

# PRESIDENTIAL CHARTER FOR NAKURU CITY



CHARTER

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## **PRESIDENTIAL CHARTER FOR CONFERMENT OF CITY STATUS**

### **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 mandates Parliament to enact a legislation to provide inter alia the criteria for classifying areas as urban areas and cities and establishing the principles of governance and management of urban areas and cities.

### **ACKNOWLEDGING**

That Parliament enacted the Urban Areas and Cities Act and was assented to on 27<sup>th</sup> August 2011 to give effect to Article 184 of the Constitution.

**AND WHEREAS** the Urban Areas and Cities Act, 2011 (hereinafter referred to as the Act) specifies the criteria and process for classifying an area as a city and the process for conferment of city status:

**AND WHEREAS** an assessment has been undertaken to ascertain whether NAKURU MUNICIPALITY meets the criteria for classification as a city in accordance with the Urban Areas and Cities Act, 2011:

**AND WHEREAS** the assessment has ascertained and confirmed that NAKURU MUNICIPALITY meets the criteria for classification as a city under the Act:

**AND WHEREAS** the requirements of section 8 on the procedure for application of a city status has been met and the **COUNTY ASSEMBLY OF NAKURU** and the **SENATE** approved the recommendation vide the resolutions dated 16th November 2019 and 3<sup>rd</sup> June 2021, respectively:

**NOW THEREFORE IN EXERCISE** of the powers conferred by section 7 of the Urban Areas and Cities Act, (No. 13 Of 2011) as complemented by section 72 of the Interpretation and General Provisions Act (Chapter 2) and all other enabling provisions of law, I **UHURU KENYATTA**, the President of the Republic of Kenya and the Commander in Chief of the Kenya Defense Forces, **DO HEREBY GRANT** the City Charter on the Municipality of Nakuru on this ..... day of .....2021.

**AND THEREAFTER direct** that it shall be known as the City of Nakuru instead of Municipal Council of Nakuru and shall therefore have the rank and privileges as are incidentals to a city and shall have the rights, duties and responsibilities as outlined in the Nakuru City Charter

.....  
**GIVEN UNDER MY HAND AND THE SEAL OF THE REPUBLIC OF KENYA**

**SIGNATURE**

**SEAL OF THE REPUBLIC OF KENYA**

**Uhuru Kenyatta,  
PRESIDENT.**

**CERTIFICATION OF AUTHENTICITY**

I, **LEE MAIYANI KINYANJUI**, Governor of Nakuru County do hereby certify that—

- (a) the contents of this Charter are factually correct;
- (b) the documentary proof has been provided to establish that Nakuru Municipality has met the criteria for grant of a city status specified under section 5 of the Urban Areas and Cities Act, 2011 and has been verified by the Senate following its resolution made on 3<sup>RD</sup> JUNE 2021;
- (c) the procedure for the grant of a city status set out under section 8 has been adhered to.

Signed and sealed on this ..... day.....of .....20 ... at .....(place)

**[SIGNATURE OF COUNTY GOVERNOR]**

.....

**H.E. HON. LEE MAIYANI KINYANJUI**

**THE GOVERNOR, NAKURU COUNTY**

**SEAL OF THE COUNTY GOVERNMENT OF NAKURU**

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

### **1.1. Incorporation and Name**

1.1.1. This is the Charter of the City of Nakuru, within Nakuru County, Kenya.

### **1.2. Boundaries**

1.1.2. The boundaries of the City of Nakuru shall be the boundaries of the Nakuru Municipality as delineated prior to the advent of County Governments.

1.1.3. Despite paragraph 1.2.1, the Cabinet Secretary for the time being responsible for urban areas and cities may pursuant to section 4A of the Act and any other relevant laws extend the boundaries of the City of Nakuru.

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

### **2.1. Powers of the City**

2.1.1. The City of Nakuru shall have all the powers, general and special, governmental or proprietary, expressed, which may be possessed or assumed by a city under the Urban Areas and Cities Act, 2011, the County Government Act, 2012, a County legislation and the County of Nakuru 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 as Board of the City may determine, or, unless a contrary intent appears in this Charter or in the By-laws and Resolutions of the Board of the City, in such manner as may be provided by the County of Nakuru By-laws.

### **2.2. Objects of the City**

2.2.1. The objects of the City of Nakuru are to—

2.2.1.1. Provide for the efficient and accountable management of the affairs of the City;

2.2.1.2. Provide for the governance mechanism that shall enable the residents of the City to—

i. Participate in determining the social services and regulatory



framework that 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; and
- iii. Enjoy efficiency in service delivery.

2.2.1.3. Vigorously pursue the developmental opportunities which are available in the City and to institute such measures as are necessary for attainment of public order and the provisions of civic amenities, so as to enhance the quality of life of the residents of the City;

2.2.1.4. Provide high standard of social services in a cost-effective manner to the residents of the City;

2.2.1.5. Promote social cohesiveness and a sense of civic duty and responsibility among the Residents and stakeholders in the City in order to facilitate collective action and commitment towards achieving the goal of a harmonious and stable community;

2.2.1.6. Provide for services, by laws and other matters for City's benefit; and

2.2.1.7. Foster the economic, social and environmental well-being of its community.

### **2.3. Powers and Functions of the Board of the City**

2.3.1. Subject to the Urban Areas and Cities Act, 2011, the Board of the City shall have all the powers and perform all functions vested in boards of cities specified under the Urban Areas and Cities Act, the County Government Act, the City By-laws or any other written legislation.

2.3.2. Except as this Charter otherwise provides, all powers of the City shall be vested in the Board of the City.

2.3.3. The Board of the City shall exercise of the powers and perform all duties and obligations imposed on the Board of the City.

2.3.4. Subject to the Constitution and any other written law, the Board of the City shall, within the boundaries of the City of Nakuru—

- (a) Exercise executive authority as delegated by the County Executive Committee of the County Government of Nakuru pursuant to section 21(2) of the Act;
- (b) Ensure provision of services to its residents;
- (c) Promote constitutional values and principles;
- (d) Ensure the implementation and compliance with policies formulated by both the National Government and County Government of Nakuru;
- (e) Make By-laws or make recommendations for issues to be included in By-laws;
- (f) Ensure participation of the residents in decision making, its activities and programs; and
- (g) Exercise such other powers as may be delegated by the County Executive Committee of the County Government of Nakuru or county legislation.

2.3.5. The Board of the City shall perform the following functions—

- (a) Oversee the affairs of the City;
- (b) Develop or adopt policies, plans, strategies and program and set targets for service delivery;
- (c) Formulate and implement an integrated development plan;
- (d) Control, 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 City as delegated by the County Government of Nakuru;
- (e) Promote and undertake infrastructural development and services within the City of Nakuru as delegated by the County Government of Nakuru;
- (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 effective 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 City;
- (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 Nakuru;
- (n) Settle and implement tariff, rates and tax and debt collection policies, as delegated by the County Government of Nakuru;
- (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; and
- (s) Perform such other functions as may be legislated or delegated by the County Government of Nakuru or as provided by Article 2.3 of this Charter.

2.3.6. The Board of the City of Nakuru shall, within the boundaries of the City, perform the following functions—

- (a) Promote, regulate and provide mechanisms for refuse collection and recycling, solid waste management service, general sanitation and controlling all forms of nuisance;
- (b) Subject to existing laws, promote and provide water and sanitation services and infrastructure within the City;
- (c) Construct and maintain urban roads and associated infrastructure;
- (d) Construct and maintain storm drainage and flood controls;
- (e) Construct and maintain walkways and other non-motorized transport infrastructure;
- (f) Construct and maintain recreational parks, green spaces and public amenities and entertainments;
- (g) Construct and maintain street lighting;
- (h) Construct, maintain and regulate traffic controls, auto-cycle transport, non-motorized transport and parking facilities;
- (i) Construct and maintain bus stands and taxi stands;
- (j) Regulate outdoor advertising;
- (k) Construct, maintain and regulate urban commerce, municipal markets and abattoirs;
- (l) Construct and maintain fire stations, provide fire-fighting services, emergency preparedness and disaster management;
- (m) Promote, regulate and provide sports and cultural activities;
- (n) Promote, regulate and provide for animal control and welfare;
- (o) Develop and enforce municipal plans and development controls;
- (p) Provide City administration services including construction and maintenance of administrative offices;

- (q) Promote and undertake infrastructural development and services including housing and health facilities within the City;
- (r) Promote and regulate urban agriculture
- (s) Promote and regulate pre –primary education, childcare facilities and county vocational institutions and centers;
- (t) Provide, maintain and regulate cemeteries, crematories and other burial places;
- (u) Control and regulate alcoholic beverages; and
- (v) Any other function as may be delegated or assigned by the County Executive Committee or County Assembly legislation.

### **3. THE BOARD OF THE CITY**

#### **3.1. Establishment of the Board**

3.1.1. There shall be a Board of the City of Nakuru.

3.1.2. The Board of the City shall be a body corporate with perpetual succession and a common seal and shall pursuant to section 12 (2) of the Act, 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 under the 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 City and the County Government of Nakuru.

### **3.2. Composition and Term of the Board of the City**

3.2.1. The Board of the city shall consist of not more than eleven members, six of whom shall be appointed through a competitive process by the county governor, with the approval of the county assembly.

3.2.2. The members of the Board of a city appointed under subsection 3.2.1 shall be constituted as follows—

(a) The County executive member for the time being responsible for cities and urban areas or his Representative;

(b) Six members who shall be competitively appointed by the County Governor with members who shall be competitively appointed by the approval of the County Assembly;

(c) Four members who shall be nominated by the organization specified under subsection 3.2.2 and appointed by the county governor, with the approval of the County Assembly.

3.2.3. The four members of the board of a city specified under subsection 3.2.2 (c), shall be nominated by—

(a) an umbrella body representing professional associations in the City of Nakuru;

(b) an association representing the private sector in the City of Nakuru;

(c) a cluster representing registered associations of the informal sector in the City of Nakuru; and

(d) a cluster representing registered neighborhood associations in the City of Nakuru.

3.2.4. The Governor shall, while appointing members of the board, ensure gender equity, representation of persons with disability, youth, and marginalised groups.

3.2.5. The county governor shall, while considering the nominated members identified by

the organizations specified under section 13 (2), require the organizations to produce—

- (a) signed minutes as evidence of an accountable process of nomination;
- (b) evidence of compliance with statutory obligations;
- (c) vetting form to establish that the nominee has complied with the prescribed criteria for appointment as a member of the board.

3.2.6. A person shall be qualified for appointment as a chairperson of the board if that person—

- (a) holds a bachelor's degree from an institution recognized in Kenya;
- (b) has a distinguished career in a medium level management position in either the private or public sector;
- (c) has a distinguished career in a medium level management position in either the private or public sector;
- (d) holds at least ten years' post-qualification professional experience; and
- (e) satisfies the requirements of Chapter Six of the Constitution.

3.2.7. A person shall be qualified for appointment as a member of the board if that person—

- (a) holds a bachelor's degree from an institution recognized in Kenya;
- (b) has a distinguished career in a medium level management position in either the private or public sector;
- (c) holds at least seven years' post-qualification professional experience; and
- (d) satisfies the requirements of Chapter Six of the Constitution.

3.2.8. A person shall not be appointed a member of the Board if that person—

- (a) is an undischarged bankrupt;

- (b) has been removed from office for contravening the Constitution or any other law;
- (c) is not a Kenyan citizen; or
- (d) has, in the conduct of his or her, affairs not met any statutory obligation.

### **3.3. Chairperson of the Board**

- 3.3.1. At the first regular meeting of the Board of the City, members of the Board of the City shall elect from amongst themselves, a Chairperson of the Board of the City.
- 3.3.2. The County Executive Member shall not be eligible to be elected as a chairperson of the board.
- 3.3.3. The Chairperson of the Board shall hold office for a term of five (5) years.

### **3.4. Powers and functions of the Chairperson**

- 3.4.1. The Chairperson of the Board of the City 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 City with non-executive powers;
  - (b) Chairing the meetings of the Board of the City; and
  - (c) Perform such other duties as may be delegated by the Board of the City.

### **3.5. Vice-Chairperson of the Board of the City**

- 3.5.1. At the first regular meeting of the Board of the City, members of the Board of the City shall elect from amongst themselves, a Vice- Chairperson of the Board of the City.
- 3.5.2. The County Executive Member shall not be eligible to be elected as a Vice-chairperson of the board.
- 3.5.3. The Chairperson and the Vice-Chairperson of the Board of the City shall at all times be of different gender.



3.5.4. 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.

### **3.6. Removal of the Chairperson and Vice-Chairperson**

3.6.1. The Chairperson and the Vice-Chairperson of the Board of the City may be removed by—

- (a) a majority decision of the members of Board of the City at a duly convened meeting where there is quorum; or
- (b) upon petition by a resident of the City to the Governor or County Assembly.

3.6.2. The procedure for the removal of a Chair person or Vice-Chairperson of the Board of the City under paragraph 3.8.1 may be provided by Regulations under the Urban Areas and Cities Act and in the absence thereof in accordance with a Standing Orders, County Assembly legislation or National legislation having regard to fair labor practices.

3.6.3. Any vacancy arising out of the removal of a Chair person or the Vice-Chairperson of Board of the City may be filled in the manner provided under Article 3.6 and 3.7, respectively.

### **3.7. Removal of members of the Board of the City**

3.7.1. A member of the Board of the City 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 City within one financial year;
- (f) is found guilty of professional misconduct by the relevant professional body;
- (g) if the member is withdrawn and or removed as a member, of the nominating body or association.
- (h) is disqualified from holding a public office under the 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.

3.7.2. A member of the Board of the City may be removed from office by—

- (a) the County Governor subject to Articles 3.12.3 of this Charter;
- (b) a resolution of the Board of the City supported by at least two- thirds of the members of the Board of the City; or
- (c) petition by the residents of the City to the County Assembly;
- (d) adverse recommendation by a Committee of the Assembly having taken into account the provisions of Article 3.12.3.

3.7.3. Subject to any regulation made under the Urban Areas and Cities Act, the procedure for the removal or petition for removal of a member of the Board of the City under paragraph 3.12.2 shall be as may be provided by the County Assembly Standing Orders, county legislation or Regulations made therefrom.

3.7.4. Any vacancy arising out of the removal of a member of the Board of the City may be filled in the manner provided under Article 3.2 and 3.3.

**3.8. Secretary of the Board of the City**

3.8.1. The secretary to the Board shall be the person appointed in accordance with section 13A of the Act.

3.8.2. Where the secretary to the board of the City is not present in a board or committee of the board, the board may appoint any other senior employee heading one of the directorates to act as secretary

**3.9. Committees of the Board of the City**

3.9.1. The Board of the City 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 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 City; and
- (c) co-opt persons who are not members of the Board in any Committee;
- (d) the co-opted person in clause (c) shall be paid allowances and benefits in accordance with the Salaries and Remuneration Commission guidelines.

3.9.2. The Committees of the Board of the City to which members of the Board of the City delegate any of their powers and functions must follow procedures which are based as a 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 City.

**3.10. Remuneration of the members of the Board of the City**

3.10.1. The chairperson, vice chairperson and members of a board committee shall not receive a salary from the board or town committee but shall be paid such allowances and benefits as the County Executive Committee shall, with the approval of the county assembly, and on the advice of the Salaries and Remuneration Commission, determine.

### **3.11. Meetings of the Board of the City**

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

3.11.2. Notwithstanding Article 3.12.1, the Chairperson of the Board of the City may, and upon request in writing by at least one-third of the members of the Board of the City shall, convene a special meeting to transact any urgent business of the Board of the City.

3.11.3. All regular meetings shall be open to the public.

### **3.12. Quorum**

3.12.1. A majority of the members of the Board of the City is a quorum to conduct business.

3.12.2. A member of the Board of the City who has a personal interest in any in a matter under to be discussed shall declare interest and provide full disclosure and shall participate in the discussion.

### **3.13. Resolutions**

3.13.1. The Board of the City shall exercise its administrative authority by approving resolutions.

### **3.14. Approval of Resolutions**

3.14.1. Approval of a resolution or any other Board administrative decision requiring approval by the Board of the City at one meeting.

3.14.2. 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.

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

### **3.15. Effective Date of Resolutions**

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

**3.16. Rules of the Board**

3.16.1. The Board of the City shall by resolution adopt rules to govern its meetings.

**3.17. Record of information of the Board**

3.17.1. The minutes and other information of the Board of the City shall be kept by the Secretary of the Board of the City.

3.17.2. Access to information on the activities and resolutions of the Board of the City shall be as provided under the Urban Areas and Cities Act and any other written law.

**3.18. Citizen For a**

3.18.1. Subject to Urban Areas and Cities Act—

3.18.1.1. The Board of the City shall in consultations with the members of County Assembly and other stakeholders develop mechanisms for the participation of the residents of the City of Nakuru in the management and administration of the City.

3.18.1.2. All recommendations from the Citizen Fora of the City of Nakuru shall be forwarded to the Board of the City for resolution.

3.18.1.3. All recommendations on issues raised in the Citizen Fora and addressed by the Board of the City shall be forwarded to the City Manager for implementation.

**4. AUTHORITY TO MAKE BY-LAWS**

**4.1. By-laws**

4.1.1. The Board of the City may pursuant to section 21 (f) of the Act make by laws or make recommendations for issues to be included in by-laws, to aid in the management of the City.

**4.2. Passing of By-laws**

4.2.1. Except as authorized by Article 3.2.2, making of by-laws shall require concurrence of the County Executive Committee and the approval of the County Assembly.

- 4.2.2. Before passing any by-law, the Board of the City shall submit the proposed by-law to the office of the County Attorney, upon which the county attorney shall submit it with his written advisory to the county executive and the county assembly for consideration.
- 4.2.3. The Board of the City may adopt a By-law at a single meeting by the unanimous approval of at least a quorum of Board.
- 4.2.4. Any substantive amendment to a proposed By-law must be read aloud or made available in writing to the public before the Board of the City adopts the By-law at that meeting.
- 4.2.5. After the adoption of a By-law, the vote of each member must be entered into the Board minutes.
- 4.2.6. After adoption of a By-law, the secretary to the Board shall avail the by-laws to the County Attorney for eventual submission to the county Assembly for consideration.
- 4.2.7. Pursuant to the legislative authority granted by article 185 of the Constitution, the County Assembly may amend or reject a by-law submitted for consideration.

### **4.3. Effective Date of By-Laws**

- 4.3.1. By-laws shall take effect on the 30<sup>th</sup> day after the assent by the Governor.

## **5. THE CITY MANAGER**

### **5.1. Office of the City Manager**

- 5.1.1. There is established the Office of the City Manager.
- 5.1.2. The City Manager shall be the administrative head of the City of Nakuru and the secretary to the Board of the City.
- 5.1.3. The City Manager shall be responsible to implement the decisions and functions of the Board.

### **5.2. Appointment and Term**

- 5.2.1. The City Manager shall be competitively recruited and appointed with the approval of the County Assembly, by the County Public Service Board.

5.2.2. The City Manager shall be appointed for a term of 6 years contract with an option of renewal of the contract subject to recommendations by the City Board to the County Public Service Board.

5.2.3. The City Manager shall not serve for more than two terms.

### **5.3. Qualifications**

5.3.1. Subject to Article 232 of the Constitution, a person shall qualify to be appointed as city or municipal manager if the person—

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognised in Kenya or its equivalent; and
- (c) has proven experience of not less than ten years in administration or management either in the public or private sector.

5.3.2. In appointing a manager under subsection (6.31) the body responsible for county public service shall ensure—

- (a) gender equity;
- (b) the inclusion of minorities and marginalised communities; and
- (c) the person satisfies the requirements of Chapter six of the Constitution.

### **5.4. Functions and Powers of the City Manager**

5.4.1. The City Manager shall implement the decisions and functions of the Board of the City and shall be answerable to the Board.

5.4.2. The City Manager shall perform the following functions—

- 5.4.2.1. implement resolutions and directions of the Board;
- 5.4.2.2. prepare and present for approval of the Board of the City, an annual estimate of revenue and expenditure to fund and carry out the programs and operations of the Board;
- 5.4.2.3. be principally responsible for building and maintaining a strong alliance and effective working relationships between the Board of the City and

- the civil society, private sector and community- based organizations;
- 5.4.2.4. be principally responsible for building and maintaining a strong alliance and effective working relationships between the Board of the City and the civil society, private sector, and community-based organizations;
- 5.4.2.5. cause to be prepared, transmitted to the Board of the City, 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 City.
- 5.4.2.6. act as an ex-officio member of all committees of the Board of the City;
- 5.4.2.7. be the Secretary to the Board of the City and the Head of Administration;
- 5.4.2.8. such other functions as the Board may, in writing, confer upon the City Manager.
- 5.4.3. The City Manager shall be fully responsible for the proper conduct of the executive and administrative work and affairs of the City.
- 5.4.4. The City Manager shall have the power to—
  - 5.4.4.1. exercise supervision over all departments and agencies of the City and provide for the coordination of their activities.
  - 5.4.4.2. enforce the provisions of this Charter, City By-laws, and all applicable laws.
  - 5.4.4.3. exercise powers granted to the City Manager in this Charter, By-laws and applicable laws concerning the appointment and removal of certain officers or employees.
  - 5.4.4.4. exercise such other powers as may be specified by this Charter, by-laws and any other written legislation.
- 5.4.5. The City Manager shall have no authority over the Board of the City.
- 5.4.6. The City Manager shall be entitled to attend meetings of the Board of the City but shall not be entitled to vote.



## **5.5. Remuneration**

5.5.1. The County Public Service Board shall in consultation with Salaries and Remuneration Commission determine the remunerations and conditions of employment of the City Manager.

## **5.6. Removal of the City Manager**

5.6.1. The City Manager may subject to article 6.7.4 or any other written law relating to labour practice be removed from office by the—

- (a) the County Public Service Board upon recommendation of the City Board; or the county Executive; or
- (b) petition by the residents of the City to the County Assembly.

5.6.2. The City Manager may cease to hold office before the lapse of the employment term of if he/she—

- (a) is unable to perform the functions of the office by reason of mental or physical infirmity;
- (b) is declared or becomes bankrupt or insolvent;
- (c) is convicted of a criminal offence and sentenced to a term of imprisonment of six months or more;
- (d) resigns in writing to the City Board, County Governor or the Public Service Board;
- (e) is absent from three consecutive meetings of the Board of the City without approval of the Chairperson of the Board;
- (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 City Manager may be provided by the Regulations made under the Urban Areas and Cities Act, 2011 and in the absence thereof in accordance with a county legislation or National law having regard to fair labour practices.

5.6.4. Any vacancy arising in the Office of the City Manager may be filled in the manner provided under Article 6.2.

### **5.7. Acting City Manager**

5.7.1. When the City Manager is temporarily disabled from acting as City Manager or when the office of the City Manager becomes vacant, the County Public Service Board shall appoint a serving and qualified Board staff to act as the City Manager.

5.7.2. The County Public Service Board shall inform the Governor and the County Assembly of such appointment within seven (7) days.

5.7.3. The Acting City Manager shall have the authority and duties of the City Manager, except that the Acting City Manager shall have no power to appoint or remove any employee without the approval of the Board.

5.7.4. An Acting City Manager shall hold office until such a time as a new City Manager shall be appointed by the County Public Service Board.

## **6. FINANCIAL MANAGEMENT**

### **6.1. Sources of Funds and Revenue of the City**

6.1.1. The Board of the City shall derive its revenue and funds from—

- (a) monies allocated by a 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 under this Act; and
- (c) all monies or grants from any other legitimate source provided or donated to the Board.

**6.2. Appointment of the City Accounting Officer**

6.2.1. The City Accounting Officer shall be designated by the County Executive Committee Member for Finance in the manner specified under sections 148 (1) and (2) of the Public Finance Management Act.

**6.3. Functions and Powers of the City Accounting Officer**

6.3.1. The City Accounting Officer shall have all the powers and perform all the functions of accounting officers as provided under the Public Finance Management Act, 2015.

6.3.2. Without prejudice to the foregoing, the City Accounting Officer shall be responsible for managing the finances of the City.

**6.4. Budget and Financial year**

6.4.1. The City shall operate on an annual budget.

6.4.2. The financial year of the Board of the City shall be the period of twelve months ending on the thirtieth June in each Budget year

6.4.3. The budget of the Board of the City shall be developed in the manner provided under section 175 of the Public Finance Management Act, 2012, Urban Areas and Cities Act and any other written law.

**6.5. Management of City Finances**

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

6.5.2. All monies received by the Board of the City shall be paid into the City's bank account promptly and in accordance with the Public Finance Management Act, 2015.

**6.6. Borrowing by the City**

6.6.1. The Board of the City may only borrow—

- (a) from the County Government;

- (b) through the County Government; or
- (c) by way of a bank overdraft with the approval of County treasury and the County Assembly and subject to such terms as may be imposed by the County Assembly or such terms as provided by law.

**6.7. Audit**

6.7.1. The audit of the Board of the City shall be as provided under sections 46 and 47 of the Urban Areas and Cities Act.

**7. OFFICERS AND STAFF OF THE CITY**

**7.1. Officers and Staff**

7.1.1. The Board of the City may subject to the approval by the County Public Service Board, employ or remove such officers and employees as it deems necessary to execute the powers and duties provided by this Charter or other any other law.

**7.2. Management of City Personnel**

7.2.1. Employees of the City shall be under the general guidance of the City Manager.

**7.3. Retirement Systems**

7.3.1. The Board of the City 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 City.

**7.4. Remuneration of Staff and Officers**

7.4.1. The remuneration of all staff and officers of the City shall be determined by the County Public Service Board, upon the advice of the Salaries and Remuneration Commission.

## **8. CITY PROPERTY**

### **8.1. Acquisition, Possession, and Disposal**

- 8.1.1. The Board of the City 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 City Board.
- 8.1.2. All City property and funds of every kind belonging to or in the possession of the City (by whatever prior name known) at the time this Charter becomes effective are vested in the City, subject to the terms and conditions thereof.

### **8.2. Compulsory Acquisition**

- 8.2.1. Whenever the City 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<sup>5</sup>.
- 8.2.2. The provisions of the Land Act shall apply to any intended compulsory acquisition by the City of property within the City.

### **8.3. City Buildings**

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

### **8.4. Protection of City Property**

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

## **9. CITY INTEGRATED DEVELOPMENT PLAN**

- 9.1. The City of Nakuru shall prepare a City Development plan in accordance with Part V of the **Act**.
- 9.2. The service plan shall provide for extension of all City services
- 9.3. The proposed City Integrated Development plan shall be made available for public inspection

and discussed during the public hearings.

## **10. GENERAL PROVISIONS**

### **10.1. Oath of office**

10.1.1. Before entering upon the duties of their offices, the Chairperson, Vice- Chairperson, members of the Board and the City Manager and all other persons elected or appointed to any office of profit or trust in the City, as determined by Board, shall take and subscribe to the following oath or affirmation:

*“I, ..... being called on to exercise the functions of [chairperson, member/City Manager etc] of the City 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 City of [...], I will not directly or indirectly reveal the nature or contents of any business, proceedings or document of the City committed to my secrecy, except as may be required for the due discharge of my duties as [ chairperson, member/City Manager etc.] of the City of [...] or otherwise under the law. (In the case of an oath— So help me God. 6.”*

10.1.2. The Governor shall be responsible to administer the Oath on all persons subscribing to the oath.

### **10.2. Severability**

10.2.1. 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. SAVINGS AND TRANSITION PROVISIONS**

### **11.1. Definitions**

- (a) “former institution” means the Nakuru Municipality;
- (b) “appointed day” means the day on which this Charter comes into force.

## **11.2. Savings of the Tenure of Chairperson and Members of the Board of Municipality**

11.2.1. Subject to **paragraph 12.2.2.**, the chairperson or member of the former institution shall continue to serve the remainder of their term upon the commencement of this Charter.

11.2.2. The member of the Board appointed pursuant to section 14 (2) (d) (Chief officer responsible for urban development) of the Act shall cease to be a member of the Board on the appointed day.

## **11.3. Savings of the Tenure of the City Manager**

11.3.1. The Municipal Manager shall, on the appointed day continue to serve in his capacity as the city manager.

11.3.2. Despite the Conferment of city status by grant of this Charter, the terms of service of the Municipal Manager shall not be prejudiced upon transitioning into the City Manager.

## **11.4. The Staff and Officers**

11.4.1. The Municipal staff and officers shall, on the appointed day, be deemed to be the staff and officers of Nakuru City.

11.4.2. A person who, immediately before the commencement date was an officer or member of staff of the former institution, not being then under notice of dismissal or resignation shall, on the commencement of this Act, become an officer or staff of the City.

11.4.3. The terms and conditions of service of the staff and officer shall not be prejudiced in any way by the Conferment of the city status.

## **11.5. Rights, Obligations, and Contracts**

11.5.1. Any rights, obligations, and contracts which, immediately before the appointed day, were vested in or imposed on the former institution shall by virtue of this provision, be deemed to be the rights, obligations, and contracts of the City.

## **11.6. Assets and Liabilities**

11.6.1. On the appointed day, all the funds, assets and other property, both movable and immovable, which immediately before that date were vested in the former institution shall vest in the Board of the City.

11.6.2. On the appointed day, all rights, powers, and liabilities, which immediately before that date were vested in, imposed on or enforceable against the former institution shall be vested in, imposed on or enforceable against the City.

**11.7. Reference to the Former Institution**

11.7.1. Any reference in any written law or in any document or instrument to the former institution shall, on and after the appointed day, be construed to be a reference to the City.

**11.8. Preservation of Pending Proceedings**

11.8.1. Any proceedings pending before the former institution, a tribunal or a court of competent jurisdiction immediately before the appointed day to which the former institution was a party shall be continued as if the proceedings were instituted for or against the City.

**11.9. Agreements, Deeds, Bonds and Other Instruments**

11.9.1. Every agreement, deed, bond or other instrument to which the former institution was a party or which concerned the former institution and whether or not of such a nature that the rights, liabilities and obligations thereunder could be assigned, shall have effect as if the City were a party thereto or affected thereby instead of the former institution and as if for every reference, whether express or implied, therein to the former institution there were substituted in respect of anything to be done on or after the appointed day.

**11.10. Administrative Decisions**

11.10.1. The administrative decisions made by the former institution which are in force immediately before the appointed day shall, on or after such day, have force as if they were decisions made by the City.

**11.11. Pension**

11.11.1. A member of staff of the former institution who becomes a member of staff of the City shall continue to be governed by the existing Government pension arrangements or any other statutory voluntary pension scheme.

11.11.2. Where any person whose services are transferred to the City is, on the appointed day, a member of any statutory voluntary pension scheme or provident fund, the



person shall for the purpose of this Act, continue to be governed by the same regulations under those schemes or funds, as if the person had not been so transferred, and for purposes of the regulations governing those schemes or funds, service with the City shall be deemed to be service in the former institution.

**11.12. Effective Date of Charter**

11.12.1. This charter shall take effect upon Gazettement in the Kenya Gazette by the President.

**Made on this ..... day ..... 2021**

**Uhuru Kenyatta,  
PRESIDENT.**