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REPUBLIC OF KENYA

# NAIROBI CITY COUNTY GAZETTE SUPPLEMENT

## ACTS, 2015

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# THE NAIROBI CITY COUNTY SOLID WASTE MANAGEMENT ACT, 2015

**No. 5 of 2015**

*Date of Assent: 16th October, 2015*

*Date of Commencement: See Section 1*

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# THE NAIROBI CITY COUNTY SOLID WASTE MANAGEMENT ACT, 2015

**AN ACT of the County Assembly of Nairobi City to make provision for the management of solid waste in the county and for related matters**

**ENACTED** by the County Assembly of Nairobi City as follows—

## PART I—PRELIMINARY

Short title and commencement.

**1.** This Act may be cited as the Nairobi City County Solid Waste Management Act, 2015 and shall come into effect six months after assent by the governor.

Interpretation.

**2.** In this Act, unless the context otherwise requires—

"agricultural waste" is waste that is generated from animals rearing and the production or harvesting of crops or trees and includes animal carcasses;

"authorized officer" means the chief officer, the director of environment or any other officer authorized by the county government in writing for the purposes of the enforcement of the provisions of this Act;

"biomedical or clinical waste" means all waste arising from medical, nursing, dental, veterinary, pharmaceutical or similar practice, which by nature of its toxic, infectious or dangerous content and includes human or animal tissue excretions, drugs and medical products, swabs, dressings and instruments or similar substances;

"chief officer" means the chief officer responsible for environment;

"construction and demolition waste" means waste generated from construction, renovation, repair and demolition of structures including buildings and roads;

"disposal" in reference to waste means the final placement of waste in the designated site without intention of retrieval and may include the disposal of raw or intermediary handled inert or otherwise unwanted residues;

"domestic waste" means waste produced from dwellings but does not include agricultural waste;

"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 plant or site;

"e-waste" means electronic products that have become unwanted, non-working or obsolete;

"executive committee member" means the county executive committee member responsible for environment;

"environment" includes physical factors of the surroundings of human beings including land, water, atmosphere, climate, sound, odour, taste, the biological factors of animals and plants and the social factors of aesthetics and includes both the natural and the build environment;

"hazardous waste" means any waste which has been determined by the executive committee member to be hazardous waste or to belong to any other category of waste provided for in Section 91 of the National Environmental Management and Co-ordination Act;

"incineration" means the controlled burning of solid wastes to produce gases and residues containing little or no combustible materials for purposes of eliminating or minimizing potential adverse impacts of the waste to the environment;

"industrial solid waste" means waste generated by businesses from an industrial or manufacturing process;

"junk waste" consist of assorted item including automobiles, bicycles, industrial plants and other equipment that are obsolete whether abandoned or not in public or private places;

"market waste" means organic waste generated from public market facilities;

"municipal waste" means everyday waste items generated by commercial establishments and households;

"occupier" means a person in occupation or control of premises and in relation to premises, different parts of which are occupied by different persons means the respective persons in occupation or control of each part;

"premises" includes passages, buildings, lands and segment in every tenure and machinery, plant or vehicle used in connection with any trade carried on at any premises;

"recycling" means the processing of waste material into a new product of similar chemical composition;

"re-use" means waste use of waste with or without cleaning or repair;

"solid waste" includes any waste in solid form which is deposited in the environment in such volumes or composition likely to cause an alteration of that environment;

"solid waste management" means the activities, administrative and operational, that are used in the handling, packaging, treatment, conditioning, reducing, recycling, re-use, storage and disposal of the solid waste so as to protect the environment against the possible resultant adverse effects;

"waste generator" means any person whose activities under his or her direction produces waste, or if that person is not known, the person who is in possession or control of that waste;

"transport" in reference to solid waste means the transfer of solid waste from any point including but not limited to generation, intermediate handling, and collection points and final disposal;

"zone" means a zone into which the county is divided for the purposes of this Act.

## PART II—GENERAL PROVISIONS

Object of the Act.

**3.** The objects of this Act are to—

(a) provide a county legal framework for solid waste management function as spelt out in the Part 2 of the Fourth Schedule of the Constitution of Kenya 2010;

(b) pursuant to Article 69 (1) (*d*) of the Constitution, provide for a framework to encourage public participation in the management, protection and conservation of the environment;

(c) provide for a legal basis for the implementation of the county integrated solid waste management plan;

(d) provide for and regulate the participation of the various actors in solid waste management in the county.

Shared responsibilities, entitlements.

**4.** Solid waste management shall be a shared responsibility amongst all actors including the county government, generators, owners and occupiers of premises and contracted service providers.

Right to a clean and healthy environment, etc.

**5.** Every person within the county is entitled to a clean and healthy environment and has a duty to safeguard and enhance the quality of the environment.

Public and private sector participation.

**6.** (1) The executive committee member, in consultation with the governor, shall allow for, and facilitate the participation of all persons including individuals, corporate entities, and community and neighbourhood associations and organisations in all aspects of solid waste management in order to attain and maintain high and sustainable standards in solid waste management within the county.

(2) The executive committee member, in consultation with the governor, shall establish mechanisms for the involvement of the various actors in solid waste management in the county and these mechanisms may include—

(a) franchise system;

(b) management contracts paid for by the county government; or

(3) The mechanisms referred to in subsection (2) may be applied in a specified zone and for a definite duration of time as determined by the executive committee member in consultation with the Governor.

(4) Every actor in solid waste management services including generators and service providers shall operate within the frameworks in place for their particular zones.

Solid waste management charge.

**7.** The executive committee member, in consultation with the governor and with the approval of the County Assembly, may, by notice in the gazette, impose a charge on generators of solid waste within the county for purposes of

meeting the costs of solid waste management within the county.

Environmental levy.

**8.** (1) The executive committee member responsible for finance, may, in consultation with the Governor and with the approval of the County Assembly, by Order impose at the rate of not more than two per cent of the property rates payable in respect of a ratable property, a charge to be known as the environmental levy to be applied in waste management, dealing with environmental nuisances and to improve the quality of the environment generally.

(2) The Order mentioned in subsection (1) shall provide the manner in which the environmental levy may be imposed and its administration.

Material recovery.

**9.** The executive committee member shall establish guidelines through regulations and undertake activities to facilitate and promote recovery of waste materials through reduction, re-use, recycling and composting of waste by the various actors in solid waste management.

Solid Waste Categorization and Handling.

**10.** (1) The executive committee member shall, by regulations, divide solid waste generated in the county into various categories depending on their physical or chemical characteristics and provide for the necessary manner of the handling of such waste so as to guarantee the health and safety of all, including but not limited to the waste handlers, as well as the wellbeing of the environment.

(2) The categories of solid referred to in subsection (1) include—

(a) municipal waste;

(b) market waste;

(c) construction and demolitions waste;

(d) industrial solid waste;

(e) agricultural waste;

(f) biomedical or clinical waste;

(g) hazardous waste;

(h) e- waste;

(i) plastic waste;

(j) junk waste;

(k) any other category of waste as the county executive committee member may, in writing, determine.

Zoning.

**11.** (1) The County shall be divided into zones specified in the Schedule.

(2) Any person or firm authorized to collect transport waste shall be guilty of an offence if he or she operates outside the zone in which he or she is authorized to operate in.

Prohibition of certain operations.

**12.** An authorised officer may order any person to immediately cease an operation involving the generation, handling, transportation, storage or disposal of any waste whose such generation, handling, transportation storage or disposal presents an imminent and substantial danger to public health or to the environment.

Power of entry.

**13.** An authorized officer may at any hour reasonable, for proper performance of his or her duty, under this Act, enter any land or premises to make any inspection, inquiry, investigation or to perform any other work or do anything which is required or authorized by this Act or any other law to do if such inspection, inquiry, investigation or work is necessary for, or is incidental to, the performance of his or her duties or the exercise of his or her powers under this Act.

No licence for non-compliant businesses, etc.

**14.** A person shall not be licensed to carry on a business or an activity that generates solid waste unless that person demonstrates that he or she has established measures to minimize solid waste generation by adopting the following cleaner production principles—

(a) improvement of production process through conserving raw materials and energy;

(b) incorporating environmental concerns in the design, process and disposal of a product;

(c) monitoring the product cycle from beginning to end in order to —

(i) enable the recovery and re-use of the product where possible;

(ii) facilitate reclamation and recycling.

Prohibition against manufacture, etc of certain plastics.

**15.** (1) No person may manufacture, have in his or her possession, offer for sale or distribution in any manner within the county any carry bags form virgin plastic of thickness of less than 30 micron and of a size not less than "8x12" and of a colour other than the specified colour of the Kenyan Standard.

(2) Notwithstanding the provisions of subsection (1) of this section, a person may manufacture carry bags of a size, thickness and colour specified by this Act or any other law from recycled plastic materials but such materials must be locally recycled.

(3) A person who contravenes this provision commits an offence.

## PART III—COLLECTION

**16.** The county government may directly or indirectly undertake collection of solid waste from the streets and any other public spaces.

County government may directly collect waste.

**17.** (1) It shall be the duty of every occupier or owner or agent of a house, or other premise to clean or cause to be cleaned ten metres radius around his or her house or other premises or any area otherwise in his or her control but which shall not include a main road or street.

Owner or occupier responsibility for surrounding area.

(2) No person shall place or cause or permit to be placed upon frontage of a house, building or any other premises any waste other than for purposes of enabling the convenient collection of such waste by a waste collector or transporter.

(3) Anyone who contravenes this section shall be guilty of an offence.

**18.** (1) The county government shall provide appropriate waste containers for the disposal of solid waste in the public streets and other public places.

County government to provide containers.

(2) Any person who places, or causes or permits to be placed any solid waste anywhere except in a designated waste container shall be guilty of an offence.

(3) Any person who places or allows usage of a waste container in a public place or private premises which is not of such a design, size, shape and quality prescribe by or under this Act shall be guilty of an offence.

(4) The county government may hire out to the owner, or occupier of any premises, approved waste containers at such charges and in accordance with such conditions as the county government may determine.

**19.** (1) Every waste container shall be of size and pattern approved by the county government and shall—

Approval of waste containers.

(a) have suitable handles where appropriate;

(b) be close fitting, water and fly-proof;

(c) fitted with appropriate liner bags.

(2) Any person who uses or allows to be used waste container of a size or pattern not approved by the county government under this section shall be guilty of an offence.

Colour coding of waste bags or container.

**20.** (1) Litter bins, liner bags and other solid waste bags shall be coded as follows in order to facilitate waste segregation—

(a) green liner container for organic waste;

(b) blue liner container for plastics and paper waste;

(c) brown liner container any other waste.

(2) The executive committee member may, by regulation, prescribe other colour codes to be used in the segregation of further categories of solid waste matter.

(3) Any person who deposits solid waste in any other manner other than in the litter bin, liner bag or other container which contravenes this section shall be guilty of an offence.

Branding of bags and other containers.

**21.** (1) The following information shall be clearly printed or marked on one side of the liner bags and the containers—

(a) the name and logo of the service provider;

(b) the logo, address and phone number of the service provider;

(c) any other information that may be prescribed by the executive committee member.

(2) Any person who uses or, being a service provider, provides for use a liner bag or container that does not comply with subsection (1) commits an offence.

Provision, placement and maintenance of waste containers.

**22.** (1) Every owner or occupier of any premises shall provide it with an appropriate waste container and maintain it in accordance with this Act and shall cause all domestic waste from his or her premises to be placed in such container and not anywhere else.

(2) Every such owner or occupier shall cause all waste containers upon his or her premises to be placed and kept in

an approved place upon his or her premises or elsewhere as directed by the authorized officer so as to be accessible to the service provider that he or she has subscribed to for the purpose of its removal.

(3) Every such owner or occupier of any premises shall cause all refuse containers upon his or her premises to be continuously covered so as to prevent any escape of the contents thereof or any soakage there from into the ground, save when refuse is being deposited therein or discharged thereof.

(4) Every owner or occupier of any premise shall cause all waste containers on his or her premises to be kept reasonably clean and maintained in good condition.

(5) It shall be the duty of such owner or occupier to ensure a safe and sanitary disposal of his or her waste and show proof thereof failure to which he or she shall be guilty of an offence.

(6) Any authorized person may issue a notice requiring the owner, or occupier of any premises within the county to provide such number of waste containers and of specific type as he reasonably thinks are necessary for the reception of domestic or trade waste.

(7) Provision of required number of waste containers shall be a condition to be fulfilled for the purpose of granting of occupation permits and other licenses required for public, residential and commercial buildings.

(8) Anyone who contravenes any of these measures and requirements or fails to comply with a lawful direction issued by an authorized officer under this section shall be guilty of an offence.

(9) Any person who places, causes or permits to be placed in any waste container, any waste, substance or matter which in the opinion of the authorized officer has been exposed to infection or is contaminated or is infectious or which is in any way hazardous in nature shall be guilty of an offence.

(10) Every owner or occupier of any dwelling or any premises shall show proof, if required to do so by the authorized officer of safe disposal of refuse from his or her dwelling or premises.

(11) Anyone who contravenes any of these measures and requirements or fails to comply with a lawful direction issued by an authorized officer under this section shall be guilty of an offence.

Proof of arrangement for waste collection services.

**23.** (1) Any person(s) or firm(s) whose waste is being collected by the county government shall have proof of such arrangement, which shall include, but not limited to a payment receipt from the county government for such services.

(2) Any person whose waste containers are being serviced by an approved private service provider shall have proof of such arrangement, which shall include, but not limited to a payment receipt from the service provider for such services.

(3) It shall be sufficient proof of safe disposal of refuse if an authenticated payment receipt from a licensed private service provider, in case of domestic waste or a conservancy certificate issued by the county government in case of trade or commercial waste is produced.

(4) It shall be an offence for any waste generator to subscribe to a solid waste collection services provider who is not approved by the county government.

(5) Every owner or occupier of any dwelling or any premises shall show proof, if required to do so by the authorized officer of safe disposal of refuse from his or her dwelling or premises.

(6) Any person who contravenes any of the requirements of this section or fails to comply with a lawful direction issued by an authorized officer under this section shall be guilty of an offence.

Destruction of waste container.

**24.** (1) Any person who makes away with or willfully damages any solid waste container, or any part thereof, the property of the county government, shall be guilty of an offence, and in addition to any penalty that may be imposed by court shall pay to the county government cost of replacement or repair of such container.

(2) Any person who makes away with or willfully damages any solid waste container, or any part thereof, the property of anyone duly authorized by the county government to install and maintain such container shall be guilty of an offence, and in addition to any penalty that may

be imposed by court shall pay to the owner of the container cost of replacement or repair of such container.

Separation of waste.

**25.** (1) Every generator of solid wastes shall separate or cause to be separated the waste into various categories including—

(a) organic;

(b) plastics;

(c) paper;

(d) metals; or

(e) any others that may be provided for in regulations.

(2) The segregated waste referred to in subsection (1) shall be respectively contained separately in the approved containers for such category of waste prior to collection or other handling as appropriate.

(3) Every generator shall ensure appropriate collection and transportation of the different wastes separated.

(4) A person who contravenes this section shall be guilty of an offence.

(5) A person who commits an offence under any of this section shall upon conviction be liable to a fine not exceeding three hundred thousand shillings or to an imprisonment not exceeding three years or to both such fine and imprisonment.

## PART IV—TRANSPORTATION

Licence to transport waste.

**26.** (1) Any person intending to collect and transport solid waste within the county shall prior to commencing such activity apply to the chief officer in the prescribed manner a license to transport waste.

(2) Where the chief officer rejects an application made under the section, he or she shall within twenty one days of that decision, notify the applicant of the decision and shall specify the reasons for the decision in the notice.

Revocation of licence, etc.

**27.** (1) The authorized officer may revoke a licence in respect of any vehicle if such vehicle does not maintain the set operational guidelines as may be prescribed.

(2) Any vehicle used for transportation of waste or any other means of conveyance shall be labelled in such a manner as may be prescribed.

(3) An authorized officer shall have the power to revoke any approval of vehicle if such vehicle does not meet the set operational guidelines.

(4) Anyone who transports waste without a license issued under this section commits an offence.

Registration of tenants, etc.

**28.** (1) Any owner or occupier of any premises where waste is generated and shall register or ensure that his or her tenants register for waste collection.

(2) An owner, driver or operator of any other facility used for transporting solid waste that is likely to be blown by the wind or dropped while being transported shall provide and maintain cover material enough to contain any possibility of the material being dropped or blown and deposited upon any street, road, highway or other public or open space.

(3) Any person who contravenes this section commits an offence under any of this Act shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding three hundred thousand shillings or to an imprisonment not exceeding three years or to both such fine and imprisonment.

## PART V—TREATMENT

Treatment licences.

**29.** (1) Any person who wishes to install and operate —

(a) an incinerator;

(b) a recycling facility;

(c) a composting facility;

shall make an application to the chief officer for a permit.

(2) The chief officer shall upon consideration of the applications and being satisfied that the capabilities of the incinerator for the intended incineration activity may grant the applicant the permit.

(3) An incinerator approved in sub-clause (2) above shall be in conformity with set national standards.

(4) A prescribed incineration fee which shall be subject to review from time to time shall be imposed on any applicant of an incineration permit.

(5) Any person, firm, hospital or any other facility which produce any solid waste that should be disposed by combustion as maybe required by regulations in place shall ensure that such waste is disposed of as required.

(6) Anyone who contravenes any of these measures and requirements or fails to comply with a lawful direction issued by an authorized officer under this section commits an offence.

## PART VI—DISPOSAL

Disposal.

**30.** (1) The county government shall undertake disposal of solid waste either by controlled tipping, sanitary land filling, recycling, composting, incineration and any other disposal method that may be in place depending on the type, quality and quantity of the waste.

(2) The County Government shall establish a waste disposal site conforming to internationally recognized standards and such facility shall be clearly demarcated and fenced.

(3) No animal shall be allowed in such facility and any animal found thereof shall be dealt with in a manner that the County government shall decide and any animal found in the facility shall be destroyed.

Offence to enter disposal sites, etc.

**31.** (1) Any person, who enters, uses, causes, allows use or entry to the county government waste disposal site without written permission from county government shall be guilty of an offence.

(2) No person may dispose of waste in the county's final disposal facility or transfer station unless such person has paid the prescribed disposal fee in respect of such disposal.

(3) A person who contravenes subsection (3) commits an offence.

Junk waste disposal, etc

**32.** (1) No owner or occupier may keep or allow to be kept junk waste in public or private premises.

(2) Where any junk waste is abandoned in private premises, the authorized officer shall give notice to the owner or occupier of such premises and the owner or occupier shall cause such waste to be disposed shall be disposed of within seven days from the date of the notice and in such manner as may be directed by the authorized officer and such junk waste.

(3) Where any junk waste is found abandoned in any public place, the authorized officer shall take immediate steps to remove such junk waste and dispose of it in such

manner as he or she may deem fit after consulting the chief officer.

(4) Where junk waste is not disposed in the manner envisaged in subsection (2) and within the period set out in that subsection, the authorized officer with the approval of the chief officer, shall dispose of such waste in such manner as may be determined.

(5) Any disposal by the authorized officer as set out by subsection (3) shall be at the expense of the owner of such premises or of the junk waste, where such owner is known.

(6) The county government may hire the services of any person for the purposes of ensuring safe and environmentally friendly manner of disposal of junk waste.

## PART VII—MISCELLANEOUS

General offences.

**33.** A person commits an offence if he or she—

(a) hinders or obstructs an authorized in the exercise of his or her duties;

(b) refuses an authorized officer entry upon any land or into any premises, or motor-vehicle which he is empowered to enter under this Act;

(c) impersonates an authorized officer;

(d) refuses an authorized officer access to records or documents kept pursuant to the provisions of this Act ;

(e) fails to state or wrongly state his or her name or address to an authorized in the cause of his or her duties;

(f) misleads or gives wrongful information to an authorized officer;

(g) fails, neglects or refuses to carry out an improvement order issued.

Offences to deploy hazardous, etc waste container, etc.

**34.** Any person who places, causes or permits to be placed in any waste container, any waste, substance or matter which has been exposed to infection or is contaminated or is infectious or which is in any way hazardous in nature commits an offence.

Public education on solid waste management.

**35.** The county government shall, through such means as it shall determine, promote, facilitate and ensure public education on solid waste management in order to—

(a) enhance the levels of awareness and knowledge of all stakeholders on general and specific aspects of sound solid waste management;

(b) promote and sustain individuals' practical steps to ensure that waste is managed in a manner which will protect human health and the environment against the adverse effects which may result from the waste.

General penalties.

**36.** (1) Any person convicted of an offence under this Act for which no penalty is specifically provided shall, in the case of a first offence, be liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding one hundred thousand shillings or to both such imprisonment and fine and, in the case of a second or subsequent offence, to imprisonment for a term not exceeding three years or to a fine not exceeding two hundred thousand or to both imprisonment and fine, and, where an offence is of a continuing nature, he shall in addition be liable to a fine not exceeding three hundred thousand shillings for each day or part thereof during which the offence continues.

(2) Any person who dumps, causes, or allows waste disposal in any premises, land or any other place not approved for such disposal shall be guilty of an offence.

(3) Any person who contravenes this section shall be guilty of an offence shall be liable to a fine not exceeding two hundred thousand shillings or in default to imprisonment not exceeding two years or to both.

When offence by body corporate, partnerships, etc.

**37.** (1) Where an offence is committed under this Act by a body corporate, the body corporate and every director or officer of the corporate who had knowledge of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act shall be guilty of the offence.

(2) Where an offence is committed under this Act by a partnership, every partner or officer of the partnership who had knowledge of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act commits an offence.

(3) A person shall be personally liable for an offence against this Act, whether committed by him or his or her own account or as an agent or servant of another person.

(4) An employer or principal shall be liable for an offence against this Act, unless the employer or principal proves that the offence was committed against his or her express or standing directions.

**38.** (1) The executive committee member may make regulations generally for the better carrying out of the provisions of this Act. Regulations.

(2) Without prejudice to the generality of subsection (1), the executive committee member may, with the approval of the County Assembly, make regulations—

(a) regulating the management of various categories of waste from the generation thereof to recycling or disposal;

(b) regulating the use of plastic waste and the safe disposal thereof;

(c) providing for the standards applicable in the waste management generally.

(d) establishing mechanisms for participation of the private sector in solid waste management.

## FIRST SCHEDULE

**(Section 11)**

**ZONES**

1. **Dagoretti North**
2. **Dagoretti South**
3. **Embakasi Central**
4. **Embakasi East**
5. **Embakasi North**
6. **Embakasi South**
7. **Embakasi West**
8. **Kamukunji**
9. **Kasarani**
10. **Kibra**
11. **Langata**
12. **Makadara**
13. **Mathare**
14. **Roysambu**
15. **Ruaraka**
16. **Starehe**
17. **Westlands**