

NO

2018

KIAMBU COUNTY GOVERNMENT

HIS EXCELLENCY THE GOVERNOR
HON. FERDINAND WAITITU BABAYAO

I grant the Municipality status



Governor

27.06.2018

UNDER THE URBAN AREAS AND CITIES ACT, 2011, THE
CHARTER OF KIKUYU MUNICIPALITY, 2018

KIKUYU MUNICIPALITY CHARTER, 2018

PREAMBLE

WHEREAS

- (a) In accordance with Section 9(1) and (4) of the Urban Areas and Cities Act , the Governor intends to confer on Kikuyu urban area the status of a Municipality;
- (b) County Executive Committee considered and approved the application to confer the municipality status on Kikuyu urban Area, and consequently, an *Ad Hoc* Committee was establish to consider and advice on this application;
- (c) The *Ad hoc* committee has considered the application and advised that the Kikuyu urban area has meet the criteria for conferment of municipality status on the basis of meeting the population threshold;
- (d) The Governor has transmitted the recommendation to confer the municipality status on Kikuyu urban area to the County Assembly, which has considered and by a resolution of the House, approved this recommendation;
- (e) The Clerk has transmitted to the Governor the County Assembly resolution approving the recommendation to confer the municipality status on Kikuyu urban area;
- (f) Section 9(1) provides that conferment of municipality status is to be done by grant of a charter in the prescribed form
- (g) The Urban Areas and Cities Act does not have the prescribed form of a municipality charter nor have any regulations been promulgated under this Act providing the prescribed form of a municipality charter; and
- (h) In the absence of a prescribed format under the Urban Areas and Cities Act, in accordance with the provisions of section 72 of the Interpretations and General Provisions Act, the County Assembly has considered and approved the format of the charter containing herein for purposes of compliance with ~~the~~ Urban Areas and Cities Act;

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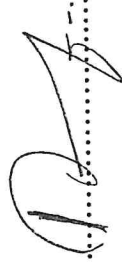
NOW WHEREFORE, IN EXERCISE of the powers conferred by Section 9 (1) and (4) of the Urban Areas and Cities Act, (No. 13 of 2011) as complemented by Section 72 of the Interpretations and General Provisions Act (Chapter 2) and all other enabling provisions of law, **I HEREBY** **CONFER** Municipality status to Kikuyu urban area by the grant of Charter on

this.....day of2018



H.E. HON. FERDINAND WAITITU BABAYAO,
GOVERNOR, KIAMBU COUNTY

I certify that the format of this charter was approved by the resolution of the County Assembly passed on the 4th June, 2018.



SPEAKER OF THE COUNTY ASSEMBLY

KIKUYU MUNICIPALITY CHARTER

ARRANGEMENT OF SECTIONS

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FIRST SCHEDULE – Map of Kikuyu Municipality

SECOND SCHEDULE – Oath of office

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URBAN AREAS AND CITIES ACT
KIKUYU MUNICIPALITY CHARTER, 2018

The Charter of the County Government of Kiambu to confer Municipality on Kikuyu Town, the County Headquarters, for description of functions of the Municipality; the establishment of the Kikuyu Municipality Board; appointment of Municipal Manager and for connected purposes;

PART I - PRELIMINARIES

Short title

1. This Charter may be cited as the Kikuyu Municipality Charter.

Commencement

2. This Charter shall commence on the date of publication in the gazette.

Interpretation

3. In this Charter unless the context otherwise requires-

“Act” means the Urban Areas and Cities Act, 2011;

“Board” means the Kikuyu Municipality Board established under section 6 of this Charter;

“Charter” means the Kikuyu Municipality Charter;

“Constitution” means the Constitution of Kenya, 2010;

“County Assembly” means the Kiambu County Assembly;

“County Executive Committee” means the Kiambu County Executive Committee;

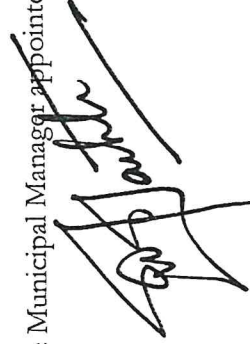
“County Government” means the County Government of Kiambu;

“Executive Member” means the County Executive Committee Member for the time being responsible for Urban Development;

“Financial Year” means the financial of the County Government;

“Municipality” means the Kikuyu Municipality established under section 5 of this Charter;

“Municipal Manager” means the Municipal Manager appointed under section 16 Of this Charter;



Purpose

4. The Purpose of this Charter is to confer the municipality status on the Kikuyu urban area and to establish a Municipality Board for implementation of the objects of the Municipality,

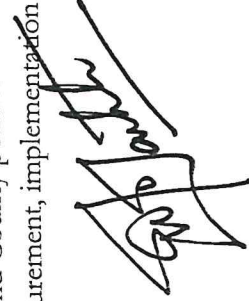
PART II- ESTABLISHMENT AND MANAGEMENT OF THE KIKUYU MUNICIPALITY

Conferment of the Municipality status

- 5(1) There is hereby conferred the municipality status on all that area known as Kikuyu urban area within the boundaries identified as at the time of commencement of this Charter and as set out in the first schedule to this Charter.
- (2) The Kikuyu urban area shall from the date of commencement of this Charter be known as the Kikuyu Municipality.
- (3) The Municipality shall have the status of a municipality within the definition of the Act.
- (4) The first schedule may be amended by the County Assembly with the approval of the Independent Electoral and Boundaries Commission or its successor.
- (5) The Municipality shall be managed by a Municipality Board established under this Charter.

Establishment of the Municipality Board

- 6(1) There is established the Kikuyu Municipality Board which shall be a body corporate with perpetual succession and a common seal and shall, in its 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;
 - (d) entering into contract; and
 - (e) doing or performing all other acts 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.
- (2) In undertaking its mandate under this Charter, the Board shall ensure compliance with all relevant National and County policies and Laws, and in particular, in matters relating to financial management, procurement, implementation of contract and projects implementation, and service delivery.



Board membership

7.(1) In accordance with section 14 of the Act, the Board shall comprise of not more than nine persons appointed by the by Governor with the approval of the County Executive Committee and the County Assembly.

(2) The Governor shall appoint a chairperson from amongst persons approved for appointment by the County Assembly.

(3) The County Executive Committee shall designate a representative of each of the County departments to be an ex-officio members of the Board

(4) The Municipal Manager shall be Board's secretary and an ex-officio member of the Board.

Term of office

8. A member of the Board other than an ex-officio member shall hold office for a term of five years on a part time basis.

Removal of office

9. A member of the Board may be removed from office by the Governor on-

- (a) any of the grounds provided under section 16 of the Act;
- (b) the recommendation of at least two thirds of the voting Members of the Board;
- (c) upon petition of at least fifty per cent of the residents of the Municipality;
- (d) on non-performance or insubordination; or
- (e) the recommendations of the County Assembly for any other ground including in-effective supervision or conduct of its oversight role in the implementation of projects, annual procurement plan, budget, policies or legislation within its jurisdiction.

Power and Functions of the Board

10. (1) Save as otherwise expressly stated in this Charter, the Board shall have the powers and perform the functions vested in Boards of municipalities under sections 20 and 21 of the Act.

(2) In addition to any other functions under this Charter, the Board shall, through a public participatory process, be responsible for-

- (a) preparing and recommending to the Executive Member the Municipal Integrated Development plan;



- (b) preparing an annual infrastructure development agenda for Municipality and advising the Executive Member;
 - (c) participating in the County Government budgeting process to ensure budgetary provision for the development agenda; and
 - (d) supervising implementation of donor funded projects within their jurisdiction and preparing reports for submission to the Executive Member.
- (3) Notwithstanding the generality of the sub-section (1), the Board shall not implement any function under the Act without first obtaining the approval by the County Executive Committee.
- (4) In addition to sub-section (3), the Board shall be accountable to the County Executive Committee and the County Assembly for any exercise of power and functions under the Act or this Charter.
- (5) The Board may establish committees comprising of its members for better implementation of its functions.

Board reports

- 11(1) The Board shall, within seven days from the beginning of a new quarter, prepare a quarterly report of its activities and submit it to the Executive Member.
- (2) The Board shall, within fifteen days from the close of the financial year, for consideration by the County Executive Committee and the County Assembly, prepare and submit to the Executive Member an annual report giving details of-
- (a) on-going projects and any pending bill on the project;
 - (b) projects completed within the financial year, total sum spent on the project and any pending bill;
 - (c) projects proposed for the next financial year and estimated costs; and
 - (d) an assessment of the social and economic impact of the implemented projects including creation of jobs and investment opportunities if any.
- (3) The County Assembly may summon the Board or any member of the Board to answer any question or present a report before it.

Remuneration of the Members of the Board

12. The Members of the Board shall be entitled to such remuneration or allowances as may from time to time be determined by the Executive Committee Member responsible for Finance subject to approval by the County Executive Committee and the Salaries and Remuneration Commission.

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Conduct of meetings

- 13(1). The Board shall hold its sittings to transact the business of the Board once every three months.
- (2) Notwithstanding subsection (1), the Chairperson may, or his or her own volition or upon request in writing by at least one-third of the Board Members convene a special meeting of the Board to transact an urgent business of the Board.
- (3) The quorum shall be at least fifty per cent of the voting members and the Chairperson shall have a casting vote.
- (4) The Board shall, with the approval of the Executive Member, determine the conduct of the committee's business.
- (5) The Executive Member may, by notice in the gazette, prescribe the procedure and rules for the conduct of meetings of the Board.

Conflict of interest

14. A member of the Board who is interested in any discussions or decision-making regarding any subject or transaction under consideration by the Board, shall not participate in the meeting discussing or making the decision, and his or her interest in the matter shall be recorded in the minutes.

Maintenance of Board proceedings and records

- 15(1) The minutes and other information and records of the Board shall be kept in the custody of the Municipal Manager.
- (2) Subject to the provisions of the Act, National and County Government laws on access to information, a person may apply to access any records, document or information held by or behalf of the Board which that person believes to be necessary for enforcement of a constitutional right.
- (3) Notwithstanding the provisions of subsection (2), the procedure prescribed under the relevant County Government laws on access to information and public participation shall apply with the necessary modifications.

PART III – ADMINISTRATION

Office of the Municipal Manager

- 16(1) The Governor shall, with the approval of the County Executive Committee and the County Assembly, appoint a person competitively recruited by the County Public Service Board, as the Municipal Manager.



- (2) The Municipal Manager shall be the secretary to the Board and as such, shall be responsible for the implementation of the Board decision and functions.
- (3) A person shall not qualify for appointment as a Municipal Manager unless that person –
- (a) is a citizen of Kenya;
 - (b) holds a degree from a university recognized in Kenya;
 - (c) possess at least ten years post graduation work experience in a managerial position; and
 - (d) satisfies the requirements of chapter six of the Constitution.
- (4) Unless otherwise specified in the terms and conditions of appointment, the Municipal Manager shall serve for a period of three years, which term may be renewable once.
- (5) The Human Resource policy of the County Government shall apply to the Municipal Manager.

Deployment of staff members

17. The County Secretary may, on recommendation of the Chief Officer, deploy staff of the County Government to the Municipality as shall be necessary for better implementation of the functions and decisions of the Board.

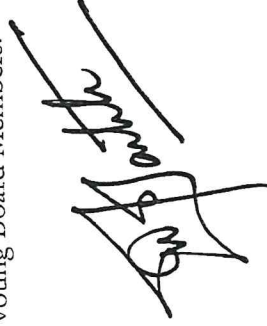
PART IV – DEVELOPMENT OF BY-LAWS

Power to make By -laws

- 18(1) The Board of the Municipality may pass Municipality By-laws to enable it carry out its mandate efficiently.
- (2) Notwithstanding the provisions of subsection (1), the Board shall not pass a by-law on a matter addressed under the National of County Government legislation.
- (3) In addition to sub-section (2), where the National or County Government enacts a legislation on a matter addressed by a Municipality By-law, the By-law shall automatically be repealed on commencement of the legislation.

Procedure of making By-laws

- 19 (1) All proposed by-laws or an amendment to a by-law shall, before approval by the Board, be subjected to public participation conducted in accordance with the County Government Legislation and any other relevant written laws.
- (2) The passing of a by-law or an amendment to a by-law shall be by a simple majority of all voting Board Members.



- (3) Subject to subsection (2), the Chairman of the Board shall submit a by-law or an amendment to a by law to Executive Member for tabling before the County Executive Committee for approval.
- (4) The Executive Member shall publish in the gazette a by-law, or an amendment to a by-law approved by the County Executive Committee and within seven days of such publication, submit the published by-law or an amendment to a by-law to the County Assembly for consideration and approval.
- (5) Where the County Assembly has not raised any objection within thirty days from the date of publication, the published by-laws or amendment to the by-law shall be presented to the Governor for Assent.
- (6) Where the Governor assents to a by-law or an amendment to a by-law, the Executive Member shall, within fourteen days from the date of such assent, publish the assented by-law or amendment to the by-law in the gazette, and within seven days of such publication, the by-law or the amendment to the by-law shall commence.
- (7) Notwithstanding the provisions of sub-section(6), the by-laws or an amendment to the by-law may prescribe a commencement date, and different dates may be provided for different provisions.
- (8) The Governor may decline to assent to a by-law or an amendment to a by-law and shall issue a memorandum of reasons for such decline.

Enforcement of a by-law

- 20(1). A Municipal by-law or an amendment to a by-law shall be deemed to be subsidiary legislation of the County Government.

PART V – MUNICIPAL FINANCES AND FINANCIAL MANAGEMENT

Sources of funds

- 21(1) The funds of the Municipality shall be from-
 - (a) Monies as may be appropriated by the County Assembly;
 - (b) Sums received including contributions, gifts, donations or grants from any lawful sources;
 - (c) Monies or assets that may accrue to the Board in the course of the exercise of its powers of the performance of its functions;
 - (d) Investment income; and
 - (e) All other monies which in any manner may become payable to or vested in the fund.

- (2) The funds of the Municipality shall be used for capital development and operations of the Board in line with the provisions of the Public Finance Management Act.



Municipality bank account

22(1) With the authority of the County Executive Committee Member responsible for finance, the Board may operate a bank account under the name of Kikuyu Municipality Account.

- (2) Where an account is authorized, the signatories of this account shall be-
- (a) the Municipal Manager; and
 - (b) two other officers designated by the County Executive Member responsible for finance.

Financial year

23. The Municipality financial year shall be the financial year of the County Government.

Budget

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

(2) The budget for the Municipality shall be developed in the manner provided under Section 175 of the Public Finance Management Act, 2012.

PART VI – GENERAL PROVISIONS

Oath of office

25. Prior to assuming the office and duties of the Board Membership or the Municipal Manager a person shall be required to take the oath of office prescribed in the Second Schedule to this Charter and as prescribed under any other relevant written law.

Amendments to the Charter

26. The County Governor may at any time, with the approval of the County Assembly, amend any provision of this Charter by a notice in the gazette.

Severability

27. 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.

County Department

28. County Departments shall continue to operate with the same powers, duties, activities, budgets, and employees as were in effect prior to the commencement of this Charter unless otherwise determined by the County Executive Committee subject to the approval of the County Assembly.

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FIRST SCHEDULE - MAP OF THE KIKUYU MUNICIPALITY

SECOND SCHEDULE

OATH OF OFFICE

“I, [.....], being called on to exercise the functions of [Municipal Manager/Chairman/ Board Member] of the Municipality of Kiambu ,do swear/solemnly affirm that that I will at all times be faithful to the Republic of Kenya; that I will obey, respect and uphold this Constitution of Kenya and all other laws of the Republic, that except with the authority of the Board of the Municipality of Kiambu, 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/Chairman/ Board Member] of the Municipality of Kiambu or otherwise under the law. So help me ~~God~~.”

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