

**OFFICE OF THE CLERK
COUNTY ASSEMBLY OF KITUI**

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Clerk's Office,
Kitui County
Assembly,
P.O. Box 694-90200,
Kitui, Kenya.

When replying please quote our ref:

Our Ref: CAK 4/15/ Vol. I (10)

DATE: 29th June, 2018

H.E. Charity Kaluki Ngilu
The Governor
Kitui County Government
P.O Box 33-90200



KITUI

REF: APPROVED KITUI MUNICIPAL CHARTER

The above subject matter refers.

In compliance with section 8 and 9 of the Urban Areas and Cities Act No. 13 of 2011, the County Assembly during a sitting held on Wednesday approved the Kitui Municipal Charter.

Forwarded herewith please find a copy of the approved report with recommendations for your necessary action.

The votes and proceedings are also attached for ease of reference.

Yours faithfully,

**E.M.A MUTAMBUKI,
CLERK OF ASSEMBLY
COUNTY ASSEMBLY OF KITUI.**



OFFICE OF THE ATTORNEY GENERAL
STATE OF TEXAS

Attorney General
K. Michael Healy
1000 North Shoreline
Austin, Texas 78701



Attorney General
K. Michael Healy
1000 North Shoreline
Austin, Texas 78701

DATE: 07/14/2015

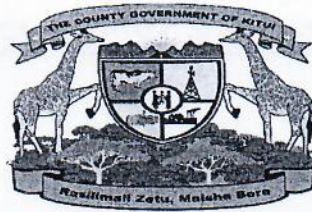


Attorney General
K. Michael Healy
1000 North Shoreline
Austin, Texas 78701

STATE OF TEXAS

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the State of Texas at Austin, Texas, this 14th day of July, 2015.

K. Michael Healy
Attorney General



COUNTY GOVERNMENT OF KITUI

THE COUNTY ASSEMBLY

SECOND COUNTY ASSEMBLY – (SECOND SESSION)

VOTES AND PROCEEDINGS

WEDNESDAY 27TH JUNE, 2018 AT 9.00 A.M.

1. The House convened at Nine O'clock.
2. The proceedings were opened with a prayer.
3. **PRESIDING:** Hon. Temporary Speaker on the Chair
4. **MOTION ON APPROVAL OF THE REPORT BY THE COMMITTEE ON LANDS, INFRASTRUCTURE AND URBAN DEVELOPMENT ON CONSIDERATION OF THE KITUI MUNICIPAL CHARTER**

(Chairperson, Committee on Lands, Infrastructure and Urban Development)

Motion Made and Question Proposed;

THAT, Pursuant to the provisions of Section 8 and 9 of the Urban Areas and Cities Act and Standing Order No. 190, this Assembly hereby adopts the Report by the Committee on Lands, Infrastructure and Urban Development on Consideration of the Kitui Municipal Charter.

(Hon. Boniface Katumo- M.C.A.)

10/1/18

WEDNESDAY 27TH JUNE, 2018

(047)

(188)

Debate arising;

Question Put and **Agreed** to.

5. MOTION ON COUNTY ASSEMBLY ADDITIONAL SITTINGS

(Leader of Majority Party)

Motion Made and Question Proposed;

THAT, pursuant to the provisions of Standing Order No. 27 (3) (b) and (c), this Assembly hereby resolves to have additional sittings on the morning of Thursday 28th June, 2018 starting at 9.00am and Friday 29th June, 2018 to allow members ample time to transact the business before the Assembly.

(Hon. Peter Kilonzo – M.C.A)

No debate arising;

Question put and **Agreed** to.

6. ADJOURNMENT - And the time being Twenty three minutes past Four O'clock, the Honorable temporary Speaker adjourned the house.

7. ASSEMBLY ROSE - Twenty three minutes past Four O'clock

MEMORANDUM

*The Honorable Speaker will take the chair on
Thursday, 28th June, 2018 at 9:00 a.m*

COUNTY ASSEMBLY OF KITUI
SECOND COUNTY ASSEMBLY – (SECOND SESSION)

PAPER LAID

*(Chairperson, Committee on Lands, Infrastructure and Urban
Development)*

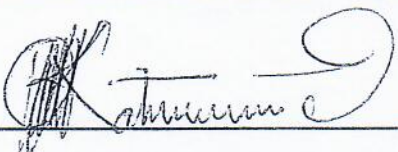
Mr. Speaker Sir,

THAT, Pursuant to the provisions of Sections 8 and 9 of the Urban Areas
and Cities Act No. 13 and the provisions of Standing Order No. 190,

*I beg to lay the following paper on the table of the County Assembly, today
Tuesday 26th June 2018;*

The Kitui Municipal Charter

HON. BONIFACE KATUMO – (M.C.A)

SIGN: 

DATE: 26/6/18

9

OFFICE OF THE CLERK
COUNTY ASSEMBLY OF KITUI



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KITUI

INTERNAL MEMO

FROM: FIRST CLERK ASSISTANT (T.C. 4)
TO: THE CLERK OF ASSEMBLY
THRO: I/C L. P. & P.
REF: CAK/4/15/VOL. I (9)
DATE: 26TH JUNE, 2018

Mr. Speaker
Kindly approve
26/6/18

SUBJECT: REPORT OF THE COMMITTEE ON LANDS INFRASTRUCTURE AND URBAN DEVELOPMENT ON CONSIDERATION OF THE KITUI MUNICIPAL CHARTER

The above subject matter refers.

Forwarded herewith, please find the Report by the aforementioned Committee on Consideration of the Kitui Municipal Charter.

Kindly advise and facilitate its approval for tabling.

Approved
[Signature]
26/6

[Signature]

MERCY MBINYA
FIRST CLERK ASSISTANT
COUNTY ASSEMBLY OF KITUI

COUNTY GOVERNMENT OF KITUI



COUNTY ASSEMBLY

SECOND ASSEMBLY – (SECOND SESSION)

**COMMITTEE ON LANDS INFRASTRUCTURE AND URBAN
DEVELOPMENT**

**REPORT ON CONSIDERATION OF THE KITUI MUNICIPAL
CHARTER**

Clerk's Chambers,
County Assembly Buildings,
Kitui, Kenya

June, 2018

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PREFACE

Mr Speaker Sir,

On behalf of the Sectoral Committee on Lands Infrastructure and Urban Development, it is my pleasure to present to this House the Committee's report on Consideration of the Kitui Municipality Charter.

Composition of the Committee

Mr Speaker Sir,

The Committee on Lands, Infrastructure and Urban Development was established pursuant to standing order 190 of the Kitui County Assembly Standing Orders.

The Committee as currently constituted comprises of the following Members:

- | | |
|----------------------------|------------------|
| 1. Hon Boniface Katumo | Chairperson |
| 2. Hon Geoffrey Mwalimu | Vice Chairperson |
| 3. Hon Colleta Koli | Member |
| 4. Hon Charles Maema | " |
| 5. Hon John Kisangau | " |
| 6. Hon Alex Wambua | " |
| 7. Hon David Thuvi | " |
| 8. Hon Anthony Ndo | " |
| 9. Hon Eunice Katheke | " |
| 10. Hon Jehoshaphat Nzamba | " |
| 11. Hon Alex Mbili | " |

Mandate of the Committee

The Committee is established pursuant to Standing Order 190(1) with its subject matter as set out in the Second Schedule.

Its functions are as set out in Standing Order 190(5) and include generally to:

- a) investigate, inquire into and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
- b) study the programme and policy objectives of departments and the effectiveness of implementation;
- c) study and review all County legislation referred to it;
- d) study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- e) investigate and inquire into all matters relating to the assigned department as they may deem necessary, and as may be referred to them by the County Assembly
- f) vet and report on all appointments where the Constitution or any law requires the County Assembly to approve except under Standing Order 184 (Committee on Appointments);
- g) make reports and recommendations to the County Assembly as often as possible including recommendation of proposed legislation

Committee Meetings

The Committee held two meetings on 26th June, 2018 to consider and review the Kitui Municipal Charter and also to compile the public participation report and final Committee Report. Prior to the committee meeting of 26th June, 2018 the County Executive Committee Member for Lands Infrastructure, Housing and Urban Development on 22nd June, 2018, took Members through the said Charter and on Monday, 25th June, 2016 at Kitui Multi-Purpose Hall the Committee conducted a public participation exercise on the same.

Acknowledgement

The Committee is grateful to the Offices of the Speaker and the Clerk of the County Assembly for the support extended to it in fulfilling its mandate.

I also wish to thank Members of the Committee and staff of Assembly who worked tirelessly to compile this Report. In addition, I wish to thank Members of the public who

sacrificed their time to attend the public participation exercise held at Kitui Multi-Purpose Hall and give their valuable views on the proposed Kitui Municipality Charter.

Mr. Speaker Sir,

I wish to confirm that the recommendations of the Committee in this Report were unanimous. It is therefore my pleasant duty and privilege, on behalf of the Committee on Lands Infrastructure and Urban Development to table this Report to the House for consideration.

SIGNED:

HON. BONIFACE KATUMO, M.C.A.

CHAIRPERSON, COMMITTEE ON LANDS INFRASTRUCTURE AND URBAN DEVELOPMENT.

DATE:26/06/2018.....

LEGAL FRAMEWORK AND LEGAL BASIS

Mr. Speaker Sir,

The Constitution of Kenya under Article 184 provides that a national legislation shall provide for the governance and management of urban areas and cities and shall inter alia provide for the criteria for classification of areas as urban areas and cities as well establish principles of governance and management of urban areas and cities. To this end, the parliament through the Urban Areas and Cities Act of 2011 established the criteria for conferring municipality status on towns and that of conferring town status into other areas.

Section 9(1) of the Urban Areas and Cities Act provides that a Governor may, on the resolution of a County Assembly, confer the status of a municipality on a town that meets the criteria in Section 9(3) of the same Act.

Section 9(3) states that a town is eligible for conferment of municipal status if it satisfies the following criteria:

- a) has a population of at least two hundred and fifty thousand residents according to the final *gazetted* results of the last population census carried out by an institution authorized under any written law, preceding the grant;
- b) has an Integrated Development Plan in accordance with this Act;
- c) has demonstrable revenue collection or revenue collection potential;
- d) has demonstrable capacity to generate sufficient revenue to sustain its operations;
- e) has the capacity to effectively and efficiently deliver essential services to its residents as provided in the First Schedule to this Act;
- f) has institutionalized active participation by its residents in the management of its affairs;
- g) has sufficient space for expansion;
- h) has infrastructural facilities, including but not limited to street lighting, markets and fire stations; and
- i) has a capacity for functional and effective waste disposal.

However, Section 9(4) of the same Act authorized the Governor to confer the status of a municipality to the county headquarter where the said headquarter meets all the other criteria as stated under subsection 9(3) save by what is set under subsection 9(3)(a).

The criteria set under subsection 9(3)(a) is about the population of the county headquarter meaning that the same does not need to have a population of at least two hundred and fifty thousand residents according to the final *gazetted* results of the last population census carried out by an institution authorized under any written law to be conferred into a municipality.

On 13th June, 2018, H.E. the Governor of Kitui County Government forwarded to the County Assembly the Kitui Municipal Charter accompanied by other related documents on the conferment of Kitui county headquarter into a municipality upon the same meeting the criteria established under Section 9(3) in line with the provisions of section 9 (1) and 9(4).

On 21st June, 2018 the Leader of the Minority Party laid the proposed Charter on the table of the House after which it stood committed to the Committee on Lands, Infrastructure, and Urban Development to facilitate public participation and further table a report to the House.

OVER VIEW OF THE KITUI TOWN MUNICIPALITY AND CHARTER

Mr. Speaker Sir,

The Kitui Municipal Charter seeks to confer upon Kitui town the status of a Municipality by H.E. the Governor, with the approval of the County Assembly as required by Section 9(1) of the Urban Areas and Cities Act.

Areas to be covered by the Municipality are: Kitui Township ward, Kyangwithya East ward, Kyangwitya West ward, Nzambani Ward, Matinyani Ward, Mulango Ward, and parts of Kwa Mutonga/Kithumula Ward and Chuluni ward.

On conferment of Municipality status, Kitui County will benefit under the Kenya Urban Support Programme through funding from the World Bank, up to a tune of Kshs.

232,374,200/= every financial year for a period of five years making the aggregate financial benefit from the programme a sum of Kshs. 1,161,871,000/=. In addition, the programme will also give a sum of Kshs. 40,000,000/= for the FY 2018/19 to assist in the capacity building of the Board of municipality employees as well as other county government employees who will be involved in the management of the municipality. However, this funding is will only be available if by the end of this year (by 30th June, 2018) Kitui county headquarter is conferred into a municipality status and there is a Board in place for the management of the municipality, that is, the Municipality Board.

The Kenya Urban Support Programme (KUSP)

This is a World Bank funded project aimed at establishing and strengthening specific urban institutions to improve infrastructure and service delivery and entails the setting up of urban areas in Kenyan Counties. It focuses on all urban areas that qualify for conferment of Municipality or City status, except Nairobi and Mombasa which are categorized as cities.

Kitui is one of the qualifying beneficiaries as per the World Bank Project Operational Manual.

Under this programme, the funding is meant to finance waste management systems, water and sanitation services, cultural activities, urban roads, bus parks, storm drainage systems, recreational facilities, amongst other devolved functions.

Objects of the Municipality

The Municipality of Kitui seeks to, *inter alia*:

- i) provide efficient and accountable management of the municipality;
- ii) provide for a governance mechanism that will enable the inhabitants of the Municipality to participate in determining preferable social services and regulatory framework, and enjoy efficiency in public service delivery;
- iii) pursue developmental opportunities available in the Municipality; and
- iv) provide high standards of social services in a cost effective manner to the Municipality residents.

Purpose of the Municipality

The Municipality shall within its boundaries ensure, amongst others:

- i) promotion, regulation and provision of an integrated wastes management system;
- ii) promotion and provision of water and sanitation services and infrastructure;
- iii) construction and maintenance of urban roads and associated infrastructure;
- iv) construction and maintenance of bus and taxi stands, *boda boda* sheds;
- v) municipal administration services; and
- vi) promotion, regulation and provision of municipal sports and cultural activities.

Establishment of the Board of the Municipality

Under Clause 3, the Municipality of Kitui shall be run by the Board of the Municipality of Kitui which shall be a body corporate with perpetual succession, with all powers that can be bestowed upon such a corporate body.

A principal and agency relationship shall exist between the County Government of Kitui and the Board of the Municipality, with the County Government being the principal and the Municipality Board being the agent. This in essence means that the Board will only exercise powers and functions that are legally delegated to it by the County Government through its authorized officers.

Composition and Term of the Board of the Municipality

The Board of municipality shall be composed on nine (9) members. Of these, four members shall be appointed through a competitive process by the County Executive Committee and approved by the County Assembly.

The remaining five members of the Board Members shall be nominated by the following umbrella bodies and thereafter approved by the County Assembly for appointment by the County Executive Committee.

- 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 association of the informal sector in the area;

- d) A cluster representing registered neighborhood associations in the area; and
- e) An association of urban areas and cities.

In appointing the members of the Board of Municipality, the County Executive Committee shall ensure gender, equity, and representation of persons with disability, youth and marginalized groups.

The term of the members of the Board of the Municipality shall be five years and they shall serve on part time basis.

The Municipal Manager

Clause 5 establishes the Office of the Municipal Manager who shall be the administrative head of the Municipality of Kitui and Secretary to the Board.

The Clause further provides for the qualifications of a person to hold the office of the manager and states that the manager shall implement decisions and functions of the Board of the Municipality and shall be answerable to the County Executive Committee Member in charge of Urban Development in the County. This means that the County Assembly will oversight the workings of the Board and the Municipality in general, through the County Executive Committee Member for the time being responsible for urban planning in the County.

SUBMISSIONS FROM MEMBERS OF THE PUBLIC

Mr. Speaker Sir,

Article 196(1)(b) of the Constitution requires the County Assembly to facilitate public participation in its business. In fulfillment of this requirement, the County Assembly Committee on Lands, Infrastructure and Urban Development conducted a public participation exercise on the proposed Kitui Municipal Charter on 25th June, 2018 at Kitui Multi-Purpose Hall for members of the public to give their views.

In support of the Charter, Members of the public were of the opinion that the following should be addressed once the municipality is established, THAT:

- i) Security within the Municipality should be enhanced so as to attract investors;

- ii) The chronic water problem within Kitui Municipality should be addressed;
- iii) Infrastructural development should be prioritized once the Municipality is established, particularly: tarmacking of access roads, rehabilitation of Ithookwe Airstrip, electricity connection and development proper sewerage systems;
- iv) Proper town planning should be prioritized within the municipality as the current status with hawkers and boda boda operators all over the place was not inviting even to investors and tourists and was even making it a challenge for the residents of Kitui town to freely move within the town;
- v) A 24 hour economy should be established within Kitui town to assist in economic growth.
- vi) Kitui town prison should be relocated to another location away from town and the municipality;
- vii) Mwingi town should also be considered and upon qualification be upgraded into a municipality status.
- viii) Under Clause 3.3.3, the Clergy (Christians and Muslims), has been omitted from playing a role in nomination of Members to the Board and this needs to be looked into to ensure that they are represented.
- ix) Persons appointed to the Board and staff employed should be extremely qualified for the positions to ensure that administration of the Municipality is managed effectively and efficiently.

Overall View of the Public

In spite of the concerns raised above, Members of the public were generally in support of the Kitui Municipal Charter, noting that it would lead to improved service delivery in the County.

COMMITTEE'S OBSERVATIONS AND FINDINGS

Mr. Speaker Sir,

As stated earlier, section 9(3) outlines the criteria for conferment of Municipal status.

Regarding this criteria, the Committee made the following general observations:

i) Population

Despite Kitui not having the statutory population of 250,000, Section 9(4) of the Urban Areas and Cities Act states that every headquarter of a County Government shall be conferred the status of a municipality, whether or not it meets the criteria on the population as set under section 9(3)(a).

ii) Integrated Development Plan

The Kitui Municipality Integrated Development Plan has been approved by the Kitui County Executive Committee and the same will be adopted by the Municipality Board once it assumes office in order to guide the development of the Municipality.

iii) Revenue collection

As witnessed in the previous financial years, Kitui town has demonstrable revenue collection potential if well managed to sustain its operations.

iv) Service delivery capacity

It has potential to effectively and efficiently deliver essential services as required in the First Schedule of the Urban Areas and Cities Act of 2011.

v) Public participation

Public participation exercises are carried out often within Kitui and therefore it has institutionalized active participation by its residents in management of its affairs.

vi) Space for expansion

The town has sufficient space for expansion should need arise. Further, there are various pieces of public land that can be utilized for expansion.

vii) Infrastructural facilities

Kitui town has sufficient infrastructure including markets, street lights, postal services, public recreational parks, roads just to mention but a few.

viii) Waste disposal

Kitui town has capacity for functional and effective waste disposal.

Based on the above observations and findings, Kitui town satisfies the criteria for conferment of Municipality status.

RECOMMENDATIONS OF THE COMMITTEE

Mr. Speaker Sir,

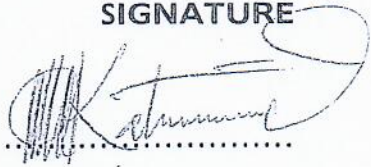


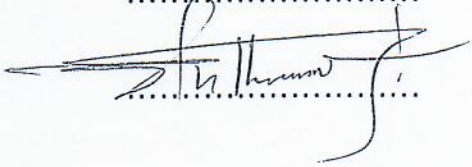


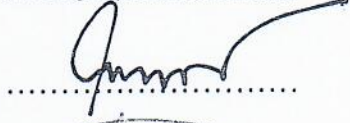


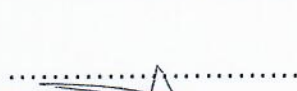

Upon reviewing the proposed Kitui Municipality Charter and considering the views of the public, the Committee makes the following recommendations:

1. That, the County Assembly approves the Charter in the Form presented to the County Assembly by H.E. the Governor.
2. That, pursuant to the provisions of Section 9(1) of the Urban Areas and Cities Act, 2011 this House resolves that Kitui Town be conferred the status of Municipality by H.E. the Governor by grant of a Charter.
3. That, the following issues need to be looked into in the future:
 - i) In Clause 3.3.5, Membership to the Board should be non- renewable after expiry of five years.
 - ii) In Clause 5.6.3, Regulations for removal of the Board member should be developed to ensure that this gap is addressed.

This Report was compiled by:

1. *Kanyaa Mwendwa- Senior Legal Counsel*
2. *Mercy Mbinya- First Clerk Assistant*

We, Members of the Committee on Lands Infrastructure and Urban Development have adopted this Report and hereby affix our signatures to it to affirm our approval and confirm its accuracy, validity and authenticity:-

NAME	DESIGNATION	SIGNATURE
1. Hon Boniface Katumo	Chairperson	
2. Hon Geoffrey Mwalimu	Vice Chairperson	
3. Hon Colleta Koli	Member	
4. Hon Charles Maema	"	
5. Hon John Kisangau	"	
6. Hon Alex Wambua	"	
7. Hon David Thuvi	"	
8. Hon Anthony Ndo	"	
9. Hon Eunice Katheke	"	
10. Hon Jehoshaphat Nzamba	"	
11. Hon Alex Mbili	"	

COUNTY GOVERNMENT OF KITUI

KITUI MUNICIPALITY

KITUI MUNICIPAL CHARTER

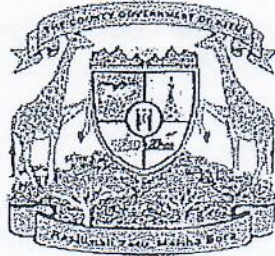


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PREAMBLE

WHEREAS

Article 2 of the Constitution provides that the Constitution is the supreme law of the Republic of Kenya and binds all persons and all State organs at both levels of government.

WHEREAS

Article 184 of the Constitution of Kenya 2010 mandated parliament to enact a legislation to provide inter alia the criteria for classifying areas as urban areas and cities; establishing the principles of governance and management of urban areas and cities and to provide for participation by residents in the governance of urban areas and cities within 1 year of the promulgation of the Constitution.

WHEREAS

Parliament enacted the Urban Areas and Cities Act in the year 2011 which legislation had an effective date falling after the first elections held under the Constitution of Kenya 2010.

WHEREAS

Section 9 of the Urban Areas and Cities Act empowers the County Governor, on the resolution of the County Assembly, to confer on a qualifying town, the status of a Municipality by grant of a Charter in the prescribed form.

WHEREAS

The Urban Areas and Cities Act does not have the prescribed form of a Municipal Charter.

WHEREAS

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

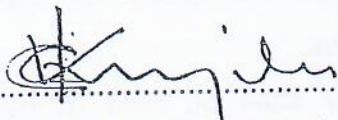
WHEREAS

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

WHEREAS

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

NOW THEREFORE IN EXERCISE of the powers conferred by section 9 (4) of the Urban Areas and Cities Act, (No.13 of 2011, as amended in 2015) as complemented by section 72 of the Interpretations and General Provisions Act (Chapter 2) and all other enabling provisions of law, the County Governor of Kitui County HEREBY GRANTS the Municipality of Kitui this Municipal Charter on this 13th day of June 2018.



.....
CHARITY KALUKI NGILU

THE GOVERNOR

COUNTY GOVERNMENT OF KITUI COUNTY

SEAL OF THE COUNTY GOVERNMENT OF KITUI COUNTY

1. INCORPORATION, NAME AND BOUNDARIES

1.1. INCORPORATION AND NAME

1.1.1. This Charter is the Municipal Charter of the Municipality of Kitui, within Kitui County, Kenya.

1.1.2. All processes affecting the Municipality shall be served on the Municipal Manager, and in the absence of the Municipal Manager on the acting Municipal Manager.

1.2. BOUNDARIES

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

2. POWERS, OBJECTS AND FUNCTIONS OF THE MUNICIPALITY

2.1. POWERS OF THE MUNICIPALITY

2.1.1. The Municipality of Kitui shall have all the powers, general and special, governmental or proprietary, expressed or implied, which may be possessed or assumed by municipalities under the Urban Areas and Cities Act, the County Government Act and the County of Kitui By-laws.

2.1.2. No enumeration of specific powers in this Charter shall be held to be exclusive. All such powers shall be exercised in the manner prescribed in this Charter, or, if not prescribed herein, in such manner provided for in the Urban Areas and Cities Act, The County Government Act, The Constitution of Kenya 2010 and other relevant legislations, as well as may be provided by the By-laws passed by the County Assembly of Kitui.

2.2. OBJECTS OF THE MUNICIPALITY

2.2.1. The objects of the Municipality of Kitui are to:-

- i. Provide for efficient and accountable management of the affairs of the Municipality.

- ii. Provide for a governance mechanism that will enable the inhabitants of the Municipality to:
 - a) Participate in determining the social services and regulatory framework which will best satisfy their needs and expectations.
 - b) Verify whether public resources and authority are utilized or exercised, as the case may be, to their satisfaction.
 - c) Enjoy efficiency in service delivery.
- iii. Vigorously pursue the developmental opportunities which are available in the Municipality and to institute such measures as are necessary for achieving public order and the provisions of civic amenities, so as to enhance the quality of life of the inhabitants of the Municipality.
- iv. Provide a high standard of social services in a cost effective manner to the inhabitants of the Municipality.
- v. Promote social cohesiveness and a sense of civic duty and responsibility among the inhabitants and stakeholders in the Municipality in order to facilitate collective action and commitment towards achieving the goal of a harmonious and stable community.
- vi. Providing for services, laws and other matters for Municipality's benefit.
- vii. Fostering the economic, social and environmental well-being of its community

2.3. PURPOSE OF THE MUNICIPALITY

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

- a) Promotion, regulation and provision of an integrated wastes management system;
- b) Promotion and provision of water and sanitation services and infrastructure (in areas within the Municipality not served by the Water and Sanitation Provider);
- c) Construction and maintenance of urban roads and associated infrastructure;
- d) Construction and maintenance of storm drainage and flood controls;
- e) Construction and maintenance of walkways and other non-motorized transport infrastructure;

- f) Construction and maintenance of recreational parks and green spaces;
- g) Construction and maintenance of street lighting;
- h) Construction, maintenance and regulation of traffic controls and parking facilities;
- i) Construction and maintenance of bus and taxi stands, and boda-boda sheds;
- j) Regulation of outdoor advertising;
- k) Construction, maintenance and regulation of municipal markets and abattoirs;
- l) Construction and maintenance of fire stations; provision of fire-fighting services, emergency preparedness and disaster management;
- m) Promotion, regulation and provision of municipal sports and cultural activities;
- n) Promotion, regulation and provision of animal control and welfare;
- o) Development and enforcement of municipal plans and development controls;
- p) Municipal administration services (including construction and maintenance of administrative offices);
- q) Promoting and undertaking infrastructural development and services within municipality;
- r) Any other functions as may be delegated by the County Executive Committee.

3. THE BOARD OF THE MUNICIPALITY

3.1. ESTABLISHMENT OF THE BOARD

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

3.1.2. The Board of the Municipality shall be a corporate body with perpetual succession and a common seal and shall in its own corporate name, be capable of:

- a) Suing and being sued;
- b) Taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- c) Borrowing money or making investments within the limits imposed by law
- d) Entering into contracts; and
- e) Doing or performing all other act or things for the proper performance of its functions in accordance with the Urban Areas and Cities Act or any other written law which may lawfully be done or performed by a body corporate.

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

3.2. POWERS AND FUNCTIONS OF THE BOARD OF THE MUNICIPALITY

3.2.1. The Board of the Municipality shall have the powers to perform all the functions vested in boards of municipalities under the Urban Areas and Cities Act, the County Government Act and the Municipality By-laws.

3.2.2. Except as this Charter may otherwise provide, all powers of the Municipality shall be vested in the Board of the Municipality.

3.2.3. The Board of the Municipality shall provide for the exercise of these powers and for the performance of all duties and obligations imposed on the Board of the Municipality.

3.2.4. Subject to the Constitution and any other written law, the Board of the Municipality shall, within the boundaries of the Municipality of Kitui;

- a) Exercise executive authority as delegated by the County Executive Committee of the County of Government of Kitui;
- b) Ensure provision of services to its residents;
- c) Impose such fees, levies and charges as may be authorized by the County Government for delivery of services by the Municipality;
- d) Promote constitutional values and principles;
- e) Ensure the implementation and compliance with policies formulated by both the National and County Government;
- f) Make recommendations for issues to be included in By-laws;
- g) Ensure participation of the residents in decision making, its activities and programmes; and
- h) Exercise such other powers as may be delegated by the County Executive Committee of the County of Kitui.

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

3.2.6. The Board of the Municipality shall perform the following functions:

- a) Oversee the affairs of the Municipality;
- b) Develop or adopt policies, plans, strategies and programmes and set targets for service delivery;
- c) Formulate and implement an integrated development plan;
- d) Control land, land sub-division, land development and zoning by public and private sectors for any purpose, including industry, commerce, markets, shopping and other employment centers, residential areas, recreational areas, parks, entertainment, passenger transport, agriculture, and freight and transit stations within the framework of the spatial and master plans for the Municipality as delegated by the County Government of Kitui;
- e) Promoting and undertaking infrastructural development and services within Municipality as delegated by the County Government of Kitui.
- f) Developing and managing schemes, including site development in collaboration with the relevant national and county agencies;
- g) Maintaining a comprehensive database and information system of the administration;
- h) Administering and regulating its internal affairs;
- i) Implementing applicable national and county legislation;
- j) Entering into contracts, partnerships or joint ventures as it may consider necessary for the discharge of its functions;
- k) Monitoring and, where appropriate, regulating municipal services where those services are provided by service providers other than the Board of the Municipality;
- l) Preparing and submitting its annual budget estimates to the relevant County Treasury for consideration and submission to the County Assembly for approval as part of the annual County Appropriation Bill;
- m) Collecting rates, taxes levies, duties, fees and surcharges on fees as delegated by the County Government of Kitui.
- n) Settling and implementing tariff, rates and tax and debt collection policies as delegated by the County Government of Kitui.

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

3.3. COMPOSITION AND TERM OF THE BOARD OF THE MUNICIPALITY

- 3.3.1. The Board of the Municipality shall be composed of nine (9) members.
- 3.3.2. Four (4) members of the Board of the Municipality shall be appointed through a competitive process by the County Executive Committee and approved by the County Assembly.
- 3.3.3. Five (5) members of the Board shall be nominated by the following umbrella bodies:
 - a) An umbrella body representing professional associations in the area;
 - b) An association representing the private sector in the area;
 - c) A cluster representing registered associations of the informal sector in the area;
 - d) A cluster representing registered neighbourhood associations in the area; and
 - e) An association of the Municipality.

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

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

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

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

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

3.5. CHAIRPERSON OF THE BOARD

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

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

3.6. POWERS AND FUNCTIONS OF THE CHAIRPERSON

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

- a) The Chairperson shall be the head of the Board of the Municipality;
- b) Chairing the meetings of the Board of the Municipality; and
- c) Perform such other duties as may be delegated by the Board of the Municipality.

3.7. VICE-CHAIRPERSON OF THE BOARD OF THE MUNICIPALITY

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

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

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

3.8. REMOVAL OF THE CHAIRPERSON AND VICE-CHAIRPERSON

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

- a) Majority decision of the members of Board of the Municipality at a duly convened meeting where quorum is present; or
- b) Upon petition by a resident of the Municipality.

3.8.2. The procedure for the removal of a Chairperson or Vice-Chairperson of the Board of the Municipality under 3.8.1 above may be provided by Regulations under the Urban Areas and Cities Act and in the absence thereof in accordance with Kenyan law having regard to fair labour practices.

3.8.3. Any vacancy arising out of the removal of a Chairperson or the Vice-Chairperson of Board of the Municipality may be filled in the manner provided under Article 3.6 and 3.7 respectively.

3.9. SECRETARY OF THE BOARD OF THE MUNICIPALITY

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

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

3.10. COMMITTEES OF THE BOARD OF THE MUNICIPALITY

3.10.1. The Board of the Municipality may:

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

- b) Delegate to such Committee such functions as are necessary for the efficient performance of its duties in respect to the whole or any part of the area under the jurisdiction of the Board of the Municipality;
 - c) Include resourceful persons who are not members of the Board in any Committee for the accomplishment of a particular purpose;
- 3.10.2. The Committees of the Board of the Municipality to which members of the Board of the Municipality delegate any of their powers and functions must follow procedures on which they are based as far as they are applicable on those provision of this Charter which govern the taking of decisions and performance of functions by the Board of the Municipality.
- 3.10.3. The Board of the Municipality shall create an Audit Committee whose main functions will be to assist the Municipal Manager in enhancing internal controls in order to improve efficiency, transparency and accountability; review audit issues raised by both internal and external auditors; resolve unsettled and unimplemented County Assembly Public Accounts and Public Investment Committees' recommendations; enhance communication between management, internal and external audit and foster effective internal audit function.

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

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

3.12. REMOVAL OF MEMBERS OF THE BOARD OF THE MUNICIPALITY

- 3.12.1. A member of the Board of the Municipality shall cease to hold office if the member:
- a) Is unable to perform the functions of the office by reason of mental or physical infirmity;
 - b) Is declared or becomes bankrupt or insolvent;

- c) Is convicted of a criminal offence and sentenced to a term of imprisonment of six months or more;
- d) Without reasonable cause, the member is absent from three consecutive meetings of the Board or Committee of the Board of the Municipality within one financial year;
- e) Is found guilty of professional misconduct by the relevant professional body;
- f) Is disqualified from holding a public office under the Constitution;
- g) Fails to declare his or her interest in any matter being considered or to be considered by the Board or Board Committees;
- h) Engages in any gross misconduct;
- i) Resigns from the Board in writing to the County Governor;
- j) Dies.

3.12.2. A member of the Board of the Municipality may be removed from office by;

- a) The County Governor;
- b) A resolution of the Board of the Municipality supported by at least two-thirds of the members of the Board of the Municipality; or
- c) Petition by the residents of the Municipality.

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

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

3.13. MEETINGS OF THE BOARD OF THE MUNICIPALITY

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

3.13.2. Notwithstanding Article 3.13.1, the Chairperson of the Board of the Municipality may, and upon request in writing by at least one-third of the members of the Board of the Municipality, convene a special meeting to transact any urgent business of the Board of the Municipality,

3.13.3. All regular meetings of the Board of the Municipality called for the purpose of transacting public business, where a majority of the members elected are present, shall be open to the public.

3.14. QUORUM

3.14.1. A majority of the members of the Board of the Municipality is a quorum to conduct business, but a smaller number may meet and compel attendance of absent members as prescribed by Board of the Municipality Rules.

3.14.2. A member of the Board of the Municipality who is interested in any discussions or decision-making regarding any subject or transaction under consideration by the Board of the Municipality, shall not to be counted as participating in the discussions or decision making, and is not entitled to vote on or agree to the subject or transaction relating to it.

3.15. RULES OF THE BOARD

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

3.16. RECORD OF INFORMATION OF THE BOARD

3.16.1. The minutes and other information of the Board of the Municipality shall be kept by the Secretary of the Board of the Municipality, who is the Municipal Manager.

3.16.2. Access to information on the activities and resolutions of the Board of the Municipality shall be as provided under the Urban Areas and Cities Act.

3.17. CITIZEN FORA

3.17.1. The Board of the Municipality shall ensure the development of mechanisms for the participation of the residents of the Municipality of Kitui in the management and administration of the Municipality.

3.17.2. All recommendations from the Citizen Fora of the Municipality of Kitui shall be forwarded to the Board of the Municipality for resolution.

4. ADMINISTRATIVE AUTHORITY

4.1. RESOLUTIONS

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

4.2. APPROVAL OF RESOLUTIONS

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

4.2.2. Any substantive amendment to a resolution must be read aloud or made available in writing to the public before the Board adopts the resolution at that meeting.

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

4.3. EFFECTIVE DATE OF RESOLUTIONS

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

5. THE MUNICIPAL MANAGER

5.1. OFFICE OF THE MUNICIPAL MANAGER

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

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

5.2. APPOINTMENT AND TERM

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

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

5.3. QUALIFICATIONS

5.3.1. The Municipal Manager shall:

- a) Be a citizen of Kenya;
- b) Hold a degree from a university recognized in Kenya, and be a member of a relevant professional body.
- c) Have served and had proven experience in administration or management either in public or private sector for a term of at least five years.

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

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

5.4. FUNCTIONS OF THE MUNICIPAL MANAGER

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

5.4.2. The Municipal Manager shall perform the following functions:

- a) Execute the decisions of Board of the Municipality.
- b) As the Accounting Officer of the Municipality, prepare and present for approval to the County Executive Committee and/or the County Assembly, annual budget estimates for implementing the development programs and recurrent expenditures of the Municipal Management.
- c) Be principally responsible for building and maintain a strong alliance and effective working relationships between the Board of the Municipality and the civil society, private sector and community based organizations;
- d) Cause to be prepared, transmitted to the Board of the Municipality, and distributed to the public at least an annual report on the activities and

accomplishments of the departments and agencies comprising the executive branch of the Municipality;

- e) Act as an ex-officio member of all committees of the Board of the Municipality; and
- f) Such other functions as the County Government, by order, confer upon the Municipal Manager.

5.4.3. The Municipal Manager shall:

- a) Attend all Board of the Municipality meetings unless excused by the Chairperson of the Board or the Board of the Municipality;
- b) Make reports and recommendations to the Board of the Municipality;
- c) Administer and enforce all Municipality By-laws, resolutions, franchises, leases, contracts, permits, and other Municipality decisions;
- d) As the authorized officer, participate in the recruitment, supervise and manage Municipal employees;
- e) Organize Municipality departments and administrative structure;
- f) Prepare and administer the annual Municipality budget;
- g) Administer Municipality utilities and property;
- h) Encourage and support regional and intergovernmental cooperation;
- i) Promote cooperation among the Board of the Municipality, staff and citizens in developing Municipality policies and building a sense of community;
- j) Perform other duties as directed by the Board of the Municipality.

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

5.5. REMUNERATION

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

5.6. REMOVAL OF THE MUNICIPAL MANAGER

5.6.1. The Municipal Manager may be removed from office in the manner and procedure provided for in the County Public Service Board Guidelines and Regulations.

5.6.2. The Municipal Manager shall cease to hold office:

- a) is unable to perform the functions of the office by reason of mental or physical infirmity;
- b) Is declared or becomes bankrupt or insolvent;
- c) Is convicted of a criminal offence and sentenced to a term of imprisonment of six months or more;
- d) Resigns in writing to the County Public Service Board;
- e) Without reasonable cause, is absent from three consecutive meetings of the Board of the Municipality;
- f) Is found guilty of professional misconduct by the relevant professional body;
- g) Is disqualified from holding a public office under the Constitution;
- h) Engages in any gross misconduct; or
- i) Dies.

5.6.3. The procedure for the removal of the Municipal Manager provided by the Regulations made under the County Government Act (No. 17 of 2012) and the Employment Act 2008 must give regards to fair labour and administrative practices.

5.6.4. Any vacancy arising in the office of the Municipal Manager may be filled in the manner provided under Article 5.2 above.

6. MUNICIPAL FINANCES AND FINANCIAL MANAGEMENT

6.1 SOURCES OF THE MUNICIPALITY'S FUNDS AND REVENUE

6.1.1 The Board of the Municipality shall derive its revenue and funds from:

- a) Monies appropriated by the County Assembly;
- b) Monies or assets that may accrue to the Board in the course of the exercise of its powers or the performance of its functions;
- c) All monies or grants from any other legitimate source provided or donated to the Board;

- d) Revenue arising from rates, fees, levies, charges and other revenue raising measures which is retained by Municipality for the purpose of defraying its costs for providing services;
- e) Investment income; and
- f) Borrowing.

6.2. FINANCIAL YEAR

6.2.1. The Municipality shall operate on an annual budget.

6.2.2. The financial year of the Board of the Municipality shall be the period of twelve months ending on the thirtieth day of June in each year.

6.3. BUDGET

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

6.4. MANAGEMENT OF MUNICIPALITY FINANCES

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

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

6.5. BORROWING BY THE MUNICIPALITY

6.5.1. The Board of the Municipality may only borrow from:-

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

6.6. AUDIT

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

7. MUNICIPALITY PERSONNEL

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

8. MUNICIPALITY PROPERTY

8.1. PROPERTY IN TRANSITION

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

8.2. COMPULSORY ACQUISITION

8.2.1. Whenever the Municipality deems it necessary to acquire private land for its purposes, it shall request the County Executive Committee Member to request the National Land Commission to acquire the land on its behalf.

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

9. GENERAL PROVISIONS

9.1. OATH OF OFFICE

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

"I,.....being called on to exercise the functions of Member of the Board of Municipality of Kitui, do swear/solemnly affirm that that I will at all times be

faithful to the Republic of Kenya; that I will obey, respect and uphold this Constitution of Kenya and all other laws of the Republic, that except with the authority of the Board of the Municipality of Kitui, I will not directly or indirectly reveal the nature or contents of any business, proceedings or document of the Municipality committed to my secrecy, except as may be required for the due discharge of my duties as [Municipal Manager/Chairperson, etc.] of the Municipality of Kitui or otherwise under the law. (In the case of an oath— So help me God. "

10 AMENDMENTS TO THE CHARTER

- 10.1. The County Governor may at any time, after consultation with the Board of the Municipality, and in accordance with other laws, amend any provision of this Charter as and when deemed necessary.
- 10.2 The County Governor shall cause a copy of the Amended Charter to be laid before the County Assembly within 30 days of its amendment for approval.

10.3. SEVERABILITY

- 10.3.1. If, at any time, any provision of this Charter is or becomes illegal, invalid or unenforceable in any respect under Kenyan law, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision will in any way be affected or impaired.

11. TRANSITIONAL PROVISIONS

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

12. EFFECTIVE DATE OF CHARTER

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

13. RIGHTS AND PRIVILEGES PRESERVED

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