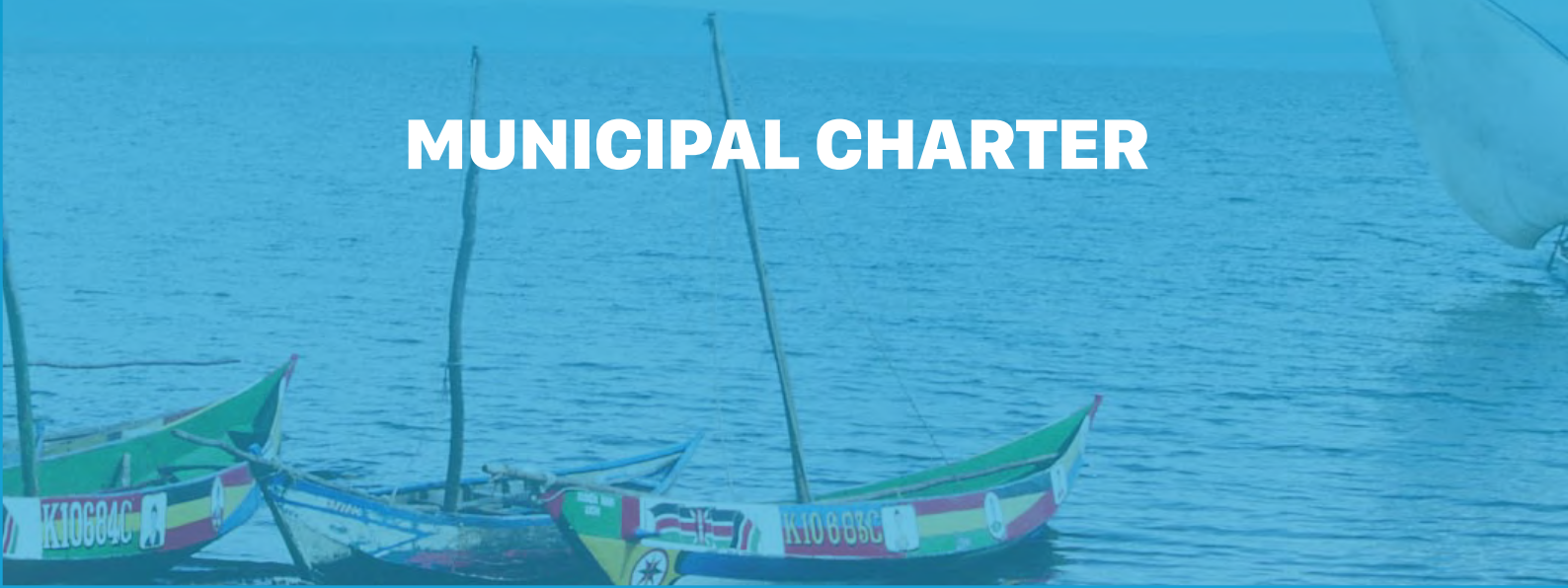




COUNTY GOVERNMENT OF KISUMU

KATITO- PAP ONDITI MUNICIPALITY

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 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 Katito-Pap Onditi Municipality

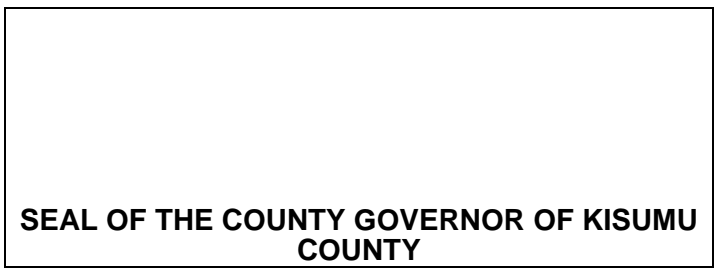
NOW THEREFORE IN EXERCISE of the powers conferred by section 10 (1) of the Urban Areas and Cities Act, (No. 13 of 2011) as complemented by section 72 of the Interpretations and General Provisions Act (Chapter 2) and all other enabling provisions of law, the County Governor of Kisumu County **HEREBY GRANTS** Katito-Pap Onditi this Municipal Charter on this [.....] day of [.....] 2023.

[SIGNATURE OF COUNTY GOVERNOR]

.....

PROF. PETER ANYANG' NYONG'O

THE COUNTY GOVERNOR OF KISUMU COUNTY



1. NAME AND BOUNDARIES

1.1. NAME

1.1.1. This Charter is the Municipal Charter for Katito-Pap Onditi 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 said officers, on the County Director of Urban Development

1.2. BOUNDARIES

1.2.1. The boundaries of Katito-Pap Onditi Municipality shall be that of North Nyakach ward and Central Nyakach 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

Katito-Pap Onditi Municipality Board shall have all the powers and perform all functions vested in boards of 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 in the municipal 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 municipal 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

2.3. FUNCTIONS OF THE MUNICIPALITY

2.3.1. Katito-Pap Onditi Municipality 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 municipal 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 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 the Municipal;
- (r) Any other functions as may be delegated by the County Executive Board.

3. THE MUNICIPAL BOARD

3.1. ESTABLISHMENT OF THE BOARD

3.1.1. There shall be a Municipality Board for Katito-Pap Onditi Municipality

3.1.2. 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

3.1.3. There shall be a principal and agency relationship between the Board of 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 Katito-Pap Onditi

- (a) exercise authority as delegated by the County Executive Committee of the County of Kisumu;
- (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

3.2.2. The Board 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) formulate and implement an integrated development plan;
- (d) promoting and undertaking infrastructural development and services within KatitoPap Onditi as delegated by the County Government of Kisumu;
- (e) developing and managing schemes, including site development in collaboration with the relevant national and county agencies;
- (f) maintaining a comprehensive database and information system of the administration;
- (g) administering and regulating its internal affairs;
- (h) implementing applicable national and county legislation;
- (i) monitoring and, where appropriate, regulating Municipal services where those services are provided by service providers other than the Board of the Municipality;
- (j) preparing and submitting 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;
- (k) collecting rates, taxes levies, duties, fees and surcharges on fees as delegated by the County Government of Kisumu;
- (l) settling and implementing tariff, rates and tax and debt collection policies as delegated by the County Government of Kisumu;
- (m) monitoring the impact and effectiveness of any services, policies, programs or plans;
- (n) establishing, implementing and monitoring performance management systems;
- (o) promoting a safe and healthy environment;
- (p) facilitating and regulating public transport

- (q) 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 Board of the Municipality shall be as provided in the Urban Areas and Cities (Amendment) Act, 2019.

3.4. ELIGIBILITY FOR APPOINTMENT AS MEMBER OF THE MUNICIPALITY BOARD

3.4.1. Each member of the Municipal Board shall have the following qualifications¹:

- (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 municipal; or
- (e) have lived in the Municipal 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.²

3.5.2. The Chairperson of the Board shall hold office for a term of five (5) years³.

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

3.6. POWERS AND FUNCTIONS OF THE CHAIRPERSON

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

¹ Section 13 (4) as amended by Section 14 of the UACA

² Section 17 of the UACA

³ Section 17 (4) of the UACA

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

3.7. VICE-CHAIRPERSON OF THE MUNICIPAL BOARD

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.

The Chairperson and the Vice-Chairperson of the Board 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 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:

- (a) A majority decision of the members of the Board at a duly convened meeting where quorum is present; or
- (b) Upon petition by a resident of the Municipality.⁴

3.8.2. The procedure for the removal of a Chairperson or Vice-Chairperson of the Board under 3.8.1 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.

3.8.3. 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.

⁵

3.9. SECRETARY OF MUNICIPAL BOARD

3.9.1. The Municipal Manager shall be the Board Secretary

⁴ Section 18 (3) of the UACA

⁵ Section 19 of the UACA

3.9.2. Where the Secretary of the Board of the Municipality 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.

3.10. SUB BOARDS OF THE MUNICIPAL BOARD

3.10.1. The Municipal Board may:

- (a) establish such sub Boards 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;⁶
- (b) delegate to such Board 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;⁷ and
- (c) include persons who are not members of the Board in any sub Board⁸.

3.10.2. The Sub Boards of the Board to which members of the Board 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.

3.11. REMUNERATION OF THE MEMBERS OF THE BOARD OF THE MUNICIPALITY

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 Committee shall, with the approval of the County Assembly, and on the advice of the Salaries and Remuneration Commission, determine. ⁹

3.12. REMOVAL OF MEMBERS OF THE MUNICIPAL BOARD

⁶ Section 26 (1) of the UACA

⁷ Section 26 (2) of the UACA

⁸ Section 26 (3) of the UACA

⁹ Section 25 of the UACA

3.12.1. A member of the Board shall cease to hold office if the member¹⁰:

- (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 Sub Board 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 Municipal Board;
- (i) engages in any gross misconduct; or
- (j) dies.

3.12.2. A member of the Board may be removed from office by¹¹:

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

3.12.3. The procedure for the removal or petition for removal of a member of the Board under 3.11.1 above shall be provided by Regulation under the Urban Areas and Cities Act¹².

¹⁰ Section 16 of the UACA

¹¹ Section 18 of the UACA

¹² 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.

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.¹³

3.13. MEETINGS OF THE BOARD OF THE CITY

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

3.13.2. Notwithstanding Article 3.12.1, the Chairperson of the Board may, and upon request in writing by at least one-third of the members of the Board shall, 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.¹⁵

3.13.4. 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.¹⁶

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.¹⁷

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.

¹³ Section 19 of the UACA

¹⁴ Section 23 of the UACA

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

¹⁶ 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.

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

3.15. RULES OF THE BOARD

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

3.16. RECORD OF INFORMATION OF THE BOARD

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

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

3.17. CITIZEN FORA

3.17.1. The Board shall ensure the development of mechanisms for the participation of the residents of the Maseno 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.

4. LEGISLATIVE AUTHORITY ¹⁹

4.1. BY-LAWS

4.1.1.

The Board may suggest by-laws for consideration by the County Assembly through the Department or Urban Development

4.2. PASSING OF BY-LAWS

¹⁸ This is equally not provided but is crucial for the continuity of the functions of the Board of the City.

¹⁹ The legislative powers of the Board of the City are not set out in the Act.

- 4.2.1. Except as authorized by Article 3.2.2, passing of By-laws shall require approval by a majority of the Board of the Municipality at 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 Board, 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 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 title.

4.3. EFFECTIVE DATE OF BY-LAWS

- 4.3.1. By-laws shall take effect on the 30th day after adoption, or on a later day provided in the By-law.
- 4.3.2. 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.

5. ADMINISTRATIVE AUTHORITY ²⁰

5.1. RESOLUTIONS

The Board shall exercise its administrative authority by approving resolutions.

5.1.1.

5.2. APPROVAL OF RESOLUTIONS

- 5.2.1. Approval of a resolution or any other Board 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.

²⁰ The administrative powers of the Board of the City are vital yet not set out in the Act.

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.²¹

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 Board²².

6.2.2. The Municipal Manager may be appointed for a definite or an indefinite term.²³

6.3. QUALIFICATIONS

6.3.1. The Municipal Manager shall²⁴:

- (a) Be a citizen of Kenya
- (b) Hold a degree from a university recognized in Kenya or its equivalent

²¹ Section 28 of the UACA

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

²³ The term of the City Manager is not provided for in the Act. The model Charter proposes that the appointment be contractual.

²⁴ Section 30 of the UACA

- (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.

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 Board and shall be answerable to the Board.²⁵

6.4.2. The Manager shall perform the following functions²⁶:

- (a) Act on behalf of the Board-
 - (i) In ensuring the execution of the directives of the Board;
 - (ii) During all intervals between meetings of the Board;
- (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 Board;
- (c) Be principally responsible for building and maintain a strong alliance and effective working relationships between the Board of 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.

²⁵ Section 28 of the UACA

²⁶ The enumeration of the powers and functions of the City Manager is not provided under the Act. A sample of the powers and functions of the City Manager is provided here.

- (e) Act as an ex-officio member of all sub boards of the Board; and
- (f) 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 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 sub boards 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 Board meetings unless excused by the Chairperson of the Board or 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, and other Municipal decisions;
- (d) Supervise all Municipality employees;
- (e) Organize municipal departments and administrative structure;
- (f) Prepare and administer the annual Municipal budget;
- (g) Administer Municipal utilities and property;
- (h) Promote cooperation among the Board, staff and citizens in developing Municipal policies and building a sense of community;
- (i) Perform other duties as 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 employment of the Manager.

6.6. REMOVAL OF THE MUNICIPAL MANAGER

6.6.1. The Municipal Manager may be removed from office by²⁷;

- (d) the County Governor;
- (e) a resolution of the Board supported by at least two-thirds of the members of the Board; or
- (f) petition by the residents of the Municipality

6.6.2. The Manager shall cease to hold office upon the lapse of the employment term of 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 County Governor;
- (e) without reasonable cause, is absent from three consecutive meetings of the Municipal Board;

²⁷ This is not provided for in the Act. The provisions on removal of the City Manager are of persuasive value only.

- (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 by the Regulations made under the County Government Act (No. 17 of 2012) and in the absence thereof in accordance with Kenyan law having regard to fair labour 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 Governor shall appoint a qualified person to be an Acting Municipal Manager.

6.7.2. The County Governor 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 only with 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. SOURCES OF THE MUNICIPAL FUNDS AND REVENUE

7.1.1. The Board shall derive its revenue and funds from²⁸:

- (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;

²⁸ Section 43 of the UACA and Section 172 of the Public Finance Management Act

- (d) revenue arising from rates, fees, levies, charges and other revenue raising measures which is retained by Board for the purpose of defraying its costs for providing services;
- (e) investment income; and
- (f) borrowing.

7.2. APPOINTMENT OF THE MUNICIPALITY ACCOUNTING OFFICER

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

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 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.

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.³⁰

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

²⁹ Section 170 of the Public Finance Management Act

³⁰ Section 44 of the UACA

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

7.6.2. All monies received by the Board shall be paid into the Municipality bank account promptly and in accordance with the Public Finance Management Act.³¹

7.7. BORROWING BY THE MUNICIPALITY

7.8. The Board may only borrow from³²:-

- (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.

7.9. AUDIT

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

8. MUNICIPAL PERSONNEL³³

8.1. MUNICIPAL PERSONNEL

8.1.1.

The Board 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.

8.2. MANAGEMENT OF PERSONNEL

³¹ Section 179 of the Public Finance Management Act

³²Section 177 of the Public Finance Management Act

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 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.

8.4. COMPENSATION OF PERSONNEL

8.4.1.

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

9. MUNICIPAL PROPERTY³⁴

³³The following provisions are not provided in statute.

³⁴The following provisions are not provided in statute.

9.1. ACQUISITION, POSSESSION AND DISPOSAL

9.1.1. The Board is a body corporate. It May , in concurrence with the County Government 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 Municipal.

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 Board Member to request the National Land Commission to acquire the land on its behalf³².

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

9.3. MUNICIPAL BUILDINGS

9.3.1.

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 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 OFFICE³³

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 Katito-Pap Onditi 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 Council of Katito-Pap Onditi, 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

³² Section 107 of the Land Act

³³ Section 18 of the Oaths and Statutory Declarations Act

[Municipal Manager/Chairperson, etc.] of Katito-Pap Onditi Municipality or otherwise under the law. (In the case of an oath— So help me God.³⁴”

10.1.2. The *Manager* shall take and subscribe to this oath or affirmation before the County Governor or before the sworn deputy. All other persons taking and subscribing to the oath shall do so before the *Municipal Administrator*.

10.2. AMENDMENTS TO THE CHARTER

10.2.1. The County Governor may at any time, after consultation with the *Board* may 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.

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 and after [...]

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 Municipality Officials, Officers or Employees at the time of its adoption.

³⁴ The form of the oath is not provided by statute. A model from the constitution is adopted in this Model Charter.

11.3. DEPARTMENTS

11.3.1. All the 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

