



MANDERA COUNTY GOVERNMENT

MUNICIPAL CHARTER



MANDERA MUNICIPALITY

MANDERA MUNICIPALITY



MUNICIPAL CHARTER

Contents

PREAMBLE	v
PART I – INCORPORATION, NAME AND BOUNDARIES	1
1. Incorporation and Name	1
2. Boundaries	1
PART II – POWERS, OBJECTS AND FUNCTIONS OF THE MUNICIPALITY	1
3. Power of the Municipality	1
4. Objects of the Municipalities	2
5. Function of the Municipality	2
PART III –THE BOARD OF THE MUNICIPALITY	3
6. Establishment of the Board	3
7. Powers of the Board	4
8. Functions of the Board	5
1) The Board of the Municipality shall perform the following functions:	5
9. Composition and Term of the Board of the Municipality	6
1) The Board of the Municipality shall be composed of nine (9) members.....	6
10. Eligibility for Appointment as a Member of the Board of the Municipality	6
1) In addition to the requirements provided under Section 13(4) of the Urban Areas and Cities Act, 2011 , a Board member shall have the following qualifications;	6
11. Chairperson of the Board	7
12. Powers and Functions of the Chairperson	7
13. Vice-Chairperson of the Board of the Municipality	7
14. Removal of the Chairperson and Vice Chairperson	7
15. Secretary of the Board of Municipality	8
16. Committees of the Board of the Municipality	8
17. Remuneration of the Members of the Board of Municipality	9
18. Removal of the Members of the Board of Municipality	9
19. Meetings of the Board of the Municipality	10
20. Record of Information of the Board	10
21. Citizen Fora	11
22. Legislative authority	11
23. Effective date of by-laws.....	11
24. Administrative authority	11

25. Effective date of resolutions 12

PART IV - THE MUNICIPAL MANAGER 12

26. Office of the Municipal Manager 12

27. Appointment and term..... 12

28. Qualifications 12

29. Powers and functions of the Municipal Manager 12

30. Remuneration 14

31. Removal of the Municipal Manager..... 14

32. Acting Municipal Manager 15

PART V - MUNICIPAL FINANCES AND FINANCIAL MANAGEMENT 16

33. Sources of municipal fund and revenue 16

34. Appointment of the Municipality accounting officer 16

35. Powers and functions of the municipality accounting officer 16

36. Financial Year 16

37. Budget 16

38. Management of Municipality Finance..... 17

39. Borrowing by the Municipality 17

40. Audit 17

41. Municipality personnel and other officers..... 17

42. Management of municipal personnel 17

43. Retirement Systems..... 18

44. Compensation of municipal personnel 18

PART VI - MUNICIPALITY PROPERTY 18

45. Acquisition, possession and disposal 18

46. Compulsory acquisition..... 18

47. Municipal Building 18

48. Protection of municipality property..... 18

PART VII - TRANSITIONAL AND GENERAL PROVISION 19

49. Oath..... 19

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:..... 19

50. Amendments of the Charter 19

51. Conflict of statutory provisions 19

52. Effective date of charter 19

53. Rights and privileges reserved 20

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 of its adoption. 20

54. Departments 20

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; No regulations have been promulgated under the Urban Areas and Cities Act providing the prescribed form of a Municipal Charter under the Urban Areas and Cities Act.

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

WHEREAS; **The County Assembly of Mandera** duly approved the request by the **County Executive Committee** for grant of this Charter to the now Municipality of **Mandera**.

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 **Mandera County** HEREBY GRANTS the Municipality of **Mandera** this Municipal Charter on this **29th day of June 2018**.



H.E. CAPT. ALI IBRAHIM ROBA
THE GOVERNOR
MANDERA COUNTY

PART I – INCORPORATION, NAME AND BOUNDARIES

1. Incorporation and Name

- 1) There is established a Municipality to be known as Mandera Municipality consisting of a Municipality Board and a Municipality Management;
- 2) This Charter is the Municipal Charter of the Municipality of Mandera within Mandera County, Kenya;
- 3) All processes affecting the Municipality shall be served on the Municipal Manager or acting Municipal Manager, in the absence of both of the said officers, on the Secretary of the Board of the Municipality.

2. Boundaries

- 1) The boundaries of the Municipality of Mandera shall be Central and Khalalio Divisions of Mandera East Sub-county, or as may subsequently be altered, shall be the boundaries of the Municipality of Mandera.

PART II – POWERS, OBJECTS AND FUNCTIONS OF THE MUNICIPALITY

3. Power of the Municipality

- 1) The Municipality of **Mandera** shall have the jurisdiction and powers conferred on it by the constitution, the Urban Areas and Cities Act, County legislations and this Charter;
- 2) Mandera Municipality shall exercise its powers in the manner prescribed in this Charter, or, in such manner as may be provided by the national or county legislations;
- 3) If not prescribed herein or provided by the National and County Legislation, in such manner as may be determined by the Board of the Municipality;
- 4) The Municipality of Mandera may undertake other functions and activities conferred by an Act of County Assembly or delegated by the executive committee.

4. Objects of the Municipalities

- 1) The objects of the Municipality of Mandera are to:
 - a) Provide for efficient and accountable management of the affairs of the Municipality.
 - b) Provide for a 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.
 - c) 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;
 - d) Provide a high standard of social services in a cost effective manner to the inhabitants of the Municipality;
 - e) 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;
 - f) Providing for services, laws and other matters for Municipality's benefit;
 - g) Fostering the economic, social and environmental well-being of its community.

5. Function of the Municipality

- 1) The Municipality of Mandera shall, within the boundaries of the Municipality, perform the following functions:
 - a) Promotion, regulation and provision of refuse collection and solid waste management services;
 - b) Promotion and provision of water and sanitation services and infrastructure (in areas within the Municipality not served by the Water and Sanitation Provider);
 - c) Construction and maintenance of urban roads and associated infrastructure;
 - d) Construction and maintenance of storm drainage and flood controls;

- e) Construction and maintenance of walkways and other non-motorized transport infrastructure;
- f) Construction and maintenance of recreational parks and green spaces;
- g) Construction and maintenance of street lighting;
- h) Construction, maintenance and regulation of traffic controls and parking facilities;
- i) Construction and maintenance of bus stands and taxi stands;
- j) Regulations 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) Develop the framework of the spatial and master plans for the Municipality;
- s) Any other functions as may be delegated by the County Executive Committee.

PART III –THE BOARD OF THE MUNICIPALITY

6. Establishment of the Board

- 1) There shall be a Board of the Municipality of Mandera.
- 2) The Board of the Municipality shall be a corporate body with perpetual succession and a common seal and shall in its own corporate name, be capable of:
 - a) Suing and being sued;
 - b) Taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
 - c) Borrowing money or making investments within the limits imposed by law
 - d) Entering into contracts; and

- e) Doing or performing all other act or things for the proper performance of its functions in accordance with the Urban Areas and Cities Act or any other written law which may lawfully be done or performed by a body corporate.
- 3) There shall be a principal and agency relationship between the Board of the Municipality and the County Government of Mandera

7. Powers of the Board

- 1) The Board of the Municipality shall have all the powers and perform all functions vested in boards of municipalities under the Urban Areas and Cities Act, the County Government Act and the Municipality By-laws.
- 2) Except as this Charter otherwise provides, all powers of the Municipality shall be vested in the Board of the Municipality.
- 3) The Board of the Municipality shall provide for the exercise of these powers and for the performance of all duties and obligations imposed on the Board of the Municipality.
- 4) Subject to the Constitution and any other written law, the Board of the Municipality shall, within the boundaries of the Municipality of Mandera:-
 - a) exercise executive authority as delegated by the County Executive Committee of the County of Mandera;
 - b) ensure provision of services to its residents;
 - c) impose such fees, levies and charges as may be authorized by the County Government for delivery of services by the Municipality;
 - d) promote constitutional values and principles;
 - e) ensure the implementation and compliance with policies formulated by both the National and County Government;
 - f) make By-laws or make recommendations for issues to be included in By-laws;
 - g) ensure participation of the residents in decision making, its activities and programmes; and
 - h) exercise such other powers as may be delegated by the County Executive Committee of the County of Mandera.
- 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.

8. Functions of the Board

- 1) 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 centres, residential areas, recreational areas, parks, entertainment, passenger transport, agriculture, and freight and transit stations within the framework of spatial and master plans for the Municipality as delegated by Mandera County Government.
 - e) promoting and undertaking infrastructural development and services within Municipality as delegated by Mandera County Government;
 - 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 Mandera County Government;
 - n) settling and implementing tariff, rates and tax and debt collection policies as delegated by Mandera County Government;

- 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) facilitating and regulating public transport;
- s) performing such other functions as delegated by the Executive Committee of Mandera County Government;

9. Composition and Term of the Board of the Municipality

- 1) The Board of the Municipality shall be composed of nine (9) members.
- 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) 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 Urban Areas and Cities;

and appointed by the County Executive Committee with the approval of the County Assembly.

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

10. Eligibility for Appointment as a Member of the Board of the Municipality

- 1) In addition to the requirements provided under **Section 13(4) of the Urban Areas and Cities Act, 2011**, a Board member shall have the following qualifications;
 - (a) holds a diploma from an institution or university recognised in Kenya or its equivalent; and
 - (b) Has proven experience of not less than three years in administration or management either in the public or private sector.

11. Chairperson of the Board

- 1) At the first regular meeting of the Board of the Municipality, members of the Board of the Municipality shall elect from amongst themselves, a Chairperson of the Board of the Municipality.
- 2) The Chairperson of the Board shall hold office for a term of five (5) years.

12. Powers and Functions of the Chairperson

- 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.

13. Vice-Chairperson of the Board of the Municipality

- 1) At the first regular meeting of the Board of the Municipality, Members of the Board of the Municipality shall elect from amongst themselves, a Vice-Chairperson of the Board of the Municipality.
- 2) The Chairperson and the Vice-Chairperson of the Board of the Municipality shall at all times be of different gender.
- 3) The Vice-Chairperson shall, in the absence of the Chairperson, perform the functions of the Chairperson and shall perform such other functions as may be delegated by the Chairperson.

14. Removal of the Chairperson and Vice Chairperson

- 1) The Chairperson and the Vice-Chairperson of the Board of the Municipality may be removed by:
 - a) A majority decision of the member of Board of the Municipality at a duly convened meeting where quorum is present;
 - b) Upon petition by a resident of the Municipality.
- 2) The procedure for the removal of a Chairperson or Vice-Chairperson of the Board of the Municipality under (1) above may be provided by Regulations under the Urban Areas and

Cities Act and in the absence thereof in accordance with Kenyan law having regard for fair labour practices.

- 3) Any vacancy arising out of the removal of a Chairperson or the Vice-Chairperson of Board of the Municipality may be filled in the manner provided under clause 11(1) and 13(1) respectively.

15. Secretary of the Board of Municipality

- 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 Secretary of the Board of the Municipality.
- 2) The Secretary shall be the secretary to the Municipality board.
- 3) The Board Secretary shall;
 - a) Be computer literate and familiar with records keeping.
 - b) be responsible for arranging the business, and keeping the minutes, of the Municipality Board subject to the directions of the Municipality Board;
 - c) convey the decisions of the Municipality Board to the appropriate persons or authorities; and
 - d) perform any other functions as directed by the Municipality Board.

16. Committees of the Board of the Municipality

- 1) The Board of the Municipality may:
 - i. 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 this Charter or the Urban Areas and Cities Act;
 - ii. 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
 - iii. 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 provisions of this Charter which govern the taking of decisions and performance of functions by the Board of the Municipality.

17. Remuneration of the Members of the Board of Municipality

- 1) The Board of the Municipality shall not be entitled to a salary.
- 2) However, members of the Board of the Municipality shall be paid such allowances as the County Executive Committee shall, with the approval of the County Assembly, and on the advice of the Salaries and Remuneration Commission, determine.

18. Removal of the Members of the Board of Municipality

- 1) A member of the Board of the Municipality shall cease to hold office if the member:
 - a) is unable to perform the functions of the office by reason of mental or physical infirmity;
 - b) is declared or becomes bankrupt or insolvent;
 - c) is convicted of a criminal offence and sentenced to a term of imprisonment of six months or more;
 - d) resigns in writing to the County Governor;
 - e) without reasonable cause, the member is absent from three consecutive meetings of the Board or Committee of the Board of the Municipality within one financial year;
 - f) is found guilty of professional misconduct by the relevant professional body;
 - g) is disqualified from holding a public office under the Constitution;
 - h) fails to declare his or her interest in any matter being considered or to be considered by the Board or Board Committees;
 - i) engages in any gross misconduct; or
 - j) dies.
- 2) A member of the Board of the Municipality may be removed from office by:
 - a) the County Governor;
 - b) a resolution of the Board of the Municipality supported by at least two-thirds of the members of the Board of the Municipality; or
 - c) petition by the residents of the Municipality.

- 3) The procedure for the removal or petition for removal of a member of the Board of the Municipality under (2) above shall be provided by Regulation under the Urban Areas and Cities Act.
- 4) Any vacancy arising out of the removal of a member of the Board of the Municipality may be filled in the manner provided under clause 9 and 10 of this Charter.

19. Meetings of the Board of the Municipality

- 1) The Board shall hold their sittings at such places within the Municipality as may be determined by Municipal Manager or the Board Chair.
- 2) The sittings of the Board shall be open and easily accessible to the public unless, owing to the nature of the matter it becomes necessary to exclude the public. However, no By-laws, rule or regulation shall be finally adopted at such an exclusive session.
- 3) The meetings of Board shall be chaired by the Chairperson and in his or her absence, the vice-chairperson or a member elected by the members present.
- 4) The quorum for the sitting of Board shall be two thirds.
- 5) The Board shall hold at least one sitting in every month but, unless for special reasons, not more than three sittings in a month which includes committee meetings.
- 6) The decisions of the Board shall be by consensus and where a vote becomes necessary by a simple majority.
- 7) The chairman of the meeting shall have an original and a casting vote in the event of a tie.
- 8) The proceedings of the Municipality shall be recorded in writing.
- 9) The Board of the Municipality shall by resolution adopt rules to govern its meetings.

20. Record of Information of the Board

- 1) The minutes and other information of the Board of the Municipality shall be kept by the Secretary to the Board of the Municipality.
- 2) Access to information on the activities and resolutions of the Board of the Municipality shall be as provided under the Urban Areas and Cities Act.

21. Citizen Fora

- 1) All recommendations from the Citizen Fora of the Municipality of Mandera shall be forwarded to the Board of the Municipality for resolution.
- 2) The Board of the Municipality shall ensure the development of mechanisms for the participation of the residents of the Municipality of Mandera in the management and administration of the Municipality.
- 3) All recommendations on issues raised in the Citizen Fora and addressed by the Board of the Municipality shall be forwarded to the Municipal Manager for implementation.

22. Legislative authority

- 1) In accordance with the provisions of Article 185 of the Constitution and Section 21 of the County Government, the Board may make any By-laws that are necessary for or incidental to, the effective performance of the functions and exercise of the powers of the Municipality under this Charter and submit to the County Assembly for approval.
- 2) After the approval of a By-law, the Governor must endorse it with the date of adoption and his/her title.

23. Effective date of by-laws

- 1) By-laws shall take effect on the 30th day after adoption, or on a later day provided in the By-law.
- 2) A By-law may take effect as soon as adopted or other date less than 30 days after adoption if it contains an emergency clause.

24. Administrative authority

- 1) The Board of the Municipality shall exercise its administrative authority by approving resolutions.
- 2) Approval of a resolution or any other Board administrative decision requires approval by the Board of the Municipality at one meeting.
- 3) 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) After approval of a resolution or other administrative decision, the vote of each member must be entered into the Board minutes.

25. Effective date of resolutions

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

PART IV - THE MUNICIPAL MANAGER

26. Office of the Municipal Manager

- 1) There is established the office of the Municipal Manager.
- 2) The Municipal Manager shall be the administrative head of the Municipality of Mandera.

27. Appointment and term

- 1) The Municipal Manager shall be competitively recruited and appointed by the County Public Service Board.
- 2) The Municipal Manager may be appointed for a definite or an indefinite term.

28. Qualifications

- 1) The Municipal Manager shall:
 - a) Be a citizen of Kenya
 - 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) The person satisfies the requirements of Chapter six of the Constitution.
- 2) In appointing the Municipal Manager, the County Public Service Board shall ensure:
 - a) gender equity;
 - b) the inclusion of minorities and marginalized communities;
 - c) The Municipal Manager need not reside within the Municipality.

29. Powers and functions of the Municipal Manager

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

- 2) The Municipal Manager shall perform the following functions:
 - a) Act on behalf of the Board of the Municipality-
 - i. In ensuring the execution of the directives of the Board of the Municipality;
 - ii. During all intervals between meetings of the Board of the Municipality;
 - b) Prepare and present for approval of the Board of the Municipality, an annual estimate of revenue and expenditure to fund and carry out the programmes and operations of the Board;
 - c) Be principally responsible for building and maintaining a strong alliance and effective working relationships between the Board of the Municipality and the civil society, private sector and community based organizations;
 - d) Cause to be prepared, transmitted to the Board of the Municipality, and distributed to the public at least an annual report on the activities and accomplishments of the departments and agencies comprising the executive branch of the Municipality.
 - e) Act as an ex-officio member of all committees of the Board of the Municipality; and
 - f) Such other functions as the Board may, by order, confer upon the Municipal Manager.
- 3) The Municipal Manager shall be fully responsible for the proper conduct of the executive and administrative work and affairs of the Municipality. The Municipal Manager shall have the power and shall be required to:
 - a) Exercise supervision over all departments and agencies of the Municipality and provide for the coordination of their activities;
 - b) Enforce the provisions of this Charter, Municipal By-laws, and all applicable laws;
 - c) Exercise powers granted to the Municipal Manager in this Charter, By-laws and applicable laws concerning the appointment and removal of certain officers, employees, and members of committees of the Board of the Municipality;
 - d) Exercise such other powers as may be prescribed by this Charter, by-laws and applicable laws.
- 4) The Municipal Manager must:
 - a) Attend all Board of the Municipality meetings unless excused by the Chairperson of the Board or the Board of the Municipality;

- b) Make reports and recommendations to the Board of the Municipality about the needs of the Municipality;
 - c) Administer and enforce all Municipality By-laws, resolutions, franchises, leases, contracts, permits, and other Municipality decisions;
 - d) Appoint, supervise and remove Municipality employees;
 - e) Organize Municipality departments and administrative structure;
 - f) Prepare and administer the annual Municipality budget;
 - g) Administer Municipality utilities and property;
 - h) Encourage and support regional and intergovernmental cooperation;
 - i) Promote 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;
 - k) Delegate duties, but remain responsible for acts of all subordinates.
- 5) The Municipal Manager shall have no authority over the Board of the Municipality.
- 6) The Municipal Manager shall be entitled to attend meetings of the Board of the Municipality but shall not be entitled to vote.

30. Remuneration

- 1) The County Public Service Board on the advice of Salaries and Remuneration Commission shall set the compensation and determine the conditions of employment of the Municipal Manager.

31. Removal of the Municipal Manager

- 1) The Municipal Manager 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.
- 2) The Municipal Manager shall cease to hold office upon the lapse of the employment term or 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;
 - 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 and in the absence thereof in accordance with Kenyan law having regard for fair labour practices.
 - 4) Any vacancy arising in the office of the Municipal Manager may be filled in the manner provided under clause 27 and 28 of this Charter.

32. Acting Municipal Manager

- 1) When the Municipal Manager is temporarily disabled from acting as Municipal Manager or when the office of the Municipal Manager becomes vacant, the County Governor shall appoint a qualified person to be an Acting Municipal Manager.
- 2) The County Governor shall inform the County Public Service Board of such appointment within seven (7) days.
- 3) The Acting Municipal Manager shall have the authority and duties of the Municipal Manager except that the Acting Municipal Manager may appoint or remove employees only with approval of the Board of the Municipality.
- 4) An Acting Municipal Manager shall hold office until such a time as a new Municipal Manager shall be appointed by the County Public Service Board.

PART V - MUNICIPAL FINANCES AND FINANCIAL MANAGEMENT

33. Sources of municipal fund and revenue

- 1) The Municipality shall derive its revenue and funds from:
 - a) monies allocated by the County Assembly for the purposes of the management and service delivery of the Board;
 - b) monies or assets that may accrue to the Board in the course of the exercise of its powers or the performance of its functions;
 - c) all monies or grants from any other legitimate source provided or donated to the Board;
 - d) revenue arising from rates, fees, levies, charges and other revenue raising measures which is retained by Municipality for the purpose of defraying its costs for providing services;
 - e) investment income; and
 - f) borrowing.

34. Appointment of the Municipality accounting officer

- 1) The Municipality Accounting Officer shall be designated by the County Executive Committee Member for Finance in the manner provided under Section 148 of the Public Finance Management Act.

35. Powers and functions of the municipality accounting officer

- 1) The Municipality Accounting Officer shall have all the powers and perform all the functions of accounting officers as provided under the Public Finance Management Act.
- 2) Without prejudice to the foregoing, the Municipality Accounting Officer shall be responsible for managing the finances of the Municipality.

36. Financial Year

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

37. Budget

- 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.

38. Management of Municipality Finance

- 1) The Board of the Municipality shall, with the approval of the County Executive Committee member for finance, open and maintain a bank account in the name of the Municipality.
- 2) All monies received by the Board of the Municipality shall be paid into the Municipality's bank account promptly and in accordance with the Public Finance Management Act.

39. Borrowing by the Municipality

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

40. Audit

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

41. Municipality personnel and other officers

- 1) The Municipality Manager may, subject to the approval by the County Public Service Board, employ such officers and employees as it deems necessary to execute the powers and duties provided by this Charter or other any other law.
- 2) The County Public Service Board, in consultation with the Salaries and Remuneration Commission, shall work out the emoluments, pensions, gratuities or other benefits due to the officers appointed to serve under this Charter.

42. Management of municipal personnel

- 1) Employees of the Municipality shall be under the general guidance and supervision of the Municipal Manager.
- 2) For the avoidance of doubt, it is the responsibility of the Municipal Manager to supervise and manage staff deployed across the Municipality to coordinate and implement Municipality, County and National policies and functions.

43. Retirement Systems

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

44. Compensation of municipal personnel

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

PART VI - MUNICIPALITY PROPERTY

45. Acquisition, possession and disposal

- 1) The Board of the Municipality is a body corporate and may acquire real, personal, or mixed property for any public purpose by purchase, gift, bequest, devise, lease, or otherwise and may sell, lease, or otherwise dispose of any property belonging to the Municipality.
- 2) All town/municipality 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.

46. Compulsory acquisition

- 1) Whenever the Municipality deems it necessary to acquire private land for its purposes, it shall request the County Executive Committee responsible for matters relating to Land at the time to acquire the land on its behalf.
- 2) The provisions of the Land Act shall apply to any intended compulsory acquisition by the Municipality of property within the Municipality.

47. Municipal Building

- 1) The Board of the Municipality may acquire, obtain by lease or rent, purchase, construct, operate, and maintain all buildings and structures it deems necessary for the operation of the Municipality.

48. Protection of municipality property

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

PART VII - TRANSITIONAL AND GENERAL PROVISION

49. Oath

- 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 the Municipality of [...],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 [...],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 [...] 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.

50. Amendments of the Charter

- 1) The County Governor may at any time, after consultation with the Board of the Municipality, amend any provision of this Charter.
- 2) The County Governor shall cause a copy of the Amended Charter to be laid before the County Assembly within 30 days of its amendment for approval.

51. Conflict of statutory provisions

- 1) Where there is a conflict or inconsistency between the provisions of this Charter and the provisions of the Constitution or any other law relating to Urban and Cities or Municipality, the Constitution and laws shall prevail.

52. Effective date of charter

- 1) The provisions of this Charter shall be in effect from and after **29th June 2018**

53. Rights and privileges reserved

- 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 of its adoption.

54. Departments

- 1) 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 by the Municipal Manager with the approval of the Board of the Municipality.
- 2) Municipal manager may:
 - a) establish, continue or vary any department, and determine the objects and purposes of the department;
 - b) determine the number and nature of departments at the Municipality ;
 - c) abolish any department ; and
 - d) determine or change the name of any department.
- 3) The municipal manager shall carry out powers conferred by this section, in consultation with County Public Service Board.
- 4) In exercising the powers conferred by this Section, shall be guided by the principal of public service.

