

(Bomet County Legislative Supplement No. 1)

LEGAL NOTICE NO. 1

THE URBAN AREAS AND CITIES ACT

(No. 13 of 2011)

THE COUNTY GOVERNMENT OF BOMET

BOMET MUNICIPAL CHARTER

PART I—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. It was amended in 2016 and 2019 respectfully.

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 town, the status of a Municipality by grant of a Charter in the prescribed form.

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.

WHEREAS the County Assembly of Bomet duly approved the request by the Municipal Board of Bomet for review of its Charter in line with the Urban areas and Cities Act (amendments of 2016 & 2019).

NOW THEREFORE IN EXERCISE of the powers conferred by section 9 (1) of the Urban Areas and Cities Act, (No. 13 of 2011, revised 2016 and 2019) 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 Bomet County HEREBY GRANTS the Municipality of Bomet this Municipal Charter on this day of 23rd March 2023.

PART II—INCORPORATION, NAME AND BOUNDARIES

Incorporation and Name

1. (1) This Charter is the Municipal Charter of the Municipality of Bomet, within Bomet County, Kenya.

(2) All processes affecting the Municipality shall be served on the Municipal Manager/ Secretary of the Board of the Municipality or acting Municipal Manager, in the absence of both of said officers, on the most Senior Available Officer of the Municipality.

Boundaries

2. (1) The boundaries of the Municipality of Bomet shall comprise of the area delineated at the time of conferment of the Municipality status or as may from time to time be reviewed.

(2) The boundaries of the Municipality of Bomet as now existing or as may subsequently be altered shall be the boundaries of the Municipality of Bomet.

(3) Delineation of the boundaries of a municipality may be initiated by the Cabinet Secretary or by the relevant county government making a written request to the Cabinet Secretary to appoint the *ad hoc* committee in the manner provided under subsection (3).

(4) The Cabinet Secretary shall, on receipt of a request under subsection (3) or on considering it necessary, appoint by notice in the Kenya Gazette an *ad hoc* committee to delineate the boundaries of the municipality.

(5) The *ad hoc* committee appointed by the Cabinet Secretary under subsection (4) shall comprise—

- (a) a representative of the Independent Electoral and Boundaries Commission, who shall be the chairperson;
- (b) three representatives from the national government drawn from —
 - (i) the Ministry for the time being responsible for urban development;
 - (ii) the Ministry for the time being responsible for environment
 - (iii) the Ministry for the time being responsible for agriculture;
- (c) three representatives from the county government drawn from —
 - (i) the Department for the time being responsible for urban development;
 - (ii) the Department for the time being responsible for environment;
 - (iii) the Department for the time being responsible for agriculture; and
- (d) two representatives from the following professional associations —
 - (i) Institute of Surveyors of Kenya; and
 - (ii) Kenya Institute of Planners.

(6) Where an *ad hoc* committee is to be appointed under sub section (3)

- (a) the governor shall nominate the three representatives referred to under subsection (5)(c) for appointment by the Cabinet Secretary; and

- (b) each of the relevant professional associations shall nominate its representative referred to under subsection (5)(d) for appointment by the Cabinet Secretary.

(7) The representative from the national government drawn from the Ministry for the time being responsible for urban development appointed under subsection (5)(b)(i) shall serve as the secretary to the ad hoc committee.

PART III—POWERS, OBJECTS AND FUNCTIONS OF THE MUNICIPALITY

Powers of the Municipality

3. (1) The Municipality of Bomet 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 Bomet By-laws.

(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 of Bomet By-laws.

Objects of the Municipality

- 4. The objects of the Municipality of Bomet 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 in 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) Providing for services, laws and other matters for Municipality's benefit.
 - (vii) Fostering the economic, social and environmental well-being of its community

Functions of the Municipality

5. (1) The Municipality of Bomet shall, within the boundaries of the Municipality, perform the following functions—

- (a) Promotion, regulation and provision of refuse collection and solid waste management services;
- (b) Promotion and provision of water and sanitation services and infrastructure (in areas within the Municipality not served by the Water and Sanitation Provider);
- (c) Construction and maintenance of urban roads and associated infrastructure;
- (d) Construction and maintenance of storm drainage and flood controls;
- (e) Construction and maintenance of walkways and other non-motorized transport infrastructure;
- (f) Construction and maintenance of recreational parks and green spaces;
- (g) Construction and maintenance of street lighting;
- (h) Construction, maintenance and regulation of traffic controls and parking facilities;
- (i) Construction and maintenance of bus stands and taxi stands;
- (j) Regulation of outdoor advertising;
- (k) Construction, maintenance and regulation of municipal markets and abattoirs;
- (l) Construction and maintenance of fire stations; provision of fire-fighting services, emergency preparedness and disaster management;
- (m) Promotion, regulation and provision of municipal sports and cultural activities;
- (n) Promotion, regulation and provision of animal control and welfare;
- (o) Development and enforcement of municipal plans and development controls;
- (p) Municipal administration services (including construction and maintenance of administrative offices);
- (q) Promoting and undertaking infrastructural development and services within municipality;
- (r) Any other functions as may be delegated by the County Executive Committee.

PART IV—BOARD OF THE MUNICIPALITY*Establishment of the Board*

6. (1) There shall be a Board of the Municipality of Bomet

(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
- (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) There shall be a principal and agency relationship between the Board of the Municipality and the County Government of Bomet.

Powers and Functions of the Board of Municipality

7. (1) 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.

(2) Except as this Charter otherwise provides, all powers of the Municipality shall be vested in the Board of the Municipality.

(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.

(4) Subject to the Constitution and any other written law, the Board of the Municipality shall, within the boundaries of the Municipality of Bomet—

- (a) exercise executive authority as delegated by the County Executive Committee of the County of Bomet;
- (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) make 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
- (h) exercise such other powers as may be delegated by the County Executive Committee of the County of Bomet.
 - (i) Notwithstanding any other provision of law or this Charter, the Board of the Municipality shall exercise such executive authority as may be delegated by the County Executive Committee for the necessary performance of its functions.
 - (ii) 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 programs and set targets for service delivery;
- (c) formulate and implement an Integrated Development Plan;
- (d) control land, land sub-division, land development and zoning by public and private sectors for any purpose, including industry, commerce, markets, shopping and other employment centers, residential areas, recreational areas, parks, entertainment, passenger transport, agriculture, and freight and transit stations within the framework of the spatial and master plans for the Municipality as delegated by the County Government of Bomet;
- (e) promote and undertake infrastructural development and services within Municipality as delegated by the County Government of Bomet;
- (f) maintain a comprehensive database and information system of the administration and provide public access thereto upon payment of a nominal fee to be determined by the board;
- (g) administer and regulate its internal affairs;
- (h) enter into contracts, partnerships or joint ventures as it may consider necessary for the discharge of its function under the act or other written law;
- (i) monitor and, where appropriate, regulating Municipal services where those services are provided by service providers other than the Board of the Municipality;
- (j) prepare and submit 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;
- (k) monitor the impact and effectiveness of any services, policies, programs or plans;
- (l) establish, implement and monitor performance management systems;
- (m) promoting a safe and healthy environment;
- (n) perform such other functions as delegated by the Governor

Composition and Term of the Board of the Municipality

8. (1) A board of a municipality shall consist of nine members appointed by the county governor with the approval of the county assembly. The members of the board appointed shall be constituted as follows:

(2) The county executive member for the time being responsible for cities and urban areas or his representative;

(3) Three (3) members who shall be appointed by the county governor, with the approval of the county assembly;

(4) Four (4) members who shall be nominated by an association and appointed by the county governor, with the approval of the county assembly;

(5) The Chief Officer responsible for urban development; and

(6) The municipal manager who shall be the secretary of the board and an ex officio member of the board.

(7) The Four (4) 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; and
- (d) a cluster representing registered neighbourhood associations in the area.

(8) The county governor shall while considering the nominated members identified by the organizations specified under (7), require the organizations to produce

- (a) signed minutes as evidence of an accountable process of nomination;
- (b) evidence of compliance with statutory obligations; and
- (c) vetting form to establish that the nominee has complied with the prescribed criteria for appointment as a member of the board

(9) The county governor shall, while appointing the members of the board, ensure gender equity, representation of persons with disability, youth and marginalized groups.

(10) The term of the members of the Board of the Municipality shall be five (5) years on a part-time basis.

Chairperson of the Board

9. (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 Board of the Municipality.

(2) A person shall be qualified for appointment as a chairperson of the board if that person—

- (a) holds at least a degree from an institution recognized in Kenya;
- (b) has a distinguished career in a medium level management position in either the private or public sector;
- (c) holds at least ten years' post qualification professional experience;
- (d) satisfies the requirements of Chapter Six of the Constitution;
- (e) is 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) The Chairperson of the Board shall hold office for a term of five (5) years.

Powers and Functions of the chairperson

10. (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.

Vice-Chairperson of the municipality

11. (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 Vice-Chairperson of the Board of the Municipality.

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

(3) 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.

Eligibility for appointment as member of the board of the municipality

12. (1) A person shall be qualified for appointment as a member of the board if that person —

- (a) holds at least a diploma from an institution recognized in Kenya;
- (b) has a distinguished career in a medium level management position in either the private or public sector;
- (c) holds at least five years' post qualification professional experience; and
- (d) satisfies the requirements of Chapter Six of the Constitution;
- (e) is 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.

(2) A person shall not be appointed as a member of the Board if that person —

- (a) is an undischarged bankrupt;
- (b) has been removed from office for contravening the Constitution or any other law;
- (c) is not a citizen of Kenya; or
- (d) has in the conduct of his or her affairs not met any statutory obligations

Removal of the Chairperson and Vice-Chairperson

13. (1) The Chairperson and the Vice-Chairperson of the Board of the Municipality may be removed by—

- (a) a majority decision of the members of Board of the Municipality at a duly convened meeting where quorum is present; or
- (b) upon petition by a resident of the Municipality.

(2) The procedure for the removal of a Chairperson or Vice-Chairperson of the Board of the Municipality under (1) 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) Any vacancy arising out of the removal of a Chairperson or the Vice-Chairperson of Board of the Municipality may be filled in the manner provided under Section 9 and 11 respectively.

Appointment of Municipal Manager/Secretary of the Board of the Municipality

14. (1) The county public service Secretary of the Board shall, through a competitive process appoint a Secretary to the municipal board on such terms and conditions as the county public service board, in consultation with the municipal board, shall determine. A person is qualified to be appointed as the Municipal Manager/Secretary of the Board, if that person —

- (a) has a degree from an institution recognized in Kenya;
- (b) has at least four years' experience in management; and
- (c) Satisfies the requirements of Chapter Six of the Constitution.

(2) The Municipal manager/Secretary to of the Board shall be

- (a) responsible for the day to day management of the affairs of the board; and
- (b) perform such other duties as may be assigned by the board

(3) The Municipal Manager/Secretary of the Board shall hold office for a term of five years.

Removal of the Municipal Manager/Secretary of the Board

15. The provisions of section 18 relating to grounds for vacation of office shall, with necessary modifications as the per the provisions of the County Public service shall apply.

Committee of the Board of the Municipality

16. (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.

(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 those provision of this Charter which govern the taking of decisions and performance of functions by the Board of the Municipality.

Remuneration of the members of the Board of the Municipality

17. (1) The Board of the Municipality shall not be entitled to a salary.

(2) However, members of the Board of the Municipality shall be paid such allowances as the County Executive Committee shall, with the approval of the County Assembly, and on the advice of the Salaries and Remuneration Commission, determine.

Removal of members of the Board of the Municipality

18. (1) A member of the Board of the Municipality shall cease to hold office if the member—

- (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 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.

(2) A member of the Board of the Municipality may be removed from office by;

- (a) the County Governor;
- (b) a resolution of the Board of the Municipality supported by at least two-thirds of the members of the Board of the Municipality; or
- (c) petition by the residents of the Municipality.

(3) The procedure for the removal or petition for removal of a member of the Board of the Municipality under 18(1) above shall be provided by Regulation under the Urban Areas and Cities Act.

(4) Any vacancy arising out of the removal of a member of the Board of the Municipality may be filled in the manner provided under section 8 above.

Meetings of the Board of the Municipality

19. (1) The Board of the Municipality shall hold its sittings to transact the business of the Board once every three months.

(2) Notwithstanding subsection (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 transaction any urgent business of the Board of the Municipality.

(3) All regular meetings of the Board of the Municipality called for the purpose of transacting public business, where a majority of the members elected are present, shall be open to the public.

(4) The Board shall have the privilege of holding executive sessions from which the public is excluded, however, no by-laws, resolution, rule or regulation shall be finally adopted at such an executive session.

Quorum

20. (1) A majority 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.

(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.

Rules of the Board

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

Record of Information of the Board

22. (1) The minutes and other information of the Board of the Municipality shall be kept by the Secretary of the Board of the Municipality.

(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.

Citizen Fora

23.(1) The Board of the Municipality shall ensure the development of mechanisms for the participation of the residents of the Municipality of Bomet in the management and administration of the Municipality.

(2) All recommendations from the Citizen Fora of the Municipality of Bomet shall be forwarded to the Board of the Municipality for resolution.

(3) All recommendations on issues raised in the Citizen Fora and addressed by the Board of the Municipality shall be forwarded to the Municipal Manager for implementation.

PART V – LEGISLATIVE AUTHORITY

By-Laws

24. The Board of the Municipality shall exercise its legislative authority by passing Municipality By-laws.

Passing of By-Laws

25.(1) Except as authorized by subsection 25 (2), passing of By-laws shall require approval by a majority of the Board of the Municipality at two meetings.

(2) The Board of the Municipality may adopt a By-law at a single meeting by the unanimous approval of at least a quorum of Board, provided the proposed By-law is available in writing to the public at least one week before the meeting.

(3) Any substantive amendment to a proposed By-law must be read aloud or made available in writing to the public before the Board of the Municipality adopts the By-law at that meeting.

(4) After the adoption of a By-law, the vote of each member must be entered into the Board minutes.

(5) After adoption of a By-law, the Chairperson of the Board must endorse it with the date of adoption and his title.

Effective Date of By-Laws

26. (1) By-laws shall take effect on the 30th day after adoption, or on a later day provided in the By-law.

(2) A By-law may take effect as soon as adopted or other date less than 30 days after adoption if it contains an emergency clause.

PART VI—ADMINISTRATIVE AUTHORITY

Resolutions

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

Approval of Resolutions

28. (1) Approval of a resolution or any other Board administrative decision requires approval by the Board of the Municipality at one meeting.

(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.

(3) After approval of a resolution or other administrative decision, the vote of each member must be entered into the Board minutes.

Effective Date of Resolutions

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

PART VII—THE MUNICIPAL MANAGER

Office of the Municipal Manager

30. (1) There is established the office of the Municipal Manager.

(2) The Municipal Manager shall be the administrative head of the Municipality of Bomet.

Appointment and Term

31. (1) The Municipal Manager shall be competitively recruited and appointed by the County Public Service Board.

(2) The Municipal Manager shall hold office for a term of five years

Qualification

32. (1) The Municipal Manager shall be appointed as per the provisions of section 14 (1).

(2) The Municipal Manager need not reside within the Municipality.

Functions and powers of the Municipal Manager

33. (1) The Municipal Manager shall implement the decisions and functions of the Board of the Municipality and shall be answerable to the Board.

(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) 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;
- (c) 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;
- (d) Cause to be prepared, transmitted to the Board of the Municipality, 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 all committees of the Board of the Municipality; and
- (f) Such other functions as the Board may, by order, confer upon the Municipal Manager.

(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.
- (4) The Municipal Manager must—

- (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) Appoint, supervise and remove Municipality employees;
- (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 co-operation 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.

(5) The Municipal Manager shall have no authority over the Board of the Municipality.

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

Remuneration

34. The County Public Service Board shall set the compensation and determine the conditions of employment of the Municipal Manager.

Removal of the Municipal Manager

35. (1) The Municipal Manager may be removed from office on recommendations of the Board of the Municipality supported by at least two-thirds of the members of the Board of the Municipality to the County Public Service Board;

(2) The Municipal Manager shall cease to hold office upon the lapse of the employment term of office 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 to the 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.

(3) The procedure for the removal of the Municipal Manager may be provided by the Regulations made under the County Government Act (*No. 17 of 2012*) and the County Public Service Board.

(4) Any vacancy arising in the office of the Municipal Manager may be filled in the manner provided under section 31 above.

Acting Municipal Manager

36. (1) When the Municipal Manager is temporarily disabled from acting as Municipal Manager or when the office of the Municipal Manager becomes vacant, the Board shall appoint a qualified person to be an Acting Municipal Manager.

(2) The Board shall inform the County Public Service Board of such appointment within seven (7) days.

(3) The Acting Municipal Manager shall have the authority and duties of the Municipal Manager, except that the Acting Municipal Manager may appoint or remove employees only with approval of the Board of the Municipality.

(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.

PART VIII—MUNICIPAL FINANCES AND FINANCIAL MANAGEMENT

Sources of the Municipality's Funds and Revenue

37. (1) The Board of the Municipality shall derive its revenue and funds from—

- (a) monies allocated by the County Assembly 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;
- (c) all monies or grants from any other legitimate source provided or donated to the Board;
- (d) revenue arising from rates, fees, levies, charges and other revenue raising measures which is retained by Municipality for the purpose of defraying its costs for providing services;
- (e) investment income; and
- (f) borrowing.

Appointment of the Municipality Accounting Officer

38. (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.

Functions and Powers of the Municipality Accounting Officer

39. (1) The Municipality Accounting Officer shall have all the powers and perform all the functions of accounting officers as provided under the Public Finance Management Act.

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

Financial Year

40. (1) The Municipality shall operate on an annual budget.

(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.

Budget

41. (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.

(2) The Board of the Municipality shall open and maintain a bank account in the name of the Municipality, and with the approval of the respective County Executive Committee member for finance

Management of Municipality Finances

42. (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.

(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.

Borrowing by the Municipality

43. The Board of the Municipality may only borrow from—

- (a) from the County Government;
- (b) through the County Government; or
- (c) by way of a bank overdraft.

and subject to such terms as may be imposed by the County Assembly or such terms as provided by law.

PART IX—AUDIT

Audit

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

PART X—MUNICIPALITY PERSONNEL

Municipality Personnel

45. (1) The Board of the Municipality may subject to the approval by the County Public Service Board, employ such officers and employees as it deems necessary to execute the powers and duties provided by this Charter or other any other law.

(2) There shall be appointed by the County Public Service Board to the municipality Municipal Manager, Municipal Treasurer, Municipal Engineer, Municipal Planner, Environment officer, social, Public health officer and Enforcement officer and there shall be paid to those officers' salaries, emoluments and allowances as determined by the County Public Service Board.

(3) An appointment under subsection 45 (1) shall be on a full-time basis unless the Board concerned directs that it be on a part time or consulting basis.

(4) The offices of Municipal Manager and Municipal treasurer shall not be held by the same person or by persons who stand in relation to each other as partners or as employer and employee

Appointment of Deputies to Municipal Officers

46. (1) Where a municipal manager, municipal treasurer, municipal engineer, municipal planner, environment, public health, enforcement officer has been appointed under 8.1, there may, on the direction of the Municipal Board, also be appointed by the County Public Service Board a deputy of that officer for the purpose of acting in the place of the officer whenever the office is vacant or the holder thereof is for any reason unable to act, and a person appointed as a deputy under this section shall, when so acting and subject to the terms of his appointment, have all the functions of the holder of that office.

(2) A municipal Board shall pay to a person appointed as a deputy under this section salary, emoluments and allowances as it may determine with the approval of the County Public Service Board.

(3) An appointment under this section shall be subject to the same qualifications as for appointment to the office for which he is deputy

Management of Municipal Personnel

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

Retirement Systems

48. The Board of the Municipality may do all things necessary 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 Board of the Municipality.

Compensation of Municipal Personnel

49. 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.

PART XI—MUNICIPALITY PROPERTY

Acquisition, possession and disposal

50. (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.

(2) All town property and funds of every kind belonging to or in the possession of the town (by whatever prior name known) at the time this Charter becomes effective are vested in the Municipality, subject to the terms and conditions thereof.

Compulsory Acquisition

51. (1) Whenever the Municipality deems it necessary to acquire private land for its purposes, it shall request the County Executive Committee Member to request the National Land Commission to acquire the land on its behalf.

(2) The provisions of the Land Act shall apply to any intended compulsory acquisition by the Municipality of property within the Municipality.

Municipal Buildings

52. 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.

Protection of Municipality Property

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

PART XII—GENERAL PROVISIONS

Amendments to the Charter

54. (1) The County Governor may at any time, after consultation with the Board of the Municipality, amend any provision of this Charter.

(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.

Separability (Separation of Power)

55. 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.

PART XII—TRANSITIONAL PROVISIONS

Effective Date of Charter

56. The provisions of this Charter shall be in effect from 23rd March, 2023.

Rights and Privileges Preserved

57. 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.

Departments

58. All Municipal 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

Made on the 23rd March, 2023.

HILLARY K. BARCHOK,
Governor, Bomet County.