



# **COUNTY GOVERNMENT OF KISUMU**

## **AHERO -AWASI MUNICIPALITY**

### **MUNICIPAL CHARTER**

**Harbour of Prosperity**

# TABLE OF CONTENTS

PREAMBLE.....	iv
1. NAME AND BOUNDARIES.....	1
1.1. NAME.....	1
1.2. BOUNDARIES .....	1
2. POWERS, OBJECTS AND FUNCTIONS OF THE MUNICIPALITY .....	1
2.1. POWERS OF THE MUNICIPALITY.....	1
2.2. OBJECTS OF THE MUNICIPALITY.....	1
2.3. FUNCTIONS OF THE MUNICIPALITY .....	2
3. THE MUNICIPAL BOARD .....	3
3.1. ESTABLISHMENT OF THE BOARD .....	3
3.2. FUNCTIONS OF THE BOARD .....	4
3.3. COMPOSITION AND TERM OF THE BOARD .....	6
6	
3.4. ELIGIBILITY FOR APPOINTMENT AS MEMBER OF THE MUNICIPALITY .....	6
3.5. CHAIRPERSON OF THE BOARD .....	6
3.6. POWERS AND FUNCTIONS OF THE CHAIRPERSON .....	6
3.7. VICE-CHAIRPERSON OF THE BOARD.....	7
3.8. REMOVAL OF THE CHAIRPERSON AND VICE-CHAIRPERSON.....	7
3.9. SECRETARY OF THE MUNICIPAL BOARD .....	7
3.10. COMMITTEES OF THE MUNICIPAL BOARD .....	8
3.11. REMUNERATION OF THE MEMBERS OF THE BOARD .....	8
3.12. REMOVAL OF MEMBERS OF THE MUNICIPAL BOARD .....	9
3.13. MEETING OF THE MUNICIPAL BOARD.....	10
3.14. QUORUM.....	10
3.15. RULES OF THE MUNICIPAL BOARD .....	11
3.16. RECORDING OF INFORMATION FOR THE MUNICIPAL BOARD .....	11
3.17. CITIZEN FORA .....	11
4. LEGISLATIVE AUTHORITY <sup>19</sup> .....	12
4.1. BY-LAWS .....	12
4.2. PASSING OF BY-LAWS .....	12
4.3. EFFECTIVE DATE OF BY-LAWS .....	12
5. ADMINISTRATIVE AUTHORITY .....	13
5.1. RESOLUTIONS .....	13
5.2. APPROVAL OF RESOLUTIONS.....	13
5.3. EFFECTIVE DATE OF RESOLUTIONS .....	13
6.1. OFFICE OF THE MUNICIPAL MANAGER.....	13
6. THE MUNICIPAL MANAGER .....	13

6.2.	APPOINTMENT AND TERM .....	13
6.3.	QUALIFICATIONS .....	14
6.4.	FUNCTIONS AND POWERS OF THE MUNICIPAL MANAGER .....	14
6.5.	REMUNERATION .....	16
6.6.	REMOVAL OF THE MUNICIPAL MANAGER .....	16
6.7.	ACTING MUNICIPAL MANAGER .....	17
7.	MUNICIPAL FINANCES AND FINACIAL MANAGEMENT .....	18
7.1.	SOURCE OF THE MUNICIPAL FUNDSAND REVENUE .....	18
7.2.	APPOINTMENT OF THE MUNICIPALITY ACCOUNTING OFFICER .....	18
7.3.	FUNCTIONS AND POWERS OF THE MUNICIPALITY ACCOUNTING OFFICER .....	18
7.4.	FINANCIAL YEAR .....	19
7.5.	BUDGET .....	19
7.6.	MANAGEMENT OF MUNICIPAL FINANCES .....	19
7.7.	BORROWING BY THE MUNICIPALITY .....	19
7.8.	The Municipality may only borrow <sup>32</sup> :- .....	19
7.9.	AUDIT .....	20
8.	MUNICIPALITY'S PERSONNEL <sup>33</sup> .....	20
8.1.	MUNICIPAL PERSONNEL .....	20
8.2.	MANAGEMENT OF THE PERSONNNEL .....	20
8.3.	RETIREMENT SYSTEMMS .....	20
8.4.	COMPENSATION OF PERSONNEL .....	20
9.	MUNICIPAL PROPERTY .....	20
9.1.	ACQUISITION, POSSESSION AND DISPOSAL .....	20
9.2.	COMPULSORY ACQUISITION .....	20
9.3.	MUNICIPAL BUILDINGS .....	20
9.4.	PROTECTION OF MUNICIPAL PROPERTY .....	20
10.1.	OATH OF OFFICE <sup>36</sup> .....	20
10.	GENERAL PROVISIONS .....	20
10.2.	AMENDMENTS TO THE CHARTER .....	20
10.3.	SEPARABILITY .....	20
11.	TRANSITIONAL PROVISIONS .....	20
11.1.	EFFECTIVE DATE OF CHARTER .....	20
11.2.	RRIGHTS AND PRIVILEGES PRESERVED .....	20
11.3.	DEPARTMENTS .....	20

**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 elections held under the Constitution of Kenya 2010.

**WHEREAS**

Section 9 of the Urban Areas and Cities Act empowers the County Governor, on the resolution of the County Assembly, to confer on a qualifying urban area, the status of a Municipality by grant of a Charter in the prescribed form.

**WHEREAS**

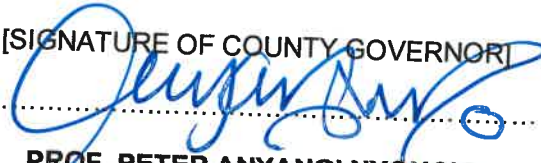
The Urban Areas and Cities Act has the prescribed form of a Municipal Charter.

**WHEREAS**

The County Assembly of Kisumu duly approved the request by the Governor of Kisumu for grant of this Charter to the now AHERO-AWASI Municipality.

**NOW THEREFORE IN EXERCISE** of the powers conferred by section 10 (1) 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 Kisumu County **HEREBY GRANTS** AHERO-AWASI this Municipal Charter on this [..5<sup>th</sup>..] day of [..JULY..] 2024.

[SIGNATURE OF COUNTY GOVERNOR]



PROF. PETER ANYANG' NYONG'O

THE COUNTY GOVERNOR OF KISUMU COUNTY

SEAL OF THE GOVERNOR OF KISUMU COUNTY

## 1. NAME AND BOUNDARIES

### 1.1. NAME

1.1.1. This Charter is the Municipal Charter for AHERO-AWASI Municipality, within Kisumu 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 both of the said officers, on the County Director of Urban Development.

### 1.2. BOUNDARIES

1.2.1. The boundaries of AHERO-AWASI Municipality shall be that of Ahero Ward and Awasi Onjiko Ward or as may be varied by the delineation task force.

## 2. POWERS, OBJECTS AND FUNCTIONS OF THE MUNICIPALITY

### 2.1. POWERS OF THE MUNICIPALITY

AHERO-AWASI Municipality shall have all the powers and perform all functions vested in municipalities under the Urban Areas and Cities Act, Urban Areas and Cities (Amendment) Act, the County Government Act and the Municipality By-laws as approved by the County Assembly.

### 2.2. OBJECTS OF THE MUNICIPALITY

2.2.1. The objects of the Municipality 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. Verify whether public resources and authority are utilized or exercised, as the case may be, to their satisfaction.
  - c. Enjoy efficiency in service delivery.
- (iii) Vigorously pursue the developmental opportunities which are available within the Municipality and 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) Enact legislation which shall govern the provision of services to the residents within the Municipality.
  - (vii) Fostering the economic, social and environmental well-being of its community.

(viii)

## 2.3. FUNCTIONS OF THE MUNICIPALITY

2.3.1. AHERO-AWASI Municipality shall, within the boundaries of the Municipality perform the following functions:

- (a) Promote, regulate and provide refuse collection and solid waste management services;
- (b) Promote, provide water and sanitation services and infrastructure (in areas within the Municipality not served by the Water and Sanitation Provider);
- (c) Construct and maintain storm drainage and flood controls;
- (d) Construct and maintain urban roads and associated infrastructure;
- (e) Construct and maintain walkways and other non-motorized transport infrastructure;
- (f) Construct and maintain recreational parks and green space;

- (g) Construct, maintain and regulate traffic controls and parking facilities;
- (h) Construct and maintain bus stands and taxi stands;
- (i) Regulate outdoor advertising;
- (j) Construct and maintain street lighting;
- (k) Construct, maintain and regulate markets and abattoirs;
- (l) Construct and maintain fire stations; provision of fire-fighting services, emergency preparedness and disaster management;
- (m) Promote, regulate and provide headroom for Municipal sports and cultural activities;
- (n) Promote, regulate provision of animal control and welfare;
- (o) Develop and enforce Municipal plans and development controls;
- (p) Municipal administration services (including construction and maintenance of administrative offices);
- (q) Promote the undertaking of infrastructural development and services within the Municipality;
- (r) Any other functions as may be delegated by the County Government.

### 3. THE MUNICIPAL BOARD

#### 3.1. ESTABLISHMENT OF THE BOARD

There shall be a Municipality Board of AHERO-AWASI.

3.1.1. The Board shall be a body Corporate. It shall:

- (a) Sue or be sued;
- (b) Take, purchase or otherwise acquire, hold, charge or dispose of movable and immovable property;
- (c) Borrow money or make investments within the limits imposed by law;



- (d) Enter into contracts
- (e) Doing or performing all other acts 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.

3.1.2. There shall be a principal and agency relationship between the Municipality and the County Government of Kisumu.

### 3.2 FUNCTIONS OF THE BOARD

3.2.1. Subject to the Constitution and any other written law, the board shall, within the boundaries of AHERO-AWASI

- (a) exercise authority as delegated by the Governor ;
- (b) ensure provision of services to its residents;
- (c) impose such fees, levies and charges as may be authorized by the County Government for delivery of services by the Municipality;
- (d) promote constitutional values and principles;
- (e) ensure the implementation and compliance with policies formulated by both the National and County Government;
- (f) Formulate By-laws or make recommendations for issues to be included in By-laws;
- (g) ensure participation of the residents in decision making, its activities and programmes; and

They shall perform the following functions:

- (a) Oversee the affairs of the Municipality;
- (b) Develop or adopt policies, plans, strategies and programs and set targets for service delivery;
- (c) Formulate and implement an integrated development plan;
- (d) Promote and undertake infrastructural development and services within Ahero-Awasi as delegated by the County Government of Kisumu;
- (e) Develop and manage schemes, including site development in collaboration with the relevant national and county agencies;

- (e) Maintain a comprehensive database and information system for the administration;
- (f) administer and regulate its internal affairs;
- (g) implement applicable national and county legislation;
- (h) monitor and, where appropriate, regulate Municipal services where those services are provided by service providers other than that of the Board of the Municipality;
- (i) prepare and submit its annual budget estimates to the County Director of Urban Development for consideration and submission to the County Assembly for approval as part of the annual County Appropriation Bill;
- (j) collect rates, taxes, levies, duties, fees and surcharges on fees as delegated by the County Government of Kisumu;
- (k) settle and implement tariffs, rates and tax and debt collection policies as delegated by the County Government of Kisumu;
- (l) monitor the impact and effectiveness of any services, policies, programs or plans;
- (m) establishing, implementing and monitoring performance management systems;
- (n) promoting a safe and healthy environment;
- (o) facilitating and regulating public transport
- (p) performing such other functions as delegated by the County Government of Kisumu

### 3.3. COMPOSITION AND TERM OF THE BOARD

The composition, eligibility for appointment and term of the Municipality shall be as provided for in the Urban Areas and Cities (Amendment) Act, 2019.

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

3.4.1. Each member of the Municipal Board shall have the following qualifications<sup>1</sup>:

- (a) be a Kenyan citizen;
- (b) Hold a degree from a university recognized in Kenya or its equivalent
- (c) be ordinarily resident or have a permanent dwelling in the Municipality;
- (d) carry on business in the Municipality; or
- (e) have lived in the Municipality for at least five years.

### 3.5. 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 of the Municipal Board.<sup>2</sup> (Amend).

3.5.2. The Chairperson of the Board shall hold office for a term of five (5) years<sup>3</sup>.

3.5.3. The CEC Member shall not be eligible for Election as Chairperson of the Board.

### 3.6. POWERS AND FUNCTIONS OF THE CHAIRPERSON

The Chairperson of the Municipality Board shall have the following powers and shall perform the functions set out below:

- I. The Chairperson shall be the head of the of the Board;
- II. Chairing the meetings of the of the Municipality Board; and
- III. Perform such other duties as may be delegated by the Board.

---

<sup>1</sup>Section 13 (4) as amended by Section 14 of the UACA

<sup>2</sup>Section 17 of the UACA

<sup>3</sup>Section 17 (4) of the UACA

### 3.7. VICE-CHAIRPERSON OF THE BOARD

At the first regular meeting of the Board of the Municipality, members of the Board shall elect from amongst themselves, a Vice- Chairperson of the Board of the Municipality.

The Chairperson and the Vice-Chairperson of the Municipality shall at all times be of different gender.

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 Board and/or Chairperson.

### 3.8. REMOVAL OF THE CHAIRPERSON AND VICE-CHAIRPERSON

3.8.1. The Chairperson and the Vice-Chairperson of the Board may be removed by<sup>1</sup>:

- a. The County Governor
- b. The Board supported by the vote of at least 2/3 members of the Board.
- c. Upon petition by the residents of the Municipality.<sup>4</sup>

3.8.2. The procedure for the removal of a Chairperson or Vice-Chairperson of the Board as provided for above may be provided for 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.

3.8.3. Any vacancy arising out of the removal of a Chairperson or the Vice-Chairperson of the board may be filled in the manner provided under Article 3.6 and 3.7 respectively. <sup>5</sup>

### 3.9. SECRETARY OF THE MUNICIPAL BOARD

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

3.9.2. Where the Secretary of the Municipality Board is absent from any meeting, the members of the Board shall appoint a Secretary of the Board from amongst themselves for purposes of that meeting.

---

<sup>1</sup> Section 18 of the UACA

<sup>4</sup>Section 18 (3) of the UACA

<sup>5</sup>Section 19 of the UACA

---

### 3.10. COMMITTEES OF THE MUNICIPAL BOARD

3.10.1. The Municipal Board 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;<sup>6</sup>
- (b) delegate to such committees 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 Municipality ;<sup>7</sup> and
- (c) include persons who are not members of the Board in any Committee<sup>8</sup>.

3.10.2. The Sub-committee of the Board to which members may delegate any of their powers and functions must follow procedures which are based as far as they are applicable on the provisions of this Charter, which govern the making of decisions and performance of functions by the Board.

### 3.11. REMUNERATION OF THE MEMBERS OF THE BOARD

3.11.1. The Board shall not be entitled to a salary.

3.11.2. However, members of the Board shall be paid such allowances as the County Executive shall recommend, with the approval of the County Assembly, and on the advice of the Salaries and Remuneration Commission. <sup>9</sup>

---

<sup>6</sup>Section 26 (1) of the UACA

<sup>7</sup>Section 26 (2) of the UACA

<sup>8</sup>Section 26 (3) of the UACA

<sup>9</sup>Section 25 of the UACA

### 3.12. REMOVAL OF MEMBERS OF THE MUNICIPAL BOARD

3.12.1. A member of the board shall cease to hold office if the member<sup>10</sup>:

- (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, the member is absent from three consecutive meetings of the board or Committee and Sub-committee within one financial year;
- (f) is found guilty of professional misconduct by 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 Municipal Board;
- (i) engages in any gross misconduct;
- (j) or dies.

3.12.2. A member of the board may be removed from office by<sup>11</sup>:

- (a) the County Governor;
- (b) a resolution of the board supported by at least two-thirds of the members of the Municipal Board;
- (c) Petition by any resident of the Municipality.

---

<sup>10</sup>Section 16 of the UACA

<sup>11</sup>Section 18 of the UACA

3.12.3. The procedure for the removal or petition for removal of a member of the board under 3.12.1 above shall be provided by Regulation under the Urban Areas and Cities Act<sup>12</sup>.

3.12.4. Any vacancy arising out of the removal of a member of the board may be filled in the manner provided under Article 3.3 above.<sup>13</sup>

### 3.13. MEETING OF THE MUNICIPAL BOARD

3.13.1. The Board shall hold its sittings to transact the business of the Board once every three months.<sup>14</sup>

3.13.2. Notwithstanding Article 3.13.1, the Chairperson of the Board may, and upon request in writing by at least one-third of the members of the Board, convene a special meeting to transact any urgent business of the board.

3.13.3. All regular meetings of the Board called for the purpose of transacting public business, where a majority of the members elected are present, shall be open to the public.<sup>15</sup>

3.13.4. The board shall have the privilege of holding executive sessions from which the public is excluded, however, no by-laws, resolutions, rules or regulations shall be finally adopted at such an executive session.<sup>16</sup>

### 3.14. QUORUM

3.14.1. A majority of the members of the Board is a quorum to conduct business, but a smaller number may meet and compel attendance of absent members as prescribed by Municipal Board Rules.<sup>17</sup>

---

<sup>12</sup>While the UACA provides persons who may remove a member of the board of a City, the procedure for removal or petitioning for removal is not provided. The Charter proposes that the same be provided in the regulations.

<sup>13</sup>Section 19 of the UACA

<sup>14</sup>Section 23 of the UACA

<sup>15</sup>This is not provided for under the Act. However, in line with the principle of transparency, the same has been included.

<sup>16</sup>This provision will allow the Board of the City exclude members of the public where necessary. It may also be appropriate where sensitive matters are being discussed.

<sup>17</sup>This is not provided in the Act. However, a majority of the members of the Board of the City is sufficient to constitute quorum.

3.14.2. A member of the Municipal Board who is interested in any discussions or decision-making regarding any subject or transaction under consideration by the Municipal Board, shall not 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.

### 3.15. RULES OF THE MUNICIPAL BOARD

3.15.1. The Board shall by resolution adopt rules to govern its meetings.

### 3.16. RECORDING OF INFORMATION FOR THE MUNICIPAL BOARD

3.16.1. The minutes and other information of the Board shall be kept by the Secretary.<sup>18</sup>

3.16.2. Access to information on the activities and resolutions of the Board shall be as provided for under the Urban Areas and Cities Act, while paying consideration to the provisions under the Access to Information Act.

### 3.17. CITIZEN FORA

3.17.1. The Board shall ensure the development of mechanisms for the participation of the residents of AHERO-AWASI in the management and administration of the Municipality.

3.17.2. All recommendations from the Citizen Fora of the Municipality shall be forwarded to the Board for resolution.

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

---

<sup>18</sup>This is equally not provided for, but is crucial for the continuity of the functions of the Board of the Municipality.



## 4. LEGISLATIVE AUTHORITY<sup>19</sup>

### 4.1. BY-LAWS

- 4.1.1. The Board of the Municipality shall formulate by-laws.
- 4.1.2. The Board may forward by-laws to the County Assembly for consideration through the Department in charge of Urban Development.

### 4.2. PASSING OF BY-LAWS

- 4.2.1. Except as authorized by Article 3.2.1, passing of By-laws shall require approval by a majority of the Board members in two meetings.
- 4.2.2. The Board may adopt a By-law at a single meeting by the unanimous approval of at least a quorum of 2/3, provided the proposed By-law is available in writing to the public at least one week before the meeting.
- 4.2.3. Any substantive amendment to a proposed By-law must be read aloud or made available in writing to the public before the Board adopts the By-law at that meeting.
- 4.2.4. After the adoption of a By-law, the vote of each member must be entered into the Board's minutes.
- 4.2.5. After adoption of a By-law, the Chairperson of the Board must endorse it with the date of adoption and his/her title.

### 4.3. EFFECTIVE DATE OF BY-LAWS

- 4.3.1. By-laws shall take effect on the 30<sup>th</sup> day after adoption, or on a later day provided in the By-law. (Consider the process of passing of by-laws- Approval by CA, and Department)
- 4.3.2. A By-law may take effect as soon as it is adopted or other date less than 30 days after adoption if it contains an emergency clause.

---

<sup>19</sup>The legislative powers of the Board of the Municipality are not set out in the Act.

<sup>20</sup>The administrative powers of the Municipality are vital yet not set out in the Act.

## 5. ADMINISTRATIVE AUTHORITY <sup>20</sup>

### 5.1. RESOLUTIONS

5.1.1. The Board shall exercise its administrative authority by approving resolutions.

### 5.2. APPROVAL OF RESOLUTIONS

5.2.1. Approval of a resolution or any other administrative decision requires approval by the Board 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's 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.<sup>21</sup>

6.1.2. The Manager shall be the administrative head of the Municipality.

### 6.2. APPOINTMENT AND TERM

6.2.1. The Manager shall be deployed, seconded or otherwise competitively recruited and appointed by the County Public Service Board<sup>22</sup>.

6.2.2. The Municipal Manager shall hold office for a term of 5 years.<sup>23</sup>

---

<sup>21</sup>Section 28 of the UACA

<sup>22</sup>Section 29 of the UACA and Section 59 (1) (b) of the County Governments Act.

### 6.3. QUALIFICATIONS

6.3.1. The Municipal Manager shall<sup>24</sup>:

- (a) Be a citizen of Kenya
- (b) Hold a degree from a university recognized in Kenya or its equivalent
- (c) Have served and has proven experience in administration or management either in public or private sector for a term of at least five years.

6.3.2. In appointing the Manager, the County Public Service Board shall ensure:

- (a) gender equity;
- (b) the inclusion of minorities and marginalized communities; and
- (c) the person satisfies the requirements of Chapter six of the Constitution.

6.3.3. The Municipal Manager need not reside within the Municipality.

### 6.4. FUNCTIONS AND POWERS OF THE MUNICIPAL MANAGER

6.4.1. The Municipal Manager shall implement the decisions and functions of the Municipality and shall be answerable to the Board.<sup>25</sup>

---

<sup>23</sup>The term of the Municipal Manager provided for in the Amended Act. The model Charter proposes that the appointment be contractual.

<sup>24</sup>Section 30 of the UACA

<sup>25</sup>Section 28 of the UACA

6.4.2. The Manager shall perform the following functions:

(a) Act on behalf of the Board -

(i) In ensuring the execution of its directives;

(ii) During all intervals between meetings ;

(b) Prepare and present for approval of the Board , an annual estimate of revenue and expenditure to fund and carry out the programmes and operations of the Municipality;

(c) Be principally responsible for building and maintaining a strong alliance and effective working relationship between the Board and the civil society, private sector and community based organizations;

(d) Cause to be prepared, transmitted to the Board, and distributed to the public at least an annual report on the activities and accomplishments of the departments and agencies comprising the executive branch of the Municipality.

(e) Act as an ex-officio member of the Board and all Committees of the Board ; and

(f) Such other functions as the Board may order or 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 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 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 ;

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

6.4.4. The Municipal Manager must:

- (a) Attend all meetings unless excused by the Chairperson of the Board.
- (b) Make reports and recommendations to the Board about the needs of the Municipality;
- (c) Administer and enforce all Municipality By-laws, resolutions, leases, permits, plans, contracts and any other Municipality's decisions;
- (d) Supervise all Municipality employees;
- (e) Propose to the Board the Organization of the Municipality's departments and its administrative structure;
- (f) Propose and administer the annual Municipal budget;
- (g) Administer Municipal utilities and property;
- (h) Promote cooperation among the staff and citizens in developing Municipal policies and building a sense of community;
- (i) Perform any other duties as may be directed by the Board ;
- (j) Delegate duties, but remain responsible for acts of all subordinates.

6.4.5. The Manager shall have no authority over the Board.

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

## 6.5. REMUNERATION

6.5.1. The Salaries & Remuneration Commission shall set the compensation and the Public Service Board shall determine the conditions of payment of the Manager.

## 6.6. REMOVAL OF THE MUNICIPAL MANAGER

6.6.1. The Municipal Manager may be removed from office by;

- a. The County Public Service Board. ;

- b. A resolution of the Board of the, Municipality supported by at least two-thirds of the members of the Board of the Municipality.
- 6.6.2. The Manager shall cease to hold office upon the lapse of the employment term or if he/she:
- 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;
  - e. without reasonable cause, is absent from three consecutive meetings of the Municipal Board;
  - 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. The procedure for the removal of the Manager may be provided for by the Regulations made under the County Governments Act (No. 17 of-2012) and in the absence thereof in accordance with Kenyan law having regard to fair labor practices.
- 6.6.4. Any vacancy arising in the office of the Manager may be filled in the manner provided under Article 6.2 above.

## 6.7. ACTING MUNICIPAL MANAGER

- 6.7.1. When the Manager is temporarily disabled from acting as Municipal Manager or when the office of the Manager becomes vacant, the County Secretary shall appoint a qualified person to be an Acting Municipal Manager.
- 6.7.2. The County Secretary shall inform the County Public Service Board of such appointment within seven (7) days.
- 6.7.3. The Acting Manager shall have the authority and duties of the Manager, except that the Acting Manager may appoint or remove employees of the Committees only with the approval of the Board.
- 6.7.4. An Acting Manager shall hold office until such a time as a new Manager shall be appointed by the County Public Service Board.

## **7. MUNICIPAL FINANCES AND FINANCIAL MANAGEMENT**

### **7.1. SOURCE OF THE MUNICIPAL FUNDS AND REVENUE**

7.1.1. The Municipality shall derive its revenue and funds from<sup>28</sup>:

- (a) monies allocated by the County Assembly for the purposes of the management and service delivery of the Municipality ;
- (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;
- (c) all monies or grants from any other legitimate source provided or donated to the Municipality ;
- (d) Investment income; and borrowing.

### **7.2. APPOINTMENT OF THE MUNICIPALITY ACCOUNTING OFFICER**

7.2.1. The Municipality Accounting Officer shall be designated by the County Executive Member for Finance in the manner provided under for Section 148 of the Public Finance Management Act. <sup>29</sup>

### **7.3. FUNCTIONS AND POWERS OF THE MUNICIPALITY ACCOUNTING OFFICER**

7.3.1. The Accounting Officer shall have all the powers and perform all the functions of accounting officers as provided for under the Public Finance Management Act.

7.3.2. Without prejudice to the foregoing, the Accounting Officer shall be responsible for managing the finances of the Municipality.

---

<sup>28</sup>Section 43 of the UACA and Section 172 of the Public Finance Management Act

<sup>29</sup>Section 170 of the Public Finance Management Act

## 7.4 FINANCIAL YEAR

- 7.4.1. The Municipality shall operate on an annual budget.
- 7.4.2. The financial year of the Municipal Board shall be the period of twelve months ending on the thirtieth June in each year.<sup>30</sup>

## 7.5. BUDGET

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

## 7.6. MANAGEMENT OF MUNICIPAL FINANCES

- 7.6.1. The Board shall, with the approval of the County Executive Member for Finance, open and maintain a bank account in the name of the Municipality. (Check the PFM Act on the guidelines on the type of account to be opened)
- 7.6.2. All monies received by the Board shall be paid into the Municipality's bank account promptly and in accordance with the Public Finance Management Act.<sup>31</sup>

## 7.7. BORROWING BY THE MUNICIPALITY

7.8. The Municipality may only borrow<sup>32</sup>:-

- (a) from the County Government;
- (b) through the County Government; or
- (c) by way of a bank overdraft.
- (d) and subject to such terms as may be imposed by the County Assembly or such terms as provided by law

---

<sup>30</sup>Section 44 of the UACA

<sup>31</sup>Section 179 of the Public Finance Management Act

<sup>32</sup>Section 177 of the Public Finance Management Act



## 7.9. AUDIT

- 7.9.1. The audit of the Board shall be as provided under Section 46, 47 and 48 of the Urban Areas and Cities Act.

## 8. MUNICIPALITY'S PERSONNEL<sup>33</sup>

### 8.1. MUNICIPAL PERSONNEL

- 8.1.1. The Board may, subject to the approval by the County Public Service, 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 THE PERSONNEL

- 8.2.1. Employees of the Municipality shall be under the general guidance of the Municipal Manager.

### 8.3. RETIREMENT SYSTEMS

- 8.3.1. The Board may take all necessary measures to include its officers and employees, or any of them within any retirement system or pension system under the terms of which they are admissible, and to pay the employer's share of the cost of any such retirement or pension system out of the general funds of the Municipality.

### 8.4. COMPENSATION OF 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.

---

<sup>33</sup>The following provisions are not provided for in statute.

## 9. MUNICIPAL PROPERTY

### 9.1. ACQUISITION, POSSESSION AND DISPOSAL

- 9.1.1. The Board is a body corporate. It may, in concurrence with the County Executive and/or County Assembly 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.
- 9.1.2. All Municipal property and funds of every kind belonging to or in the possession of the Municipality (by whatever prior name known) at the time this Charter becomes 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 land for its purposes, it shall request the County Executive Member responsible for Lands, to request the National Land Commission to acquire the land on its behalf<sup>35</sup>.
- 9.2.2. The provisions of the Land Act shall apply to any intended compulsory acquisition of property within the Municipality.

### 9.3. MUNICIPAL BUILDINGS

- 9.3.1. The Municipality through the Board 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 MUNICIPAL PROPERTY

- 9.4.1. The Board shall undertake every necessary measure to protect Municipal property and to maintain Municipal property in good condition.

---

<sup>34</sup>The following provisions are not provided in statute.

<sup>35</sup>Section 107 of the Land Act

## 10. GENERAL PROVISIONS

### 10.1. OATH OF OFFICE<sup>36</sup>

- 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 the Governor, shall take and subscribe to the following oath or affirmation:

*"I, [...], being called on to exercise the functions of [Municipal Manager/Chairperson, etc.] of AHERO-AWASI Municipality[...], do swear/solemnly affirm 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 Municipal Board of AHERO-AWASI, 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 AHERO-AWASI Municipality or otherwise under the law. (In the case of an oath—  
—So help me God.<sup>37</sup>."*

- 10.1.2. The Chairperson, Vice Chairperson, Members of the Board and the Manager shall take and subscribe to this oath or affirmation before the County Governor.

- 10.1.3. All other persons other than those prescribed in 10.1.2, shall take and subscribe to the oath before the *Municipal Manager*.<sup>37</sup>

### 10.2. AMENDMENTS TO THE CHARTER

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

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

---

<sup>36</sup>Section 18 of the Oaths and Statutory Declarations Act

<sup>37</sup>The form of the oath is not provided by statute. A model from the constitution is adopted in this Model Charter.

### 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 be in effect from ... *5<sup>th</sup>/01/2024* ...

### 11.2. RIGHTS AND PRIVILEGES PRESERVED

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

### 11.3. DEPARTMENTS

11.3.1. All the Municipal's 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.



**Harbour of Prosperity**