

# **COUNTY GOVERNMENT OF KITUI**

## **KITUI MUNICIPALITY**

### **KITUI 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 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.

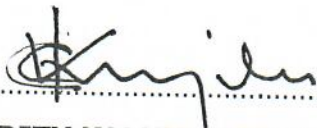
**WHEREAS**

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 amendments to the Urban Areas and Cities Act in 2015 Sec 9(4) provides that notwithstanding the requirements for the conferment of Municipal Status, the Governor shall confer the status of a special municipality to the County Headquarters.

**NOW THEREFORE IN EXERCISE** of the powers conferred by section 9 (4) of the Urban Areas and Cities Act, (No.13 of 2011, as amended in 2015) 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 Kitui County HEREBY GRANTS the Municipality of Kitui this Municipal Charter on this 13<sup>th</sup> day of June 2018.



.....  
**CHARITY KALUKI NGILU**

**THE GOVERNOR**

**COUNTY GOVERNMENT OF KITUI COUNTY**

**SEAL OF THE COUNTY GOVERNMENT OF KITUI COUNTY**

## **1. INCORPORATION, NAME AND BOUNDARIES**

### **1.1. INCORPORATION AND NAME**

- 1.1.1. This Charter is the Municipal Charter of the Municipality of Kitui, within Kitui County, Kenya.
- 1.1.2. All processes affecting the Municipality shall be served on the Municipal Manager, and in the absence of the Municipal Manager on the acting Municipal Manager.

### **1.2. BOUNDARIES**

- 1.2.1. The boundaries of the Municipality of Kitui shall be as now existing, as were in former Kitui Municipal Council and as captured in the Integrated Strategic Urban Development Plan (ISUDP) or as may subsequently be altered shall be the boundaries of the Municipality of Kitui.

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

### **2.1. POWERS OF THE MUNICIPALITY**

- 2.1.1. The Municipality of Kitui 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 Kitui By-laws.
- 2.1.2. 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 provided for in the Urban Areas and Cities Act, The County Government Act, The Constitution of Kenya 2010 and other relevant legislations, as well as may be provided by the By-laws passed by the County Assembly of Kitui.

### **2.2. OBJECTS OF THE MUNICIPALITY**

- 2.2.1. The objects of the Municipality of Kitui 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

### **2.3. PURPOSE OF THE MUNICIPALITY**

2.3.1. The Municipality of Kitui shall, within the boundaries of the Municipality, ensure the:

- a) Promotion, regulation and provision of an integrated wastes management system;
- 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 and taxi stands, and boda-boda sheds;
- 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.

### **3. THE BOARD OF THE MUNICIPALITY**

#### **3.1. ESTABLISHMENT OF THE BOARD**

3.1.1. There shall be a Board of the Municipality of Kitui.

3.1.2. 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.



3.1.3. There shall be a principal and agency relationship between the Board of the Municipality and the County Government of Kitui, where the Board shall be the agent, whereas the County Government shall be the principal.

### **3.2. POWERS AND FUNCTIONS OF THE BOARD OF THE MUNICIPALITY**

- 3.2.1. The Board of the Municipality shall have the powers to perform all the functions vested in boards of municipalities under the Urban Areas and Cities Act, the County Government Act and the Municipality By-laws.
- 3.2.2. Except as this Charter may otherwise provide, all powers of the Municipality shall be vested in the Board of the Municipality.
- 3.2.3. 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.
- 3.2.4. Subject to the Constitution and any other written law, the Board of the Municipality shall, within the boundaries of the Municipality of Kitui;
- a) Exercise executive authority as delegated by the County Executive Committee of the County of Government of Kitui;
  - 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 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 Kitui.
- 3.2.5. 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.

3.2.6. 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 programmes 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 Kitui;
- e) Promoting and undertaking infrastructural development and services within Municipality as delegated by the County Government of Kitui.
- f) Developing and managing schemes, including site development in collaboration with the relevant national and county agencies;
- g) Maintaining a comprehensive database and information system of the administration;
- h) Administering and regulating its internal affairs;
- i) Implementing applicable national and county legislation;
- j) Entering into contracts, partnerships or joint ventures as it may consider necessary for the discharge of its functions;
- k) Monitoring and, where appropriate, regulating municipal services where those services are provided by service providers other than the Board of the Municipality;
- l) Preparing and submitting 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) Collecting rates, taxes levies, duties, fees and surcharges on fees as delegated by the County Government of Kitui.
- n) Settling and implementing tariff, rates and tax and debt collection policies as delegated by the County Government of Kitui.

- o) Monitoring the impact and effectiveness of any services, policies, programs or plans;
- p) Establishing, implementing and monitoring performance management systems;
- q) Promoting a safe and healthy environment;
- r) Establishing a Disaster Response Unit for the Municipality;
- s) Facilitating and regulating public transport;
- t) Performing such other functions as delegated by the County Government of Kitui.

### **3.3. COMPOSITION AND TERM OF THE BOARD OF THE MUNICIPALITY**

- 3.3.1. The Board of the Municipality shall be composed of nine (9) members.
- 3.3.2. Four (4) members of the Board of the Municipality shall be appointed through a competitive process by the County Executive Committee and approved by the County Assembly.
- 3.3.3. 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 neighbourhood associations in the area; and
  - e) An association of the Municipality.

The members shall be appointed by the County Executive Committee with the approval of the County Assembly.

- 3.3.4. In appointing members of the Board of the Municipality, the County Executive Committee shall ensure gender equity, representation of persons with disability, youth and marginalized groups.
- 3.3.5. The term of the members of the Board of the Municipality shall be five (5) years on a part-time basis.

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

3.4.1. Each member of the Board of the Municipality shall have the following qualifications:

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

### **3.5. CHAIRPERSON OF THE BOARD**

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

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

### **3.6. POWERS AND FUNCTIONS OF THE CHAIRPERSON**

3.6.1. 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.

### **3.7. VICE-CHAIRPERSON OF THE BOARD OF THE MUNICIPALITY**

3.7.1. 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.

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

3.7.3. 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.

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

3.8.1. The Chairperson and the Vice-Chairperson of the Board of the Municipality may be removed by:

- 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.

3.8.2. The procedure for the removal of a Chairperson or Vice-Chairperson of the Board of the Municipality 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 Board of the Municipality may be filled in the manner provided under Article 3.6 and 3.7 respectively.

### **3.9. SECRETARY OF THE BOARD OF THE MUNICIPALITY**

3.9.1. The secretary of the Board of Kitui Municipality shall be the Municipal Manager as provided for by the Urban Areas and Cities Act 2011.

3.9.2. Where the Secretary of the Board of the Municipality is absent from any meeting, with the concurrence of the chair, the Municipal Manager may appoint one of his/her deputies as the acting secretary for the purposes of that particular board meeting.

### **3.10. COMMITTEES OF THE BOARD OF THE MUNICIPALITY**

3.10.1. 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;
  - c) Include resourceful persons who are not members of the Board in any Committee for the accomplishment of a particular purpose;
- 3.10.2. 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 on which they 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.
- 3.10.3. The Board of the Municipality shall create an Audit Committee whose main functions will be to assist the Municipal Manager in enhancing internal controls in order to improve efficiency, transparency and accountability; review audit issues raised by both internal and external auditors; resolve unsettled and unimplemented County Assembly Public Accounts and Public Investment Committees' recommendations; enhance communication between management, internal and external audit and foster effective internal audit function.

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

- 3.11.1. The Board of the Municipality shall not be entitled to a salary.
- 3.11.2. 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.

### **3.12. REMOVAL OF MEMBERS OF THE BOARD OF THE MUNICIPALITY**

- 3.12.1. 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) 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;
- e) Is found guilty of professional misconduct by the relevant professional body;
- f) Is disqualified from holding a public office under the Constitution;
- g) Fails to declare his or her interest in any matter being considered or to be considered by the Board or Board Committees;
- h) Engages in any gross misconduct;
- i) Resigns from the Board in writing to the County Governor;
- j) Dies.

3.12.2. 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.

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

3.12.4. Any vacancy arising out of the removal of a member of the Board of the Municipality may be filled in the manner provided under Article 3.3 above.

### **3.13. MEETINGS OF THE BOARD OF THE MUNICIPALITY**

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

3.13.2. Notwithstanding Article 3.13.1, 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, convene a special meeting to transact any urgent business of the Board of the Municipality.

- 3.13.3. 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.

### **3.14. QUORUM**

- 3.14.1. 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.
- 3.14.2. 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.

### **3.15. RULES OF THE BOARD**

- 3.15.1. The Board of the Municipality 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 of the Municipality shall be kept by the Secretary of the Board of the Municipality, who is the Municipal Manager.
- 3.16.2. 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.

### **3.17. CITIZEN FORA**

- 3.17.1. The Board of the Municipality shall ensure the development of mechanisms for the participation of the residents of the Municipality of Kitui in the management and administration of the Municipality.
- 3.17.2. All recommendations from the Citizen Fora of the Municipality of Kitui shall be forwarded to the Board of the Municipality for resolution.



## **4. ADMINISTRATIVE AUTHORITY**

### **4.1. RESOLUTIONS**

4.1.1. The Board of the Municipality shall exercise its administrative authority by way resolutions.

### **4.2. APPROVAL OF RESOLUTIONS**

4.2.1. Approval of a resolution or any other Board administrative decision requires approval by the Board of the Municipality at one meeting.

4.2.2. 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.

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

### **4.3. EFFECTIVE DATE OF RESOLUTIONS**

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

## **5. THE MUNICIPAL MANAGER**

### **5.1. OFFICE OF THE MUNICIPAL MANAGER**

5.1.1. There is established the office of the Municipal Manager.

5.1.2. The Municipal Manager shall be the administrative head of the Municipality of Kitui and secretary to the Board of Municipality.

### **5.2. APPOINTMENT AND TERM**

5.2.1. The Municipal Manager shall be competitively recruited and appointed by the County Public Service Board.

5.2.2. The Municipal Manager shall be a civil servant governed by the terms of service of civil servants in the County.

### **5.3. QUALIFICATIONS**

5.3.1. The Municipal Manager shall:

- a) Be a citizen of Kenya;
- b) Hold a degree from a university recognized in Kenya, and be a member of a relevant professional body.
- 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.

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

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

### **5.4. FUNCTIONS OF THE MUNICIPAL MANAGER**

5.4.1. The Municipal Manager shall implement the decisions and functions of the Board of the Municipality as provided for under Sec 20 of the Urban Areas and Cities Act. Further, the administrative head of the Municipality shall be answerable to the County Executive Committee Member in Charge of Urban Development in the County.

5.4.2. The Municipal Manager shall perform the following functions:

- a) Execute the decisions of Board of the Municipality.
- b) As the Accounting Officer of the Municipality, prepare and present for approval to the County Executive Committee and/or the County Assembly, annual budget estimates for implementing the development programs and recurrent expenditures of the Municipal Management.
- 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 County Government, by order, confer upon the Municipal Manager.

5.4.3. The Municipal Manager shall:

- 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;
- c) Administer and enforce all Municipality By-laws, resolutions, franchises, leases, contracts, permits, and other Municipality decisions;
- d) As the authorized officer, participate in the recruitment, supervise and manage Municipal 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 cooperation 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.

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

## **5.5. REMUNERATION**

5.5.1. The County Public Service Board guided by the Salaries and Remuneration Commission shall set the compensation and benefits of the Municipal Manager.

## **5.6. REMOVAL OF THE MUNICIPAL MANAGER**

- 5.6.1. The Municipal Manager may be removed from office in the manner and procedure provided for in the County Public Service Board Guidelines and Regulations.
- 5.6.2. The Municipal Manager shall cease to hold office:
- 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 Public Service 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.
- 5.6.3. The procedure for the removal of the Municipal Manager provided by the Regulations made under the County Government Act (No. 17 of 2012) and the Employment Act 2008 must give regards to fair labour and administrative practices.
- 5.6.4. Any vacancy arising in the office of the Municipal Manager may be filled in the manner provided under Article 5.2 above.

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

### **6.1 SOURCES OF THE MUNICIPALITY'S FUNDS AND REVENUE**

- 6.1.1 The Board of the Municipality shall derive its revenue and funds from:
- a) Monies appropriated by the County Assembly;
  - 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.

## **6.2. FINANCIAL YEAR**

- 6.2.1. The Municipality shall operate on an annual budget.
- 6.2.2. The financial year of the Board of the Municipality shall be the period of twelve months ending on the thirtieth day of June in each year.

## **6.3. BUDGET**

- 6.6.1. The budget of the Board of the Municipality shall be developed in the manner provided under Section 175 of the Public Finance Management Act, and sections 41, 42, 43, 44 and 45 of the Urban Areas and Cities Act 2011.

## **6.4. MANAGEMENT OF MUNICIPALITY FINANCES**

- 6.4.1. The Board of the Municipality shall, with the approval of the County Executive Committee member for the time being responsible for finance, open and maintain a bank account in the name of the Municipality.
- 6.4.2. 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.

## **6.5. BORROWING BY THE MUNICIPALITY**

- 6.5.1. 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.

## **6.6. AUDIT**

6.6.1. The audit of the Board of the Municipality shall be as provided under Sections 46, 47 and 48 of the Urban Areas and Cities Act and any other enabling provisions of the law.

## **7. MUNICIPALITY PERSONNEL**

7.1. 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.

## **8. MUNICIPALITY PROPERTY**

### **8.1. PROPERTY IN TRANSITION**

8.1.1. 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.

### **8.2. COMPULSORY ACQUISITION**

8.2.1. 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.

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

## **9. GENERAL PROVISIONS**

### **9.1. OATH OF OFFICE**

9.1.1. Before entering upon the duties of their offices, the members of the Board of the Municipality shall take and subscribe to the following oath or affirmation:

"I,.....being called on to exercise the functions of Member of the Board of Municipality of Kitui, 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 Kitui, 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 Kitui or otherwise under the law. (In the case of an oath— So help me God. ”

## **10 AMENDMENTS TO THE CHARTER**

- 10.1. The County Governor may at any time, after consultation with the Board of the Municipality, and in accordance with other laws, amend any provision of this Charter as and when deemed necessary.
- 10.2 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. SEVERABILITY**

- 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 A person who was, immediately before the commencement of this Charter, posted as a member of staff Town Administration shall, upon the commencement of this Charter, be deemed to be an employee of the Board of Municipality.

## **12. EFFECTIVE DATE OF CHARTER**

- 12.1 The provisions of this Charter shall be in effect upon the resolution of the County Assembly.

**13. RIGHTS AND PRIVILEGES PRESERVED**

- 13.1. 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.