable, responsive and sustainable solid waste management system;
- (b) protection of public, occupational and environmental health;

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

- (c) provision of affordable services in solid 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 solid waste management;
- (g) promotion of acquisition and adoption of modern technology and innovation in solid waste management; and
- (h) promotion of research and development in solid waste management.

Application of this Act. 4. This Act shall not apply to—

- (a) regulation of generation of solid waste, including industrial processes;
- (b) handling or disposal of hazardous waste; and
- (c) transportation of solid waste in transit and destined to another country.

Principles of solid waste management. 5. The following principles shall be applied in solid 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;

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

- (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 bare the cost of managing the waste to minimize risk to human health and the environment;
- (e) precautionary principle whereby 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 solid waste management.

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

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 solid 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 solid waste management in the county;
- (c) enforce laws and guidelines related to solid waste management;
- (d) promote and facilitate compliance with this Act and policies, plans and strategies adopted on solid waste management;
- (e) in collaboration with relevant stakeholders carry out awareness creation, mobilization and capacity development on solid waste management;
- (f) mobilize and facilitate formation of local community or neighbourhood initiatives or programmes for solid waste management;
- (g) provide public services related to solid waste management;
- (h) supervise and coordinate private actors in solid waste management;
- (i) issue licenses required under this Act;

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

- (j) in collaboration with county treasury provide such incentives as may be necessary to promote community and private sector participation in sustainable solid waste management; and
- (k) carry out any other function for the purposes of implementing the objects of this Act.

County Solid Waste Management Committee. 7. (1) There is established the County Solid Waste Management Committee which shall consist of–

- (a) the County Executive Committee Member responsible for solid waste management who shall be the chairperson;
- (b) the chief officer responsible for solid waste management who shall be the secretary;
- (c) the director in charge of solid waste matters;
- (d) all sub-county administrators;
- (e) the chairperson of the county assembly committee responsible for matters related to waste management;
- (f) the director responsible for spatial planning;
- (g) the county commissioner or the representative;
- (h) one person representing the National Environment Management Authority;
- (i) one person representing the county environment committee established under the Environment Management and Coordination Act;
- (j) the director in charge of public health matters;
- (k) the director in charge of trade matters;

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

- (l) the director in charge of public works;
- (m) one person representing community-based organizations or non-governmental organizations engaged in solid waste management in the county;
- (n) one person representing entities engaged in solid waste recycling, composting or material recovery in the county;
- (o) one person representing generators of industrial waste;
- (p) one person representing residents or neighbourhood associations in the county;
- (q) one person representing private waste collectors and transporters in the county; and
- (r) one professional qualified and experienced in matters related to environment or solid waste management.

(2) Persons described under subsection (1) (l) (m), (n) (o), and (p) shall be appointed by the County Executive Committee Member from persons nominated by the respective organizations as prescribed.

(3) A person described under subsection (1) (q) shall be appointed by the County Executive Committee Member subject to the approval by the county executive committee.

(4) For a person to be appointed under –

- (a) subsection (1) (l) (m), (n) (o), and (p), the person shall be a holder of at least a diploma in any field or its equivalent from a recognised institution; and
- (b) subsection (q), the person shall be a holder of at least a degree in environment or related field from a recognised institution.

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

(5) The Committee may co-opt not more than three persons who are qualified and experienced in matters related to solid waste management.

(6) National government entities whose mandate relates to solid waste management may attend meetings of the county committee and participate in the deliberations provided that officers attending the meetings shall have no voting rights.

Functions of the county committee. 8. The county committee shall be responsible for –

- (a) coordinating public and private sector provision of solid waste management services in the county;
- (b) providing a platform for public-private dialogue, consultation, collaboration and participation in solid waste management in the county;
- (c) facilitating mobilization of county residents on solid waste management in the county;
- (d) ensuring harmonization of public and private sector strategies and programs on solid waste management in the county;
- (e) advising the County Executive Committee Member on appropriate policy measures or public services to be adopted in relation to solid waste management;
- (f) receiving and considering reports from ward committees and advising the county executive committee on appropriate policies, strategies and plans to be adopted in the county on solid waste management;
- (g) monitoring and evaluating the implementation of this Act and other solid waste management policies, strategies, plans and programs in the county;

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

- (h) advising the County Executive Committee Member on measures to be adopted in resolving any disputes emanating from solid waste management issues and processes in the county as may be prescribed; and
- (i) carrying out any other function as may be assigned by the County Executive Committee Member in furtherance of the objects of this Act.

Sub-county and Ward Solid Waste Management Committee. 9. (1) There shall be established in each Sub-county or Ward, the Solid Waste Management Committee which shall consist of—

- (a) the Sub-county administrator or ward administrators who shall be the chairperson for the sub-county and ward committee respectively;
- (b) the officer in charge of environment in the sub-county or ward who shall be the secretary;
- (c) the Deputy county commissioner in the case of sub-county committee;
- (d) all ward administrators in the case of the sub-county committee;
- (e) the member of county assembly for the ward, in the case of a ward committee and all members of the county assembly for the wards located in the sub-county, in the case of a sub-county committee;
- (f) the Area Chief as designated by the national government in the case of the ward committee;
- (g) the officer in charge of public health matters in the sub-county or ward for purposes of the respective committees established under this section;

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

- (h) the officer in charge of trade in the sub-county or ward the respective committees established under this section;
- (i) the officer in charge of public works in the sub-county or ward for purposes of the respective committees established under this section;
- (j) one person nominated and appointed to represent community-based organizations or non-governmental organizations engaged in solid waste management Sub-county or ward for purposes of the respective committees established under this section;
- (k) two persons representing resident or neighbourhood associations in the Sub-county or ward for purposes of the respective committees established under this section;
- (l) one person representing entities engaged in solid waste recycling, composting or material recovery in sub-county or ward for purposes of the respective committees established under this section;
- (m) one person representing waste collectors and transporters in the Sub-county or ward for purposes of the respective committees established under this section;
- (n) one person representing private enterprises providing waste collection and transportation services in the Sub-county or ward for purposes of the respective committees established under this section;
- (o) one local community elder or village who is recognized and respected in the ward; and

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

(p) one professional qualified and experienced in matters related to environment and solid waste management in the case of sub-county committee.

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

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

(4) For a person to be appointed under subsection (i), (j), (k) (l) and (m), the person shall be a holder of at least a post-secondary certificate in any field or its equivalent from a recognised institution.

(5) The sub-county or ward committee may co-opt not more than three persons who are qualified and experienced in matters related to solid waste management or providing solid waste management services.

Functions of the Sub-county or Ward Committee.

10. The sub-county or ward committee shall be responsible for –

- (a) coordinating public and private sector provision of solid waste management services in the Sub-county or ward;
- (b) providing a platform for public-private dialogue, consultation, collaboration and participation in solid waste management in the Sub-county or ward;
- (c) facilitating mobilization of county residents on solid waste management in the Sub-county or ward;
- (d) ensuring harmonization of public and private sector strategies and programs on solid waste management in the Sub-county or ward;

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

- (e) monitoring the implementation of this Act and other solid waste management policies, strategies, plans and programs at the Sub-county or Ward Committee level;
- (f) monitoring the quality and adequacy of provision and delivery of solid waste management services in the Sub-county or Ward Committee;
- (g) monitoring solid waste management practices in the sub-county or ward and advising the County Executive Committee Member on appropriate measures to be adopted;
- (h) organizing and facilitating Sub-county or ward forums on solid waste management; and
- (i) carrying out any other function as may be assigned under this Act in furtherance of the objects of this Act.

Meetings and procedures of the County, Sub-county or Ward Committees.

11. (1) The County, Sub-county or Ward Committees shall meet on a quarterly basis.

(2) The county, sub-county or ward committees shall regulate their own procedures of meetings.

(3) Notwithstanding subsection (2), a committee shall maintain a written record of its proceedings and deliberations.

Term of office.

12. A person appointed under subsection section 7 (1) (l) (m), (n) (o), (p) and (q) or section 9 (1) (i), (j), (k) (l), (m) and (n) shall serve for a term of three years which may be renewed for one final term of three years.

Removal from office.

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

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

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

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

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

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

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

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

(v) incompetence; or

(vi) bankruptcy.

Allowances for county, sub-county and ward, committee members. (No. 18 of 2012)

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

Reports.

15. (1) The county committee shall prepare and submit quarterly reports on discharge of its functions to the county executive committee for consideration.

(2) A ward committee shall prepare and submit quarterly reports on discharge of its functions to the sub-county committee for consideration.

PART III – RIGHTS AND DUTIES

Right to clean environment.

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

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

(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 solid 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 solid waste management;
- (b) clean environment in public places, free of litter or garbage; and
- (c) inclusive participation in solid waste management processes.

Duties.

17. (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 solid 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 solid waste only in the manner prescribed by law;
- (c) prevent or reduce, where appropriate, the generation of solid waste;
- (d) reuse materials that are reusable and in good condition instead of disposing off the materials as solid waste;
- (e) segregate solid waste at source in accordance with the prescribed requirements and guidelines;

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

- (f) handle and store waste in accordance with the prescribed guidelines and standards;
- (g) participate in and support solid waste management services and programmes initiated by the county; and
- (h) comply with the national standards and policy in regard to production processes and management of solid waste.

PART IV – PROMOTION AND REGULATION OF SOLID WASTE MANAGEMENT

Solid waste generation

- Classification of waste generators.
18. (1) For purposes of this Act, a waste generator may be classified as –
- (a) household which entails generation of waste from households such as waste food, glass, bottles, trash papers, food cans and packaging, junk waste, 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;

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

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

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

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

- (a) awareness creation on behavior change, consumer choices and consumption practices to reduce excessive consumption;
- (b) promotion of reuse of materials; and

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

- (c) awareness creation and promotion of adoption of production or manufacturing processes that minimize generation of solid waste.

Coordination and collaboration with national government. **20.** The department shall collaborate with national government and relevant stakeholders in adopting measures for resource conservation and management to prevent or avoid excessive utilization of resources which lead to excess production of solid waste.

Liaising and engagement with national government on production processes. **21.** The department shall liaise and engage with national government and industry players for adoption of measures to promote –

- (a) production processes that prevent excessive waste generation during production; and
- (b) production of packaging material that may be reusable or recyclable upon use or consumption of a product.

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

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

Solid waste handling, storage and processing are source

Segregation and storage of solid waste. **24.** (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.

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

(2) A person or entity providing private waste collection or transportation services to premises shall provide the prescribed waste collection or storage receptacles appropriate for waste segregation in accordance with the contract of service entered into between the parties.

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

(4) Where a waste collector or transporter establishes that the solid 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 authorised officer appointed under this Act.

(6) An authorised 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), or requirements of subsection (10) 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.

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

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

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

(10) Pursuant to subsection (1), a waste generator shall ensure that the waste is separated and stored within the premises before being collected and transported for recovery and final disposal and shall only be removed from the premises on the scheduled day and time designated for collection and transportation.

Duty not to transfer unsegregated waste.

25. (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 a defense to the waste collector or transporter if the waste collector or transporter demonstrates or proofs that reasonable measures were taken to ascertain that the waste had been segregated at source.

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

Waste segregation in public markets.

26. (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.

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

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

(2) Notwithstanding subsection (1), the department may, in consultation with relevant stakeholders modify the application of standards where due to cultural or social context prevailing in the county, such modification would result in better compliance with the requirements under this Act:

Provided that such modification will not render the standards ineffective.

Installation of waste handling and storage containers. **28.** (1) In accordance with the building code and regulations, the owner or leasee of a premises where applicable shall –

(a) designate and construct a specific area within the premises where solid 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. **29.** A person or an entity that generates hazardous waste
Cap 387.

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

shall handle and store it in accordance with the standards and requirements prescribed under the Environment Management and Coordination Act.

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

Solid Waste Collection

Prohibition on waste disposal. **31.** (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. **32.** (1) The department responsible for solid waste management shall in collaboration with other relevant public and private actors establish an efficient, responsive and coordinated countywide solid waste collection services system.

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

(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 solid waste from private and public places; and

(d) maintenance of clean public streets and places.

Designation of solid waste collection points.

33. (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 solid waste management spatial plan prepared under section 68.

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

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

Waste collection containers or receptacles.

34. (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 solid 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.

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

Waste collection containers and receptacles in institutions. **35.** 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 solid waste, which shall conform to the prescribed standards.

Adoption of standards and policy for solid waste collection. **36.** The department shall adopt the national standards and policy and international best practices for solid waste collection.

Compliance with waste collection standards. **37.** (1) A public or private service provider in solid waste collection shall comply with the standards, policy and international best practices adopted under section 36.

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

Waste collection in private premises. **38.** (1) Solid 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 solid waste collection in areas or zones that have no access to private solid waste collection services such as informal settlements.

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

Depositing of waste at solid waste collection points. **39.** (1) A solid 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 –

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

(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.

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

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

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

Waste picking.

41. (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 ward administrator in accordance with the prescribed procedure.

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

Integration of waste picking into waste management system.

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

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

43. 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.

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

Participation of vulnerable groups in co-management of waste collection points and services. **44.** (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. **45.** 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.

(No. 5 of 2013.)

Procurement of waste collection services. **46.** (1) The department may procure provision of waste collection services in accordance with the Public Procurement and Disposal Act.

(No. 33 of 2015.)

(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. **47.** 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. **48.** (1) Pursuant to Access to Government Procurement Opportunities Policy, the county government shall provide preferential treatment to youth, women and persons with disabilities in accessing thirty percent of county government contracts for provision of solid waste collection services.

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

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

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

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

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

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

(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.

Solid waste transfer and transportation

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

Transfer or 50. (1) Solid waste shall be transferred from a waste collection
transportation of point to –
waste. (a) larger waste collection receptacle or transport
equipment; or
(b) waste transfer station, material processing facility
or a landfill.

(2) A person transporting solid 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 51. (1) Save for biomedical and hazardous waste, all solid
transportation of waste shall be transferred or transported to solid waste transfer
waste to transfer stations or to a materials processing facility for sorting and
stations or materials separation or processing after which waste shall be transported to
processing facility. 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 52. (1) Solid waste collection and transportation services
services conformity including plant and equipment shall conform to the prescribed
to standards. standards.

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

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

- (Cap 403).
- (a) be a registered entity or be trading as a registered entity;
 - (b) possess a business permit for that year;
 - (c) be the owner or leasee of a waste or refuse collection vehicle or garbage truck that –
 - (i) is licensed under the Traffic Act as a commercial transport vehicle;
 - (ii) has a valid inspection certificate in accordance with the Traffic Act;
 - (iii) is insured;
 - (iv) has rear or side loaders;
 - (v) has a cabin for waste collection and loading crew that is separate from the waste carrying cabin;
 - (vi) is enclosed in the area where waste or garbage is loaded; and
 - (vii) any other structure or system as may be prescribed;
 - (d) have necessary approved waste collection bins or bags where the entity also provides waste collection services;
 - (e) have such staff as may be necessary for collection and transportation of waste from the area of operation;
 - (f) have put in place measures for health and safety;

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

(g) posses the necessary approvals under the Environment Management and Coordination Act; (Cap 387).

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

(i) meet any other condition as may be prescribed.

(3) Notwithstanding subsection (2) –

(a) a local community group from poor neighbourhoods or informal settlements may be licensed to collect and transfer waste to 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. **53.** 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.

(No. 5 of 2013).

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

(No. 33 of 2015).

(2) Subject to the Public Procurement and Disposal Act, in order to safeguard capital investment by service providers, a contract for

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

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. **55.** (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. **56.** (1) The department shall in collaboration with the departments responsible for physical planning and transport and National Environment Management Authority and in consultation with solid waste transportation service providers, designate routes to be followed in transfer and transportation of solid waste.

- (2) A person who transports solid 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.

Solid waste separation, processing and transformation

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

Separation of recyclable materials. 57. (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.

(2) A person or entity may establish a system and process of collecting recyclable waste materials from waste collection points or directly from solid 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. 58. (1) The department shall in collaboration with national government and other relevant stakeholders establish a system and programmes for facilitating and promoting solid 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 solid waste placed in transfer stations;
- (b) acquire modern technology for solid waste processing;
- (c) access technical assistance; and
- (d) develop capacity to undertake solid waste materials processing and transformation.

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

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

- Separation of waste at a transfer station. **59.** Solid 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. **60.** (1) The department shall facilitate persons registered under section 58 to access respective materials for further processing.
- (2) No person shall access materials from a transfer station unless the person operates an enterprise for processing solid waste materials or exporting such materials and is registered under section 58.
- (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.
- Solid waste materials processing, recovery and transformation. **61.** (1) Subject to the national policy and standards, the following processes for solid waste materials processing, recovery and transformation shall be adopted and promoted in the county –
- (a) waste re-use;
 - (b) waste recycling;
 - (c) waste
 - (d) composting; or
 - (e) 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 **62.** (1) The county government shall adopt appropriate

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

separation and materials processing. economic incentives to promote private sector investment in solid waste separation, processing and transformation such as reduced fees, charges and levies for enterprises involved in waste processing and transformation.

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

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

Procurement of products made from solid waste materials. (No. 33 of 2015). **63.** 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 solid waste materials in order to promote market development in solid waste management.

Solid waste disposal

Prohibition on waste disposal. **64.** (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 solid 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;

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

(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. **65.** (1) The solid 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.

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

Designation of sanitary landfills. **66.** (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 solid 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 solid waste.

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

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

PART V – SOLID WASTE MANAGEMENT PLANNING

Solid waste management spatial plan. **68.** (1) The department responsible for spatial planning shall in coordination with the department and relevant stakeholders –

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

- (i) land use: topography, drainage and soil;
- (ii) infrastructure such as transport, communications, health, education, water and energy;
- (iii) economic structure of the area;
- (iv) human settlements which includes density and land use; and
- (v) institutions such as schools and other government institutions, industries

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

and commercial enterprises and non-state organizations;

- (b) develop the county solid waste management spatial plan which shall include details for each sub-county and ward as the core decentralized spatial units;
- (c) designate the location of the collection points, transfer stations, composting sites, waste recovery facility and landfills in accordance with the solid waste management spatial plan; and
- (d) regulate solid waste management in accordance with the solid waste management spatial plan.

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

Zoning for solid waste management.

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

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

Integrated solid waste management plan.

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

PART VI – LICENSING

Licensing officers.

71. 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.

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

Requirements for licence. 72. (1) No person or private entity shall provide waste collection and transport services unless in accordance with the conditions of a licence 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 licence. 73. (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 licence under this section shall be required to meet the required conditions under section 52 or any other condition in this Act or any other written law.

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

(Cap 387). (a) has met the conditions stipulated under section 52 (2);

(b) has met the conditions stipulated under the Environment Management and Coordination Act;

(c) has a valid business permit or trade licence; and

(d) has met any other prescribed condition.

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

(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.

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

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

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

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

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

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

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

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

Classification of licences. 79. (1) The County Executive Committee Member shall prescribe the different classes of licenses that may be issued under section 74 which shall be based on the geographical coverage of the service for which the licence is applied.

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

(a) waste collection services;

(b) waste transportation services;

(c) waste recycling;

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

- (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.

PART VII – PARTNERSHIPS AND PARTICIPATION

Stakeholder participation.

80. (1) The department shall in collaboration with relevant stakeholders –

- (a) initiate programmes for mobilizing and creating awareness among residents, local communities and neighbourhoods to participate in sustainable solid waste management;
- (b) establish mechanism to receive and handle complaints related to solid waste management service delivery from the respective localities;
- (c) facilitate community or locally based forums for users and providers of solid waste management services to deliberate on emerging issues in solid waste management so as to enhance efficiency in service delivery; and
- (d) promote and facilitate stakeholder led initiatives on solid waste management.

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

Partnerships.

81. (1) For purposes of sustainable implementation of this Act and solid waste management policies, the department shall establish partnerships with, national government entities, development partners private sector, academic and research

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

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.

82. 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 solid 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.

83. (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 solid 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 solid waste management services.

Technology based communication strategies.

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

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

- Annual status report. **85.** (1) The County Executive Committee Member shall in each year cause to be prepared and published an annual status report on the state of solid 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 solid 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. **86.** (1) The department for solid waste management shall –
- (a) undertake research; or
 - (b) collaborate with other relevant research organizations or institutions of higher learning in carrying out research and development in solid waste management.
- (2) The department shall –
- (a) publish and publicize reports of research carried out; and
 - (b) disseminate research findings to county residents and relevant stakeholders.
- (3) The department and county executive committee shall ensure that appropriate measures are adopted on the basis of research findings generated from the research carried out.

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

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

Data management system. **88.** 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. **89.** (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) a public health officer licensed under the Public Health (Training, Registration and Licensing) Act and appointed as a county public officer;
- (b) an authorised officer appointed by the county government;
- (c) a police officer appointed under the National Police Services Act; or
- (d) an officer appointed under a national law as an authorized officer in environment related matters;

shall be authorized officers for the purpose of this Act.

Powers of an authorize officer. **90.** An authorized officer described in section 87 may –

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

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

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

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

Compliance with an order. **91.** (1) A person shall comply with an order issued under section 90.

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

Entry into premises. **92.** An authorized officer may enter premises for purposes of ensuring compliance with this Act:

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

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

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

(c) on a Saturday or Sunday.

PART XI – FINANCIAL PROVISIONS

Appropriation for implementation of the Act. **93.** The county executive and county assembly shall ensure that in each year, there is appropriated such monies are appropriated in each financial year for purposes of effective implementation of this Act

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

User fees and charges. **94.** (1) The county government may levy fees and charges for services rendered under this Act.

(2) A waste generator shall pay such user fees and charges for solid waste collection, transportation and disposal services.

(No. 17 of 2012) (3) The fees and charges for providing public services for solid waste collection, transportation and disposal shall be in accordance with the tariff policy stipulated under the County Governments Act.

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

Utilization of fees collected. **95.** Subject to the Public Finance Management Act, the user fees and charges collected under this Act, or a portion thereof shall be utilized for the purpose of defraying operational costs associated with—
(No. 18 of 2012).

(a) implementation of this Act;

(b) implementation of the County Solid Waste Management Policy; and

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

Incentives. **96.** The county government may in collaboration with national government provide such incentives for promoting and facilitate private sector investment in solid waste management.

Donations and grants. **97.** The county government may mobilize resources in the form of grants and donations from development partners for financing implementation of this Act, the County Solid Waste Management Policy and generally the provision of public solid waste management services as stipulated under this Act.

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

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

PART XII– GENERAL PROVISIONS

- Dispute resolution. **99.** The department shall prescribe guidelines for alternative dispute resolution mechanisms for resolving emerging disputes related to solid waste management under this Act.
- Community service order.
(No. 10 of 1998). **100.** Pursuant to the Community Service Orders Act, the court may make a community services order, to a person convicted of an offence under this Act in lieu of a penalty stipulated under this Act such terms and conditions as may be required under the Community Services Order Act.
- Savings. **101.** A licence issued prior to the commencement of this Act shall be deemed to have been under this Act and shall be effective for the time remaining until the thirty first day of December that year under the same terms and conditions.
- Power to make Regulations. **102.** (1) The county executive member may make Regulations generally for the better carrying out of the objects of this Act.
- (2) Without prejudice to the generality of subsection (1), the Regulations may –
- (a) prescribe the process of nomination of members of the committees;
 - (b) prescribe guidelines for solid waste segregation;
 - (c) methods of waste processing and transformation and disposal for various waste streams or types of solid waste;
 - (d) prescribe waste storage and disposal bags;
 - (e) rules for managing solid waste in public markets;
 - (f) prescribe distance of location of transfer stations within proximity of social amenities;

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

- (g) prescribe standards and guidelines for solid waste transport services;
- (h) prescribe guidelines of operations of landfills;
- (i) prescribe the forms applicable under the Act;
- (j) prescribe the fees and charges payable under this Act; and
- (k) prescribe dispute resolution mechanism.

MEMORANDUM OF OBJECTS AND REASONS

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

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

PART I of the Bill provides for preliminary matters such as interpretation of terms used in the Bill as well as the objects of the Bill so as to ensure there is better clarity in adoption and implementation of the Bill.

PART II of the Bill seeks to provide for an effective and coordinated administrative mechanism and structure for solid waste management. The part provides for establishment of county, sub-county and ward solid waste management committees as

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

structures that bring together public and private sector stakeholders in solid waste management planning and programmes implementation.

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

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

PART V of the Bill seeks to provide for establishment of solid waste management planning process in order to facilitate effective and efficient implementation of the policy as well as adoption of effective land use management process in relation solid waste management.

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

PART VII of the Bill provides for stakeholder participation and partnership in order to ensure citizen engagement and stakeholder coordination in solid waste management.

PART VIII of the Bill provides for information, communication and technology so as to promote information management and adoption of modern technology in solid waste management.

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

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

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

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

Dated thisMarch 2020

.....

MOMBASA COUNTY SOLID WASTE MANAGEMENT BILL, 2020

Chairman, Environment Committee