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**MACHAKOS COUNTY ENVIRONMENT MANAGEMENT ACT,
2022**

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Date of Commencement: 13th June, 2022

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**MACHAKOS COUNTY ENVIRONMENTAL MANAGEMENT
ACT, 2022**

AN ACT of the County Assembly of Machakos to give effect to the Fourth Schedule of the Constitution, to provide for matters relating to environmental management including refuse removal, refuse dumps, solid waste disposal, control of air pollution, noise pollution or other public nuisances, to provide for the efficient and sustainable management of waste and to establish the institutional framework for environmental management and control of pollution and for connected purposes.

ENACTED by the County Assembly of Machakos, as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Machakos County Environmental Management Act, 2022.

Interpretation

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

“air pollution” means any change in the composition of air caused by air pollutants;

“air pollutants” include—

- (a) fumes, smoke, particulate matter, vapour, gas, odorous substance or any combination thereof; or and
- (b) any other substance or matter whether physical, chemical, biological, or radioactive, including source material, special nuclear material, and by-product materials, which is emitted into or otherwise enters the atmosphere from any object or activity and causes, or, if unabated, may cause air pollution, but does not include water vapour, steam condensate or any other emission exempted under any written law;

“Authorized officer” has the meaning assigned under section 2 of the County Governments Act No. 17 of 2012;

“Chief Officer” means the Chief Officer in charge of matters relating to the environment;

“County” means the County of Machakos;

“Department” means the county department responsible for matters relating to the environment;

“disposal” means removal of waste including its deposits, destructions, discharge whether into water or into the air or into a sewer or drain or otherwise or burial whether underground or otherwise;

“Director” means the Director in charge of the Department responsible for matters relating to the environment;

“domestic animals” include ass, mule, ox, bull, cow, goat, sheep or pig;

“Executive Committee member” means the County Executive Committee member responsible for matters relating to the environment;

“hazardous waste” means controlled waste which has the potential, even in low concentrations, to have significant adverse effect on the environment and human health on account of its inherent chemical and physical characteristics, such as toxic, ignitable, corrosive, or other properties;

“noise pollution” means the emission of uncontrolled noise that is likely to cause danger to human health, or damage to the environment;

“owner” includes any person, other than the government, receiving the rent or profits of any lands or premises from any tenant or occupier therefore or who would receive such rent or profits if such land or premises were let whether on his or her own account or as an agent for any person, other than the government, entitled thereto or interested therein; the term includes any lessee or licensee from the government and any superintendent, overseer or manager of such lessee or licensee residing on the holding;

“polluter pays principle” refers to the policy of making the party responsible for producing pollution liable to paying for the damage done to the natural environment in order to right the damage caused;

“pollution” means any direct or indirect alteration of the physical, thermal, chemical, biological, or radioactive properties of any part of the environment by discharging, emitting, or depositing wastes so as to effect any beneficial use adversely, to cause a condition which is hazardous or potentially hazardous to environmental 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 license under this Act;

“solid waste” means any useless, unwanted material generated from everyday human activities and include garbage, refuse, sludge and other discarded material, resulting from industrial, commercial, mining, and agricultural operations, and from community activities;

“waste management activity” means any activity administrative and operational and includes—

- (a) the importation and exportation of waste;
- (b) the generation of waste, including the undertaking of any activity or process that is likely to result in the generation of waste;
- (c) the accumulation and storage of waste;
- (d) the collection and handling of waste;
- (e) the reduction, re-use, recycling and recovery of waste;
- (f) the trading in waste;
- (g) the transportation of waste;
- (h) the transfer of waste;
- (i) the treatment of waste; and
- (j) the disposal of waste.

Objects and purpose

3. The object and purpose of this Act is to—

- (a) make provision for a clean and healthy environment;
- (b) promote sustainable waste management;
- (c) provide for the establishment of environmentally sound infrastructure and systems for waste management;
- (d) promote and ensure effective delivery of waste management services;
- (e) provide for the reduction of all forms of pollution including land-based, air noise and water pollution;
- (f) provide for ways of improving conditions and health of waste pickers, sorters and handlers;
- (g) create an enabling environment for green economy jobs in the waste management and recycling and recovery industry especially for youth, women and persons with disability;
- (h) inculcate responsible public behavior on waste management and the environment including the prevention of soil erosion and land degradation;

- (i) provide for environmental conservation including forest landscape restoration and the maintenance of urban green spaces;
- (j) provide a framework to encourage public participation in the management, protection and conservation of the environment including the protection of river valleys and riparian areas and wetlands;
- (k) provide for and regulate the participation of the various actors in the solid and liquid waste management in the county;
- (l) initiate and support strategies to promote circular economy in waste management; and
- (m) promote sustainable production and consumption by the private sector, government agencies and the general public.

Right to a clean environment

4. The County Government shall take legislative, policy, administrative and other measures to ensure the full realization of the right to a clean environment as guaranteed by the Constitution.

PART II—ADMINISTRATION

functions of the Department

5. The County Department in charge of matters relating to environment shall, in addition to any other functions assigned to it, perform the following functions relating to the environment and waste management—

- (a) set the standards for environmental management;
- (b) enforce compliance with this Act;
- (c) develop policies and codes of practice on environmental management;
- (d) identify risks to the environment;
- (e) co-operate and co-ordinate with the national government and other actors on environmental management;
- (f) advice the County Government on environmental management, protection and promotion;
- (g) initiate and develop procedures and safeguards for the prevention of accidents which may cause environmental degradation and evolve remedial measures;

- (h) enhance environmental education, public awareness and public participation in matters relating to environmental protection; and
- (i) perform any other function as may be necessary for the attainment of the objects of this Act.

Authorized Officers

6. The County Executive Committee Member in consultation with the County Public Service Board, shall designate Authorized Officers under this Act.

Application for a license

7. (1) A person who intends to engage in waste management business shall make an application for a license to the Director in the prescribed form.

(2) The application under subsection (1) shall—

- (a) be in the prescribed form;
- (b) contain such information and be accompanied by such documents as are required in the approved form; and
- (c) be accompanied by the prescribed application fee.

(3) The Director shall publicize all applications received and invite members of the public to express their views on the applications in writing to the Director.

(4) In considering an application for a license, the Director shall take into account representations made by the members of the public.

Application for renewal

8. An application for the renewal of a licence shall be made to the Director not later than the first day of the month of June in the year that the current permit is due to expire.

PART III —SOLID WASTE MANAGEMENT

Cooperation on solid waste management

9. The county government shall cooperate with other actors who are involved in solid waste management including generators of solid waste, owners and occupiers of premises and contracted service providers to ensure proper management of solid waste.

Waste management plan

10. (1) The Director shall prepare a five-year Waste Management Plan for the County.

- (2) The Waste Management Plan shall include—
- (a) information on the kinds and quantities of waste likely to be present within the county during the plan period;
 - (b) the methods by and arrangements under which the waste should be treated or disposed of;
 - (c) the sites and equipment which the county government and other persons are providing or propose to provide for treating and disposing of the waste; and
 - (d) an investment plan for implementing the plan.

Schemes for waste disposal

11. (1) The Director shall establish and maintain schemes for the removal and destruction of all kinds of waste generated within the county.

(2) The Director may establish different schemes for different zones of the county or different categories of waste.

(3) The Director may compel the use of certain schemes by persons residing in or carrying on business or other activities within the county.

Transfer of waste

12. (1) Any person who produces, carries, keeps, treats, disposes of, handles waste or who otherwise has control of waste shall only transfer such waste to an authorized person.

(2) Any person who handles waste as described in subsection (1) shall declare to Director, the description of the waste in the prescribed manner.

(3) The duty under sub-section (1) does not apply to an occupier of a domestic property in respect to the household waste produced on the property.

Duty to clean premises

13. Every occupier, owner or agent of a house, or other premises shall clean or cause to be cleaned, any waste arising from the premises around his or her house or any other premises or any area otherwise in his or her control but shall not include a main road or a street.

Giving false information

14. A person who gives false or misleading information in an application for a licence under this Act commits an offence.

Revocation, Alteration, suspension or cancellation of license

15. (1) The Director may revoke, alter or suspend for a specified period or cancel a license if—

- (a) the licensee breaches the terms and conditions of the license;
- (b) the licensee is negligent in managing waste as authorized in the license; or
- (c) for any other justifiable reason given by the Director.

(2) On the initiative of the Director or on application by the license holder, the Director modify the terms and conditions of the license.

Transfer of license

16. The holder of a license may transfer or assign the license to another person but such a transfer shall only be effective upon approval by the Director.

Surrender of license

17. The holder of a license may surrender the license by returning the license to the Director but such surrender shall only be effective upon approval by the Director.

Licensing of waste transporters

18. Any person who transports or otherwise deals in waste management for profit without a license commits an offense.

Exemption from licensing

19. The Director may, upon application exempt any person from taking out a license under this Act.

Authorized officer may stop and search

20. An Authorized Officer may stop any person who appears to be transporting waste and require that person to produce the license for transporting that waste and search any vehicle that appears to be used for transporting waste.

Register of license

21. The Director shall maintain a register of all licenses issued under this part.

(1) The Director shall provide access to the register to members of the public at free of charge during the normal working hours.

(2) The Director shall accord members of the public reasonable facilities for obtaining, on payment of reasonable charges, copies of entries in the register.

County Government duty to dispose of domestic and street waste

22. (1) The Director shall ensure the collection, treatment and disposal of all domestic waste and street waste or other waste generated or otherwise arising within the county.

(2) The Director shall take all necessary and reasonably practicable measures to maintain all places falling within the county in a clean and sanitary condition at all times.

(3) For purposes of carrying out the duties under sub-section (1) the Director may enter into such agreements with third parties as may be appropriate including contracts, franchises, and concessions.

Disposal of trade waste

23. (1) A person who generates trade waste or on whose premises trade waste otherwise arises shall—

- (a) ensure the collection, treatment and disposal of all such trade waste; and
- (b) take all necessary and reasonably practicable measures to ensure that the trade waste is not released into the environment so as to cause its pollution.

(2) Every occupier or tenant of any trade premises shall provide and maintain a container for trade waste and shall cause all trade waste from their premises to be placed in such a container.

(3) The Director shall by regulation prescribe the container to be maintained in subsection (2).

Disposal of hazardous or clinical waste

24. (1) A person who generates hazardous or clinical waste or on whose premises hazardous or clinical waste otherwise arises shall make arrangements, including the separation of such waste from other non-hazardous waste or non-clinical waste, for the proper management of the waste.

(2) The Director may in writing give instructions to a person who generates hazardous or clinical waste on the manner of disposal of such waste.

Disposal of bulk waste

25. (1) A person who generates bulk waste or on whose premises bulk waste otherwise arises shall make arrangements for the proper management of such waste.

(2) The Director may in writing give instructions to a person who generates bulk waste on the manner of disposal of such waste.

Disposal of domestic waste

26. (1) Every occupier or tenant of any residential dwelling shall provide and maintain a container for domestic waste and shall cause all domestic waste from their premises to be placed in such a container.

(2) The Director shall by regulation prescribe the container to be maintained in subsection (1).

Storage of waste

27. (1) Every occupier or tenant of any premises shall ensure that any waste stored in their premises does not cause a nuisance or become detrimental to the amenity of the locality in which the premises are situated.

(2) Where it appears to an Authorized Officer that there is likely to be, on any premises, waste of a kind or in quantities which, if the waste is not stored in particular manner is likely to cause a nuisance or become detrimental to the amenity of the locality in which the premises are situated, the Authorized Officer may, by notice, require the occupier of such premises to store the waste in a manner specified in the notice.

Separation of waste

28. Occupiers of domestic and trade premises shall separate waste which can be recycled and place them in a different container provided by the county or the waste operator as the case may be for the purpose.

Offense of improper disposal of waste

29. It is an offense for any person to burn, throw away, or otherwise dispose of domestic and trade waste other than by handing it to, or where there is an arrangement to that effect, leaving it at an appropriate place and in an appropriate container, for collection by a licensed waste manager, operator or a registered waste transporter.

Mode of disposal of waste

30. The Director may use any mode of waste disposal including the following modes of waste disposal depending on the nature, quantities and location of the waste—

- (a) controlled tipping;
- (b) sanitary land filling;
- (c) recycling;
- (d) compositing;
- (e) incineration; or
- (f) any other disposal method.

Permitted waste disposal areas

31. A person shall dispose waste only in permitted waste disposal areas or at an approved disposal facility.

Designated waste deposit areas

32. (1) The Director shall designate places at which to deposit waste before it's transferred to a place for its final disposal and places at which to dispose of waste and plant and equipment for processing it or otherwise disposing of it.

(2) The Director shall establish adequate waste disposal areas and ensure accessibility by all residents of the County.

(3) The County Government may permit another person to use facilities provided by it with or without a charge as may be appropriate.

(4) The County Government shall license persons operating waste collection centers.

Records on waste disposal

33. (1) The person in charge of a waste disposal facility and the person delivering waste to the facility shall maintain a record of all waste loads disposed of at the facility.

(2) The record in subsection (1) shall take the form of a delivery note signed by both parties at the time of disposal of each load.

(3) The records in subsection (1) shall be kept for a period of five years and shall be availed to the county government on request.

Handling of waste

34. A person shall not handle waste, including sorting or disturbing waste which has been deposited in a designated waste disposal site or waste containers provided by the County Government, unless that person is authorized to do so by the county government.

Small scale waste resource recovery activities

35. The Director shall facilitate small scale waste resource recovery activities to be undertaken on by organized groups at designated sites before disposal of waste.

Recycling of waste

36. A license holder may recycle, process for reuse, resale, or otherwise dispose of waste or anything produced from such waste.

Waste Management charges

37. (1) The Director shall issue directions on charges on waste management services.

(2) The directions shall specify—

- (a) the amount of charges to be imposed for different categories of services or for services in different localities or zones within the County;
- (b) the mode of payment and receipt of the charges; and
- (c) provisions as to the penalty for failure to pay the charges.

(3) Directions on charges on waste management services may provide for the imposition of a levy to meet the costs of general cleansing but any such levy must be itemized separately on the waste bill or other invoice.

Monitoring, inspection and enforcement of waste management activities

38. (1) The Director shall establish and implement a system of monitoring, inspections and enforcement of waste management activities.

(2) The Director shall inform and keep the public informed of steps it is taking to implement and improve waste management within the county.

Entry into premises for inspection

39. An Authorized Officer may at all reasonable times, enter any residential dwelling or trade premises within the county for the purposes of conducting any inspection, inquiry or the execution of works under this Act.

Charge recoverable as a civil debt

40. In addition to such penalties for non-payment as may be stipulated in the directions issued by the county government for non-payment of charges for waste management services, any waste management charge payable under this Act shall be a debt due and owing

to the collector and may be recovered as a civil debt at the instance to the collector or any person authorized by the collector to collect on its behalf.

Third party actions

41. Any power or function conferred on the county government under this Act may be exercised or performed by a third party pursuant to an agreement between the County Government and the third party and will be deemed to have been exercised or performed under the authority of this Act.

Provision of street litterbins

42. (1) The county government shall provide litter bins for the disposal of litter in the streets and other public places.

(2) Any person who tampers with a litterbin, dustbin, bulk container or any other refuse receptacle commits an offence.

(3) Any person who throws litter in the streets, or disposes off litter in any place other than the litterbins provided commits an offence.

Offence of littering

43. Any person who throws litter in the streets, or disposes off litter in any place other than the litter bins commits an offence.

General penalty

44. Any person who commits an offense under this part for which no other penalty is provided shall be liable upon conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months or to both.

PART IV—DRAINAGE AND SEWERAGE

Conveyance of surface water

45. Every developer of a building shall make adequate provision for conveying surface water from such building to a surface water sewer.

Provision for conveyance of foul water

46. (1) Every owner of a building shall maintain in good state of repair the drainage and sewerage system of their buildings and in so doing provide guttering on downpipes or execute such other work as may be necessary to any surface water sewer which is within seventy yards of the boundary of the plot on which such building is erected.

(2) Where there is no surface water sewer within seventy yards of the plot of the building or if it is not practical to connect to a sewer or otherwise suitably dispose of surface water the owner of the building shall

convey the conveyance of the foul water in such a manner as may be by written notice be given by the Director.

(3) An Authorized Officer may give notice to an owner of a building requiring that, within such reasonable time as may be specified, provide a drain connecting to any sewer which is within seventy yards of the boundary of the plot on which such building is erected, or where it is not practical to connect with a sewer, the emptying into a septic tank or otherwise, as the Director in writing may require.

(4) Every drain shall be constructed of such materials, be of such size and be laid at such level and in such a manner as the Director, in writing, may require.

Construction of private sewer

47. (1) The Director may, in writing, order the owners of buildings within a certain area, to construct within a specified period of time, a private sewer to connect to a public sewer.

(2) The owners of the buildings in subsection (1) shall construct the private sewer in accordance with plans approved by the county government.

(3) The cost of the construction, repair and maintenance of the private sewer under subsection (1) shall be apportioned between the owners of such building in such manner as the county government shall determine.

(4) The Director shall control and maintain any main public sewer system in the County.

Drainage in a new building

48. (1) Every new building shall be provided with an effective drain, to be constructed in accordance with the county government's requirements, emptying into such public sewer as are within seventy yards of the boundary of the plot on which such building is situated.

(2) if there be no public sewers within seventy yards of the plot on which the building is situated, or if it is not practical to connect with such sewers, the sewer should be constructed to empty into a septic tank or soak ways or otherwise as the Director may by written notice specify.

(3) A person shall not occupy or permit to be occupied any building unless it is equipped with an effective drain as provided in sub-section (1).

(4) In this section "new building" shall include any building and two external walls of which have been pulled down to or below the level of the ground floor and which has been rebuilt.

Prohibition of conveyance of foul or rain water

49. (1) A person shall not cause any sub-soil surface store or rain water or any drain for conveyance with any fouled water or with any drain for conveyance of such waters to discharge into any foul sewer or with any foul water of any drain for the conveyance of sub-soil surface, storm or rain water or with fats, oils, grease, used oil and hazardous household liquids.

(2) If it appears to the county that any building is not provided with drain or other appliance for carrying off waste water from such building, the owner of such building shall on receipt of a notice from the authorized officer requiring him or her to do so, provide such drain within reasonable time as may be specified in such notice.

Connection to a foul sewer

50. (1) If any sanitary accommodation of a type other than a water closet is erected on a plot and the boundary is within seventy yards of a foul sewer, and it is practical to connect with such foul sewer, the county government may, by notice in writing, require the owner of such plot, within reasonable time, to connect such sanitation by means of an approved drain to the foul sewer.

(2) If any sanitary accommodation of a type other than a water closet is installed or erected on a plot where the boundary is not within seventy yards of a foul sewer, the county government may by a notice in writing require the owner thereof, within such reasonable time as may be specified in such notice to convert such sanitary accommodation into or replace it by water borne sanitation or if there is an adequate septic tank into which such water borne sanitation may drain the septic tank, then the county government may require the owner thereof to construct within a reasonable time an adequate septic tank and connect such water borne sanitation thereto.

(3) Where, under this Part, any sanitary accommodation has been replaced by water-borne sanitation, the county government may by notice in writing require the owner of such sanitary accommodation to remove it within such time as be specified in such notice.

Notice to connect

51. (1) Where the sewerage or waste water from a building erected on a plot and the boundary whereof is within seventy yards of a public sewer and it is practical to connect to such sewer empties into a cesspool, septic tank, or elsewhere than into a sewer, the County Government may, by written notice require the owner of such building within such reasonable time as may be specified in such notice, to cause the sewerage

or waste water from such building to discharge into such public sewer in a manner and by the use of such materials as the county government may require.

(3) The county government may thereafter, by notice in writing, require the owner of such building within such reasonable time as may be specified therein to remove such cesspool, septic tank or other receptacle and to fill in the ground form which it may be removed.

Maintenance of drains

52. The owner of any building shall, at his or her own expenses, maintain all drains and all drainage works constructed upon or in connection with such building in an efficient condition and in a proper state or repair to the satisfaction of the county government.

Examination of drainages

53. (1) If it appears to an Authorised Officer that any drain, sanitary accommodation, cesspool, septic tank, or other appliance or drainage of any building is in a bad state of repair or is inefficient or is a nuisance or injurious or dangerous to health may, after twenty four hours written notice to the occupier of such building or, in the case of emergency, without notice, cause such building and the cartilage thereof to be entered and the ground to be opened and such drain, sanitary accommodation, cesspool, septic tank or other appliance or apparatus for drainage to be examined.

(2) If, after service of the notice as aforesaid the owner neglects to comply with the provision thereof or if such owner cannot immediately be found, the authorized officer may cause such works as he or she thinks proper to be done for effecting the removal of such stoppage and the expenses thereof shall be payable by the owner and shall be a civil debt recoverable summarily.

(4) The costs and expenses incidental to the removal of any stoppages as aforesaid in a private sewer shall be apportioned by the county government between the owners of such premises as are drained into such private sewer.

Prohibition of draining into a public sewer

54. Where in the opinion of an Authorized Officer, the introduction into any public sewer of any solid matter, suspended matter, mud, chemical or trade or manufacturing affluent or other waste inclusive of vapours or gaseous matter or any steam condensing water, heated water or other liquids, whether directly or through any drain or channel communicating with such public sewer either does or may cause a

nuisance or involve danger to the health of persons entering such sewer, or others, or is or may be injurious to the structure or materials of such sewer, or other works, the Authorized Officer may serve upon the owner or occupier of any premises a written notice, absolutely prohibiting from a date to be stated in such notice, not being earlier than fourteen days from the date to be stated in such notice, not being earlier than fourteen days from the date of service of such matter or matters as aforesaid being caused or permitted to fall, flow or enter or be carried or washed into, any public sewer either directly or indirectly.

Grant of permission

55. (1) The county government may grant permission for the matter referred to in this part to flow into any public sewer upon such terms and for such period and during such time as it may in its absolute discretion determine.

(2) Where the county government grants permission, under subsection (1), for any matter referred to in part to flow into any public sewer, and extra expense is or is likely to be caused to the county government, then the terms for the granting of such permission may include a provision for the payment to the county government by the person requiring such permission of such sums as the County may decide, and such sum or sums shall be in addition to any other fees or charges which may fall due to the county government.

(3) Any person who contravenes or fails to comply with the terms of any permission commits an offence.

(4) Where a person has been convicted of an offence under this part, the Authorised Officer may revoke any permission issued under this part.

Inspection chamber

56. The county government may, at its own discretion, by notice require the owner of any premises from which a private sewer connects to any public sewer to construct in connection with any pipe or channel conveying such affluent, an inspection chamber of such dimensions as the county government may deem fit, and any Authorized Officer shall at all times have access to such chamber and may examine and measure the discharge from such premises and may take samples there from.

Interfering with free flow of sewerage

57. A person shall not throw or introduce or cause or permit any other person to throw or introduce into any septic tank, cesspool, drain, soil-pipe solid-water fitting or sewer, any stones, tins bottles, ashes or other matter

liable to interfere with the free flow of sewerage or damage any such septic tank, cesspool, drain, soil water fitting or sewer.

Maintenance of drainage fittings

58. The owner or occupier of any premises shall maintain all opening whether for ventilation or otherwise, to any drain, and also all taps, gullies and other drainage fittings in connection therewith in a reasonable clean condition and free from obstruction.

Permission to construct drain

59. (1) The owner of any premises who intends to cause any drain to be constructed in connection with such premises, to empty into a sewer, or who has been required under this Act to construct a drain emptying into a sewer shall submit to the county government an application for permission to construct a drain to connect to such sewer.

(2) An application for permission to construct a drain to connect to sewer shall be in such form as the County Government may from time to time determine and shall be accompanied by such plans and other information as the county government may require.

(3) The fee prescribed in the approved fees and charges currently in use shall be paid to the county government with each application for permission to connect to a public sewer.

(4) As soon as the county government is satisfied that the owner of a building is entitled and has met the requirements necessary to connect to any drain there from with a sewer and that the making of such connection would not contravene this Act the County Chief Engineer shall so notify the owner.

(5) No person other than an employee or agent of the county government shall make any connection.

(6) The county government shall at the earliest practicable date after the service of the notification referred to in sub-section (4) and provided all fees due under this Part have been paid, construct the sewer connection.

(7) The county government may close, demolish or remove any sewer connection made in contravention of this Act and may recover as a civil debt recoverable summarily from the person making such sewer connection or causing such connection to be made.

Conditions for drainage works

60. (1) The owner of any premises who carries out or wishes to carry out any drainage works in any street or other place under the control

of the county government shall comply in all respects with the conditions specified in the Schedule.

(2) The owner of any premises outside the county may, with the consent of the county government and subject to this Act, cause any drain constructed upon or in connection with such premises to empty into any sewer within the county upon such terms and conditions as may be agreed upon between such owner and the county government, but such a person shall not cause any drain to empty into such sewer until the terms and conditions have been agreed upon.

Recovery of costs

61. In all cases where, in accordance with this Act, any work is carried out by the county government in respect of which the county government is entitled to recover the cost from any person, there may be included in the cost claimed and recoverable such sum as the county government shall prescribe to cover the cost of surveys, plans, specifications, quantities, supervision, and the use of tools and plants, and there shall also be included in such cost any expenditure involved in disturbing and making good the surface of any road, street, foot-way or ground affected.

Safety measures

62. Every person who constructs any drain or private sewer shall lay such drain or private sewer and carry out any excavation necessary for the construction of such drain or private sewer in an expeditious manner and shall maintain during the progress of such hoarding, strutting, shoring and lights as may be necessary for the protection of all persons and property liable to be affected by the works.

Requiring for testing

63. Every person who carries out any drainage work shall, as soon as such works is ready for testing, give notice in writing to the Director that such work is ready for testing and shall afford to any works as may be deemed necessary upon receipt of any notice aforesaid and the Director shall within four days cause such work to be inspected and tested.

Cover of drainage work before inspection

64. (1) A person shall not proceed to cover up any drainage work until such work has been inspected, tested, and approved by an authorized officer.

(2) A person who contravenes this sub section commits an offence.

Issuance of a certificate upon approval

65. (1) Where any person carries out any drainage works and where after completion, such works has been inspected, tested and approved, the Director shall upon application, issue to the owner of the premises upon which such work has been carried out a certificate in writing that the said work, after completion, inspection, and testing has been approved.

(2) The certificate in subsection (1) shall not in any way be held to impose any liability on the county government or any of its officers or any authorized officer for any loss or damage that may be caused through such work not being assigned on or carried out in a proper and efficient manner or through any such work being carried out otherwise than in accordance with the approved plans and any provisions of this Act.

Provision of latrines

66. The owner of every building and of every place where workers are employed shall provide sufficient number of latrines for the use of the inhabitants and workers in the building or place, and such accommodation shall be conveniently sited to the satisfaction of the County Health Officer or other authorized officer.

Form of permit

67. (1) A person shall not carry out any drainage works unless such person has been issued with a permit for that purpose by the Director.

(2) The permit in subsection (1) shall be in the form of a plumber's permit or a drain layer's permit and any person to whom any such permit is issued shall be empowered to construct or carry such works as are specified in such permit.

(3) Nothing contained in this Act shall be deemed to prohibit any workman carrying out any drainage works under the direction, supervision and control of the permitted plumber or permitted drain layer, or under the authorization of the county government.

(4) The person seeking registration and grant of permit shall pay to the county government upon the issue of the permit under the Act, the prescribed fees in the approved fees and charges.

Examination of plumbers

68. No plumber's permit or drain layer's permit shall be issued by the county government to any person until such person satisfies to the county government as to his or her competence to carry out the work of a permitted plumber or a permitted drain layer, and the county government

may require any person who seeks or applies for a plumber's permit or a drain layer's permit.

Register of plumbers

69. The county government shall keep and maintain a register of all permits issued under this Part, which register shall be opened to public inspection during office hours.

Inspection of plumber's permit

70. Every person to whom a plumber's permit or a drain layer's permit has been issued by the county government under this Act, shall if called upon at any reasonable time to do so, produce his or her permit for the inspection by a duly authorized officer.

Cancellation of a plumber's permit

71. (1) An authorized officer may at any time, cancel any permit issued to any plumber or drain layer under this Act upon being satisfied that such permitted plumber or such permitted drain layer has either by himself or herself or by his or her workmen caused or permitted any plumbing or drain laying work to be carried out in a negligent or workmanlike manner to the injury of any person or property or contrary to this Act relating to drainage works.

(2) Prior to the cancellation of permit in subsection (1), the county government shall accord the person whose permit it is proposed to be cancelled, an opportunity to be heard.

Failure to comply with a notice

72. (1) If, after service of written notice under this Part the person on whom such notice is served fails to comply with the notice, the expense thereof shall be payable by the persons on whom the written notice was served and shall be a civil debt revocable summarily.

(2) Any person who fails to comply with the requirements of a written notice commits an offence.

Penalties

73. A person who commits an offence under this part or fails to comply with the provisions of this part commits an offence and shall be liable to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding one year or both.

PART V—AIR POLLUTION**Prohibition of air pollution**

74. No person shall, unless licensed, emit or discharge any wastes or pollutants into the atmosphere in contravention of the conditions established under this Act or any other applicable law.

Responsibility to control air pollution

75. The Department shall take the necessary measures to control air pollution including—

- (a) promoting the use of alternative cooking technologies that are non-polluting;
- (b) promoting the development of well-ventilated buildings;
- (c) designating and licensing controlled facilities for purposes of regulating air emissions deemed harmful to the environment;
- (d) regulating smoking in public places; and
- (e) promoting tree planting and expansion of forest cover.

Responsibility of owner or operator of controlled facilities

76. Every owner or operator of a controlled facility shall ensure that emissions from the facility do not cause air pollution in any territory outside the facility, in excess of the prescribed relevant ambient air quality levels.

Responsibility of occupier or operator of premises

77. (1) The occupier or operator of premises shall ensure that exposure of indoor air pollutants does not exceed the exposure limits stipulated under the Factories and Other Places of Work (Hazardous Substances) Rules, 2007 or any other written law.

(2) Where the hazardous substances referred to in sub-regulation section (1) are not covered under the legislation referred to therein, the occupier or operator shall apply the guidelines provided by the manufacturer or supplier of the substances.

(3) The Department shall make regular inspection and ensure indoor pollutants do not exceed the recommended levels.

Permitted pollutant activities

78. Subject to any national legislation, the following operations shall be permissible within the county provided that they are not used for the disposal of refuse—

- (a) back-burning to control or suppress wildfires;
- (b) firefighting rehearsals or drills conducted by county fire service agencies;
- (c) traditional and cultural burning of savanna grasslands;
- (d) burning for purposes of public health protection; and
- (e) emissions of air pollutants from all stationary and mobile sources as may be prescribed.

Refusal to grant or renew license

79. The Director may refuse to grant or renew a license relating to—

- (a) the use of premises as a theatre, music hall, concert room or other place of amusement, or as a restaurant or eating house or the use of premises for the carrying on of any work or trade, on the grounds that—
 - (i) the method adopted or proposed to be adopted by the applicant for preventing noxious or offensive vapors, gases or smells arising from such premises are not efficient; or
 - (ii) the granting of such license or the renewal thereof would be calculated to cause public nuisance or annoyance to persons residing in the neighborhood, or otherwise be against public interest.

Cancellation of license

80. The Director may cancel any license on the ground that the licensee is carrying out work or trade that has been declared to be an offensive trade, on any of the following grounds or on such grounds as by notice, may be specified—

- (a) that the methods adopted by the applicant for preventing noxious or offensive vapours, gases or smells arising from the work or trade have become ineffective;
- (b) that the premises used by the holder of the license have become unsuitable for the purpose; and
- (c) that it is contrary to the public interest for such license to remain in force.

Liaison with other departments and agencies

81. The Department shall, in collaboration with other County departments and the relevant agencies of the National Government and

other relevant organizations including Civil Society Organizations, Non-Governmental Organizations and Community Based Organizations —

- (a) provide methods of abating and regulating air pollution;
- (b) determine protected areas and special areas for the purpose of this Act;
- (c) promote public awareness campaigns relating to measures to safeguard the health of non-smokers from second-hand smoke; and
- (d) take steps to clean up any air pollution where necessary.

Offence of air pollution

82. A person shall not act in a way that directly or indirectly causes, or is likely to cause, air pollution contrary to this Act.

General penalty

83. Any person who contravenes this part commits an offence and shall, upon conviction, be liable to a fine not exceeding two million shillings or imprisonment for a term not exceeding one year or to both.

PART VI—NOISE POLLUTION

Prohibition of noise pollution

84. No person shall, unless licensed, emit or cause or permit to be emitted any noise greater in volume, intensity or quality in contravention of the acceptable conditions established under this Act and any other applicable law.

Responsibilities of the Department

85. The Department shall take necessary steps in order to control noise pollution within the county, including—

- (a) putting in place measures to control noise in special areas like schools, hospitals, residential areas and libraries;
- (b) regulating high noise levels and intense vibrations associated with commercial machinery, public transportation and social activities;
- (c) putting in place measures to regulate the businesses, factories and workshops which, by reason of noise, vibration or other cause, become a source of danger, discomfort or annoyance to the neighborhood, and to monitor the fulfillment of the conditions subject to which such businesses, factories and workshops shall be carried on under this Act;

- (d) regulate high noise levels in conservation areas, protected areas, important bird areas, heritage sites and forests; and
- (e) any other steps for implementing the county policy and strategy on control of noise pollution under this Act.

Offence of noise pollution

86. Subject to any other applicable law, any person who emits noise in excess of the noise emission standards established under this Act shall be guilty of an offence and shall be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding nine months or to both.

PART VII — GENERAL NUISANCE

Prohibition of nuisance generally

87. No person shall create or maintain a nuisance or any other condition likely to be injurious to the environment or that might be injurious to the public and the environment.

Pollution offences on Streets

88. (1) A person commits an offence if such a person conducts any of the following acts on any street without a permit—

- (a) ignites any firework;
- (b) lights or maintains or suffers to be lit or maintained any fire or brazier in the central area as defined in any laws of the County for the time being in force;
- (c) for the purpose of hawking, selling, distributing or advertising any article or event, shouts or uses any bell, gong, or other noisy instrument or loudspeaker;
- (d) defecates or urinates on the street or any open space;
- (e) defaces footway, roadway or draws graffiti on any public building;
- (f) to the inconvenience or danger of any person carries or conveys any bag of lime, charcoal, or other offensive material, timber or any pointed or edged tools or implements not properly guarded;
- (g) plays, operates or causes to be played or operated, any musical instrument or instrument that cause to be made any noise which is loud, continuous or repeated to cause an annoyance to occupants of any premise around the neighborhood or passers-by in the street;

- (h) any person making loud noises, speeches or wailings as to cause annoyance to the occupants' or persons passing by a street;
- (i) lights or maintains, or suffers to be lit or maintained, any fire or brazier in the protected area;
- (j) rides or drives any animal or vehicle on a footpath;
- (k) loiter or harasses for purpose of prostitution;
- (l) touts for passengers; or
- (m) fails to observe traffic lights or the zebra crossing or any other public directional signs;
- (n) without a permit, erects any barbed wire alongside the street;
- (o) deposits or cause or permit to be deposited any soil, vegetation, refuse or debris on any public land and streets in the county;
- (p) in writing or drawing, wheel or drive any vehicle or carry any board or placard used solely or chiefly for the purpose of exhibiting advertisements;
- (q) in writing and for the purpose of advertising distribute any document or other paper;
- (r) commit an act contrary to public decency;
- (s) place or deposit and leave any glass, China, earth ware, tin, carton, paper, sawdust or other rubbish so as to create or tend to create litter;
- (t) throw down or leaves any orange peel, banana skin, or other substance likely to cause a person to fall down.

(2) No prosecution shall be instituted against any person for any offence under this Act unless the annoyance remain unabated after the expiry of seven days from the date of the service on such person of a notice signed by the authorized officer alleging such annoyance.

Noisy building operations

89. A person who causes annoyance to occupants of any premises in connection with any building, operations, demolition or road construction works commits an offence.

Deposit of debris

90. Any person who without lawful authority, deposits or permits to be deposited any soil, vegetation, refuse or debris on any land in the County is guilty of an offence.

Nuisance by animals

91. (1) Any person who without a licence keeps within an area designated as a purely residential area within the County, any animal or poultry which causes a nuisance to any of the residents in the neighborhoods commits an offence.

(2) Any person who has under his or her control or in his or her custody—

- (a) any game animal or any reptile, or any domestic animals which causes a nuisance or annoyance to any of the residents of the area;
- (b) any animal, reptile, poultry or bird which is so kept as to be or likely to become injurious to the health of any person;
- (c) or any, animal reptile poultry or bird which wanders on a street in such a manner as to cause obstruction or inconvenience to traffic commits an offence.

(3) No prosecution shall be instituted against any person for an offence under this section unless such a nuisance is continued after the expiry of seven days from the date of the service on such person of a notice signed by the authorized officer alleging a nuisance.

Game animals

92. (1) Any person who shall, except with the written permission of the authorized officer and subject to such conditions as he or she may deem fit, keep within the county, except in agricultural land, a game animal or reptile other than a lizard, or domestic animals commits an offence.

(2) The county government may remove any of the species of animals referred to in sub- section (1) which have been kept within the county except in agricultural land or left in a street in contravention of this section and impound the same.

(3) The owner of a game animal or reptile other than a lizard or domestic animals removed from the county in pursuance of sub-section (2) shall not be entitled to recover the same until he or she has paid to the county government the prescribed fees as per the approved fees and charges.

(4) If such an owner does not pay the fees and expenses due within a period of seven days from the date the said animal was impounded, the county may sell or otherwise dispose of the same by auction or any other means and the proceeds of such disposal, if any, shall be used to set off the

outstanding fees and expense, if any, incurred by the county government in removing or disposing of the same.

(5) Any person who, except with the written permission of the authorized officer and subject to such conditions as he or she may deem fit, permit any animal of the species referred to in this section to graze on public land and streets within the county shall commits an offence.

Encroaching hedges and trees

93. (1) Where in the opinion of the Director, any hedge tree or other growth is so placed in such condition as—

- (a) to be a danger to any person or vehicle using a street; or
- (b) to interfere with—
 - (i) the view along any street or from one street into another; or
 - (ii) the use of the street by pedestrian or vehicle traffic,

the Director may by notice require the owner or occupier of such land to cause the hedge, tree or other growth to be chopped, trimmed or removed.

(2) Any person who fails to comply with a notice under subsection (1) commits an offence.

(3) The Director may, on the expiry of the period of time specified in the notice, execute any of the work specified in the said notice and any expenses incurred by the Director in so doing shall be recoverable from the said person as a civil debt.

(4) Any person who without the written authority of the Director, erect or permit the erection any structure in such a position that it is sited in or protrudes over a street commits an offence.

(5) For the purpose of this section "structure" includes a machine, pump, post, billboards or other object, capable of causing an obstruction to a passenger or a vehicle in a street.

Projections

94. (1) A person shall not attach, hang, erect or permit the erection of any object from or alongside any street in such a manner as it protrudes over or into a street without an approval from the Director or otherwise than in accordance with any condition attached to that approval.

(2) The Director may serve a notice to the owner or occupier of any premises from or alongside which an object has been attached, hung or erected in contravention of sub-section (1).

(3) The provisions of this section shall not apply to an advertisement permitted under any county laws or to any structure approved by the county government under any such laws.

Source of danger

95. (1) If in or on any land adjoining a street, there is source of danger, an unfenced danger or inadequately fenced source of danger to persons using the street or vehicle, the county may, by notice to the owner or occupier of that land, require him or her within such time not being less than seven days as may be specified in the notice, to execute such works of repair, protection, removal or enclosure as will remove the danger.

(2) Any person who fails to comply with a notice served in pursuance of sub-section (1) within the time specified in such notice commits an offence.

Damage and obstructions

96. A person commits an offence if that person—

- (a) in any way willfully obstruct the free passage of any street;
- (b) willfully or negligently damage or destroy the surface of any public street;
- (c) pull down, destroy, obliterate, deface, displace or remove any property of the county on or near a street;
- (d) damage or destroy any tree, shrub, flower, plant or grass on land forming part of a public street;
- (e) disturb, damage or destroy any barrier, fence or other erection or any trestle, lamp, stone or other material placed on a street or by fitting attached thereto;
- (f) willfully or negligently pull down, damage or destroy any lamp standard or bollard in a street or damage or remove any bulb or fitting attached thereto; or
- (g) dig, plough, till or cultivate any public street without the written permission of the authorized officer.

Breaking a street surface

97. (1) Any person who, without a written authority, breaks up or authorizes the breaking up of the surface of a public street, without the permission of the county chief engineer, commits an offence.

(2) Any person who contravenes or fails to comply with any condition attached to the approval permit granted under this section, commits an offence.

Obstruction of a street

98. (1) Any person who places, leaves, allows or causes to be placed, left any vehicle, article or material in a street in such a manner that it causes or is likely to cause an obstruction to persons or vehicles using the street, commits an offence.

(2) The Director may order for the removal and impounding of any vehicle or article or material which has been placed or left in a street in contravention of this Act.

Pounding fee

99. (1) The owner of a vehicle, article or material removed from a street in pursuance of section 98 shall not be entitled to recover the same until he or she has paid to the county government the prescribed fees for removing and impounding the same as per the approved fees and charges.

(2) The fees shall be charged per day for the period the vehicle, item or material has remained impounded. Provided that if such owner does not pay the fees and expenses due within a period of sixty days from the date the vehicle, article or material was impounded, the Director may order for the sale or otherwise dispose of the same and the proceeds of such sale or disposal, if any, shall be set off against the outstanding fees and expenses, if any, incurred by the county in removing or disposing of the vehicle, article or material.

Depositing of materials on public places

100.(1) A person shall not deposit or cause to be deposited or harbour or store on any public land materials and streets, any building material, road materials, earth, stones or soil other than for the purpose of erection of approved buildings thereon.

(2) A person shall not deposit or cause to be deposited or harbour or store on any public land and streets, any disused vehicles, old metals, or any kind of materials which, in the opinion of a county health officer, are likely to cause any nuisance or conditions liable to be injurious or dangerous to health without the written permission of the authorized officer.

Discharge of missiles

101. Any person who discharges a missile in or near a street in a manner likely to cause damage to property or danger to any person, commits an offence.

Overloaded vehicles

102. Any person who drives or allows to be driven an overloaded vehicle whose contents or any part thereof spills on to the surface of a street, commits an offence.

Loitering on county government property

103. A person who, without lawful cause loiters on county government property or other public place commits an offence.

Notices

104. (1) Except where otherwise provided in this Act, any notice, permit or consent which the county government is authorized or required to give authorization may be signed on behalf of the county government by the authorized officer or by any officer of the county government duly authorized to sign such notice or consent.

(2) Any such notice, permit or consent purporting to bear the signature of the authorized officer shall for the purpose of this Act be deemed, until the contrary is proved, to have been duly issued by the county government.

Service of notices

105. (1) Any notice or other document required or authorized by or under this Act to be served to a corporation shall be duly served if served to the Chief Officer.

(2) Where any premises are jointly owned or occupied by more than one person a notice required or authorized to be served by or under this Act in respect of such premises shall be duly served if served in accordance with this section on any one of those persons.

Mode of service of notices

106. (1) Any notice or other document required or authorized under this Act to be served on any person may be served by—

- (a) delivering it to that person;
- (b) leaving it at his or her proper address; or
- (c) registered post addressed to him or her at his or her proper address.

(2) For the purpose of this part, the proper address of any person shall, in the case of a corporation be that of the registered or head office of the corporation, and in any other case, be the usual or last known place of abode or business of the person on whom the notice is to be served.

(3) If the name or the address of any notice for the owner or occupier of premises upon whom any notice is to be served cannot, after reasonable inquiry, be ascertained, the notice may be served by addressing it to the person on whom it is to be served by the description of "owner" or occupier of the premises describing them to which the notice relates, and by delivering it to some responsible person occupying or appearing to occupy the premises, or by fixing it or a copy of it to some conspicuous part of the premises.

Offences

107. A person who commits an offence under this part for which no penalty is provided shall upon conviction be liable to a fine not exceeding fifty thousand shillings or an imprisonment for term of imprisonment not exceeding six months or both.

PART VIII —ENFORCEMENT

Application to Courts

108. (1) If a person alleges that any entitlement conferred under this Act has been, is being or is likely to be contravened in relation to him or her, that person may apply to a competent Court for redress and that Court may make such orders or give such directions as may deem appropriate to—

- (a) compel any authorized officer to take measures to prevent or discontinue any act or omission harmful to the environment;
- (b) prevent, stop or discontinue any act or omission harmful to the environment;
- (c) require that any on-going activity be subjected to an environmental audit in accordance with this Act and any other relevant written law;
- (d) compel the persons responsible for the environmental degradation to restore the degraded environment as far as practicable to its immediate condition prior to the damage; or
- (e) provide compensation for any victim of pollution and the cost of beneficial uses lost as a result of an act of pollution and other losses that are connected with or incidental to the foregoing.

(2) A person may make the application under subsection (1) notwithstanding that such a person cannot show that the respondent's acts or omissions have caused or is likely to cause him or her any personal loss or injury provided that such action is not—

- (a) frivolous or vexatious; or
 - (b) an abuse of the court process.
- (3) In exercising the jurisdiction conferred upon it under sub section (1), the Court shall be guided by the following principles of sustainable development—
- (a) the principle of public participation in the development of policies, plans and processes for the management of the environment;
 - (b) the cultural and social principles traditionally applied by any community in the County for the management of the environment or natural resources in so far as the same are relevant and are not repugnant to justice and morality or inconsistent with any written law;
 - (c) the principle of inter-county co-operation in the management of environmental resources shared by two or more Counties;
 - (d) the principles of intergenerational and intra generational equity;
 - (e) the polluter-pays principle; and
 - (f) the pre-cautionary principle.

Compliance with the Act

109.(1) In order to ensure compliance with this Act, the County Government—

- (a) shall promote community surveillance to ensure the protection and conservation of the environment.
- (b) shall initiate programmes, campaigns and other plans geared towards the attainment of the minimum ten percent forest cover in the County;
- (c) shall ensure the protection of water bodies from pollution;
- (d) may enter into partnerships with appropriate entities for purposes of the provision of clean energy to the County;
- (e) shall ensure the setting up of recycling plants in the County;
- (f) shall collaborate with the relevant National Government entities concerning the control of the use of explosives in mining and quarrying;
- (g) shall ensure that the exploitation of natural resources is done in a sustainable manner;

- (h) shall ensure that anyone who is involved in mining and quarrying restores and improves the land on which they conduct such activity;
 - (i) shall ensure that communities benefit from revenue generated from natural resources extracted from their land;
 - (j) shall collaborate with the national government and neighbouring counties concerning the protection of trans-county water bodies; and
 - (k) ensure the implementation of the polluter pays principle.
- (2) The County Government shall establish a specialized unit in the County Inspectorate Department for purposes of enforcement of this Act and other environmental protection laws.
- (3) An Authorized Officer shall—
- (a) monitor compliance with the environmental standards established under this Act or other relevant written law;
 - (b) conduct environmental audits; and
 - (c) perform such other functions as may be required under this Act or relevant written law.
- (4) The County Government shall levy charges in relation to this Act as prescribed in the First Schedule or as may from time to time be prescribed by the Executive Committee member.

Entry and Search by an Authorized Officer

110. An Authorized Officer may, in the performance of his or her duties under this Act, at all reasonable times and without a warrant—

- (a) enter any land, premises, vessel, motor vehicle or ox-draw trailer and make examination and enquiries to determine whether the provisions of this Act are being complied with;
- (b) require the production of, inspect, examine and copy licences, registers, records and other written laws relating and, as may be prescribed, submit such samples for test and analysis;
- (c) carry out periodic inspections of all establishments and undertakings within their respective jurisdictional limits which manufacture, produce as by-products, import, export, store, sell, distribute or use any substances that are likely to have significant impact on the environment, to ensure that this Act is complied with;

- (d) seize any article, vessel, motor vehicle, plant, equipment, substance or any other thing which he or she reasonably believes has been used in the commission of an offence under this Act;
- (e) in writing, order the immediate closure of any manufacturing plant or other establishment or undertaking which is causing or is likely to cause significant pollution to the environment;
- (f) to require the owner or operator of such establishment of undertaking to implement any remedial measures that the environmental officer may direct;
- (g) any establishment or undertaking closed down under this paragraph may resume its operations only with the written approval of the Director upon compliance;
- (h) with the approval of the Director, issue an improvement notice requiring the owner or operator of any manufacturing plant, vessel, motor vehicle or other establishment or undertaking to cease any activities deleterious to the environment and to take appropriate remedial measures, including the installation of new plant and machinery, if necessary, within such reasonable as the Director may determine;
- (i) with or without an arrest warrant arrest any person whom he or she reasonably believes has committed an offence under this Act; or
- (j) install any equipment on any land, premise, vessel or motor vehicle for purposes of monitoring compliance of this Act.

Inspection by an Authorized Officer

111. The Director or any authorized Officer may at any reasonable time, enter any land or premises to make any inspection, inquiry, investigation or to perform any other work or so 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 incidental to the performance of the duties or the exercise of his or her powers.

Offences on enforcement

- 112.** (1) A person commits an offence who—
- (a) hinders or obstructs an authorized officer in the exercise duties under this Act;
 - (b) fails to comply with a lawful order or requirement made by an Authorized Officer in accordance with the Act;

- (c) refuses an Authorized Officer entry upon any land or into any premises, vessel or motor-vehicle which such officer is empowered to enter by this Act or other written law;
- (d) impersonates an Authorized Officer;
- (e) refuses an Authorized Officer access to records or documents kept pursuant to this Act or any written law;
- (f) fails to state or wrongly states his or her name or address to an Authorized Officer in the course of such officer's duties under this Act;
- (g) misleads or gives wrong information to an Authorized Officer under this Act; or
- (h) fails, neglects or refuses to carry out an improvement order issued under this Act.

(2) Any person who commits an offence under subsection (1) shall be liable upon conviction to a fine not exceeding twenty thousand shillings or an imprisonment for a term not exceeding six months or to both.

PART IX —MISCELLANEOUS PROVISIONS

General penalty

113. Any person who contravenes the provisions of this Act for which no other penalty has been provided, commits an offence and shall, on conviction be liable to a fine not exceeding one hundred thousand shillings or to a term of imprisonment not exceeding one year or to both.

Regulations

114. (1) The Executive Committee Member may, with the approval of the County Assembly, make Regulations for the better carrying into effect of any provisions of this Act.

(2) Without prejudice to the generality of subsection (1), regulations under this Act may provide for—

- (a) procedures required to be undertaken under this Act;
- (b) mode of applying for permits and authorizations by the County Government;
- (c) setting of standards required to be set under this Act;
- (d) fees and charges payable;
- (e) prescribed forms;

- (f) the conduct of Authorized Officers in undertaking their duties under this Act;
- (g) mechanisms and procedures for lodging of complaints, their investigation, resolution and enforcement;
- (h) the polluter pays principle; and
- (i) any other matter necessary for the better giving effect to this Act.

FIRST SCHEDULE

REFUSE RECEPTACLE, GABBAGE COLLECTION AND ENVIROMENTAL PROTECTION			
	URBAN	PERI - URBAN	RURAL
Conservancy fee	500	500	500
Application fee to Dump at the County Dump site	40,000	40,000	40,000
Conservancy fee extended markets	500	500	500
Private dump site per ton per trip	250	200	150
Dumping charges up to 1 axle per trip	1,000	1,000	1,000
Dumping charges up to 2-3 Axles per trip	1500	1500	1500
Exhauster Services per annum	35,000	35,000	35,000
Authority letter to transport & dispose waste per month	10,000	10,000	10,000
Environment Management (All building plans must be approved for environmental safety)	4,000	4,000	4,000
Noise Permit (NEMA) per instance	5,000	5,000	3,000
All contractors contracted by the National Government or the County Government within Machakos county shall pay all fees & charges applicable. (Environmental Management)			
Penalty for social cost of harmful practices for environmental, health, pollution (noise and air) and safety management to the community by cement factories, Quarries, Flower farms, Oil producing Companies and other polluting entities Per year	11,000,000	11,000,000	11,000,000
Non-compliance of 5-meter business cleanliness standards			
Non-compliance of 5 meter (child care, school, health, recreational cleanliness standards)			
Non-Compliance of cleanliness by Matatu drivers and touts at the bus parks	10,000	10,000	10,000

Penalty for wrongful dumping liquid or solid waste materials	100,000	100,000	100,000
Penalty for littering from a moving vehicle individual	500	500	500
Penalty for transporting sand without canvas.	10,000	10,000	10,000
Penalty for tampering with litter bin, dust-bin or bulk container	20,000	20,000	20,000
Penalty for urinating in undesignated places	100	100	100
Gated community (Estates) Environmental, solid waste payment per Household (Annual)	2,000	2,000	1,700
Penalty to companies dumping liquid or solid waste in our rivers	25,000,000	25,000,000	25,000,000
Beautification of residential and commercial buildings with paint (NEMA FEE) per premise per year	2,000	1,700	1,500
Beautification of residential and commercial buildings with paint (NEMA FEE) Each additional floor (storey)	300	200	150
NB: To protect the environment each go downs/warehouse must be issued with a license/permit. Penalty to a go down/warehouse owner for failure to pay the prescribed fee	250,000	250,000	250,000
Penalty for Smoking in undesignated places	200	200	200

