



MARSABIT MUNICIPALITY

[MUNICIPALITY SYMBOL]

MUNICIPAL CHARTER

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PREAMBLE

WHEREAS

Article 2 of the Constitution provides that the Constitution is the supreme law of the Republic of Kenya and binds all persons and all State organs at both levels of government.

WHEREAS

Article 184 of the Constitution of Kenya 2010 mandated parliament to enact a legislation to provide *inter alia* the criteria for classifying areas as urban areas and cities; establishing the principles of governance and management of urban areas and cities and to provide for participation by residents in the governance of urban areas and cities within 1 year of the promulgation of the Constitution.

WHEREAS

Parliament enacted the Urban Areas and Cities Act in the year 2011 which legislation had an effective date falling after the first election held under the Constitution of Kenya 2010.

WHEREAS

Section 9 (4) of the Urban Areas and Cities Act empowers the County Governor, to confer on the County Headquarters, the status of a Special Municipality even where it does not meet the threshold specified in law

WHEREAS

The Urban Areas and Cities Act does not have the prescribed form of a Municipal Charter.

WHEREAS

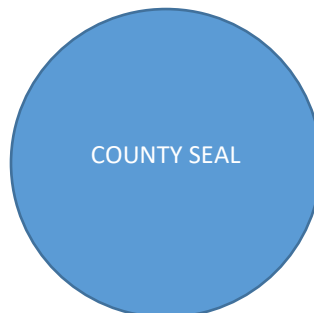
No regulations have been promulgated under the Urban Areas and Cities Act providing the prescribed form of a Municipal Charter under the Urban Areas and Cities Act.

WHEREAS

Section 72 of the Interpretations and General Provisions Act allows for substantial conformity of any instruments required to be in a prescribed form under any statute in Kenya.

NOW THEREFORE IN EXERCISE of the powers conferred by section 9 (4) of the Urban Areas and Cities Act, (No. 13 of 2011) as complemented by section 72 of the Interpretations and General Provisions Act (Chapter 2) and all other enabling provisions of law, the County Governor of Marsabit County **HEREBY GRANTS** the Municipality of Marsabit this Municipal Charter on this.....day of2018

.....
**HON. MOHAMUD MOHAMED ALI
GOVERNOR, MARSABIT COUNTY**



1. INCORPORATION, NAME AND BOUNDARIES

1.1. INCORPORATION AND NAME

1.1.1. This Charter is the Municipal Charter of the Municipality of Marsabit, within Marsabit County, Kenya.

1.1.2. All processes affecting the Municipality shall be served on the Municipal Manager or acting Municipal Manager in the absence of a municipal manager.

1.2. BOUNDARIES

1.2.1. The boundaries of the Municipality of Marsabit shall be as the existing boundaries of Saku Sub County.

2. POWERS, OBJECTS AND FUNCTIONS OF THE MUNICIPALITY

2.1. POWERS OF THE MUNICIPALITY

2.1.1. Save as is hereinafter provided, the Municipality of Marsabit shall have all the powers, general and special, governmental or proprietary, expressed or implied, which may be possessed or assumed by municipalities under the Urban Areas and Cities Act, the County Government Act and the County of Marsabit laws.

2.1.2. No enumeration of specific powers in this Charter shall be held to be exclusive. All such powers shall be exercised in the manner prescribed in this Charter, or, if not prescribed herein, in such manner as Board of the Municipality may determine, or, unless a contrary intent appears in this Charter or in the By-laws and Resolutions of the Board of the Municipality, in such manner as may be provided by the County Government of Marsabit legislative provisions.

2.2. OBJECTS OF THE MUNICIPALITY

2.2.1. The objects of the Municipality of Marsabit are to:-

- (i) Provide for efficient and accountable management of the affairs of the Municipality.
- (ii) Provide for a governance mechanism that will enable the inhabitants of the Municipality to:

- a. Participate in determining the social services and regulatory framework which will best satisfy their needs and expectations.
 - b. Ensure that public resources and authority are utilized or exercised, as the case may be, to their satisfaction.
 - c. Enjoy efficiency in service delivery.
- (iii) To institute such measures as are necessary for achieving public order and the provisions of civic amenities, so as to enhance the quality of life of the inhabitants of the Municipality.
- (iv) Provide a high standard of social services in a cost effective manner to the inhabitants of the Municipality.
- (v) Promote social cohesiveness and a sense of civic duty and responsibility among the inhabitants and stakeholders in the Municipality in order to facilitate collective action and commitment towards achieving the goal of a harmonious and stable community.
- (vi) Providing for services, regulations and other matters for Municipality's benefit.
- (vii) Fostering the economic, social and environmental well-being of its community

2.3. FUNCTIONS OF THE MUNICIPALITY

2.3.1. The Municipality of Marsabit shall, within the boundaries of the Municipality, perform the following functions:

- (a) Promotion, regulation and provision of refuse collection solid and liquid waste management services;
- (b) Maintenance of urban roads and associated infrastructure;
- (c) Provision and maintenance of storm drainage and flood controls;
- (d) Provision and maintenance of walkways and other non-motorized transport infrastructure;
- (e) Provision and Maintenance of recreational parks and green spaces;
- (f) Provision and maintenance of street lighting;
- (g) Provision and maintenance and regulation of traffic controls and parking facilities;
- (h) Provision and maintenance of bus stands and taxi stands;

- (i) Regulation of outdoor advertising;
- (j) Provision, maintenance and regulation of municipal markets and abattoirs;
- (k) Provision and maintenance of fire stations; provision of fire-fighting services, emergency preparedness and disaster management;
- (l) Promotion, regulation and provision of municipal sports and cultural activities;
- (m) Promotion, regulation and provision of animal control and welfare;
- (n) Enforcement of municipal plans;
- (o) Provision and maintenance of administrative offices; and
- (p) Any other functions as may be delegated by County Government.

3. THE BOARD OF THE MUNICIPALITY

3.1. ESTABLISHMENT OF THE BOARD

- 3.1.1. There shall be a Board of the Municipality of Marsabit to be known as the Municipal Board of Marsabit (MBM)
- 3.1.2. The Board of the Municipality shall be a corporate body with perpetual succession and a common seal and shall in its own corporate name, be capable of:
 - (a) Suing and being sued;
 - (b) Taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
 - (c) Borrowing money or making investments within the limits imposed by law with the approval of the County Government.
 - (d) Entering into contracts; and
 - (e) Doing or performing all other act or things for the proper performance of its functions in accordance with the Urban Areas and Cities Act or any other written law which may lawfully be done or performed by a body corporate.
- 3.1.3. The Board shall exercise its powers under 3.1.2 above as an agent of the County Government of Marsabit and with the approval of the County Government .

3.2. POWERS AND FUNCTIONS OF THE BOARD OF THE MUNICIPALITY

- 3.2.1. Save as otherwise expressly stated in this Charter, the Board of the Municipality shall have all the powers and perform all functions vested in boards of municipalities under the Urban Areas and Cities Act, the County Government Act and the Municipality By-laws.
- 3.2.2. Except as this Charter otherwise provides, all powers of the Municipality shall be vested in the Board of the Municipality.
- 3.2.3. The Board of the Municipality shall provide for the exercise of these powers and for the performance of all duties and obligations imposed on the Board of the Municipality.
- 3.2.4. Subject to the above provisions, the Board of the Municipality shall, within the boundaries of the Municipality of Marsabit -
- (a) exercise executive authority as delegated by the County Government
 - (b) ensure provision of services to its residents;
 - (c) promote constitutional values and principles;
 - (d) ensure the implementation and compliance with policies formulated by both the National and County Government;
 - (e) make By-laws or make recommendations for issues to be included in By-laws with the approval of the County Government;
 - (f) ensure participation of the residents in decision making, its activities and programmes; and
- 3.2.5. The Board of the Municipality shall perform the following functions:
- (a) oversee the affairs of the Municipality;
 - (b) develop or adopt policies, plans, strategies and programmes and set targets for service delivery;
 - (c) maintaining a comprehensive database and information system of the administration;
 - (d) administering and regulating its internal affairs;
 - (e) implementing applicable national and county legislation;

- (f) monitoring and, where appropriate, regulating municipal services where those services are provided by service providers other than the Board of the Municipality;
- (g) preparing and submitting its annual budget estimates to the relevant County Treasury for consideration and submission to the County Assembly for approval as part of the annual County Appropriation Bill;
- (h) monitoring the impact and effectiveness of any services, policies, programs or plans;
- (i) establishing, implementing and monitoring performance management systems;
- (j) promoting a safe and healthy environment;
- (k) facilitating and regulating public transport
- (l) performing such other functions as delegated by the County Government

3.3. COMPOSITION AND TERM OF THE BOARD OF THE MUNICIPALITY

3.3.1. The Board of the Municipality shall be composed of nine (9) members.

3.3.2. Four members of the board of the municipality shall be appointed through a competitive process by the County Executive Committee and approved by the County Assembly.

3.3.3. Five (5) members of the Board shall be nominated by the following umbrella bodies:

- (a) an umbrella body representing professional associations in the area;
- (b) an association representing the private sector in the area;
- (c) a cluster representing registered associations of the informal sector in the area;
- (d) a cluster representing registered neighborhood associations in the area; and
- (e) an association of the Municipality.

and appointed by the County Executive Committee with the approval of the County Assembly.

3.3.4. **The following persons shall be ex officio members of the Board:**

- (a) **The Municipal Manager**

- 3.3.5. In appointing members of the Board of the Municipality, the County Executive Committee shall ensure gender equity, representation of persons with disability, youth and marginalized groups.
- 3.3.6. The term of the members of the Board of the Municipality shall be five (5) years on a part-time basis.

3.4. ELIGIBILITY FOR APPOINTMENT AS MEMBER OF THE BOARD OF THE MUNICIPALITY

- 3.4.1. Each member of the Board of the Municipality shall have the following qualifications:
- a. At least a diploma from an institution recognized in Kenya;
 - b. Distinguished career in a medium level management position in either the private or public sector
 - c. At least five years' post qualification professional experience;
 - d. Satisfies the requirements of Chapter Six of the Constitution;
 - e. Ordinarily resident or has a permanent dwelling in the municipality; and
 - f. Carries on business in the municipality or has lived in the municipality for at least five years.

3.5. CHAIRPERSON AND VICE CHAIRPERSON OF THE BOARD

- 3.5.1. At the first regular meeting of the Board of the Municipality, members of the Board of the Municipality shall elect from amongst themselves, a Chairperson and Vice-Chairperson of the Board of the Municipality.
- 3.5.2. The Chairperson and Vice-Chairperson of the Board of the Municipality shall at all times be of different gender.
- 3.5.3. The Chairperson and Vice Chairperson of the Board shall hold office for a term of five (5) years.

3.6. POWERS AND FUNCTIONS OF THE CHAIRPERSON

- 3.6.1. The Chairperson of the Board of the Municipality shall have the following powers and shall perform the functions set out below:
- (a) The Chairperson shall be the head of the Board of the Municipality;
 - (b) Chairing the meetings of the Board of the Municipality; and

(c) Perform such other duties as may be delegated by the Board of the Municipality.

3.6.2. The Vice-Chairperson shall, in the absence of the Chairperson, perform the functions of the Chairperson and shall perform such other functions as may be delegated by the Chairperson.

3.7. REMOVAL OF THE CHAIRPERSON, VICE-CHAIRPERSON AND A MEMBER OF A BOARD

3.7.1. The Chairperson, Vice Chairperson or a member of the Board of the Municipality shall cease to hold office on any of the following grounds :

- (a) is unable to perform the functions of the office by reason of mental or physical infirmity;
- (b) is declared or becomes bankrupt or insolvent;
- (c) is convicted of a criminal offence and sentenced to a term of imprisonment of six months or more;
- (d) resigns in writing to the County Governor;
- (e) without reasonable cause or permission from the Chair, the member is absent from three consecutive meetings of the Board or Committee of the Board of the Municipality within one financial year;
- (f) is found guilty of professional misconduct by the relevant professional body;
- (g) is disqualified from holding a public office under the Constitution;
- (h) fails to declare his or her interest in any matter being considered or to be considered by the Board or Board Committees;
- (i) engages in any gross misconduct; or
- (j) Dies.

3.7.2. A person may be removed under 3.7.1 by:

- (a) The County Governor;
- (b) The vote of at least two-thirds of the members of the Board of the Municipality at a duly convened meeting where quorum is present; or
- (c) Upon petition by a resident of the Municipality.

3.7.3. The procedure for the removal of a Chairperson, Vice-Chairperson or a member of the Board of the Municipality under 3.7.2 above may be provided by Regulations under the Urban Areas and Cities Act and in the absence thereof in accordance with Kenyan law having regard to fair labour practices.

3.7.4. Any vacancy arising out of the removal of a Chairperson, Vice-Chairperson or a member of the Board of the Municipality may be filled in the manner provided under Article 3.3 and 3.5 respectively.

3.8. SECRETARY OF THE BOARD OF THE MUNICIPALITY

The Municipal Manager shall be the Secretary of the Board of the Municipality.

3.9. COMMITTEES OF THE BOARD OF THE MUNICIPALITY

3.9.1. The Board of the Municipality may:

- (a) establish such Committees for any general or special purpose which, in its opinion, would regulate or manage its affairs more efficiently and as may be necessary for the performance of its functions under the Urban Areas and Cities Act;
- (b) delegate to such Committee such functions as are necessary for the efficient performance of its duties in respect to the whole or any part of the area under the jurisdiction of the Board of the Municipality; and
- (c) Include persons who are not members of the Board in any Committee.

3.9.2. The Committees of the Board of the Municipality to which members of the Board of the Municipality delegate any of their powers and functions must follow procedures which are based as far as they are applicable on the provision of this Charter which govern the taking of decisions and performance of functions by the Board of the Municipality.

3.10. REMUNERATION OF THE MEMBERS OF THE BOARD OF THE MUNICIPALITY

3.10.1. The Board of the Municipality shall not be entitled to a salary but shall be paid such allowances as the County Executive Committee shall, on the advice of the Salaries and Remuneration Commission, determine.

3.11. MEETINGS OF THE BOARD OF THE MUNICIPALITY

3.11.1. The Board of the Municipality shall hold its sittings to transact the business of the Board at least once every three months.

3.11.2. Notwithstanding Article 3.11.1, the Chairperson of the Board of the Municipality may, and upon request in writing by at least one-third of the members of the Board of the Municipality shall, convene a special meeting to transact any urgent business of the Board of the Municipality.

3.12. QUORUM

3.12.1. At least two thirds of the members of the Board of the Municipality is a quorum to conduct business, but a smaller number may meet and compel attendance of absent members as prescribed by Board of the Municipality Rules.

3.12.2. A member of the Board of the Municipality who is interested in any discussions or decision-making regarding any subject or transaction under consideration by the Board of the Municipality, shall not to be counted as participating in the discussions or decision-making, and is not entitled to vote on or agree to the subject or transaction relating to it.

3.13. RULES OF THE BOARD

3.13.1. The Board of the Municipality shall by resolution adopt rules to govern its meetings.

3.14. RECORD OF INFORMATION OF THE BOARD

3.14.1. The minutes and other information of the Board of the Municipality shall be kept by the Municipal Manager.

3.14.2. Access to information on the activities and resolutions of the Board of the Municipality shall be as provided under the Urban Areas and Cities Act.

3.15. CITIZEN PARTICIPATION

3.15.1 The Board shall ensure the development of mechanisms for the participation of the residents of the Municipality in the management and administration thereof.

3.15.2 All recommendations from the Citizen Fora of the Municipality shall be forwarded to the Board for deliberation.

3.15.3 All recommendations on issues raised in the Citizen Fora and addressed and/or resolved by the Board shall be forwarded to the Municipal Manager for implementation.

3.15.4 Without prejudice to the foregoing, residents of the Municipality may—
(a) deliberate and make proposals to the relevant bodies or institutions on—

- (i) the provision of services;
 - (ii) proposed issues for inclusion in County policies and County legislation;
 - (iii) proposed national policies and legislation;
 - (iv) the proposed annual budget estimates of the County and of the national government;
 - (v) the proposed development plans of the County and of the national government; and
 - (vi) any other matter of concern to the citizens;
- (b) plan strategies for engaging the various levels and units of government on matters of concern to citizens;
 - (c) monitor the activities of elected and appointed officials of the Municipality, including members of the Board; and
 - (d) receive representations, including feedback on issues raised by the county citizens, from elected and appointed officials.
- 3.15.5 The board shall invite petitions and representations from the Citizen Fora with regard to the administration and management of the affairs within the Municipality.
- 3.15.6 The Manager shall make a report on the decision made by the Board in respect of a petition or presentation made by a citizen fora and reasons for such decision.

4. RECOMMENDATION TO COUNTY GOVERNMENT RELATING TO LEGISLATION

- 4.1.1. The Board of the Municipality shall pass recommendations to the County Government on topical, substantive and procedural issues relating to the municipality that the County Government should make legislation on.

5. ADMINISTRATIVE AUTHORITY

5.1. RESOLUTIONS

- 5.1.1. The Board of the Municipality shall exercise its administrative authority by approving resolutions.

5.2. APPROVAL OF RESOLUTIONS

- 5.2.1. Approval of a resolution or any other Board administrative decision requires approval by a majority of the Board of the Municipality at one meeting.

- 5.2.2. Any substantive amendment to a resolution must be read aloud or made available in writing to the public before the board adopts the resolution at that meeting.
- 5.2.3. After approval of a resolution or other administrative decision, the vote of each member must be entered into the Board minutes.

5.3. EFFECTIVE DATE OF RESOLUTIONS

- 5.3.1. Resolutions and other administrative decisions take effect on the date of approval, or on a later day provided in the resolution.

6. THE MUNICIPAL MANAGER

6.1. OFFICE OF THE MUNICIPAL MANAGER

- 6.1.1. There is established the office of the Municipal Manager.
- 6.1.2. The Municipal Manager shall be the administrative head of the Municipality of Marsabit .

6.2. APPOINTMENT AND TERM

- 6.2.1. The Municipal Manager shall be competitively recruited and appointed by the County Public Service Board.
- 6.2.2. The Municipal Manager shall be appointed on a permanent and pensionable basis.

6.3. QUALIFICATIONS

- 6.3.1. The Municipal Manager shall:
- (a) Be a citizen of Kenya
 - (b) Hold a degree from a university recognized in Kenya or its equivalent
 - (c) Have served and had proven experience in administration or management either in public or private sector for a term of at least five years.
 - (d) Satisfy the requirements of Chapter six of the Constitution.

6.4. FUNCTIONS AND POWERS OF THE MUNICIPAL MANAGER

- 6.4.1. The Municipal Manager shall implement the decisions and functions of the Board of the Municipality and shall be answerable to the Board.
- 6.4.2. The Municipal Manager shall perform the following functions:
- (a) Act on behalf of the Board of the Municipality-
 - (i) In ensuring the execution of the directives of the Board of the Municipality;
 - (ii) During all intervals between meetings of the Board of the Municipality;
 - (b) Keep all the minutes and other records of the Board.
 - (c) Prepare and present for approval of the Board of the Municipality, an annual estimate of revenue and expenditure to fund and carry out the programmes and operations of the Board;
 - (d) Be principally responsible for building and maintain a strong alliance and effective working relationships between the Board of the Municipality and the civil society, private sector and community based organizations;
 - (e) Cause to be prepared, transmitted to the Board of the Municipality, and published an annual report on the activities and accomplishments of the departments and agencies comprising the executive branch of the Municipality.
 - (f) Act as an ex-officio member of the Board and of all committees of the Board of the Municipality; and
 - (g) Such other functions as the Board may, by order, confer upon the Municipal Manager.
- 6.4.3. The Municipal Manager shall be fully responsible for the proper conduct of the executive and administrative work and affairs of the Municipality. The Municipal Manager shall have the power and shall be required to:
- (a) Exercise supervision over all departments and agencies of the Municipality and provide for the coordination of their activities;
 - (b) Enforce the provisions of this Charter, Municipal By-laws, and all applicable laws;
 - (c) Exercise powers granted to the Municipal Manager in this Charter, By-laws and applicable laws concerning the appointment and removal of certain officers, employees, and members of committees of the Board of the Municipality;

- (d) Exercise such other powers as may be prescribed by this Charter, by-laws and applicable laws.

6.4.4. The Municipal Manager shall:

- (a) Attend all Board of the Municipality meetings unless excused by the Chairperson of the Board or the Board of the Municipality;
- (b) Make reports and recommendations to the Board of the Municipality about the needs of the Municipality;
- (c) Administer and enforce all Municipality By-laws, resolutions, franchises, leases, contracts, permits, and other Municipality decisions;
- (d) Perform human resource functions as may be delegated by the county public service board in writing
- (e) Organize Municipality departments and administrative structure;
- (f) Prepare and administer the annual Municipality budget;
- (g) Administer Municipality utilities and property;
- (h) Encourage and support regional and intergovernmental cooperation;
- (i) Promote cooperation among the Board of the Municipality, staff and citizens in developing Municipality policies and building a sense of community;
- (j) Perform other duties as directed by the Board of the Municipality;
- (k) Delegate duties, but remain responsible for acts of all subordinates.

6.4.5. The Municipal Manager shall have no authority over the Board of the Municipality.

6.4.6. The Municipal Manager shall be entitled to attend meetings of the Board of the Municipality but shall not be entitled to vote.

6.5. REMUNERATION

6.5.1. The County Public Service Board shall set the compensation and determine the conditions of employment of the Municipal Manager with the advice of the salaries and remuneration commission.

6.6. REMOVAL OF THE MUNICIPAL MANAGER

- 6.6.1. The Municipal Manager may be removed from office in accordance with the provisions of civil service and shall have due regard to fair labour practices.
- 6.6.2. The Municipal Manager shall cease to hold office if-
- (a) is unable to perform the functions of the office by reason of mental or physical infirmity;
 - (b) is declared or becomes bankrupt or insolvent;
 - (c) is convicted of a criminal offence and sentenced to a term of imprisonment of six months or more;
 - (d) resigns in writing to the County Public Service Board
 - (e) without reasonable cause, is absent from three consecutive meetings of the Board of the Municipality;
 - (f) is found guilty of professional misconduct by the relevant professional body;
 - (g) is disqualified from holding a public office under the Constitution;
 - (h) engages in any gross misconduct; or
 - (i) dies.
- 6.6.3. Any vacancy arising in the office of the Municipal Manager may be filled in the manner provided under Article 6.2 above.

6.7. ACTING MUNICIPAL MANAGER

- 6.7.1. When the Municipal Manager is temporarily disabled from acting as Municipal Manager or when the office of the Municipal Manager becomes vacant, the County Executive Committee shall designate a qualified person from within the County Public Service to be an Acting Municipal Manager.
- 6.7.2. The County Executive Committee shall inform the County Public Service Board of such appointment within seven (7) days.
- 6.7.3. The Acting Municipal Manager shall have the authority and duties of the Municipal Manager, except that the Acting Municipal Manager may not exercise the human resource functions.
- 6.7.4. An Acting Municipal Manager shall hold office until such a time as a new Municipal Manager shall be appointed by the County Public Service Board in which case, such period shall not exceed six months.

7. MUNICIPAL FINANCES AND FINANCIAL MANAGEMENT

7.1. SOURCES OF THE MUNICIPALITY'S FUNDS AND REVENUE

7.1.1. The Board of the Municipality shall derive its revenue and funds from:

- (a) monies allocated by the County Government for the purposes of the management and service delivery of the Board;
- (b) monies or assets that may accrue to the Board in the course of the exercise of its powers or the performance of its functions; and,
- (c) all monies or grants from any other legitimate source provided or donated to the Board.

7.2. APPOINTMENT OF THE MUNICIPALITY ACCOUNTING OFFICER

7.2.1. The Municipality Accounting Officer shall be designated by the County Executive Committee Member for Finance in the manner provided under Section 148 of the Public Finance Management Act.

7.2.2. The Municipal's Accounting Officer shall be accountable to the County Executive Committee for ensuring that the resources of the Municipal for which the officer is designated are used in a way that is—

- (a) lawful and authorized; and
- (b) effective, efficient, economical and transparent.

7.2.3 In carrying out the responsibility imposed by section 7.2.1 above , the accounting officer shall, in respect of the Municipality—

- (a) ensure that all expenditure made by the Municipality complies with section 7.2.2.;
- (b) ensure that the Municipality keeps financial and accounting records that comply with the Public Finance Management Act, 2012;
- (c) ensure that all financial and accounting records that the Municipality keeps in any form including in electronic form are adequately protected and backed up;
- (d) ensure that all contracts entered into by the Municipality are lawful and are complied with;
- (e) ensure that all applicable accounting procedures are followed when acquiring or disposing of goods and services and that, in the case of goods, adequate arrangements are made for their custody, safe guarding and maintenance;
- (f) bring a matter to the attention of the County Executive Committee Member

responsible for urban development if, in the accounting officer's opinion a decision or policy or proposed decision or policy of the Municipality may result in resources being used in a way that is contrary to section 7.2.2;

- (g) prepare a strategic plan for the Municipality in conformity with the medium term fiscal framework and financial objectives of the County Government;
- (h) prepare estimates of expenditure of the Municipality in conformity with the strategic plan referred to in paragraph (g);
- (i) submit the estimates of the Municipality to the County Executive Committee Member who, after approving it, shall forward it to the County Executive Committee member for finance;
- (j) not later than three (3) months after the end of each financial year, prepare annual financial statements for that financial year and submit them to the Auditor-General for audit, with a copy to the County Treasury;
- (k) try to resolve any issues resulting from an audit that remain outstanding;
- (l) manage the assets of the Municipality to ensure that it receives value for money when acquiring, using or disposing of its assets;
- (m) dispose off assets at the most competitive price and at the lowest possible cost ensuring that the proceeds from all asset disposals are deposited in a bank account of the Municipality in accordance with the public procurement and disposal act 2015;
- (n) ensure that the Municipality has adequate systems and processes in place to plan for, procure, account for, maintain, store and dispose of assets, including an asset register that is current, accurate and available to the relevant County Treasury or the Auditor-General;
- (o) provide the County Treasury with any information it requires to fulfill its functions;
- (p) provide information on any frauds, losses, or any violations of section 7.2.2 and provide explanations for the actions taken to prevent similar conduct in future; and
- (q) carry out such other responsibilities as may be specified in regulations by the County Executive Committee Member for finance.

7.2.4 Not later than three (3) months after the County Assembly has adopted a report by a committee of the County Assembly with respect to a report submitted by the Controller of Budget under Article 228 (6) of the Constitution, the accounting officer shall—

- (a) prepare a report on actions taken by the Municipality to implement any recommendations made in the County Executive Committee's report as adopted by the County Assembly; and

(b) submit the report to the County Executive Committee with a copy to the County Treasury.

7.2.5 Not later than one month after receiving a report by the accounting officer under section 7.2.4. (b), the County Treasury shall submit to the County Assembly the accounting officer's report and may include any comments on the report by the County Treasury.

7.3. FINANCIAL YEAR

7.3.1. The Municipality shall operate on an annual budget.

7.3.2. The financial year of the Board of the Municipality shall be the period of twelve months ending on the thirtieth June in each year.

7.4. BUDGET

7.4.1. The budget of the Board of the Municipality shall be developed in the manner provided under Section 175 of the Public Finance Management Act.

7.5. MANAGEMENT OF MUNICIPALITY FINANCES

7.5.1. The Board of the Municipality shall, with the approval of the County Executive Committee member for finance, open and maintain a bank account in the name of the Municipality.

7.5.2. All monies received by the Board of the Municipality shall be paid into the Municipality's bank account promptly and in accordance with the Public Finance Management Act.

7.6. BORROWING BY THE MUNICIPALITY

7.7. The Board of the Municipality may only borrow from:-

- (a) from the County Government; or
- (b) through the County Government.

7.8. AUDIT

7.8.1. The audit of the Board of the Municipality shall be as provided under Section 46 and 47 of the Urban Areas and Cities Act.

8. MUNICIPALITY PERSONNEL

8.1. MUNICIPALITY PERSONNEL

8.1.1. The County Public Service Board may upon request by the Municipal Manager employ such officers and employees as it deems necessary to execute the powers and duties provided by this charter or any other law.

8.2. MANAGEMENT OF MUNICIPAL PERSONNEL

8.2.1. Employees of the Municipality shall report to the Municipal Manager.

8.3. STAFF BENEFITS

8.3.1. The officers and staff of Marsabit Municipality shall be covered by existing schemes applicable to employees of the County Government of Marsabit.

8.4. COMPENSATION OF MUNICIPAL PERSONNEL

8.4.1. The compensation of all employees of the Municipality shall be set by the County Public Service Board upon the advice of the Salaries and Remuneration Commission.

9. MUNICIPALITY PROPERTY

9.1. ACQUISITION, POSSESSION AND DISPOSAL

9.1.1. The Board of the Municipality is a body corporate and may acquire real, personal, or mixed property for any public purpose by purchase, gift, bequest, devise, lease, or otherwise and may sell, lease, or otherwise dispose of any property belonging to the Municipality in line with the provision of the public procurement and disposal act 2015 .

9.1.2. All town property and funds of every kind belonging to or in possession of Marsabit town at the time this charter became effective are vested in the municipality subject to the terms and conditions thereof.

9.2. COMPULSORY ACQUISITION

9.2.1. Whenever the Municipality deems it necessary to acquire private, public or community land for its purposes, it shall request the County Executive Committee Member in charge of Lands to request the National Land Commission to acquire the land on its behalf.

9.2.2. The provisions of the Land Act 2012 shall apply to any intended compulsory acquisition by the Municipality of property within the Municipality.

9.3. MUNICIPAL BUILDINGS

- 9.3.1. The Board of the Municipality may acquire, obtain by lease or rent, purchase, construct, operate, and maintain all buildings and structures it deems necessary for the operation of the Municipality.

9.4. PROTECTION OF MUNICIPALITY PROPERTY

- 9.4.1. The Board of the Municipality may do whatever may be necessary to protect municipal property and to keep all municipal property in good condition.

10. GENERAL PROVISIONS

10.1. OATH OF OFFICE

- 10.1.1. Before entering upon the duties of their offices, the Municipal Manager, the Chairperson and Vice-Chairperson and the members of the Board, and all other persons elected or appointed to any office of profit or trust in the Municipality, as determined by Board, shall take and subscribe to the following oath or affirmation:

“I, [...], being called on to exercise the functions of [Municipal Manager/Chairperson, etc.] of the Municipality of [...], do swear/solemnly affirm that that I will at all times be faithful to the Republic of Kenya; that I will obey, respect and uphold this Constitution of Kenya and all other laws of the Republic, that except with the authority of the Board of the Municipality of [...], I will not directly or indirectly reveal the nature or contents of any business, proceedings or document of the Municipality committed to my secrecy, except as may be required for the due discharge of my duties as [Municipal Manager/Chairperson, etc.] of the Municipality of Marsabit or otherwise under the law. So help me God.”

- 10.1.2. The Municipal Manager/Board Members, Vice Chairperson/ Chairperson shall take and subscribe to this oath or affirmation before a judge/magistrate/commissioner of oaths in presence of the County Governor.

10.2. AMENDMENTS TO THE CHARTER

- 10.2.1. The County Executive Committee may at any time, after consultation with the Board of the Municipality, amend any provision of this Charter.

- 10.2.2. The County Executive Committee shall cause a copy of the proposed amends to the Charter to be laid before the County Assembly within 30 days of its amendment for approval.

10.3. SEPARABILITY

- 10.3.1. If, at any time, any provision of this Charter is or becomes illegal, invalid or unenforceable in any respect under Kenyan law, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision will in any way be affected or impaired.

11. TRANSITIONAL PROVISIONS

11.1. EFFECTIVE DATE OF CHARTER

11.1.1. The provisions of this Charter shall take effect upon publication.

11.2. RIGHTS AND PRIVILEGES PRESERVED

11.2.1. Nothing in the Charter except as otherwise specifically provided shall effect or impair the rights or privileges of persons who are Town Officials, Officers or Employees at the time of its adoption.

11.3. DEPARTMENTS

11.3.1. All Town Departments shall continue to operate with the same powers, duties, activities, budgets, and employees as were in effect at the time this Charter becomes effective until changed by the Municipal Manager with the approval of the Board of the Municipality.