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SPECIAL ISSUE



Kisumu County Gazette Supplement No. 22 (Bills No. 17)



REPUBLIC OF KENYA

KISUMU COUNTY GAZETTE SUPPLEMENT

BILLS, 2014

NAIROBI, 30th June, 2014

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COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA

THE KISUMU COUNTY SOLID WASTE MANAGEMENT BILL, 2014

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**THE KISUMU COUNTY SOLID WASTE
MANAGEMENT BILL, 2014****A Bill for**

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA

AN ACT of the Kisumu County Assembly to provide for a more effective and efficient management of solid waste with the goal of protecting the County's environment and the public health

ENACTED by the County Assembly of Kisumu as follows—

PART I—PRELIMINARY

A Bill of the Kisumu County to provide a framework for management of solid waste within the County and the matters incidental thereto.

1. This Act may be cited as the County Government of Kisumu (Solid Waste Management) Act, 2014.

2. The Act shall apply to all parts of the county of Kisumu except such areas as the County Executive Member may by notice exempt in the Gazette from application.

3. In this Bill unless the context otherwise requires—

“Authorised Officer” means a person duly authorized by the Executive Member for Environmental Management in writing so to do or order another person not to do any of the things required by the provisions of this Bill.

“Bulk waste” includes large appliances, machines furniture and other solid wastes (other than construction or demolition debris or dead animals with weight or volume greater than those allowed for bundle waste or dustbin)

“Bundle waste” includes large tree parts, shrubs, trimmings, newspapers, magazines or solid waste securely tied as a package not exceeding one metre length or 15 kilogrammes weight.

“Chief Officer of Environment” means the Chief officer of Environmental Management of the County Government of Kisumu for the time being or his Deputy.

“Clinical Waste” Means the waste arising from medical, nursing, dental, veterinary, pharmaceutical or similar practice, investigation, treatment, care, teaching or

research which by nature of toxic, infectious or dangerous content may prove a hazard^{us} or give offence unless previously rendered safe and inoffensive. Such waste includes human or animal tissue or excretions, drugs and medical products, swabs and dressings, instruments or similar substances and materials.

“Collection Authority” Means the council, or any other authority, organisation, private company or individual issued with a disposal license by the council to collect and dispose any toxic and hazardous waste.

“County” means the County Government of Kisumu and has its meaning assigned in the County Government Act, No. 17 of 2012

“designated” area in respect of this Bill shall be an area set aside by the county for the disposal of such waste and may include a high temperature incinerator

“Disposer” Means person disposing of the waste^{waste} referred to in schedule of the consignment note.

“Domestic refuse” means garbage, tins, bottles, ashes, dust, sweepings, and any other forms of non-liquid refuse from domestic buildings, but does not include refuse from gardens or manure or night soil or waste products from factories, workshops, and temporary climate waste.

“Environment Officer” means an Environmental Officer of the County Government of Kisumu or any other officer duly authorised by the County^{so} to do^{or} or order another person not to do any of things required by the provisions of this Bill.

“Environment” includes physical factors of the surrounding of human beings including land, water, atmosphere, sound, odour, taste, biological factors of plants and animals and the social factors of aesthetics and it includes both the natural and the built environment.

“Environment” means the physiological, chemical and biological conditions of the region in which an organism lives and includes land, air and water.

“Environmental Conservation” means any deliberate efforts to maintain the environment in its natural state.

“Environmental Degradation” means any activity by any agent that causes or results in reducing the natural quality of the environment.

“Environmental Impact Assessment” in relation to proposed and new actions means the discrete and systematic study of.

“Garden refuse” means the refuse from gardens lawns, flowerbeds including grass, plants, and vegetation of hedge trees and manure.

“Hazardous waste” denotes waste including toxic waste that represents immediate or long-term threats to people or the environment

“Hospital Objectionable Waste” means all waste from clinic health facilities and hospitals and includes *inter alia* syringes, needles, dressings, laboratory waste, clinic waste, human body parts, foetus, placentas.

“Household” means family or set of parents with or without children

“Injurious pollution” in relation to a stream, lake or any inland waters means pollution injurious to the fauna or flora or such body or water.

“Occupier” means any person on actual occupation of premises or residential dwelling without regard to the title under which he occupies and in the case of residential dwelling, subdivided and let to lodgers or various tenants.

“Owner” as regards immovable property, includes any person other than the Council receiving the rent, or profits of any land or premises from any tenant or occupier thereof, or who would receive such rent or profit if such land or premises were let, whether on his own account or as an agent for any person other than the Council, entitled thereto or interested therein; the term includes any lease or licensee from the Council and any superintendent, overseer or manager of such lease or license recycling on the holding.

“Producer” Means product of toxic and hazardous waste and on whose details are shown in schedule A of the consignment note for the carriage and disposal of toxic hazardous and clinical waste under section 63 and referred to as carrier’s certificate.

“Public Sanitary Conveniences” means a facility provided by the Council for the use of public convenience and includes Toilets, Bathrooms and Urinals.

“Recycling” means the process of separating a material from the waste stream with the intent of diverting it from disposal as solid waste.

“Refuse Bin” means a movable covered receptacle for the reception and storage of refuse and made of material and of such size and construction as specified in this Bill.

“Refuse collection charge” means the charge determined by the County as a refuse collection charge as set out in the schedule.

“Relevant waste”. —

“Residential dwelling” means building, flat, or any other structure used as a private dwelling. It also includes undeveloped or partially developed plan allocated for residential purposes.

“Sanitary landfill” means a land burial facility for the disposal of solid waste which is so located, designed, constructed and operated to contain and isolate the solid waste so that it does not pose a substantial present or potential hazard to public health or the environment

“Service” means the cleaning, removing, collecting and disposal of trade and domestic refuse.

“Solid waste generators” includes any persons and entities that produce solid waste.

“Solid Waste” means all waste materials generated by household institutions, commercial establishments and industries or litter and clandestine piles of such waste.

“Source separation” is the process of removing recyclable materials from the waste stream at the point where the material is generated

“Street” means any street, road, highway, path, water ways, sanitary, sand lane, thoroughfare or public space to which the public has access and includes a bridge over which a roadway runs.

“Toxic” means types of waste or substances that may cause serious injury or death to human beings or animals.

“Trade refuse” means the refuse of any trade, manufacturer, or business of any building materials, but does not include laboratory, clinical and hazardous waste.

“Waste Disposal authority” Means the authority taking charge in the advisory in the collection, storage and disposal of toxic and hazardous waste and for the purpose of these By-laws means the municipal council of Kisumu.

“Waste Transfer station” means any solid waste storage or collection facility at which solid waste is transferred from collection vehicles to other vehicles or means of transportation, for shipment to another site for permanent disposal.

PART II—ESTABLISHMENT OF KISUMU SOLID WASTE MANAGEMENT AUTHORITY

4. (1) There shall be established an authority to be known as the Kisumu Solid Waste Management Authority.

(2) the Authority shall be ^abody corporate with perpetual succession, common seal and capable of suing ~~the~~ being sued.

5. (1) there shall be a Board of the authority which shall consist of—

- (a) chairperson to be appointed by the Governor; *and approved by County Assembly.*
- (b) County Executive Member in charge of Environmental Management;
- (c) Chief officer of the County responsible for Environmental Management;
- (d) Director in charge of Solid Waste Management;
- (e) four to six other members appointed by the County Executive Member *after approval by governor.*

(2) the chairperson and members shall serve a three year term and shall be eligible for re-appointment for one further term. *upon approval by the County Assembly.*

6. Functions of the authority—

- (a) control, supervise and administer the assets of the authority in such a manner that promotes the tenets upon which the authority was established.
- (b) regulate and supervise all solid waste management issues within the County.

- (c) come up with policies promoting efficient management of solid waste with the goal of protecting the county's environment and public health.
- (d) advise the county government on policy to be followed with regard to waste management and to implement all county government policies related thereto.
- (e) perform such other functions as is conferred to it by any relevant law.

7. The Authority in consultation with the County Executive Member in charge of Environmental Management shall pay members of the Board such remunerations or allowance as it shall determine.

8. There is hereby established the office of the director who will be in charge of the daily operations of the authority and answerable to the board on matters concerning the management of the authority.

9. (1) There shall be established a fund account known as Kisumu Solid Waste Management Authority.

(2) The County government shall dedicate 1.2% of its budget for this account for management of solid waste management issues.

(3) The Authority may also source for funds from the following persons inter-alia—

- (a) donor grants;
- (b) donor funds;
- (c) borrowing from banks;
- (d) any person or corporate entity;
- (e) any other entity that the authority may deem fit and suitable to partner with;
- (4) the daily operations of this account shall be managed by the director who will be answerable to the Board.

PART III—REFUSE RECEPTACLES REMOVAL AND DISPOSAL

10. The County may hire out to the owner or occupier of any premises within the County, approved refuse bins at

such charge as the county may, by resolution from time to time determine—

- (a) every such owner or occupier shall pay for the refuse bins so hired an application fee and a deposit, the amount of which the county may, by a resolution from time to time determine.
- (b) any such charges shall be due on the last day of the month and shall be recovered in respect of premises for which the refuse bin has been provided

11. The authorized officer of the County may, by notice require the owner or occupier of any premises within the County to provide such number of refuse bins as it reasonably thinks are necessary for the reception of domestic refuse.

Every such refuse bin shall be of size and pattern approved by the County and shall be:

- (a) of not greater capacity than 39 cubic feet or 1.4 cubic metres and not less than 2.5 cubic feet or 0.07 cubic metres;
- (b) constructed by rigid material;
- (c) provided with suitable handles;
- (d) Provided with water-tight and fly proof lid; or
- (e) any other refuse container of the type and pattern approved by the county.

12. The County may maintain a conservancy service for the removal and disposal of the content of refuse bins in respect of all premises within the jurisdiction of the County of Kisumu for which, in the opinion of the County, it is practical and desirable to provide such services and the owner or occupier of such premises shall pay to the County such charges as the County may by resolution from time to time determine.

13. Provision of required number of dustbins shall be a condition to be fulfilled for the purpose of granting of licenses to public premises and occupation permits to residential and commercial buildings.

14. Any person who willfully or by reason of neglect or carelessness makes away with, destroys or damages beyond fair wear and tear, any receptacle, or any part

thereof, the property of the County, shall, on conviction, be guilty of an offence and in addition to any penalty to which he may be liable in respect of that offence, be liable for the cost of replacing or repairing such bin.

15. Every such owner or occupier of premises on which refuse receptacle is required to be provided and maintained in accordance with this Bill shall cause all domestic refuse from his or her premise to be placed in such bin and not elsewhere.

16. Every such owner or occupier shall cause all refuse bins upon his premises to be placed and kept in an approved place upon his premises and to be accessible to the Council refuse removal staff for the purpose of removal.

17. Every such owner or occupier of any premises shall cause all refuse receptacles upon his premises to be continuously covered so as to prevent any escape of the contents thereof or any soakage therefrom into the ground, save when refuse is being deposited therein or discharged thereof.

18. Any person who places, causes or permits to be placed any domestic refuse anywhere except in a refuse receptacle shall be in contravention of this Bill.

19. Any person who deposits or permits to be deposited in any refuse receptacle, any un-extinguished ashes, other material in a state which is likely to cause fire, or any liquid which may in any way endanger life or property shall have contravened the provisions of this Bill.

20. Every owner or occupier of any premises shall cause all refuse receptacles upon his premises to be kept reasonably cleaned and maintained in good condition.

21. Any person who erects or causes or permits the erection of any structure or otherwise obstructs an already provided access for the purpose of refuse removal shall have contravened this Bill.

22. The county may undertake to remove trade refuse from the premises within the County jurisdiction at the request of the owner or occupier of the premises and make such charges as the county may by resolution from time to time determine.

23. The county may undertake the disposal of refuse either by controlled tipping, or dumping, or land filling, or by incineration depending on the quantity and quality of refuse and facility available.

24. The county shall provide land for the purpose of refuse disposal and treatment at a site it considers appropriate for that purpose without the creation of any nuisance.

25. Any person who dumps, or causes, or allows to be dumped any refuse at any place within the County jurisdiction, other than the area designated for such purpose shall have contravened this Bill.

26. Any person who dumps, or causes, or permits to be dumped any refuse at the county designated site without first obtaining requisite permission from the county shall have contravened this Bill.

27. Any person who, not being a member of the cleaning and conservancy team of the County nor a person in possession of county permit, enters the county disposal site shall have contravened this by Bill.

28. Any person guilty of contravening sections 10 to 27 of this part shall be liable, on conviction, to a fine not exceeding Five thousand Shillings or in default to an imprisonment to a term not exceeding four (4) months, or to both such fine and imprisonment.

29. There shall be paid by every household or occupier a refuse collection charge and in such manner as provided in the schedule to this Bill. Any person who fails or refuses to pay refuse collection charges on time shall be liable to a penalty of 25% refuse collection charge and in each shall also be guilty of an offence contrary to section 22 herein above.

30. If a nuisance shall exist upon, or near any premises, or residential dwelling by reason of trade, or domestic refuse produced thereon, or proceeding therefrom, the County may serve upon the occupier of the premises or residential dwelling notice in writing requiring him to remove the nuisance within such period as may be specified in the notice and to prevent the recurrence and if after the expiry of such period as aforesaid, such nuisance shall

continue or shall by act, default, or sufferance of the person upon whom notice shall have been served recur, such person unless he shall have ceased to be occupier shall be guilty of an offence against this Bill.

31. The occupier of any plot, or portion of a plot or in the case of unoccupied plot, the owner thereof shall not in any street or open place throw or lay down any dirt, filth or rubbish, stone or building material, allow any offensive matter to run onto any street or open space from any house, pantry, den-heap or the like.

32. Every owner of any residential dwelling or trade premises will be vicariously liable for any offence under this Bill committed by the occupier of a residential dwelling or premises at the residential dwelling or premises.

33. Any officer or agent of the County duly authorized in that behalf, may at all reasonable times enter any residential dwelling or premises within the area of jurisdiction of the County for the purpose of conducting any inspection, inquiry or the execution of works under the provisions of this Bill.

PART IV—MONTHLY STREET CLEANING

34. The County shall—

- (a) undertake street cleaning within the county jurisdiction on the first Saturday and Sunday of every succeeding month between 1000 hours and 1200 hours;
- (b) the clean-up activity shall be compulsory for all residents for the time being residing in the County;
- (c) the residents shall be required to dedicate at least two hours on designated clean-up days in the activity;
- (d) the county shall keep a register of all residents who have taken part in each clean-up.

35. Every owner or occupier of any premises in any street within the county jurisdiction shall clean or cause to be cleansed all the area of pavement in connection with his premise.

36. Any courtyard or passage which is used in common by occupants of two or more buildings but is not a highway repairable by the inhabitants at large shall be cleaned jointly by the occupants to ensure that kept clean and free from rubbish or other accumulation to the satisfaction of the authorised officer of the County; the authorised officer shall cause it to be swept and cleaned if the occupants have refused and or failed to clean the said courtyards and passages.

37. Any expenses reasonably incurred by the County under section 36 herein above shall be recovered from the owner or occupier of the building which front abut/on the courtyard or passage, in such proportions as the County may by resolution from time to time determine.

38. The county shall undertake cleaning services of the general housing estates of the county where there are communal sanitary conveniences.

39. The businesses and related commercial, social, culture, educational or religious establishment shall remain closed during the stipulated cleaning hours.

40. The county shall provide such number of dustbins in the general county estates to the satisfaction of the authorised officer of the county to facilitate this cleaning exercise.

41. Any person in the general estates who places, or causes, or permits to be placed, any house refuse anywhere except in the dustbin provided, shall be in contravention of this Law.

42. The County shall remove, or cause to be removed as frequently as possible the house refuse produced in all houses within the estates.

43. The county shall provide cleaning services for the common sanitary conveniences in the housing estates.

44. (a) The sanitary convenience in connection with which a water closet is provided the flushing apparatus thereof shall be kept supplied with sufficient water throughout the day.

(b) If the convenience is for want of water, in such a condition as to be insanitary, the County shall

provide, or cause to be provided a means of getting water for the purpose of the cleaning exercise.

45. The Physical Planning and Public Works Ministry of the county shall undertake to maintain proper drainage of the housing estates to prevent soakage and overflow of sewerage from the houses and sanitary conveniences.

46. The County shall undertake to maintain the foot path and the grass lawns of the estates to prevent the overgrowth of grass and soil depressions which accumulate rain water to the requirements of the authorised officer of the county.

47. Any person who is guilty of an offence under this part of the Act shall be liable, on conviction to a fine not exceeding KSh. 5000 (Five thousand shillings) or to imprisonment for a term not exceeding six months or to both such fines and imprisonment.

PART V—REMOVAL OF OFFENSIVE ACCUMULATION AND DEAD ANIMALS

48. The County may undertake the removal of dead animals from the premises or streets in the county jurisdiction after being notified by the owner or occupier of the premises in which the animal died.

49. Any person who disposes or causes or allows to be disposed of, any dead animal without first notifying the County and obtaining approval of the County shall be in contravention of this Bill

50. Any person who places or permits to be placed in refuse, receptacle any dead animal or faecal or manure, shall have contravened this Bill.

51. Any person who moves or causes or permits to be moved or otherwise disturbs any dead animal from where it had died before first notifying the County and being granted a permit thereof shall be in contravention of this Bill.

52. Any owner or occupier of any premises within which an animal died and fails to notify the county of such presence of the dead animal shall be in contravention of this Bill.

53. No person shall place or cause or permit to be placed in any refuse receptacle any matter which he knows

to have been exposed to infection or contamination from an infectious disease and which has not be disinfected.

54. It shall be an offence for any person to remove or cause or permit to be removed or otherwise tamper with a dead animal so as to conceal its presence and hence non removal for disposal by the County conservancy team.

55. Any owner of any receptacle or vehicle used for the removal or conveyance of offensive or noxious matter shall ensure that it is constructed or covered so as to prevent the escape of any such matter requiring the cleaning of any place wherein such matter has been spilled in the course of removal or carriage.

56. Any person shall be at liberty to remove dead animals from streets near his premises if the county government fails to remove the said refuse within forty eight hours of receiving the notification.

57. Any person guilty on conviction of any offence under the provision of this Bill shall be liable—

- (a) to a fine not exceeding Eight Thousand shillings or to imprisonment for a term not exceeding Four Months or to both such fine and imprisonment;
- (b) in the case of a second or subsequent offence, to a fine not exceeding Twelve Thousand or to a term not exceeding Six Months in default or to both such fine and imprisonment.

PART VI—LATRINES CESSPOOLS AND PUBLIC SANITARY CONVENIENCES

58. The County may provide exhauster services for the emptying of conservancy tanks, waste water pits and septic tanks and raise a reasonable fee for the services so rendered.

59. The County may provide public sanitary conveniences.

60. Any person who erects any public sanitary without the convenience in, or so as to be accessible from any street without the consent of the County, which may give its consent upon such terms as to the use of the convenience or its removal at any time if required by it or as it deems fit shall be in contravention of this Bill.

61. Any person who erects, or re-erects, occupies or being the owner thereof, permits to be occupied any domestic building without proper and adequate latrine accommodation maintained to the satisfaction of the authorised officer of the County in accordance with the provisions of any laws, rules or regulations for the time being in force within the County jurisdiction shall be in contravention of this Bill.

62. Any owner or occupier of any premises who permits the escape of night soil or urine from any latrine in such manner as to cause a nuisance will be in contravention of this Bill.

63. Any owner or occupier of any premises who deposits or permits to be deposited in or on such premises elsewhere other than in a latrine provided for that purpose, any night soil or urine so as to cause or be likely to cause nuisance shall be in contravention of this Law.

64. Any owner or occupier of any domestic building who fails to maintain in cleanly condition all latrines provided for use in connection with such building and fails to provide for use in each such latrines a proper and adequate supply of disinfectant to the satisfaction of the authorised officer of the County shall be in contravention of this Law.

65. Any person who throws, drops or deposits on or in any street, premises, or open space, any filth, rubbish, glass, tins, nails, papers, carcasses, waste, or flush in water or other refuse, liquid or solid likely to cause nuisance and any person who permits any such liquid to flow into the street shall be in contravention of these Law.

66. Any person who fouls the conveniences or destroys anything used in connection therewith or wilfully or by negligence causes an obstruction in the drain therefrom shall be in contravention of this Law and if convicted shall be liable to a fine not exceeding Five Thousand shillings or in default to an imprisonment for a term not exceeding Six Months or to both such fine and imprisonment.

67. Any person guilty of an offence under the provisions of section 47 to 50, shall be liable on conviction to a fine not exceeding Five Thousand Shillings or in

default to an imprisonment to a term not exceeding Six Months or to both such fine and imprisonment.

PART VII—TOXIC AND HAZARDOUS SUBSTANCE WASTE

68. For the purposes of this part of this Bill “Toxic and Hazardous substances or waste” include—

- | | |
|---|--|
| • Arsenic and compounds | • Peroxide chlorates |
| • Mercury and compounds | • Perchlorates azides |
| • Beryllium and compounds | • Ethers |
| • Thallium and compounds | • Chemicals, laboratory materials not identifiable and/or new with unknown effect on the environment |
| • Chromium and compounds | |
| • Leads and compounds | • Asbestos |
| • Antimony and compounds | • Selenium and compounds |
| • Phenolic and compounds | • Tellurium and compounds |
| • Cyanide and compounds | • Polycyclic aromatic |
| • Isocyanides | • Hydrocarbons |
| • Organohalogenic and compounds excluding polymeric materials | • Metal carbonyls |
| • Chlorinated solvents | • Soluble copper compounds |
| • Organic solvents | • Acids and/or basis |
| • Biocides | • Substances used in the treatment and diminishing polychlorinated biphenyls (PCBS) |
| • Tarry materials from refining | |
| • Pharmaceutical compounds | |

69. It shall be the duty of a disposal authority—

- (a) to ensure that the arrangements made by the producer for the toxic and hazardous waste are adequate for the purpose of safely disposing of all waste which becomes situated in its area;

- (b) to ensure that all the toxic hazardous and clinical wastes shall be disposed of in a designated area;
- (c) to carry out an investigation with a view to deciding the arrangement for the purposes of disposing toxic and hazardous waste that is in its area and for that reason apply appropriate and suitable disposal methods which may be—
 - (i) Disposal on land;
 - (ii) Disposal by incineration; or
 - (iii) If (i) and (ii) above are not applicable, the toxic and hazardous waste to be appropriately packed and labelled toxic and hazardous waste and be returned to the country of origin of the raw materials of such waste; or
 - (iv) Provision of incinerations in the case of institutions.
- (d) prepare a statement of the arrangements made or proposed to be made by the authority and other person for disposing of such waste during a period specified in the statement;
- (e) to estimate costs of the methods of disposal and the waste by the authority and other person for disposing of such waste during a period specified in the statement.

70. Except in prescribed cases, no person shall—

- (a) deposit toxic and hazardous waste on any land, or cause, or knowingly permit toxic and hazardous waste to be deposited on any land, street, premises, drain, sewer, or disposal site.
- (b) use any plant, equipment, or cause, or knowingly permit any plant to be used for the purpose of disposing toxic and hazardous waste or of dealing in a prescribed manner with toxic and hazardous waste and/or as the case may be, which forms the site of the plant or equipment is occupied by the holder of the licence issued pursuant to section 68(a) herein below which authorizes the deposit or use of land in point for the deposit or use in accordance with the conditions, if any, as specified in the licence;

- (c) any person who contravenes any of the provisions of this Bill shall be guilty of an offence and liable, on conviction, to a fine of an amount not exceeding Kenya Shillings Fifty Thousand (KSh. 50,000) or in default to imprisonment for a term not exceeding Two years, or to both such fine and imprisonment;
- (d) A person who contravenes section 70 (a) herein above in a case where—
 - (i) the waste in question is of a kind which is toxic and hazardous, noxious or polluting and;
 - (ii) its presence on the land or on other specified places in this paragraph is likely to give rise to environmental hazard; and
 - (iii) it is deposited on land or on other specified places in such circumstance or for such period that whoever deposited it there may reasonably be assumed to have abandoned it there or to have brought it there for purpose of it being disposed of (whether by himself or other) as waste, shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding twelve months or a fine not exceeding fifty thousand shillings or to both such fine and imprisonment.

71. It shall be a defence for a person charged with an offence under this section to prove—

- (a) That he—
 - (i) took care to inform himself from persons who were in a position to provide information
 - (ii) did not know and had no reason to suppose that the information given to him was false or misleading and that the deposits or use might be in contravention of section 69 (a) of this Act or;
 - (iii) he acted under instruction from his employer and neither knew nor had reason to suppose that the deposit or use was in contravention of the said Bill; or

- (iv) in case of an offence of making or causing or permitting a deposit or use otherwise than in accordance with conditions specified in a disposal licence, that he took all such steps as were reasonably opened to him to ensure that the conditions were complied with; or
 - (v) that the acts specified in the charge were done in an emergency in order to avoid danger to the public and that as soon as reasonably practicable after they were done, particulars of them were furnished to the disposal authority in whose area the acts were done.
72. (a) An application for a disposal licence in respect of any land in the area of a disposal authority must be made in writing to the authority and include such information as is prescribed IN Appendix A and B.
- (b) A disposal licence shall not be issued for a use of land, plant or equipment for which planning permission is required in pursuance of the Physical Planning Act, Urban areas and Cities Act, County Government Act, unless such permission is in force but provision be made by regulation for an application for a disposal licence to be considered while an application for any proceedings connected with either application to be conducted concurrently with any proceedings connected with the other application.
 - (c) Where a disposal authority receives an application for a licence for use of land, plant or equipment of which such planning permission aforesaid is in force it shall be the duty of the authority not to reject application, unless the authority is satisfied that its rejection is necessary for the purpose of preventing pollution of water or danger to public health.
 - (d) Where a disposal authority proposes to issue a disposal licence, it shall be the duty of the authority before it does so—

- (i) to refer the proposal to the water authority and Environment Authority of which the area includes any of the relevant land to any other prescribed person; and
 - (ii) to consider any representations about the proposal which during the period of twenty one (21) days beginning with that on which proposal is received by a body or person mentioned in paragraph (a) of this sub-section or during such longer period as the disposal authority and that body or person agree in writing the disposal authority received from that body or person (including in particular any representations about the conditions which that body or persons considers should be specified in the licence) and if a water authority to which the proposal is referred requests the disposal authority not to issue a licence or disagrees with the disposal authority as to the conditions to be specified in either of them may refer the matter to the Executive Member for Environmental Management or Executive member for water and/or any other licensing Authority, the licence shall not be issued in accordance with his/her decision.
- (e) A person who in an application for disposal licence make any statement which he knows to be false in a material particular shall be guilty of an offence and liable to on summary conviction to a fine not exceeding fifty thousand shillings (KSh. 50,000/=) or conviction on indictment to an imprisonment for a term not exceeding two (2) months or both to such a fine and imprisonment.
- 73.** (a) Provision may be made as to the conditions which are not to be specified in a disposal licence.
- (b) Subject to the provisions made in pursuance of the procedure sub-section, a disposal licence may include such conditions as the disposal

authority which it sees fit to specify in the licence and without prejudice to the generality of the preceding provisions of this sub-section any such conditions may relate to—

- (i) the duration of the licence;
 - (ii) the supervision by the holders of licence of activities to which the licence relates;
 - (iii) the kinds and quantities of waste which may be dealt with in pursuance of the licence or which may be so dealt with during a specified period the methods of dealing with them and the recording of information related to them;
 - (iv) the precautions to be taken on any land or plant or equipment which the licence relates;
 - (v) the steps to be taken with a view to facilitate compliance with any conditions of such planning permission as are mentioned in sub-section (b) (i) of the preceding section;
 - (vi) the hours during which toxic and hazardous waste may be dealt with in pursuance of the licence; and
 - (vii) the works to be carried out in connection with the land, plant or equipment to which the licence relates before the activities authorized by the licence are began or while they are continuing and it is hereby declared that a condition may require the carrying out of works or the doing of any other thing to which the authority considers appropriate I connection with the licence notwithstanding that the licence is not entitled as of right to carry out the works or do the thing.
- (c) The holder of a disposal licence who without reasonable excuse contravenes a condition of the licence which is pursuance of provision made by virtue of sub-section (i) of this section

shall be guilty of an offence and liable on a summary conviction to a fine not exceeding Fifty Thousand shillings (KSh. 50,000).

74. (a) Where—

- (i) an application of a disposal licence or a modification of a disposal licence is rejected;
 - (ii) a disposal licence which specifies conditions;
 - (iii) the conditions specified in a disposal licence and modified; or
- (b) A disposal licence is revoked the applicant for the licence or as the case may be the holder or last holder may in accordance with the provisions, appeal from the decision in question to the Executive member for Environment, within a period of (21) days from the dates when application was rejected and where on such an appeal the Executive Member determined that the decision is to be altered it shall be the duty of disposal authority and any other licensing Authority concerned to give effect to the determination.

75. While an appeal in pursuance of the section 71 is pending in the decision made thereof shall be stayed pending the determination of the appeal. If the appeal is dismissed or withdrawn the decision of the county shall be effective from the end of the day on which the appeal is dismissed or withdrawn.

76. (a) On the issuance of a waste the disposal permit in appendix C, a disposal authority shall require the holder of such a licence to secure and fill consignment note forms for the carriage and disposal of toxic and hazardous waste. (a sample of this form is indicated in appendix A of this Bill), forms of which will have a distribution of six copies thereof as follows—

- (i) White Pre-notification
- (ii) Blue Producer's WDA copy (dispatch)

- (iii) Green Producer's copy
 - (iv) Yellow Producer's WDA copy (records)
 - (v) White Carrier's copy
 - (vi) Pink Disposal site records copy
- (b) Consignment note for the carriage and disposal of toxic or hazardous wastes shall be sold by a disposal authority at a fee of one hundred shillings subject to revision by the County from time to time.
- (c) The disposal licence shall be renewed annually and unless otherwise specified in this Act, all producers of toxic, hazardous and clinical wastes shall be required to obtain a valid annual waste disposal licence which shall expire on the 31st December of every year.
77. (a) It shall be the duty of the County to take all reasonable measures to protect the environment and among other measures to require all the existing and new developments to submit environmental impact assessments (EIAs) and Environmental Audits, as the case may be
- (b) Such assessments and reports in the preceding section shall be compiled by suitable, qualified consultants, registered under relevant laws and such assessments and reports to be submitted within the prescribed period specified by the County from time to time.
- (c) Failure to submit such assessments and reports and within the specified period shall be liable to an offence and upon conviction be liable to a fine not exceeding sixty thousand shillings (60,000/=) or an imprisonment not exceeding twelve months or both a fine and imprisonment.
- (d) It shall be the duty of every industry or person who produces any effluents to produce samples of such effluents and have it analysed by the Government Chemist at least at an interval of three months. The copies of these analysis reports from such sample shall be made available to the County every three months.

- (e) Failure to submit such analytical reports within the specified reports shall be an offence and upon conviction be liable to a fine not exceeding Kenya Shillings Sixty Thousand (60,000/=) or to an imprisonment not exceeding twelve months or to both such fine and imprisonment.

PART VIII—RECYCLING

78. (1) All persons dealing in recycling shall required to obtain licences.

(2) Such licences shall be issued under the following conditions—

- (a) the recycling exercise must not be carried out within the estates;
- (b) the recycle wastes shall be dumped in designated areas;
- (c) the recycler shall submit his collection plan from its customers to the county;
- (d) he must not have breached this act in the preceding year;
- (e) he must not deal with recyclables which can expose danger to the public.

79. All portions of vehicles and containers used to haul, transport or dispose of Recyclable Materials, including such containers placed outside of residences, shall be subject to inspection to ascertain compliance with this law.

80. Recyclers shall be held liable for damages caused by any waste material that has been taken to them in their premise.

81. Recyclers shall not accept any item that is used as signage, lamp post, road barriers, litterbins, electrical cables or any other item that is being used by any other authority.

82. The county may provide waste receptacles for disposal of recycled items.

83. All recyclers shall dispose their waste at the designated waste transfer centres.

84. Contravening this part shall attract a fine of KSh. 500,000, or three years imprisonment and or both.

PART IX—MISCELLANEOUS

85. The county may license or hire private waste collectors, waste pickers, transporters and recyclers to help it in the to help the county in disposal of waste.

86. The local communities, women and youth shall be encouraged and provided with an affirmative action to enable them access the right to help the county to dispose wastes.

87. The county government shall license the service providers under this part only in circumstances under which such providers would have complied with relevant national laws.

PART X—TRANSITION

88. Part IV of this Act shall come into effect on such date as shall be directed by the Member of the County Executive in charge of environment and waste disposal issues but any event not later than the 1st of December 2014.

COUNTY GOVERNMENT**(Solid Waste BILL 2014)****APPENDIX A**

Serial No.....

Telephone No.

Consignment Note for the Distribution of copies**Carriage Disposal of Toxic/White Pre notification copy****Hazardous waste** Blue - producers WDA

Green - producers copy

Yellow- producers WDA (records)

White - Carrier copy

Pink - Disposal Records copy

Producer's certificate "A"

1. The material described in B is to be collected from

2. Taken to Sign.....

Position..... address.....

Date.....Estimated date of collection.....

Description of the Waste "B"

1) General description and physical nature of waste

2) Relevant chemicals and biological components and maximum concentrations.

3) Quantity of waste and size type and containers Process(es) from which originated

Carrier's collection

I certify that I collected the consignment and that the information

Given in a (1) and (2) B (3) is correct subject to any amendment.

Listed in this space

I collect the consignment on..... athours

.....

Vehicle Registration No.....

On behalf of.....

Address & telephone.....date.....

Producer's collection Certificate "D"

I certify the information given in B and C is correct and the carrier was advised of appropriate precautionary measures

Signed.....Name.....

Telephone.....Date.....

Disposal certificate "E"

I certify that waste disposal licence No.issued

County Government of Kisumu authorized the treatment disposal at this facility of the waste described in B (as amended where necessary at ()

"F"

1. NEMA License is mandatory,

2. NEMA waste transportation License is mandatory

3. Licensing of waste transporters as well as NEMA licensing of disposal sites was not devolved.

Name and address of facility

.....
.....

This waste was delivered in vehicle Reg. No.....at

.....hours on.....Date..... and the
carrier gave his name ason behalf
of

Proper instruction were given that the waste should be taken to

.....
.....

Name.....signed.....

Dateon behalf of.....

(for use by Producer carrier)

COUNTY GOVERNMENT OF KISUMU
(SOLID WASTE MANAGEMENT BILL 2014)

APPENDIX B

PRE-NOTIFICATION COPY

**CONSIGNMENT NOTE FOR THE CARRIAGE AND DISPOSAL OF
CLINICAL WASTE**

Producer's certificate

1) The material described in B is to be collected from.....
and (2) taken to.....

Name..... Signed.....

On behalf ofposition

Address.....Tel.

Estimated date of collection.....

Description of waste	Clinical Waste volume of container/Trailer	No. polythene Bins	No. of sharps Bins
B	Vehicle No. sample		

Carrier's collection

I certify that I Collected the consignment of waste and that the information given in A(1) and (2) B is correct, subject to any amendment listed in this space.

I collected this consignment onat.....hours

Name..... signed.....

Vehicle Reg Telephone.....

Date.....

Producer's collection

I certify that the information given in B and C is correct and that the Carrier was advised of appropriate precautionary measures.

Name..... signed.....

Telephone..... Date.....

Disposer's certificate

I certify that the disposal licence No. issued by

.....

"F"

County Government of Kisumu authorized the incineration of the waste described in (and amend where necessary at ()

Name and address of incinerating facility

.....

.....

.....

This waste delivered in vehicle (Reg. No.)..... athours

on..... and the carrier gave his name as.....

on behalf ofproper instruction were given that the waste should be taken to

.....

Name..... signed.....

Position..... Date.....on behalf of

For use By Producer Boxes must not be filled with those waste clinical waste must be secured in plastic.

Carrier disposer

Sacks prior to boxing and these sacks must conform to the Specification contained on the recommendation of the Council "the safe disposal of clinical waste".

COUNTY GOVERNMENT OF KISUMU
(SOLID WASTE MANAGEMENT BILL 2014)

APPENDIX C

WASTE DISPOSAL LICENCE

Hereby grant a waste disposal licence pursuant to an application dated in respect of the following:

Full Name and address of licence holder

.....
.....

Full name and address of local representative (if any) of licence holder

.....
.....
.....
.....

Type of waste of which deposit/disposal is authorized and any limitation as to qualify

.....
.....

This licence is granted subject to the following conditions

.....
.....

As per attached schedule

Date.....signed.....

Destination

The licence holder should read carefully the notes overleaf.

Disposer's certificate

I certify that the disposal licence No. issued by "F"

County Government of Kisumu authorized the incineration of the waste described in (and amend where necessary at ()

Name and address of incinerating facility

.....

.....
.....
This waste delivered in vehicle (Reg. No.).....at.....hours
on..... and the carrier gave his name as

On behalf ofproper instruction were given that the waste
should be taken to

.....
Name.....signed.....

Position..... Date.....on
behalf of

For use By Producer Boxes must not be filled with those waste clinical
waste must be secured in plastic.

Carrier disposer

Sacks prior to boxing and these sacks must conform to the Specification
contained on the recommendation of the Council “the safe disposal of
clinical waste”.

-
.....
.....
- 1) The licence holder shall notify County Government of Kisumu of
any proposed change in the actual conduct of operations from
proposals shown in the operational plan as altered by any previous
changes, at least one (1) month before proposed change is
implemented.
 - 2) Quantities of waste accepted for treatment at the plant shall not
exceed the limit of its operational and storage capacity as stated in
the application.
 - 3) The gate and fencing provided to the site shall be maintained to
same height and kept in a good state of repair. All reasonable
precautions should be taken to prevent unauthorized access to the
site.
 - 4) An identification board of durable material and finish shall be
displayed at the entrance. This shall show the hours of operation

and shall be given the name of the facility, the address, address and telephone number of the operator (and his local agents). It shall show the name and address of the waste disposal authority responsible for licensing the facility VIZ "license by County Government of Kisumu, Environment department".

- 5) A record shall be kept of the type and quantities of waste delivered to and the residues removed from, the facility and the records shall be kept available for inspections duly authorized officers of the County Government of Kisumu for eighteen (18) months.
- 6) The terms of the disposal licence shall be made known to any person who is given responsibility for the management or control of the facility and the copy of the licence be displayed at the prominent point within the facility.
- 7) Operational instructions shall be kept available and shall be displayed at the facility.
- 8) Tank used for the same storage of liquid waste shall be bonded and areas surrounding them shall be controlled to ensure that spillage are either contained or drained to intermediate buffer vessels. They shall be of the type and constructions suitable for the wastes they contain and shall be suitably marked to show their content.
- 9) Adequate management and technical supervision shall be provided at the plan throughout operating hours.
- 10) All temporary cessations of which require a transfer of diversion of waste delivered at the facility to facilities elsewhere shall be notified forthwith to the County Government of Kisumu, Environment department.
- 11) Waste and residues shall not be allowed to accumulate unnecessary at the facility.
- 12) Facilities shall be made available for sampling by the County Government of Kisumu of waste materials entering or leaving the site.
- 13) Storage vessels, pipelines, valves, shall be clearly identified.
- 14) The facility shall at all times be managed and operated so as to avoid creating a nuisance to the inhabitants for the neighbourhood.

MEMORANDUM OF OBJECTS AND REASONS

This bill seeks to promote sustainable waste management practices in Kisumu county and to improve the living conditions of Kisumu's population by promoting best practises in waste management and disposal.

Dated the 19th June, 2014.

MAURICE ONDIEK,
Chairperson, Environment and Agriculture.

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA