

# **THE BOMET COUNTY SOLID WASTE MANAGEMENT BILL, 2023**

## **ARRANGEMENT OF CLAUSES**

### **PART I – PRELIMINARY**

1. Short title
2. Commencement
3. Interpretation
4. Objects of the Act

### **PART II – ADMINISTRATION**

5. Sub County Solid Waste Management Committee
6. Qualification for appointment of a committee member
7. Functions of theSub-county committee
8. Term of office
9. Removal from office
10. Allowances

### **PARTIII—SOLID WASTE HANDLING**

11. Classification of waste generator
12. Separation of solid Waste
13. Storage of Solid Waste
14. Duty not to transfer unseparated waste
15. Waste separation in market
16. Installation of waste handling and storage receptacles
17. Burning of waste
18. Designation of solid waste collection point
19. Disposal of waste generated
20. Waste collection in a premise
21. Public Private Partnership

- 22. Waste transfer station
- 23. Establishment of a private waste transfer station
- 24. Transfer of a solid waste
- 25. Transportation of Solid Waste
- 26. Designation of routes for transportation of waste
- 27. Separation of waste at a transfer station
- 28. Access to materials for processing
- 29. Prohibition on waste disposal
- 30. Waste disposal process
- 31. Designation of a landfill
- 32. Control of landfills

#### **PART IV SOLID WASTE MANAGEMENT PLANNING**

- 33. Solid waste management plan
- 34. Zoning for solid waste management

#### **PART V LICENSING**

- 35. Issuance of licence
- 36. Application for licence
- 37. Conditions for licence
- 38. Validity of licence
- 39. Revocation of licence
- 40. Operating licence

#### **PART VI ENFORCEMENT**

- 41. Enforcement

#### **PART VII FINANCIAL PROVISIONS**

- 42. Fees and charges
- 43. Utilization of fees collected

## **PART VIII OFFENCES**

- 44. Failure to provide receptacle
- 45. Failure to store waste
- 46. Failure to separate waste
- 47. Failure to deposit waste
- 48. Failure to enclose a waste storage area
- 49. Burning of waste
- 50. Failure to dispose waste
- 51. Failure to use designated route
- 52. Disposal of waste in a water source
- 53. Access to a landfill
- 54. Operation without a licence
- 55. Waste disposal within five metres from premise

## **PART IX MISCELLANEOUS**

- 56. Transition
- 57. Power to make regulations

# THE BOMET COUNTY SOLID WASTE MANAGEMENT BILL, 2023

## A Bill for

AN ACT of the County Assembly of Bomet to provide for the collection, treatment, transportation and disposal of solid waste and for connected purposes

ENACTED by the County Assembly of Bomet as follows –

## PART I – PRELIMINARY

### Short title

1. This Act may be cited as the Bomet County Solid Waste Management Act, 2023.

### Commencement

2. This Act shall come into force on the day of publication in the *Gazette*.

### Interpretation

3. In this Act –  
“**authorized officer**” means an officer gazetted by the Executive Member;  
“**county**” means the County government of Bomet;  
“**dry waste**” includes plastic, metal, wood, paper, glass and cloth;  
“**e-waste**” includes a computer, television, stereo, copier, fax machine, telephone, electrical cable, electric wire and battery;  
“**Executive Member**” means the County Executive Committee Member for the time being responsible for solid waste management;  
“**market**” includes a public market, shopping mall, shopping centre and open air market;  
“**premise**” includes land, a building or structure where there is generation of waste;  
“**recycle**” means to convert waste into secondary material or new product;  
“**solid waste management**” includes an activity used in prevention, handling, storage, separation, transfer, transport, material recovery or disposal of solid waste;  
“**transfer**” means movement of waste material from a point of generation to a collection point or transfer station;  
“**transportation**” means the transfer of waste to the final disposal site;  
“**waste generator**” means a person whose activity produces waste; and

“wet waste” includes organic and food stuff.

**Object of the Act**

4.The object of this Act is to —

- (a) provide for an effective, equitable, responsive and sustainable solid waste management system;
- (b) protect public, occupational and environmental health;
- (c) provide for affordable service in solid waste management that addresses local needs of the residents;
- (d) contribute to sustainable use of natural resources through prevention of waste, materials recovery and recycling;
- (e) enhance capacity development and empowerment of local residents in sustainable solid waste management;
- (f) promote acquisition and adoption of modern technology and innovation in solid waste management; and
- (g) promote research and development in solid waste management.

**PART II – ADMINISTRATION**

**Sub - County Solid Waste Management Committee.**

5. (1) There is established a Sub - County Solid Waste Management Committee.

(2)The Sub - County Solid Waste Management Committee shall consist of —

- (a) A Town administrator who shall be the chairperson of the committee;
- (b) the environment officer at the sub – county level who shall be the secretary;
- (c) the sub county administrator;
- (d) the officer in charge of public health in the sub – county;
- (e) the officer in charge of trade in the sub - county;
- (f) one person appointed to represent community-based organizations engaged in solid waste management;
- (g) a person appointed to represent resident associations in the ward;
- (h) one person representing solid waste recycling and composting organizations; and
- (i) one person appointed to represent private enterprises which provide solid waste collection and transportation services in the sub – county.

(3)The Committee may co-opt a person in matters related to solid waste management.

**Qualification for appointment of a Committee Member** 6. A committee member appointed by the Executive Member shall be a holder of at least a post-secondary certificate in any field or its equivalent from a recognised institution.

**Functions of the Sub – County Committee** 7. The Sub - County waste management committee shall —

- (a) coordinate public and private sector provision of solid waste management services in the sub county;
- (b) provide a platform for public-private dialogue, consultation, collaboration and participation in solid waste management in the Sub-county;
- (c) facilitate mobilization of county residents on solid waste management in the Sub-county;
- (d) monitor the quality and adequacy of provision and delivery of solid waste management services in the Sub-county;
- (e) monitor solid waste management practices in the sub-county and advising the Executive Member on appropriate measures to be adopted;
- (f) organize and facilitate Sub-county forums on solid waste management; and
- (g) perform any other function as may be assigned under this Act.

**Term of office.** 8. A person appointed shall serve for a term of three years which may be renewed for one final term of three years.

**Removal from office.** 9. A member appointed may be removed from the office on the grounds of —

- (a) inability to perform the functions of the office arising from issues of mental or physical capacity;
- (b) gross misconduct;
- (c) incompetence;
- (d) bankruptcy; and
- (e) non-compliance with Chapter Six of the Constitution.

**Allowance.** 10. A committee member may be paid an allowance as determined by Salaries and Remuneration Commission.

### **PART III– SOLID WASTE HANDLING**

- Classification of waste generators.** 11. Classification of waste generators shall be according to the First Schedule.
- Separation of solid waste.** 12. (1) A waste generator shall separate waste at source into —  
(a) dry waste; and  
(b) wet waste.  
(2) A person who provides waste collection or transport service shall provide prescribed receptacles appropriate for waste separation.
- Storage of solid waste.** 13. A person shall store the waste in appropriate receptacles.
- Duty not to transfer un separated waste.** 14. A waste collector or transporter shall not transfer waste which is not separated.
- Waste separation in markets.** 15. A person who operates in a market shall deposit the waste in an appropriate receptacle.
- Installation of waste handling and storage receptacles.** 16. (1) The owner of a premise shall —  
(a) designate or construct an area within the premises where solid waste generated shall be deposited or stored;  
(b) place appropriate receptacles and maintain them in accordance with public health standards; and  
(c) ensure no waste is deposited within five metres of a premise.  
(2) The area designated for waste storage shall be enclosed to avoid open exposure and emission of obnoxious smell.
- Burning of waste.** 17. (1) A person shall not burn waste.  
(2) A person providing waste management services shall burn waste through approved methods of thermal waste treatment and those methods shall be-  
a) waste incineration;  
b) gasification; and  
c) pyrolysis.
- Designation of solid waste collection point.** 18. There shall be a designated waste collection point in each zone.

<b>Disposal of waste generated.</b>	19. A person shall dispose waste generated in a designated waste collection point.
<b>Waste collection in a premise.</b>	20. Waste collection from a premise may be undertaken by the private sector.
<b>Public private partnerships.</b>	21. The county may initiate and adopt public private partnerships in provision of waste collection services.
<b>Waste transfer station.</b>	22. (1) The Executive Member shall gazette a solid waste transfer station or material recovery facility for the purposes of sorting and separating solid waste.  (2) A transfer station shall be enclosed to minimize open exposure of waste.
<b>Establishment of a private waste transfer station.</b>	23. (1) A person may establish a waste transfer station.  (2) The Chief Officer may licence a private waste transfer station.
<b>Transfer of solid waste.</b>	24. Dry solid waste shall be transferred from a waste collection point to a waste transfer station for treatment and recovery.
<b>Transportation of solid waste.</b>	25. (1) Wet waste shall be transported from a waste collection point to a composting facility, dumping site or landfill for disposal. (2) Waste from the transfer station shall be transported to the landfill of dumping site for disposal.
<b>Designation of routes for transportation of waste.</b>	26. A person shall transport solid waste in a designated route.
<b>Separation of waste at a transfer station.</b>	27. Solid waste in a transfer station shall be separated and stored into the various categories.
<b>Access to materials for processing.</b>	28 A person shall obtain recyclable materials for processing from a transfer station at a fee.
<b>Prohibition on waste disposal.</b>	29. A person shall not dispose waste generated in a water source.



<b>Waste disposal processes.</b>	30. The solid waste that may not be processed or transformed shall be disposed through landfill.
<b>Designation of a landfill.</b>	31. The Executive Member shall gazette a landfill or dump site for final disposal.
<b>Control of landfills.</b>	32. Access to a landfill shall be controlled in accordance with prescribed guidelines.

#### **PART IV – SOLID WASTE MANAGEMENT PLANNING.**

<b>Solid waste management plan.</b>	33. The Executive Member shall prepare a solid waste management plan.
<b>Zoning for solid waste management.</b>	34. The Executive Member shall designate solid waste management zones.

#### **PART V – LICENSING**

<b>Issuance of licence.</b>	35. The chief officer shall issue the licence to persons intending to carry out waste collection and transportation services.
<b>Application for licence.</b>	36. A person that intends to provide waste collection and transport services shall apply for licence to the county in the prescribed form.
<b>Conditions for a licence.</b>	37. The Executive Member shall regulate conditions for licensing.
<b>Validity of a licence.</b>	38. A licence shall expire on the thirty first day of December.
<b>Revocation of a licence.</b>	39. The Chief Officer may revoke a licence where the licensee fails to comply with the conditions.
<b>Operation licence.</b>	40. A person providing solid waste management services shall have a valid operating licence.

#### **PART VI– ENFORCEMENT**

<b>Enforcement.</b>	41. (1) This Act shall be enforced by an authorized officer. (2) The Executive Member shall gazette an authorized officer for enforcement purposes.
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#### **PART VII – FINANCIAL PROVISIONS**

<b>Fees and charges.</b>	42. The county may levy fees and charges in accordance with the Second Schedule.
<b>Utilization of fees collected.</b>	43. The fees and charges raised under this Act may be utilized at source to defray operational costs.

#### **PART VIII– OFFENCES**

<b>Failure to provide a receptacle.</b>	44. A person who fails to provide a receptacle commits an offence and shall, on conviction, be liable to imprisonment for a
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term not exceeding one month or to a fine not exceeding five thousand shillings or to both.

**Failure to store waste.** 45. A person who fails to store waste in appropriate receptacle commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding one month or to a fine not exceeding five thousand shillings or to both.

**Failure to separate waste.** 46. A person who fails to separate waste commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding two months or to a fine not exceeding ten thousand shillings or to both.

**Failure to deposit waste.** 47. A person who fails to deposit waste in appropriate receptacle in a market commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding one month or to a fine not exceeding five thousand shillings or to both.

**Failure to enclose a waste storage area.** 48. A person who fails to enclose a waste storage area commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding three months or to a fine not exceeding thirty thousand shillings or to both.

**Burning of waste.** 49. A person who burns waste commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding one month or to a fine not exceeding five thousand shillings or to both.

**Failure to dispose waste.** 50. A person who fails to dispose waste generated in a designated waste collection point commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred thousand shillings or to both.

**Failure to use a designated route.** 51. A person who fails to transport solid waste in a designated route commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding one month or to a fine not exceeding five thousand shillings or to both.

- Failure to obtain recyclable materials from a designated transfer station.** 51. A person who obtains recyclable materials from a place other than a transfer station commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred thousand shillings or to both.
- Disposal of waste in a water source.** 52. A person who disposes waste generated in a water source commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred thousand shillings or to both.
- Access to a landfill.** 53. A person who accesses a landfill contrary to the guidelines commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding two months or to a fine not exceeding fifty thousand shillings or to both.
- Operation without a licence.** 54. A person who operates without a licence commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred thousand shillings or to both.
- Waste disposal within five metres from premise.** 55. A person who allows waste to be deposited within five metres of their premise commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding one month or to a fine not exceeding five thousand shillings or to both.

## **PART IX– MISCELLANEOUS**

- Transition.** 56. A licence issued prior to the commencement of this Act shall be deemed to have been issued under this Act and shall be effective for the time remaining until the thirty first day of December that year under the same terms and conditions.
- Power to make Regulations.** 57. The Executive Member may make Regulations to give effect to this Act.

**FIRST SCHEDULE**  
**CLASSIFICATION OF WASTE GENERATORS**

1.	<b>Household</b>	Includes waste food, glass, bottles, trash papers, food cans and packaging, junk waste, tree cuttings and e-waste.
2.	<b>Commercial</b>	Includes packages, waste foods, food cans, waste or expired products, trash papers, clothes cuttings, bottles, glass, e-waste, tyres and junk furniture.
3.	<b>Industrial</b>	Includes plastics, paper shavings, pulp, paints, chemical solvents, e-waste, metal or wood cuttings and waste, pallets, paper boards, animal tissues, pulp, e - waste, whey and milk cream, and hides and skins.
4.	<b>Market</b>	Includes food waste, vegetables, fruits waste including peels and animal waste.
5.	<b>Institutional</b>	Includes schools, colleges and universities such as food waste, paper cuttings, e - waste, food cans, packages and e-waste.
6.	<b>Construction and demolition</b>	Generation of waste from construction or demolition or renovation sites and includes was debris, steel, timber, iron sheets; and
7.	<b>Outdoor events</b>	Includes generation of paper, cans and food waste among others.

**SECOND SCHEDULE  
FEES AND CHARGES**

1.	Debris removal (per tonne)	3,000.00
2.	Collection of waste from a bar or restaurant per month	4,000.00
3.	Collection of waste from a cafeteria per month	4,000.00
4.	Collection of waste from a factory or industry per month	20,000.00
5.	Collection of waste from a hospital per month	20,000.00
6.	Collection of waste from a clinic or health center per month	4,000.00
7.	Collection of waste from a go – down or a warehouse per month	30,000.00
8.	Collection of waste from a supermarket per month	20,000.00
9.	Collection of waste from military barracks per month	30,000.00
10.	Collection of waste from a residential property per household per month	200.00
11.	Collection of waste from a grocery or shop or a market	600.00
12.	Hire of a compacting vehicle per trip	6,000.00
13.	Disposal of waste by a vehicle from 1 tonne - 2.5 tonnes	1,500.00
16.	Disposal of waste by a vehicle from 2.5 - 4 tonnes	2,000.00
17.	Disposal of waste by a vehicle above 7 tonnes	3,000.00
18.	Hand cart or tuktuk dumping at a collection transfer point	100.00
19.	License to collect organic waste in the county per year	40,000.00
20.	License to collect plastic waste in the county per year	40,000.00
21.	License to collect e - waste in the county per year	50,000.00
22.	License to collect paper waste in the county per year	40,000.00
23.	Monthly cost to operate waste collection sites in the county	5,000.00
24.	Dumping of Hazardous waste per tonne	100,000.00
25.	Professional fee on inspection of hazardous waste	5,000.00
26.	Registration of an Organization	10,000.00

## **MEMORANDUM OF OBJECTS AND REASONS**

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

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

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

**PART II** of the Bill seeks to provide for an effective and coordinated administrative mechanism and structure for solid waste management. The part provides for establishment of the Sub-County Solid Waste Management Committee, its constitution, qualifications, functions, term of office, removal from office and allowances for its members.

**PART III** provides for solid waste handling which includes classification and separation of solid waste.

**PART IV** of the Bill provides for solid waste management planning and zoning.

**PART V** of the Bill provides for a licensing mechanism for entities involved in collection, transfer, transportation and processing of solid waste.

**PART VI** of the Bill provides for enforcement of the Bill.

**PART VII** of the Bill provides for financing mechanisms which include fees and charges.

**PART VIII** of the Bill provides for offences.

**PART IX** of the Bill provides for miscellaneous that includes the transition and also gives the County Executive Committee member the powers to make regulations.

Dated this .....March 2023.

*HON. DENNIS BUSIENEI*

*CHAIR PERSON, COMMITTEE ON LANDS, HOUSING AND URBAN PLANNING*