

(Trans Nzoia County Legislative Supplement No.2)

LEGAL NOTICE NO. 2

THE URBAN AREAS AND CITIES ACT

(No. 13 of 2011)

THE MUNICIPALITY OF KITALE

MUNICIPAL CHARTER

PART I—PRELIMINARY

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 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 urban areas and cities; establishing the principles of governance and management of urban areas and cities; and providing for participation by residents in the governance of urban areas and cities within 1 year of promulgation of the Constitution.

WHEREAS

Parliament enacted Urban Areas and Cities Act in the year 2011, which the 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, upon 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

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

NOW THEREFORE IN EXERCISE of the powers conferred by section 9 (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 Trans Nzoia HEREBY GRANTS the Municipality of Kitale this Municipal Charter on this [.....] day of [.....] 2019.

.....
H.E Patrick Simiyu Khaemba

THE COUNTY GOVERNOR OF TRANS NZOIA COUNTY.

(SEAL OF THE COUNTY GOVERNOR)

PART II—INCORPORATION, NAME AND BOUNDARIES

Incorporation and Name

1. This is the Municipal Charter of Municipality of Kitale, within Trans Nzoia County, Kenya.

2. All processes affecting the Municipality shall be handled by the Municipal Manager who is mandated to serve as Secretary to the Board.

Boundaries

3. The existing boundaries of the Municipality of Kitale or as may subsequently be altered shall be the boundaries of the Municipality of Kitale as per Kitale Urban Integrated Development Plan.

PART III—POWERS, OBJECTS AND FUNCTIONS OF THE MUNICIPAL BOARD

Powers of the Municipal Board

4. (1) The Municipal Board 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 Government of Trans Nzoia 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 the Municipality Board may determine, or, unless a contrary intent appears in this Charter or in the County Government of Trans Nzoia laws and Resolutions of the Municipal Board, in such manner as may be provided by the County Government of Trans Nzoia through bills.

Objects of the Municipal Board

5. The objects of the Municipal Board are to—

- (a) Provide for efficient and accountable management of the affairs of the Municipality.
- (b) Provide for governance mechanism that will enable the inhabitants of the Municipality to—
 - (i) Participate in determining the social services and regulatory framework which will best satisfy their needs and expectations.
 - (ii) Verify whether public resources and authority are utilized or exercised, as the case may be, to their satisfaction.

- (iii) Enjoy efficiency in service delivery.
- (iv) 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.
- (v) Provide a high standard of social services in a cost effective manner to the inhabitants of the Municipality.
- (vi) 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.
- (vii) Provide for services, laws and other matters for the Municipality.
- (viii) Foster the economic, social and environmental well-being of its community.

Functions of the Municipality

6. The Municipality of Kitale shall, within the boundaries of the Municipality, perform the following functions—

- (a) Promote, regulate and provide for refuse collection and solid waste management services;
- (b) Promote and provide for water and sanitation services and infrastructure (in areas within the Municipality not served by the Water and Sanitation Provider);
- (c) Construct and maintain urban roads and associated infrastructure;
- (d) Construct and maintain storm water drainage and flood controls;
- (e) Construct and maintain walkways and other non-motorized transport infrastructure;
- (f) Construct and maintain recreational parks and green spaces;
- (g) Construct and maintain street lighting;
- (h) Construct, maintain and regulate traffic controls and parking facilities;
- (i) Construct and maintain bus and taxi stands;
- (j) Regulate outdoor advertising;
- (k) Construct, maintain and regulate municipal markets and abattoirs;
- (l) Construct and maintain fire stations; provision of fire-fighting services, emergency preparedness and disaster management;
- (m) Promote, regulate and provide municipal sports and cultural activities;
- (n) Promote, regulate and provide animal control and welfare;
- (o) Develop and enforce municipal plans and development controls
- (p) Manage administrative services and maintain administrative offices.

- (q) Promote and undertake infrastructural development and services within the municipality;
- (r) Any other functions as may be delegated by the Trans Nzoia County Executive Committee.

PART IV – THE BOARD OF THE MUNICIPALITY

Establishment of the Board

7. (1) there is established the Board of the Municipality of Kitale.

(2) The Municipal Board 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 acts or duties for the proper performance of its functions in accordance with the Urban Areas and Cities Act or any other written law in the Republic of Kenya.

(3) There shall be a principal and agency relationship between the Municipal Board and the County Government of Trans Nzoia, where the County Government shall be the principal.

PART VI – POWERS AND FUNCTIONS OF THE BOARD OF THE MUNICIPALITY

Powers of the Board

8. (1) The Municipality Board 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 bills/laws and any other written law.

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

(3) The Municipality Board shall provide for the exercise of these powers and for the performance of all duties and obligations imposed on it in line with the Urban Areas and Cities act. (Section12, (i))

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

- (a) Exercise executive authority as delegated by the County Executive Committee of the County of Trans Nzoia.
- (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 Municipal Board;
- (d) Promote constitutional values and principles;
- (e) Ensure the implementation and compliance with policies formulated by both the National and County Government;

- (f) Make bills/by-laws or make recommendations for issues to be included in the bills/by-laws
- (g) Ensure participation of the residents in decision making, its activities and programs; and
- (h) Exercise such other powers as may be delegated by the County Executive Committee of the County of Trans Nzoia

(5). 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.

(6).The Municipal Board 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 use, land sub-division, land development and zoning by public and private sectors for any purpose, including industry, commerce, markets, shopping and other employment centres, 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 Trans Nzoia;
- (e) Promote and undertake infrastructural development and services within Municipality as delegated by the County Government of Trans Nzoia;
- (f) Develop and manage schemes, including site development in collaboration with the relevant national and county agencies;
- (g) Maintain a comprehensive database and information system of the administration;
- (h) Administer and regulate its internal affairs;
- (i) Implement applicable national and county legislation;
- (j) Enter into contracts, partnerships or joint ventures as it may consider necessary for the discharge of its functions;
- (k) Monitor and, where appropriate, regulate municipal services where those services are provided by service providers other than the Board of the Municipality;
- (l) 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;
- (m) Collect rates, taxes levies, duties, fees and surcharges on fees as delegated by the County Government of Trans Nzoia;
- (n) Settle and implement tariff, rates and tax and debt collection policies as delegated by the County Government of Trans Nzoia;
- (o) Monitor the impact and effectiveness of any services, policies, programs or plans;

- (p) Establish, implement and monitor performance management systems;
- (q) Promote a safe and healthy environment;
- (r) Facilitate and regulate public transport;
- (s) Perform such other functions as delegated by the County Government of Trans Nzoia;

Composition and Term of the Municipal Board

9 (1) The Municipal Board shall be composed of nine (9) members.

(2) Four (4) members of the Municipal Board shall be appointed through a competitive process by the County Executive Committee and approved by the County Assembly.

(3) Five (5) members of the Board shall be nominated by the following umbrella bodies—

- (a) An umbrella body representing professional associations in the area;
- (b) An association representing the private sector in the area;
- (c) A cluster representing registered associations of the informal sector in the area;
- (d) A cluster representing registered neighborhood associations in the area; and
- (e) An association of the Municipality and appointed by the Governor with the approval of the County Assembly.

(4) In appointing members of the Municipal Board, the Governor shall ensure gender equity, representation of persons with disability, youth and marginalized groups.

(5) The term of the members of the Municipal Board shall be five (5) years.

Eligibility for Appointment as Member of the Municipality Board

10. Each member of the Municipality Board shall have the following qualifications—

- (a) Be a Kenyan citizen;
- (b) Be ordinarily resident or have a permanent dwelling in the
- (c) Municipality;
- (d) Carry on business in the municipality; or
- (e) Have lived in the municipality for at least ten years.

Chairperson of the Board

11.(1) At the first regular meeting of the Municipality Board, members of the Municipal Board shall elect from amongst themselves, a Chairperson of the Board.

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

Powers and Functions of the Chairperson

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

- (a) Heading the Municipality Board
- (b) Chairing the meetings of the Board.
- (c) Perform such other duties as may be delegated by the Municipality Board.

Vice-Chairperson of the Board of the Municipality

13. (1) at the first regular meeting of the Municipality Board, members of the Board shall elect from amongst themselves, a Vice-Chairperson of the Board.

(2) The Chairperson and the Vice-Chairperson of the Municipal Board 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.

Removal of the Chairperson and Vice Chairperson

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

- (a) A majority decision of the members of the Municipality Board at a duly convened meeting where quorum is present and approved by the Governor; or
- (b) Upon successful 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 Article 14(1) 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 the Municipal Board may be filled in the manner provided under Article 11 and 13 respectively.

Secretary to the Municipality Board

15. The secretary to the Board shall be the Municipality Manager as per the Urban Areas and Cities act and the County Governments Act, laws of Kenya.

Committees of the Municipal Board

16. (1) The Municipality Board may—

- (a) Establish such Committees for any general or special purpose which, in its opinion, would regulate or manage its affairs more efficiently and as may be necessary for the performance of its functions under the Urban Areas and Cities Act;
- (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 Municipality Board

17.(1) The Municipal Board Members shall not be entitled to a salary, however, members of the Municipality Board shall be paid such allowances as the County Public Service Board shall determine, in consultation with Salaries and Remuneration Commission and the approval of the County Assembly.

(2) Members of the board shall serve on a part time basis.

Removal of Members of the Municipal Board

18. (1) A member of the Municipal Board 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 Governor;
- (e) Without reasonable cause, the member is absent from three consecutive meetings of the Board or Committee of the 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
- (h) Constitution;
- (i) Fails to declare his or her interest in any matter being considered or to be considered by the Board or Board Committees;
- (j) Engages in any gross misconduct; or
- (k) Dies.

(2) A member of the Municipal Board may be removed from office by—

- (a) the Governor;
- (b) A resolution of the Municipal Board supported by at least two-thirds of the members of the Board of the Municipality; or

Petition by the residents of the Municipality.

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

(2) Any vacancy arising out of the removal of a member of the Municipal Board may be filled in the manner provided under Article 9(3) above.

Meetings of the Municipal Board

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

(2) Notwithstanding Article 20 (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 Municipal Board

(3) The Board shall have the privilege of holding executive sessions from which the public is excluded.

Quorum

21. (1) A majority (5 members) of the Board members is a quorum to conduct business, but a smaller number may meet and compel attendance of absent members as prescribed by the Municipal Board Rules.

(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 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.

Rules of the Board

22. The Municipality Board 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 shall be kept by the Secretary of the Board.

(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 shall ensure the development of mechanisms for the participation of the Municipality in the management and administration of the Municipality through public participation.

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

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

PART VII—LEGISLATIVE AUTHORITY

Bills /By-Laws

24. The Board shall exercise its legislative authority by passing Municipality bills/laws

Passing of Bills

25. Except as authorized by Article 8 (2), the board may draft bills which will be submitted to the county executive for ratification and submission, to the county assembly.

Effective Date of Bills/Laws

26. Bills shall take effect after thirty days upon assent by the Governor.

27. A bill may take effect as soon as it is adopted if it contains an emergency clause.

PART VIII—ADMINISTRATIVE AUTHORITY

Resolutions

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

Approval of Resolutions

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

(2) 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

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

PART IX—THE MUNICIPALITY MANAGER

Office of the Municipality Manager

31. (1) there is established the office of the Municipal Manager.

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

(3) The municipality manager shall be the authorized accounting officer of the Kitale Municipality Board.

(4) The municipality manager shall be the secretary of the Municipality Board and its ex-officio member.

Appointment and Term

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

(2) Pursuant to the provisions of the Urban Areas and Cities Act sections 28 and 29, the term of office of the municipal manager shall not be limited but will be subject to the terms and conditions of service applicable to public servants in the public service and performance.

Qualifications

33. (1) The Municipal Manager shall be—

- (a) Citizen of Kenya (Sections 28, 29 and 30 of the Urban Areas Cities Act, 2011; and Section 59 (1) (b) of the County Governments Act, 2012.
- (b) Hold a degree from a university recognized in Kenya or its equivalent.
- (c) Have served and had proven experience in administration or management either in public or private sector for a term of at least five years.
- (d) Be a resident of Trans Nzoia County

(2) In appointing the Municipal 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.

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

Functions and Powers of the Municipal Manager

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

(2) The Municipal Manager shall perform the following functions—

- (a) Act on behalf of the Municipality Board
- (b) In ensuring the execution of the directives of the Municipal Board.
- (c) During all intervals between meetings of the Municipal Board.
- (d) The Municipal Manager shall be the authorized accounting officer of the Board.

(i).Prepare and present for approval to the Municipal board, an annual estimate of revenue and expenditure to fund and carry out the programs and operations of the Board; Section 28 of the Urban Areas and Cities Act.

(2) Powers and functions of the Municipal Manager shall—

- (a) Be principally responsible for building and maintaining a strong alliance and effective working relationships between the Board of the Municipality and the civil society, private sector and community based organizations;
- (b) Cause to be prepared, transmitted to the Municipal 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.
- (c) Act as an ex-officio member of all committees of the Municipal Board; and
- (d) 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 Municipal board and provide for the coordination of their activities;
- (b) Enforce the provisions of this Charter, Municipal bills, and all applicable laws;
- (c) Exercise powers granted to the Municipal Manager in this Charter, bills and applicable laws concerning the Municipal Board employees.
- (d) Exercise other powers as may be prescribed by this Charter, bills and applicable laws.

(4) The Municipal Manager shall—

- (a) Attend all Municipality Board meetings unless excused by the Chairperson of the Board.

- (b) Make reports and recommendations to the Municipal Board about the needs of the Municipality.
 - (c) Administer and enforce all Municipality Bills, resolutions, franchises, leases, contracts, permits, and other Municipal board decisions;
 - (d) Supervise and make request for required personnel (Municipal employees)
 - (e) Organize Municipal departments and administrative structure;
 - (f) Prepare and administer the annual Municipal budget;
 - (g) Administer Municipality utilities and property;
 - (h) Encourage and support regional and intergovernmental cooperation;
 - (i) Promote cooperation among the Municipal Board staff and citizens in developing Municipal policies and building a sense of community;
 - (j) Perform other duties as directed by the municipal board.
 - (k) Delegate duties, but remain responsible for acts of all subordinates.
- (5) The Municipal Manager shall have no authority over the municipal board.
- (6) The Municipal Manager shall be entitled to attend meetings of the Board and have his opinion or advice recorded in the minutes but shall not be entitled to vote.

Remuneration

35. The County Public Service Board shall set the remuneration of the municipal manager with the advice of the salaries and remuneration commission.

Removal of the Municipal Manager

36.(1) Pursuant to the provisions of sections 28 and 29 of the Urban Areas and Cities Act, the municipal manager, being an office in the public service is subject to removal procedure applicable to public servants in the public service, fair labour practices and written law.

- (2) The Municipal Manager shall cease to hold 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 County Governor;
 - (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 in the absence thereof in accordance with Kenyan law having regard to fair labour practices.

(4) Any vacancy arising in the office of the Municipal Manager may be filled in the manner provided under Article 6.2 above.

Deputy Municipal Manager

37. (1) The Deputy Municipal Manager shall deputize the Municipal Manager.

(2) the Deputy Municipal Manager shall perform the duties and functions of the Municipal Manager if the office becomes vacant for a period of not more than 3 months during which a Municipal Manager shall be recruited by the county public service board.

(3) The qualifications applicable to the recruitment of the Municipal Manager shall equally apply when a Deputy Municipal Manager is being recruited by the county public service board.

PART X—MUNICIPAL FINANCES AND FINANCIAL MANAGEMENT

Sources of the Municipality's Funds and Revenue

38. The Municipal Board 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 the board for the purpose of defraying its costs for providing services;
- (e) investment income;
- (f) borrowing.

Financial Year

39. (1) The Municipal Board shall operate on an annual budget.

(2)The financial year of the municipal Board shall be a period of twelve months ending on the thirtieth June in each year.

Budget

40. The budget of the Municipal Board shall be developed in the manner provided for under Section 175 of the Public Finance Management Act.

Management of Municipal Finances

41. (1) The municipal Board shall, with approval of the County Executive Committee member for finance, open and maintain a special purpose bank account(s) in the name of the Municipality.

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

Borrowing by the Municipal Board for the Municipality

42. The Municipal Board may only borrow-

- (a) from the County Government;
- (b) through the County Government; or
- (c) by way of a bank overdraft, with the approval by the county assembly.

Audit

43. The audit of the Municipality Board shall be as provided for under Section 46 and 47 of the Urban Areas and Cities Act, Public Finance Management Act and the Public Audit Act.

Municipal Board Personnel

44. The County Public Service Board will employ personnel for the Municipality Based on requisition

45. Staff or employees of the board shall be under general guidance and supervision of the municipal manager.

46. The county public service board shall at all times ensure that the municipal board has adequate staff to enable it to deliver on its mandate.

Retirement Systems

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

Compensation of Municipal Personnel

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

PART XI—MUNICIPAL BOARD PROPERTY

Acquisition, Possession and Disposal

49.(1) The municipal Board is a corporate body and may acquire real, personal, or mixed property for public purpose by purchase, gift, bequest, devise, lease, or otherwise and may sell, lease, or otherwise dispose of any property belonging to the Municipal Board with reference to the public procurement and disposal act and other written laws.

(2) All property, movable/immovable initially belonging to the defunct municipal council of Kitale shall become the property of Kitale Municipality Board upon this charter becoming effective, subject to the terms and conditions applicable.

Compulsory Acquisition

50. (1) whenever the Municipal board deems it necessary to acquire private land for public use, it shall do so in line with the requirements of written laws and procedures.

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

Municipal Buildings

51. The Municipality 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 board.

Protection of Municipal Board Property

52. The municipal Board may do whatever may be necessary to protect municipal property and to keep it in good condition.

PART XII—GENERAL PROVISIONS

Oath of Office

53.(1) Before assuming duty, the Municipal Manager, members of the Board, and all other persons elected or appointed to any office of profit or trust in the Municipality, as determined by Board, shall take and subscribe to the following oath or affirmation:

“I, [...], being called on to exercise the functions of [Municipal Manager/Chairperson, etc.] of the Municipality of Kitale, 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 Board of the Municipality of Kitale, I will not directly or indirectly reveal the nature or contents of any business, proceedings or document of the Municipality committed to my secrecy, except as may be required for the due discharge of my duties as [Municipal Manager/Chairperson, etc.] of the municipality of Kitale or otherwise under the law.(in the case of an oath-so help me God.

(2) The Municipal Manager shall take and subscribe to this oath or affirmation before the County Governor or before one of the sworn deputies. All other persons taking and subscribing to the oath shall do so before the Municipal Manager.

Amendments to the Charter

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

(2) the 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

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 XIII—TRANSITIONAL PROVISIONS

Effective Date of Charter

56. (1) the form of the oath is not provided by statute. A model from the constitution is adopted in this Charter.

(2) The provisions of this Charter shall become effective from and after being signed by the County Governor.

(3) There shall be a handing over session immediately board members have been sworn in between the county executive and the board where all existing documentation including property, staff and operationalization shall be reviewed and functions handed over in line with written laws.

(4) There shall be periodic meetings between the county executive committee and the municipal board within the initial ten months of the charter becoming effective to ensure smooth transition of the functions from various county executive departments to the municipal board.

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

PATRICK SIMIYU KHAEMBA,
Governor, Trans Nzoia County.