

SPECIAL ISSUE

Marsabit County Gazette Supplement No. 10 (Bills No. 8)



REPUBLIC OF KENYA

**MARSABIT COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2014

NAIROBI, 17th November, 2014

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THE MARSABIT COUNTY SOLID WASTE MANAGEMENT BILL, 2014

A Bill for

AN ACT of Marsabit County Assembly providing for a solid waste management programme, creating the necessary institutional mechanisms and incentives, declaring certain acts prohibited, and providing penalties and for other connected purposes

ENACTED by the County Assembly of Marsabit, as follows —

PART I—PRELIMINARY

1. This Act may be cited as the Marsabit County Solid Waste Management Act, 2014. Short Title.

2. In this Act— Interpretation.

“Board” means County Solid Waste Management Fund Committee established under section 6;

“Director” means the Director appointed under section 4;

“Executive Member” means the County Executive Committee Member responsible for matters relating to solid waste management;

“solid waste” includes—

- (a) county Council solid waste;
- (b) town solid waste;
- (c) agricultural and animal waste;
- (d) construction and demolition waste;
- (e) treatment waste; and
- (f) medical waste.

3. The object of this Act is to— Object of the Act.

- (a) create the necessary institutional framework required to have an efficient solid waste management system in the county;
- (b) promote an environmentally friendly county that will reduce health risks associated with a polluted environment; and

- (c) encourage citizens to take responsibility for their environment.

**PART II—ESTABLISHMENT AND
MANAGEMENT OF THE COUNTY SOLID WASTE
MANAGEMENT COMMITTEE**

4. There is established in the County Solid Waste Management committee which shall be comprised of ten member drawn from the list—

Establishment and management of the County Solid Waste Management Committee.

- (a) the Chief Officer for the time being responsible for matters relating to solid waste management who shall be the Chairperson;
- (b) the Chief Officer for the time being responsible for matters relating to the environment or a representative appointed in writing by the Chief Officer;
- (c) the Chief Officer for the time being responsible for matters relating to public works or a representative appointed in writing by the Chief Officer;
- (d) the Chief Officer for the time being responsible for matters relating to trade or a representative appointed in writing by the Chief Officer;
- (e) a representative of the National Environment Management Authority;
- (f) a representative of the private sector; and
- (g) a representative of Non-Governmental Organizations dealing with solid waste management.

5. The Committee shall—

Functions of the Committee.

- (a) prepare the County Solid Waste Management Framework;
- (b) implement the Local Waste Management Plan;
- (c) ensure that the waste is collected, stored, transported, recycled, re-used or disposed of in an environmentally sound manner and
- (d) promote safety standards in relation to solid waste;
- (e) promote public awareness on the importance of efficient solid waste management;

- (f) foster understanding of the importance of efficient solid waste management to the conservation, protection and proper use of the environment; and
- (g) perform any other functions assigned to it under this Act.

6. (1) The Committee shall have all the necessary powers for the execution of its functions under this Act. Powers of the Committee.

(2) It shall be the duty of the Board to ensure a coordinated, efficient, effective and consultative approach in management of solid waste.

(3) To achieve the objectives set out under subsection (1), the Board shall—

- (a) formulate policies relating to the management of solid waste;
- (b) approve the Local Waste Management Plan in accordance with its guidelines;
- (c) monitor, evaluate and review implementation of the Local Waste Management Plan;
- (d) mobilize resources for purposes of efficient management of solid waste;
- (e) advise the County Executive Committee on matters of general policy; and
- (f) perform any other functions assigned to it under this Act.

7. (1) The Committee shall meet at least once every month. Meetings of the Committee.

(2) Subject to the provision of this Part, the Committee may regulate its own procedure.

PART III—REGISTRATION AND LICENSING OF SOLID WASTE MANAGEMENT MATTERS

8. (1) No person shall maintain or operate a solid waste management establishment unless it is registered and licensed in accordance with this Act. Solid waste management licensing.

(2) For the purposes of this part “solid waste management establishment” means any establishment that collects, transports, processes, disposes, manages or monitors solid waste.

(3) A person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding two million or to an imprisonment term of four years or both.

9. (1) An application for a licence under this Part shall be in writing to the Chief Officer for urban development and in the prescribed form and shall be accompanied by the prescribed fee.

Application for a license.

(2) The Chief officer for Urban Development may—

- (a) issue a licence, in accordance with this Act;
- (b) refuse to issue the licence on any ground which may appear to the Chief Officer to be sufficient and inform the applicant, in writing, the reasons; or
- (c) cancel, vary or suspend any licence if, in the finding of the Director, the licence is found to have contravened the Act for the operation of the solid waste management establishment.

10. (1) The Chief officer for Urban Development shall issue licences to applicants subject to such lawful conditions as he may determine.

Issue of licences.

(2) Every licence shall specify the premises upon which the business specified in the licence may be carried on.

(3) The Chief Officer, after consultation with the Executive Committee Member, shall prescribe the fees payable for the issue of licences under this Act.

(4) The Chief Officer shall, at least thirty days before granting a licence under this Act, give notice of the proposed grant in the County Gazette and in such other manner as the Chief Officer may determine.

(5) The notice referred to in subsection (3) shall—

- (a) specify the name or other particulars of the person or class of persons to whom the licence is to be granted;
- (b) state the purpose for the proposed licence and indicate the date such licence is proposed to be issued to the successful applicant; and

- (c) invite objections to the proposed grant of licence and direct that such objections be lodged with the Chief Officer within fourteen days next following the date of the notice.

(6) The Chief Officer may after considering the objections, if any, made under this section, grant the licence applied for, subject to such terms and conditions as may be specified in the licence.

(7) The issuance of a licence to an applicant under this Act shall not be withheld without reasonable cause.

(8) A licence issued under this Act is not transferable.

(9) The Chief Officer shall ensure that an updated register is kept and maintained for all licences issued pursuant to this part.

11. (1) An application for the renewal of a licence under this Act shall be made to the Chief Officer not later than the first day of the month of June in which the current licence is due to expire.

Application for renewal of a licence.

(2) Despite subsection (1), a late application may be made upon payment of a late application fee as may be prescribed by the Director.

12. (1) A licence issued under this Act shall be subject to such conditions as the Chief Officer may determine and as are specified in the licence.

Conditions of a licence.

(2) The Chief Officer may at any time during the validity of a licence—

- (a) vary the conditions of the licence; or
- (b) impose conditions or further conditions on the licence.

13. The Chief Officer may revoke, alter or suspend a licence issued under this Act if—

Revocation, alteration or suspension of licence.

- (a) an offence under this Act or in respect of the licensed activity under any other written law, has been committed by the licence holder or any employee of the licence holder; or

- (b) a condition of the licence has been contravened or not complied with.

14. (1) The holder of a licence which is revoked shall immediately surrender it to the Chief Officer. Surrender of license.

(2) A licence holder may, at any time, surrender the licence to the Chief Officer and the licence shall cease to have effect forthwith

15. An applicant for or the holder of a licence who is aggrieved by a decision of the Chief Officer on— Appeals.

- (a) the grant, refusal, renewal, variation or revocation; or
- (b) the conditions imposed on the grant, renewal or variation, of a licence, may appeal to the Executive Committee Member

16. A person who— Offences.

- (a) burns solid waste without a permit;
- (b) interferes with a dumpsite or a landfill;
- (c) interferes with a drainage system;
- (d) litters in a public area; or
- (e) passes waste matter in a public area;

commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand or to imprisonment for a term not exceeding one year or both.

PART IV—MISCELLANEOUS PROVISIONS

17. The Executive Committee Member may, in consultation with the Chairperson of the Committee, make regulations generally for the better carrying out into effect of any provisions of this Act. Regulations.

(2) Without prejudice to the generality of subsection (1), such regulations may prescribe the—

- (a) forms of applications, notices, licences and other documents for use under this Act;

(b) fees payable under this Act;

(c) such other matters as the Committee considers necessary.

18. A person who contravenes any provision of this Act for which no other penalty is prescribed, commits an offence and is liable, on conviction, to a fine not exceeding one million shilling or to a term of imprisonment not exceeding two years or to both. General Penalty.

MEMORANDUM OF OBJECTS AND REASONS

The principal purpose of this Bill is to create the necessary institutional framework required to have an efficient solid waste management system in the county and promote an environmentally friendly county that will reduce health risks associated with a polluted environment by encouraging citizens to take responsibility for their environment.

Part I (Clauses 1-3) contains preliminary matters

Clauses 1 and 2 provide for the short title of the Bill and interpretation of terms respectively while clause 3 provides for the objects of the Bill.

Among the terms interpreted in clause 2 is “solid waste”. This clause also interprets other terms as used in the Bill.

Part II (Clauses 4-5) provides for the establishment and management of the County Solid Waste Management Committee.

Part III (Clauses 6-14) provides for the registration and licensing of solid waste management matters.

Clause 6 provide for solid waste management licensing while clause 7 provides for application for the licence. Clause 8 deals with the issuance of licences to applicants while clause 9 provides for application of renewal of a licence. There is a requirement for payment of prescribed fee by an applicant if the renewal of licence application is late. Clause 10 provides for conditions of licence while clause 11 provide for revocation, alteration or suspension of a licence. Clause 12 states that the holder of a suspended licence should surrender it to the Chief Officer and it ceases to have effect. Clause 13 gives a person aggrieved by the decision of the Chief Officer the right to appeal to the Executive Committee. Clause 14 is on offences.

Part IV (Clauses 15-16) sets out the miscellaneous provisions

Clause 15 gives the Executive Committee Member, in consultation with the Chairperson of the Committee, power to make regulations while Clause 16 provide for a general penalty. This provides for instances when an offence is provided without a penalty.

The enactment of this Bill will occasion additional expenditure of public funds, which shall be provided for through the estimates.

Dated the 29th August, 2014.

YASMIN S. ABDULKADIR,
County Executive Committee Member for Lands.