

SPECIAL ISSUE

Kenya Gazette Supplement No. 3

10th March, 2023

(Siaya County Legislative Supplement No. 2)

LEGAL NOTICE NO. 2

THE CONSTITUTION OF KENYA
THE URBAN AREAS AND CITIES ACT
(No. 13 of 2011)
THE COUNTY GOVERNMENT OF SIAYA
THE MUNICIPALITY OF UGUNJA CHARTER
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THE CONSTITUTION OF KENYA
THE URBAN AREAS AND CITIES ACT
(No. 13 of 2011)
THE COUNTY GOVERNMENT OF SIAYA
THE MUNICIPALITY OF UGUNJA CHARTER

PREAMBLE

WHEREAS Article 2 of the Constitution of Kenya 2010 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 one (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, 2011 does not have the prescribed form of a Municipal Charter.

WHEREAS no regulations have been promulgated under the Urban Areas and Cities Act 2011 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 Siaya duly approved the request for grant of this Charter to the Municipality of Ugunja.

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 and all other enabling provisions of law, the County Governor of Siaya County HEREBY GRANTS the Municipality of Ugunja this Municipal Charter on this 8th day of March, 2023.

CHAPTER ONE—INCORPORATION, NAME AND BOUNDARIES

Incorporation and Name

1. (1) This Charter is the Municipal Charter of the Municipality of Ugunja, within Siaya County, Kenya.

(2) All processes affecting the Municipality shall be served on the Municipal Manager, the person for the time being holding the office of the Municipal Manager or an officer designated by the Board of the Municipality.

Boundaries

2. The boundaries of the Municipality of Ugunja shall comprise of the area delineated at the time of conferment of the Municipality status or as may from time to time be reviewed.

CHAPTER TWO—POWERS, OBJECTS AND FUNCTIONS OF THE MUNICIPALITY

Powers of the Municipality

3. (1) The Municipality of Ugunja 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, Siaya County legislation, the County of Siaya By-laws and other enabling legislations.

(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 Municipality may determine, or, unless a contrary intent appears in this Charter or in the By-laws and Resolutions of the Board of the Municipality, in such manner as may be provided by the County of Siaya legislations and By-laws.

Objects of the Municipality

4. The objects of the Municipality of Ugunja 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.

Functions of the Municipality

5. The County Executive Committee may delegate to the Municipality of Ugunja the following functions within its jurisdiction—

- (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) 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 the municipality;
- (r) any other functions as may be delegated by the County Executive Committee.

CHAPTER THREE—THE BOARD OF THE MUNICIPALITY

Establishment of the Board

6. (1) There shall be a Board of the Municipality of Ugunja.

(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 and the Ugunja Municipality

Powers and Functions of the Board of the Municipality

7. (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, Siaya County legislations, and this Charter.

(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 Ugunja—

- (a) exercise executive authority as delegated by the County Executive Committee of the County of Siaya ;
- (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 in accordance with the Schedule to this Act as provided in the County Governments Act, 2012 and any other national legislation on public participation; and
- (h) exercise such other powers as may be delegated by the County Executive Committee of the County of Siaya.

(5) Notwithstanding any other provision of law or this Charter, the Board of the Municipality shall exercise such executive authority as may be delegated by the County Executive Committee for the necessary performance of its functions.

(6) The Board of the Municipality shall, in consultation with the County Executive Committee, perform the following functions—

- (a) oversee the affairs of the Municipality;

- (b) develop and adopt policies, plans, strategies and programmes and may set targets for service delivery;
- (c) formulate and implement an integrated development plan;
- (d) control land use, land sub-division, land development and zoning by public and private sectors for any purpose, including industry, commerce, markets, shopping and other employment centres, residential areas, recreational areas, parks, entertainment, passenger transport, agriculture, and freight and transit stations within the framework of the spatial and master plans for the Municipality as delegated by the County Government of Siaya;
- (e) promoting and undertaking infrastructural development and services within Municipality as may be delegated by the County Government of Siaya;
- (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 and provide public access thereto upon payment of a nominal fee to be determined by the board;
- (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 under this Act or other written law;
- (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 may be delegated by the County Government of Siaya;
- (n) settling and implementing tariff, rates and tax and debt collection policies as delegated by the County Government of Siaya;
- (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 County Government of Siaya.

Composition and Term of the Board of the Municipality

8. (1) The Board of the Municipality shall be composed of 9 (nine) members.
- (2) The County Executive Member for the time being responsible for cities and

urban areas or his representative.

(3) Three (3) members of the Board of the Municipality who shall be appointed through a competitive process by the County Governor with the approval of the County Assembly.

(4) Four (4) members of the Board who shall be nominated by—

- (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;
and
 - (d) a cluster representing registered neighbourhood associations in the area,
- and appointed by the County Governor with the approval of the County Assembly.

(5) In appointing members of the Board of the Municipality, the County Governor shall observe principles of good governance relating to gender equity, representation of persons with disability, youth and marginalized groups

(6) The County Governor shall while considering the nominated members identified by the organisations specified in sub-article (4), require the organisations to produce—

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

(7) The Chief Officer for the time being responsible for urban development; and

(8) The Municipal Manager who shall be the secretary of the board and an *ex officio* member of the board.

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

Eligibility for Appointment as Member of the Board of the Municipality

9. To qualify for appointment as a member of the Board of Municipality, each member should have the following qualifications—

- (a) hold at least a diploma from an institution recognised in Kenya;
- (b) have a distinguished career in a medium level management position in either private or public sector,
- (c) hold at least five years' post-qualification professional experience,
- (d) be a Kenyan citizen;
- (e) be ordinarily resident or have a permanent dwelling in the Municipality;
- (f) carry on business in the municipality or have lived in the municipality for at least five years;
- (g) comply with Chapter Six of the Constitution.

Eligibility for Appointment as a Chairperson of the Board

10. To qualify for appointment as a Chairperson of the Board of Municipality, a person shall have the following qualifications —

- (a) hold at least a degree from an institution recognised in Kenya;
- (b) have a distinguished career in a medium level management position in either private or public sector,
- (c) hold at least ten years' post-qualification professional experience,
- (d) be a Kenyan citizen;
- (e) be ordinarily resident or have a permanent dwelling in the Municipality;
- (f) carry on business in the municipality or have lived in the municipality for at least five years;
- (g) comply with Chapter Six of the Constitution.

Chairperson and Vice-Chairperson of the Board of the Municipality

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

Functions of the Chairperson

12. (1) The Chairperson of the Board of the Municipality shall perform the functions set out below—

- (a) head of the Board of the Municipality;
- (b) chair the meetings of the Board of the Municipality; and
- (c) perform such other duties as may be delegated by the Board of the Municipality.

(2) The Vice-Chairperson shall, in the absence of the Chairperson, perform the functions of the Chairperson and such other functions as may be delegated by the Chairperson.

(3) The Chairperson and Vice-Chairperson shall hold office for a term of five years.

Committees of the Board of the Municipality

13. (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; and
- (c) include persons who are not members of the Board in any Committee.

(2) The Committees of the Board of the Municipality shall operate on the basis of delegated authority which shall in all instances be restricted to the powers and functions of the Board as prescribed in this Charter.

Remuneration of the Members of the Board of the Municipality

14. (1) The Chairperson, Vice-Chairperson and Members of the Board of the Municipality shall only be entitled to 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.

(2) The Chairperson, Vice-Chairperson and Members of the Board of the Municipality shall not receive a salary from the Board.

Vacation and Removal of Members of the Board of the Municipality

15. (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 person may be removed from the office as member of the Board of the Municipality on any of the grounds provided under Article 14(1) 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) upon petition by the residents of the Municipality to the County Executive Committee.

(3) The procedure for the removal or petition for removal of a member under 14(1) above shall be provided by Regulations made under the Urban Areas and Cities Act and in the absence of the Regulations in accordance with Kenyan Laws and fair labour practices.

(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 8 above.

Meetings of the Board of the Municipality

16. (1) The Board of the Municipality shall convene ordinary meetings to transact the business of the Board once every three months.

(2) Notwithstanding Article 15(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 shall, convene a special meeting for transaction of any urgent business of the Board of the Municipality.

(3) All regular meetings of the Board of the Municipality called for the purpose of transacting public business, may be open to a representation of the public upon invitation.

(4) The Board shall have the privilege of holding executive sessions from which the public is excluded, however, no by-laws, resolution, rule or regulation shall be finally adopted at such an executive session.

Quorum

17. (1) A majority of the members of the Board of the Municipality shall constitute a quorum to conduct business of the meeting.

Conflict of interest

18. 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.

Rules of the Board

19. The Board of the Municipality shall by resolution adopt rules to govern its meetings.

Record of Information of the Board

20. (1) The minutes and other information of the Board of the Municipality shall be kept by the Secretary of the Board of the Municipality.

(2) Access to information on the activities and resolutions of the Board of the Municipality shall be governed by the provisions of the Urban Areas and Cities Act.

Citizen Fora

21. (1) The Board of the Municipality shall ensure the development of mechanisms for the participation of the residents of the Municipality of Ugunja in the management and administration of the Municipality.

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

(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.

CHAPTER FOUR—LEGISLATIVE AUTHORITY

By-Laws

22. The Board of the Municipality shall exercise delegated legislative authority by passing Municipality By-laws.

Passing By-Laws

23. (1) All By-Laws passed by the Board of Municipality shall be approved by the County Assembly.

(2) The passing of a By-Law shall require approval by a majority of the Board of the Municipality.

(3) Upon passing of a By-Law, the Chairperson of the Board shall enforce it and cause it to be transmitted to the County Assembly for approval.

(4) By-laws shall take effect on the 30th day after approval by the County Assembly, or on a day specified in the By-law.

CHAPTER FIVE—ADMINISTRATIVE AUTHORITY

Resolutions

24. The Board of the Municipality shall exercise its administrative authority by approving resolutions.

Approval of Resolutions

25. (1) Approval of a resolution or any other Board administrative decision shall be done by the Board of the Municipality at a meeting of the Board.

(2) The vote of each member on any resolution or Board administrative decisions shall be recorded in the Board minutes.

(3) Resolutions and other administrative decisions approved by the Board of Municipality shall take effect on the date of approval, or on a later day provided in the resolution.

CHAPTER SIX— THE MUNICIPAL MANAGER

Office of the Municipal Manager

25. (1) There is established the office of the Municipal Manager.

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

Appointment and Term

26. (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.

Qualifications

27. (1) The Municipal Manager shall—

- (a) be a citizen of Kenya;
- (b) hold a degree from a university recognized in Kenya or its equivalent; and
- (c) have served and had proven experience in administration or management either in public or private sector for a term of at least ten years.

(2) In appointing the Municipal Manager, the County Public Service Board shall ensure—

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

Functions and Powers of the Municipal Manager

28. (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 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 Board may, by order, confer upon the Municipal Manager.

(4) 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.
- (5) 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 about the needs of the Municipality;
 - (c) administer and enforce all Municipality By-laws, resolutions, franchises, leases, contracts, permits, and other Municipality decisions;
 - (d) supervise 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.

(6) The Municipal Manager shall have no authority over the Board of the Municipality.

Remuneration

29. The County Public Service Board shall set the compensation and determine the conditions of employment of the Municipal Manager.

Removal of the Municipal Manager

30. (1) The procedure for the removal of the Municipal Manager shall be governed by the process of removal of public officers under the County Governments Act.

(2) Any vacancy arising in the office of the Municipal Manager may be filled in the manner provided under Article 25 above.

CHAPTER SEVEN— MUNICIPAL FINANCES AND FINANCIAL MANAGEMENT

Sources of the Municipality's Funds and Revenue

31. The Board of 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.

(2) No payment shall be made out of the funds of the Board of Municipality unless it has been provided for in the approved annual, revised or supplementary estimates of expenditure and is authorized by the Board.

Appointment of the Municipality Accounting Officer

32. 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.

Functions and Powers of the Municipality Accounting Officer

33. (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.

Financial Year

34. (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.

Budget

35. The budget of the Board of the Municipality shall be developed in the manner provided under Section 175 of the Public Finance Management Act.

Management of Municipality Finances

36. (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. Section of PFM

Borrowing by the Municipality

37. (1) The Board of the Municipality may only borrow—

- (a) from the County Government;
- (b) through the County Government; or
- (c) by way of a bank overdraft.

(2) All borrowing by the Board of Municipality shall be approved by the County Assembly.

Audit

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

CHAPTER EIGHT—MUNICIPALITY PERSONNEL

Municipality Personnel

39. 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.

Management of Municipality Personnel

40. Employees of the Municipality shall be under the general guidance and supervision of the Municipal Manager.

Retirement Systems

41. The Board of the Municipality may include its officers and employees, or any of them within any retirement system or pension schemes under the terms of which they

are admissible, and pay the employer’s share of the cost of any such retirement or pension scheme out of the funds of the Board of the Municipality.

Compensation of Municipality Personnel

42. 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.

CHAPTER NINE—MUNICIPALITY PROPERTY

Acquisition, Possession and Disposal

43. (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 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.

Compulsory Acquisition

44. (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.

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

Municipality Buildings

45. 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.

Protection of Municipality Property

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

CHAPTER TEN—GENERAL PROVISIONS

Oath of Office

47. (1) Before entering upon the duties of their offices, the Municipal Manager and the Members of the Board shall take and subscribe to the following oath or affirmation:

“I, [.....], being called on to exercise the functions of [Municipal Manager/Member of the Board of Municipality of Ugunja], do swear/solemnly affirm that I will at all times be faithful to the Republic of Kenya; that I will obey, respect and uphold this Constitution of Kenya and all other laws of the Republic, that except with the authority of the Board of the Municipality of Ugunja , 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/Member of the Board of

Municipality of Ugunja] or otherwise under the law. (In the case of an oath— So help me God.”

(2) The Municipal Manager and the board members shall take and subscribe to the oath or affirmation before the County Governor or the person delegated by the Governor.

Amendments to the Charter

48. (1) The Charter may be amended through any of the following mechanisms—

- (a) the County Governor may at any time, after consultation with the Board of the Municipality, amend any provision of this Charter.
- (b) a member of the public may petition for an amendment of the Charter through the County Executive Committee.
- (c) a member of the County Assembly may upon receiving a petition from the public initiate an amendment of the Charter by the County Assembly.

(2) All amendments to this Charter shall be approved by the County Assembly before they take effect.

Separability

49. 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.

CHAPTER ELEVEN—TRANSITIONAL PROVISIONS

Effective Date of Charter

50. The provisions of this Charter shall take effect on the date it is endorsed by the Governor.

Rights and Privileges Preserved

51. Nothing in the Charter except as otherwise specifically provided shall effect or impair the rights or privileges of persons who are Town Officials, Officers or Employees at the time of its adoption.

Departments

52. 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.

Dated the 8th March, 2023.

JAMES ORENGO,
Governor, Siaya County..

