

Bill No.....of 2023

Sustainable Waste Management



REPUBLIC OF KENYA

MAKUENI COUNTY ASSEMBLY BILLS, 2023

(November 2023.)

Bill for introduction into the County Assembly of Makueni County

(DRAFT – NOVEMBER 2023)

PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

ARRANGEMENT OF SECTIONS	
PART I – PRELIMINARY	
Section	
1	Short Title and Commencement
2	Interpretation
3	Objects & Purpose
PART II – GUIDING PRINCIPLES	
4	Guiding Principles
PART III – ADMINISTRATION AND IMPLEMENTATION	
5	Role of County Executive Committee Member responsible for waste management.
6	Role of County Department responsible for waste management
7	Role of County Environment Committee
PART IV – MEASURES AND ACTIONS	
8	Segregation of waste at source
9	Handling of hazardous waste
10	Integrated County Waste Management Plan
11	County Waste Information System
12	Waste minimisation
13	Extended Producer Responsibility
PART V – WASTE COLLECTION AND TRANSPORTATION	

Sustainable Waste Management

14	Responsibility of County Government to collect waste
15	Minimum requirements for waste collectors
16	Establishment of waste collection points
17	Waste collection
18	Obligation of owners and occupiers of houses, buildings or premises
19	Obligation of waste generators
20	Obligation of waste service providers
21	Licence to collect and transport waste
PART VI – MATERIAL RECOVERY AND RECYCLING	
22	Establishment of Material Recovery Facilities
23	Requirement for Environmental Impact Assessment
24	Environmental Audits for material recovery facilities
25	Obligation to channel waste through Material Recovery Facilities
26	Access to materials
27	Compliance with Act
28	Licence of recycling and composting plants
29	Environmental Audits for waste recycling and composting plants
PART VII – WASTE DISPOSAL	
30	Prohibition of waste disposal in non-designated places
31	Obligations to deliver waste to designated waste disposal facilities
32	Obligation of County Government on waste disposal facilities
33	Environmental Impact Assessment for waste disposal facilities
34	Environmental Audits for waste disposal facilities
PART VIII – FINANCIAL PROVISIONS	

Sustainable Waste Management

35	Fees, levies and charges
36	Incentives for waste management
PART IX – REGULATIONS AND GUIDELINES	
37	Power to make Regulations
PART X – OFFENCES AND PENALTIES	
38	Offences where penalty is prescribed
39	General penalty
40	Liability for offences
PART XI – MISCELLANEOUS PROVISIONS	
41	Public Participation
42	Access to information
43	Conflict of Interest

Sustainable Waste Management

An ACT of the County Assembly of Makueni 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 solid waste in the County and for connected purposes.

ENACTED by the County Assembly of _____ County as follows—

PART I – PRELIMINARY	
<i>Short title and commencement</i>	<p>1. This Act may be cited as the Makueni County Sustainable Waste Management Act, [2023] and shall come into force on the [ninetieth] day after its publication in the Kenya Gazette.</p>
<i>Interpretation</i>	<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>"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 Makueni County;</p> <p>"Department" means the department responsible waste management;</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>

Sustainable Waste Management

	<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> <p>"hazardous waste" has the meaning assigned to it under the Environmental Management and Co-ordination Act, (No. 8 of 1999);</p> <p>"materials recovery facility" means a specialised facility that receives, separates and prepares recyclable material for marketing to end user manufacturers;</p> <p>"non-organic waste" means dry recyclable and non-recyclable materials;</p> <p>"organic waste" means compostable materials derived from plants and animals;</p> <p>"payment for environmental services" and "payment for ecosystem services" means payments to farmers or land users to encourage the conservation of natural resources;</p> <p>"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);</p> <p>"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;</p>
--	---

Sustainable Waste Management

	<p>“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;</p> <p>“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;</p> <p>“proximity principle” means that waste should be managed closest to where it is generated;</p> <p>“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;</p> <p>"recovery" means the controlled extraction of a material or retrieval of energy from waste for the production of another product;</p> <p>"recycle" means the process by which materials are reclaimed from waste for further use as product, raw materials or input in the production process;</p> <p>"re-use" means the action or practice of using something again whether for its original purpose or to fulfil a different function;</p> <p>"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;</p>
--	--

Sustainable Waste Management

"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 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;

"waste minimisation programme" or **"waste reduction programme"** means a programme that is intended to promote reduction in generation and disposal of waste;

Sustainable Waste Management

	<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><i>Object and purpose</i></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 solid waste management in _____ County and in particular to—</p> <ul style="list-style-type: none"> (a) establish an appropriate implementation mechanism for the devolved solid waste management function in the County; (b) set forth the guiding principles for sustainable solid waste management in the County; (c) ensure a clean and healthy environment by reducing air, land, fresh water and marine pollution by solid waste; (d) catalyse transition towards a circular economy by mainstreaming resource efficiency principles in sustainable consumption and production practices; (e) ensure efficient delivery of solid waste management services in the County ; (f) establish an environmentally sound infrastructure and system for sustainable solid waste management; (g) create an enabling environment for employment in the green economy in waste management, composting, recycling and recovery; and (h) inculcate responsible public behaviour on waste and environment.

Sustainable Waste Management

PART II – GUIDING PRINCIPLES	
<i>Guiding principles</i>	<p>4. In implementing this Act, the Department, 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.
PART III – ADMINISTRATION AND IMPLEMENTATION	
<i>Role of County Executive Committee Member.</i>	<p>5. The County Executive Committee Member shall be responsible for—</p> <ul style="list-style-type: none"> (a) formulation of county policy on sustainable solid waste management; (b) coordination of the administration, implementation and enforcement of the provisions of this Act and any regulations made thereunder; (c) development of regulations for the better administration and implementation of this Act; (d) development of the integrated county waste management plan and ensuring its inclusion in the county integrated development plan, and its implementation; (e) development and implementation of the annual county waste management plan and preparation of quarterly monitoring reports; (f) development, management and maintenance of the county waste management information system; and

Sustainable Waste Management

	<p>(f) preparation and submission of annual reports to the Authority and county assembly on the implementation of the integrated county waste management plan.</p>
<p><i>Role of County department</i></p>	<p>6. The County department responsible for waste management, under the stewardship of the County Executive Committee Member 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 solid waste management; (b) coordinate and collaborate with the national government’s relevant lead agencies and other county governments in the implementation of this Act and other policies, plans and strategies on sustainable solid waste management in the county; (c) enforce the provisions of this Act and any other written laws and guidelines related to sustainable solid waste management; (d) promote and facilitate compliance with this Act and any policies, plans and strategies on sustainable solid waste management; (e) in collaboration with relevant stakeholders carry out awareness creation, mobilization and capacity development on sustainable solid waste management; (f) mobilize and facilitate formation of local community or neighbourhood initiatives or programmes for sustainable solid waste management; (g) provide public services including infrastructure for sustainable solid waste management; (h) supervise and coordinate private actors in solid waste management; (i) administer any licenses or permits that may be required under this Act or any regulations made thereunder; (j) in consultation with County Treasury, and with the approval of the County Assembly, provide such incentives as may be necessary to promote sustainable solid waste management initiatives ; and

Sustainable Waste Management

	<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><i>Role of County Environment Committee</i></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 solid waste management, shall, in liaison with the County Executive Committee member and in consultation with relevant stakeholders, —</p> <ul style="list-style-type: none"> (a) prepare the County Integrated Solid Waste Management Plan; (b) review and monitor the implementation of the County Integrated Solid Waste Management Plan; (c) 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; (d) establish criteria, guidelines and formula that are fair, equitable and reasonable in establishing various charges and rates for sustainable solid waste management; (e) develop criteria and guidelines for formalization and inclusion of informal waste service providers in the County waste management system;
<p>PART IV – MEASURES AND ACTIONS</p>	
<p><i>Segregation of waste at source</i></p>	<p>8. Every person or entity whose activities generate waste shall segregate such waste at source in the manner prescribed below—</p> <ul style="list-style-type: none"> (i) Hazardous waste shall be separated from non-hazardous waste.

Sustainable Waste Management

	<p>(ii) Non-hazardous waste shall be separated into organic and non-organic 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><i>Handling of hazardous waste</i></p>	<p>9. 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><i>County Waste Management Plan</i></p>	<p>10. (1) The County Executive Committee Member shall, in liaison with the County Environment Committee and, in consultation with relevant stakeholders, prepare and 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 ensure that the approved integrated county waste management plan is included in the county integrated development plan.</p> <p>(3)The integrated county waste management plan shall have—</p> <p>(a) clear goals and objectives;</p> <p>(b) a detailed analysis of the waste management situation in the county;</p>

Sustainable Waste Management

	<p>(c) clear strategies and actions on waste management and extended producer responsibility;</p> <p>(d) an implementation plan with clear results framework; and</p> <p>(e) framework for monitoring, evaluation and reporting.</p>
<p><i>County Waste Management Information System</i></p>	<p>11. (1) The Department shall establish a County Waste Management Information System for recording, collecting, management and analysis of solid waste data and information including—</p> <p>(a) a register of all licensed waste management activities;</p> <p>(b) the status of the generation, collection, reduction, reuse, recycling, composting, recovery, transportation, treatment and disposal of waste;</p> <p>(c) the impact of waste on health and the environment;</p> <p>(d) the levels and extent of waste management services provided by County Government and other waste service providers in the County;</p> <p>(d) information on compliance with this Act and the Sustainable Waste Management Act (No. 31 of 2022, Laws of Kenya) ; and</p> <p>(e) any other information that is necessary for the purposes of the effective administration of this Act.</p> <p>(2) 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 system annually and/or at such other times as may be required by the Authority.</p>
<p><i>Waste minimisation</i></p>	<p>12. 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> <p>(i) improvement of production processes through conservation of raw materials and energy;</p>

Sustainable Waste Management

	<ul style="list-style-type: none"> (ii) eliminating the use of toxic raw materials; (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><i>Extended Producer Responsibility</i></p>	<p>13. 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 the Sustainable Waste Management Act (No. 31 of 2022, Laws of Kenya) and any regulations made thereunder.</p>
<p>PART V – WASTE COLLECTION AND TRANSPORTATION</p>	
<p><i>Responsibility of County Government to collect waste</i></p>	<p>14. (1) The Department 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 Department may—</p> <ul style="list-style-type: none"> (a) carry out waste collection services directly through its relevant department; or (b) contract a private person or entity to provide waste collection services on its behalf; or (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

Sustainable Waste Management

	<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 Department shall provide clearly labeled and colour-coded waste collection containers or 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><i>Minimum requirements for waste collectors</i></p>	<p>15. 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 with personal protective equipment to protect them from the hazards of handling solid wastes;</p> <p>(b) 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>(c) 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 waste collection points</i></p>	<p>16. The Department shall construct, establish and/or designate communal waste collection points for non-hazardous waste and shall develop and implement a waste collection schedule to promote efficient waste collection.</p>
<p><i>Waste collection</i></p>	<p>17. Every person or entity whose activities generate [non-hazardous] waste shall—</p> <p>(a) deposit such waste, after segregating, labeling and colour-coding as provided for under this Act at collection points established or designated by the Department; or</p> <p>(b) hand over the waste to a service provider licenced or contracted by the Department in accordance with the provisions of this Act.</p>

Sustainable Waste Management

<p><i>Obligation of owners and occupiers of houses, buildings or premises</i></p>	<p>18. (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 place, 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 Department or licenced waste service providers on the designated waste collection day.</p>
<p><i>Obligation of waste generators</i></p>	<p>19. (1) Every person whose activities generate waste shall—</p> <p>(a) deposit such waste, after segregating, labeling and colour-coding as provided for under this Act at collection points established or designated by the Department; or</p> <p>(b) hand over the waste to a service provider licenced or contracted by the Department in accordance with the provisions of this Act or regulations made thereunder.</p> <p>(2) The Department and/or contracted or licenced waste service providers shall provide colour coded waste bins to all persons or entities served by them.</p>
<p><i>Obligation of waste service providers</i></p>	<p>20. (1) The Department responsible waste collection and any person or entity contracted or granted a licence by the Department to collect and/or transport</p>

Sustainable Waste Management

	<p>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 Department responsible waste collection and any person or entity contracted or granted a licence by the department responsible for waste management to collect and/or transport waste shall ensure that—</p> <p>(a) they provide clearly labelled waste bins or containers to the persons or entities served by them;</p> <p>(b) the containers, vessels, vehicle or other means of conveyance used for the transportation of waste are sealed or designed to prevent spillages, scattering, littering and/or emission of obnoxious odours and smells during transportation.</p> <p>(b) there is no spillage, scattering, littering and/or emission of obnoxious odours and smells during transportation.</p>
<p><i>Licence to collect and transport waste</i></p>	<p>21. No person shall be granted a licence to collect and transport waste under this Act unless such person owns or operates a transportation vehicle or other means of conveyance approved by Department in accordance with regulations established under this Act.</p>
<p>PART VI – MATERIAL RECOVERY, RECYCLING AND COMPOSTING</p>	
<p><i>Establishment of Material Recovery Facilities</i></p>	<p>22. (1) The Department shall construct or 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 Department may enter into public private partnerships or licence private persons or enterprises or Producer Responsibility Organizations to construct or establish and/or operate</p>

Sustainable Waste Management

	Material Recovery Facilities for the purposes of recovering recyclable, re-usable or compostable materials.
<i>Requirement for Environmental Impact Assessment</i>	<p>23. (1) The Department 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 Department 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 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>
<i>Environmental Audits for material recovery facilities</i>	24. The Department 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.
<i>Obligation to channel waste through Material Recovery Facilities</i>	25. 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 Material Recovery Facility before final processing and/or disposal.
<i>Access to materials</i>	26. Any person may obtain recyclable, re-usable or compostable materials from a Material Recovery Facility at the prevailing market price or upon such terms

Sustainable Waste Management

	or conditions as may be prescribed by any regulations made under this Act or any other written law.
<i>Compliance with Act</i>	27. The Department 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.
<i>Licence to establish or operate recycling or composting plants</i>	28. (1) No person or entity shall establish or operate a waste recycling or composting plant or facility within the County without a licence issued by the Department in accordance with regulations made under this Act. (2) The Department 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 Impact Assessment (EIA) and obtained 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.
<i>Environmental Audits for waste recycling and composting plants</i>	29. 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.
PART VII – WASTE DISPOSAL	
<i>Prohibition of waste disposal in non-designated places</i>	30. No person shall dispose of any solid waste in any public or private place except in a designated waste receptacle or disposal facility.

Sustainable Waste Management

<p><i>Obligations to deliver waste to designated disposal facilities</i></p>	<p>31. (1) The department responsible for solid waste management and all contracted and/or licenced waste service providers shall deliver all waste collected to designated and/or licenced disposal facilities in accordance with the provisions of this Act and any regulations made thereunder.</p> <p>(2) A waste service provider who fails to handle or manage waste in accordance with the provisions of this Act or regulations 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><i>Obligation of County Government to provide waste disposal facilities</i></p>	<p>32. (1) All solid 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.</p> <p>(2) The Department shall be responsible for the provision of solid waste disposal facilities in the County.</p> <p>(3) In undertaking the obligation set out in subsection (1) above, the Department may—</p> <ul style="list-style-type: none"> (a) construct or establish or designate and operate waste disposal facilities through its relevant department; or (b) contract private persons or entities to construct and/or establish and/or operate waste disposal facilities on its behalf; or (c) licence a private person or entity to provide waste collection services [on commercial basis].
<p><i>Environmental Impact Assessment for waste disposal facilities</i></p>	<p>33. (1) The Department shall not construct or establish or designate and/or operate any waste disposal facility before carrying out Environmental Impact Assessment (EIA) and obtaining an EIA Licence from the Authority in accordance with the</p>

Sustainable Waste Management

	<p>provisions of the Environmental Management and Co-ordination Act (No. 8 of 1999) and regulations made thereunder.</p> <p>(2) The Department shall not contract or licence any private person or entity to construct or establish or operate a waste disposal facility unless such person or entity has carried out Environmental Impact Assessment (EIA) and obtained an EIA Licence from the Authority in accordance with the provisions of the Environmental Management and Co-ordination Act (No. 8 of 1999) and regulations made thereunder.</p>
<i>Environmental Audits for waste disposal facilities</i>	34. The Department and any private person or entity operating a waste disposal 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.
PART VIII – FINANCIAL PROVISIONS	
<i>Fees, levies and charges</i>	<p>35. (1) The Department shall levy waste collection and tipping fees or levies or charges, as may be approved by the County Assembly, for the efficient provision of waste management services.</p> <p>(2) Any fees or other charges levied on waste by the Department shall be exclusively allocated for the provision and improvement of waste management services in the County.</p>
<i>Incentives for waste management</i>	36. 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 stakeholders, and with the approval of the County Assembly, introduce fiscal incentives—

Sustainable Waste Management

	<p>(a) for investment in sustainable waste management including waste collection, separation, treatment, processing, 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>
--	---

PART IX – REGULATIONS

<p><i>Power to make Regulations</i></p>	<p>37. (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 implementation 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> <ul style="list-style-type: none"> (a) anything required to be prescribed under this Act; (b) fees or levies or charges for waste service provision; (c) requirements for solid waste segregation and handling at source; (d) requirements for the establishment or designation of waste collection points, waste collection schedules and routes and other related waste collection services; (e) requirements for waste transportation services; (f) requirements for establishment or operation of material recovery facilities; (g) requirements for establishment or operation of solid waste recycling or composting facilities; (h) requirements for establishment or operation of waste disposal plants or facilities or sites;

Sustainable Waste Management

	<p>(h) requirements for solid waste processing and disposal for various waste streams or types of solid waste;</p> <p>(i) 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>(j) any other matter relevant for the sustainable management of solid waste as provided for under this Act.</p>
	PART X – OFFENCES AND PENALTIES
<i>Offences where penalty is prescribed</i>	38. 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.
<i>General penalty</i>	39. Any person 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 one hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.
<i>Liability for offences</i>	<p>40. (1) Where an offence is committed against the provisions this Act or regulations made thereunder by a body corporate, the body corporate and every director or officer 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 with this Act or regulations made thereunder, shall be guilty of an offence</p> <p>(2) Where an offence is committed against the provisions this Act or regulations made thereunder by a partnership, every partner or officer of the partnership who</p>

Sustainable Waste Management

	<p>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 or servant of another person.</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>
PART XI – MISCELLANEOUS PROVISIONS	
<i>Public Participation</i>	41. 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)
<i>Access to information</i>	<p>42. (1) All records pertaining waste management in the County, whether internally generated by the Department 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 Department pertaining waste management in the County.</p>
<i>Conflict of Interest</i>	43. (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.

Sustainable Waste Management

	<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 imprisonment for a term not exceeding [two years] or to both such fine and imprisonment.</p>
--	---