



KAJIADO MUNICIPALITY

**CHARTER FOR THE
KAJIADO MUNICIPAL
BOARD**

1. CHARTER FOR THE KAJIADO MUNICIPAL BOARD

Prepared by the Department of Land, Housing and Physical Planning

County Government of Kajiado

JUNE, 2018

2. KAJIADO MUNICIPAL BOARD

[MUNICIPALITY SYMBOL]

3. MUNICIPAL CHARTER (2018)

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5. 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 County Assembly of Kajiado duly approved the request by the County Executive Committee for grant of this Charter to the new Municipality of Kajiado.

NOW THEREFORE IN EXERCISE of the powers conferred by section 9 (1) of the Urban Areas and Cities Act, (No. 13 of 2011) as complemented by section 72 of the Interpretations and General Provisions Act (Chapter 2) and all other enabling provisions of law, the County Governor of Kajiado County **HEREBY GRANTS** the Municipality of Kajiado this Municipal Charter on this [.....] day of [.....] 2018.

.....
[H. E. JOSEPH JAMA OLE LENKU]

THE COUNTY GOVERNOR OF KAJIADO COUNTY

SEAL OF THE COUNTY GOVERNMENT OF KAJIADO
COUNTY

1. INCORPORATION, NAME AND BOUNDARIES

1.1. INCORPORATION AND NAME

- 1.1.1. This Charter is the Municipal Charter of the Municipality of Kajiado, within Kajiado County, Kenya.
- 1.1.2. All processes affecting the Municipality shall be served on the Municipal Manager or acting Municipal Manager, in the absence of both of said officers, on the Legal Counsel / Municipal Secretary of the Municipality.

1.2. BOUNDARIES

- 1.2.1. The boundaries of the Municipality of Kajiado as now existing, as those of Urban Town Council of Kajiado immediately before the enactment of the County Government of Kajiado, or as may subsequently be altered shall be the boundaries of the Municipality of Kajiado.

2. POWERS, OBJECTS AND FUNCTIONS OF THE MUNICIPALITY

2.1. POWERS OF THE MUNICIPALITY

- 2.3.1. The Municipality of Kajiado 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, 2011, the County Government Act 2012 and the County legislation.

- 2.3.2. 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 delegated legislation and Resolutions of the Board of the Municipality, in such manner as may be provided by the County Government of Kajiado delegated legislation.

2.2. OBJECTS OF THE MUNICIPALITY

2.3.1. The objects of the Municipality of Kajiado 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.
 - d. Have a structured avenue for giving back to their society's residence.
 - e. Police over each other on the need to uphold the greater good within structured neighborhood and citizen engagement forums.
- (iii) Vigorously pursue the developmental opportunities which are available in the Municipality, County, Regionally, Country and globally and to institute such
- (iv) Measures as are legally necessary for achieving the greater public good of the Municipality's residents.
- (v) Formulate the requisite legislations, policies, regulations and by-laws as the basis for public order, best use of public resources and efficient service delivery so as to enhance the quality of life of the inhabitants of the Municipality.
- (vi) Provide a high standard of social services in a cost effective manner to the inhabitants of the Municipality.
- (vii) Deliver faster rate and higher magnitude of the Municipal jurisdiction's socio-economic development through mobilization of resources from sources which ordinarily would be inaccessible to County and National Governments.
- (viii) To complement the County Government of Kajiado towards the realization of an accelerated County's socio-economic development and societal integration as outlined in the Urban Areas and Cities Act.

- (ix) 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.
- (x) Providing for services, laws and other matters for Municipality's benefit.
- (xi) Fostering the economic, social and environmental well-being of its community

2.3. FUNCTIONS OF THE MUNICIPALITY

2.3.1. The Municipality of Kajiado shall, within the boundaries of the Municipality, perform the following functions:

- (a) Promotion, regulation and provision of refuse collection and solid waste management services;
- (b) Promotion and provision of water and sanitation services and infrastructure either directly or through the water companies (as service provision Agents) as the case may be as provided for in the Urban Areas and Cities Act.
- (c) Construction and maintenance of Municipal roads and associated infrastructure;
- (d) Construction and maintenance of storm drainage and flood controls ;
- (e) Promotion, Construction and maintenance of walkways and other non-motorized transport infrastructure ;
- (f) Construction and maintenance of recreational parks, green spaces, public squares etc;
- (g) Construction and maintenance of street lighting;
- (h) Construction, maintenance and regulation of traffic controls and parking facilities;
- (i) Construction and maintenance of municipal roads, bus stands and taxi stands;
- (j) Regulation of outdoor advertising, roads and streets signage ;
- (k) Construction, maintenance and regulation of municipal socio-economic infrastructure such as markets, abattoirs, transport interchanges, schools, Public libraries/theatres, social halls, information centres etc;
- (l) Construction and maintenance of fire stations; provision of fire-fighting services, emergency preparedness and disaster management;
- (m) Promotion, regulation, development 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) Promotion and regulation of Municipal industrial and retail development,
- (s) Promotion and development of Municipal food security strategies through creation of structured and strong rural-urban linkages.
- (t) Development and implementation of Municipal financial and fiscal policies;
- (u) Any other functions as may be delegated by the County Executive Committee.

3. THE BOARD OF THE MUNICIPALITY

3.1. ESTABLISHMENT OF THE BOARD

3.3.1. There shall be a Board of the Municipality of Kajiado¹.

3.3.2. 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 of²:

- (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.

3.3.3. There shall be a principal and agency accountability relationship between the Board of the Municipality and the County Government of Kajiado, through the Governor or as may be delegated under a seal to the department responsible for Urban Development

¹ Section 12(1) of the UACA

² Section 12(2) of the Urban Areas and Cities Act (UACA)

and Physical Planning.³ This is however without prejudice to the autonomy of the Municipality in the execution of her mandate.

3.2. POWERS AND FUNCTIONS OF THE BOARD OF THE MUNICIPALITY

- 3.2.1. 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 2011, the County Government Act 2012 and the County Legislation.
- 3.2.2. Except as this Charter otherwise provides, 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 Kajiado-
 - (a) exercise executive authority as delegated by the County Executive Committee under this charter;
 - (b) ensure provision of efficient 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 Governments;
 - (f) make recommendations to the County Executive Committee on issues to be included in the County Legislation;
 - (g) ensure participation of the residents in decision making, its activities and programs through structured citizen engagement strategies; and
 - (h) Exercise such other powers as may be delegated by the County Executive Committee.
- 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;

³ Section 11 of the UACA

- (b) develop or adopt policies, plans, strategies and programs and set targets for service delivery;
- (c) formulate and implement an integrated urban development plan;
- (d) control land, land sub-division, land development and zoning by public and private sector and 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 Kajiado;
- (e) promoting and undertaking infrastructural development and services within Municipality as delegated by the County Government of Kajiado;
- (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/Policies;
- (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/Agents other than the Board of the Municipality;
- (l) preparing and submitting its annual budget estimates to the relevant County Treasury, by the relevant County Government Department for consideration and submission to the County Assembly for approval as part of the annual County Appropriation Bill;
- (m) collecting taxes, levies, duties, fees and surcharges on fees as delegated by the County Government of Kajiado;
- (n) Local and global resource mobilization and partnership development.
- (o) settling and implementing tariff, rates and tax and debt collection policies as delegated by the County Government of Kajiado;
- (p) monitoring the impact and effectiveness of any services, policies, programs or plans;

- (q) establishing, implementing and monitoring performance management systems;
- (r) promoting a safe and healthy environment;
- (s) facilitating and regulating public transport
- (t) performing such other functions as delegated by the County Government of Kajiado

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) members⁴.
- 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 Assembly⁵.
- 3.3.3. Five (5) members of the Board shall be nominated by the following umbrella bodies⁶:
- (a) an apex umbrella body representing professional associations in the area;
 - (b) an apex 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 neighborhood associations in the area; and
 - (e) an association of the Municipality.

and 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 basis⁷.

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

- 3.3.4. Each member of the Board of the Municipality shall have the following qualifications⁸:
- (a) be a Kenyan citizen;

⁴ Section 14 of the UACA

⁵ Section 13 as amended by Section 14 of the UACA

⁶ Section 13 as amended by Section 14 of the UACA

⁷ Section 15 of the UACA

⁸ Section 13 (4) as amended by Section 14 of the UACA

- (b) be ordinarily resident or have a permanent dwelling in the Municipality;
- (c) carry on business in the municipality;
- (d) have lived in the municipality for at least ten years.
- (e) have a minimum of a first degree in a field related to engineering or social sciences for the four professional members and representatives of professional/neighborhood/business associations and a minimum of a diploma for affirmative groups, from a recognized institution in Kenya.

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. The convener of the first meeting of the board on appointment and approval by the County Assembly shall be the secretary who is the Municipal Manager.⁹
- 3.5.2. The Chairperson of the Board shall hold office for a term of five (5) years¹⁰.

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;

⁹ Section 17 of the UACA

¹⁰ Section 17 (4) of the UACA

- (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 also elect from amongst themselves, a Vice-Chairperson of the Board of the Municipality.¹¹
- 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) a simple majority decision of the members of Board of the Municipality at a duly convened and constituted meeting; or
 - (b) upon petition by a resident of the Municipality.¹²
 - (c) the process of removal of chairperson, or vice chairperson, shall only be done after staying in the office for a period not less than one year.
- 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 labor 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.¹³

¹¹ Section 12(12) of the UACA

¹² Section 18(3) of the UACA

¹³ Section 19 of the UACA

3.9 SECRETARY OF THE BOARD OF THE MUNICIPALITY

- 3.9.1. The Municipal manager, or a person acting in his/her capacity, shall be the secretary of the board. The secretary of the board shall not have a voting right in case of the need for the casting of a vote during the board's conduct of business.
- 3.9.2. Where the Secretary of the Board of the Municipality is validly absent from any meeting, the Acting Municipal Manager and in the latter's absence, the Legal Counsel / Municipal Secretary shall stand-in for the purposes of that specific 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;¹⁴
- (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;¹⁵ and
- (c) Include persons who are not members of the Board in any Committee¹⁶.

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 which 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.

3.11. 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. Benefits as shall be advised by the Salaries and Remuneration Commission and approved by the County Executive Committee.¹⁷

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 member¹⁸:

¹⁴ Section 26(1) of the UACA

¹⁵ Section 26(2) of the UACA

¹⁶ Section 26(2) of the UACA

¹⁷ Section 25 of the UACA

¹⁸ Section 16 of the UACA

- (a) is unable to perform the functions of the office by reason of mental, physical or intellectual 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.

3.12.2. A member of the Board of the Municipality may be removed from office by¹⁹;

- (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 and approved by the Governor; or
- (c) Petition by the residents of the Municipality to the Governor on valid grounds.

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 Act²⁰.

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.²¹

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.²²

¹⁹ Section 18 of the UACA

²⁰ While the UACA provides persons who may remove a member of the Board of a Municipality, the procedure for removal or petitioning for removal is not provided. The Charter proposes that the same be provided in the regulations.

²¹ Section 19 of the UACA

3.13.2. Notwithstanding Article 3.12.1, 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 to transaction 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.²³

3.13.4. 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.²⁴

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.²⁵

3.14.2. A Board meeting, formally convened through a fourteen days' notice to all board members in writing, shall have member (s) absent with apology to be considered as having participated in the decision making and as such to have constituted a quorum.

3.14.3. 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 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 their code of conduct and 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.²⁶

²² Section 23 of the UACA

²³ This is not provided for under the Act. However, in line with the principle of transparency the same has been included.

²⁴ This provision will allow the Board of the Municipality excludes members of the public where necessary. It may also be appropriate where sensitive matters are being discussed.

²⁵ This is not provided in the Act. However, a majority of the members of the Board of the Municipality is sufficient to constitute quorum.

²⁶ This is equally not provided but is crucial for the continuity of the functions of the Board of the Municipality.

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 and maintenance of structured mechanisms for the participation of the residents of the Municipality of Kajiado, in the management and administration of the Municipality. Such mechanism may provide for Citizen Awareness, empowerment and capacity building programs.

3.17.2. The Citizen's Fora structures so established shall take precedent over any other arrangement existing prior to this. Such will be deemed to have taken the form of the new arrangement for the purposes of development oversight and public participation within the framework of the Municipal Integrated Development Plan (MIDeP)

3.17.3. All recommendations from the Citizen Fora of the Municipality of Kajiado shall be forwarded to the Board of the Municipality for consideration and subsequent resolution.

3.17.4. 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.

4. LEGISLATIVE AUTHORITY²⁷

4.1. POLICIES AND RECOMMENDATIONS

4.1.1. The Legislative Authority is vested in the County Assembly. However the Board of the Municipality may make policies and recommendations to the County Executive committee on issues to be included in the County legislation. The Municipality executive is responsible for preparing the desired legislation, policies or regulations and processing it through the Municipal board. On approval by the board, the Municipal Manager passes on the board resolutions and request to the County Executive for adoption and onward submission to the County Assembly through the **Assembly Committee on Urban Planning, Development and Municipal Management**.

4.1.2. The Board of the Municipality may adopt a By-law at a single meeting by the unanimous approval of at least a quorum of Board, provided the proposed By-law is available in writing to the public at least two weeks before the meeting.

4.1.3. Any substantive amendment to a proposed By-law must be read aloud or made available in writing to the public before the Board of the Municipality adopts the By-law at that meeting.

4.1.4. After the adoption of a By-law, the vote of each member must be entered into the Board minutes.

²⁷ The legislative powers of the Board of the Municipality are not set out in the Act.

- 4.1.5. Any such amendments, as contemplated in article 4.1.3 shall be applicable at least six months after being passed as per article 4.1.1.
- 4.1.6. After adoption of a By-law, the Chairperson of the Board must endorse it with the date of adoption and his title with the seal of the Municipality.

5. ADMINISTRATIVE AUTHORITY ²⁸

5.1. RESOLUTIONS

- 5.1.1. The Board of the Municipality shall exercise its administrative authority by approving resolutions.
- 5.1.2. The board of the Municipality through its executive arm is responsible for the preparation and implementation of the Municipal Integrated Development Plan and providing leadership to all other stake holders and programs funded by the exchequer and partners within the Municipal jurisdiction. This is aimed at ensuring efficient coordination of Municipal services and optimal utilization of both public and partner resources. All development partners are obligated to operate within the precincts of the MIDeP and therefore accountable to the Municipality for the purposes of development coordination and administration.
- 5.1.3. The County Government may consider it prudent to establish a County “Urban Task force” for the purposes of creating a balanced territorial development across the County. The task force will act as a harmonization platform between the urban and rural development agenda, thus ensuring a holistic and function whole. Subsequent policies and regulations will be formulated to guide such an endeavor. Municipalities will be deemed to be members and subscribers to such an administrative instrument for the greater good of the County.
- 5.1.4. When Services within a Municipal jurisdiction are being rendered by a service agent such as water companies, such an agent is functionally accountable to the Municipality. When services are being rendered by a County line ministry, this will be done by way of a service level agreement as a tool for performance measurement while performance bench marks for services through consultancies will be embedded within the respective contracts. This ensures that the Municipality

²⁸ The administrative powers of the Board of the Municipality are vital yet not set out in the Act.

is deemed to be accountable and responsible for service levels within her jurisdiction.

- 5.1.5. The County Governor has unfettered dotted line operational and administrative relationship with the Municipal board and Manager for the purposes of a symbiotic service delivery within the County by all agents and players towards creating the County as a unit of a “functional whole”.

5.2. APPROVAL OF RESOLUTIONS

- 5.2.1. Approval of a resolution or any other Board administrative decision requires approval by the Board of the Municipality at one meeting.
- 5.2.2. Any substantive amendment to a resolution must be read aloud or made available in writing to the public one week before the Board adopts the resolution at that meeting.
- 5.2.3. After approval of a resolution or other administrative decision, the vote of each member must be entered into the Board minutes.

5.3. EFFECTIVE DATE OF RESOLUTIONS

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

6. THE MUNICIPAL MANAGER

6.1. OFFICE OF THE MUNICIPAL MANAGER

- 6.1.1. There is established the office of the Municipal Manager.²⁹
- 6.1.2. The Municipal Manager shall be the administrative head and the accounting officer of the Municipality of Kajiado:

6.2. APPOINTMENT AND TERM

- 6.2.1. The Municipal Manager shall be competitively recruited by the County Public Service Board.³⁰
- 6.2.2. The County Public Service Board shall forward at least three names to the Governor, from which the Governor shall choose one from the three, and forward the name to the Municipal Board of Kajiado for appointment. This clause only applies during the inception of the Municipality. Subsequently, the appointment of the Municipal Manager is a responsibility of the Municipal Board in consultation with the Governor pursuant to existing guiding laws and principles.

²⁹ Section 28 of the UACA

³⁰ Section 29 of the UACA and section 59(1)(b) of the County Governments Act.

6.2.3. The Municipal Manager may be appointed for a term of five year contract, with an option for a renewal of the contract.³¹

6.2.4. A municipal manager may not serve for more than two terms.

6.3. QUALIFICATIONS

6.3.1. The Municipal Manager shall³²:

- (a) Be a citizen of Kenya
- (b) Hold a degree in Business Management; Physical Planning, Urban Management or its equivalent, from a university recognized in Kenya.
- (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.

6.3.2. In appointing the Municipal Manager, the County Public Service/Municipal 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.

6.3.3. The Municipal Manager need not reside within the Municipality.

6.4. FUNCTIONS AND POWERS OF THE MUNICIPAL MANAGER

6.4.1. The Municipal Manager shall implement the decisions and functions of the Board of the Municipality and shall be answerable to the Board.³³

6.4.2. The Municipal Manager shall perform the following functions³⁴:

- (a) Act on behalf of the Board of the Municipality-
 - (i) In ensuring the execution of the directives of the Board of the Municipality;

³¹ The term of the Municipal Manager is not provided for in the Act. The model Charter proposes that the appointment be contractual.

³² Section 30 of the UACA

³³ Section 28 of the UACA

³⁴ The enumeration of the powers and functions of the Municipal Manager is not provided under the Act. A sample of the powers and functions of the Municipal Manager is provided here.

- (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 programs 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 the secretary to the Municipal Board;
- (f) Resource mobilization and partnership development, both locally and globally.
- (g) Act as an ex-officio member of all committees of the Board of the Municipality; and
- (h) Such other functions as the Board may, by order, confer upon the Municipal Manager.

6.4.3. The Municipal Manager shall be fully responsible for the proper conduct of the executive and administrative work and affairs of the Municipality. The Municipal Manager shall have the power and shall be required to:

- (a) Exercise supervision over all departments and other service provision agencies of the Municipality and provide for the coordination of their activities;
- (b) Enforce the provisions of this Charter, relevant County Legislation and all applicable laws;
- (c) Exercise powers granted to the Municipal Manager in this Charter, County Legislation 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, relevant County Legislation and applicable laws.

6.4.4. The Municipal Manager must:

- (a) Attend all Board of the Municipality meetings unless excused by the Chairperson of the Board or the Board of the Municipality;

- (b) Make reports and recommendations to the Board of the Municipality about the needs of the Municipality;
- (c) Administer and enforce all relevant County Legislation, resolutions, franchises, leases, contracts, permits, and other Municipality decisions;
- (d) With the approval of the Board, appoint, supervise and remove Municipality employees;
- (e) With the approval of the board, 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.

6.4.5. The Municipal Manager shall have no authority over the Board of the Municipality.

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

6.5. REMUNERATION

10.2.1. The County Public Service Board / Municipal Board, in consultation with SRC and SCAC, shall set the compensation and determine the conditions of employment of the Municipal Manager.

6.6. REMOVAL OF THE MUNICIPAL MANAGER

6.6.1. The Municipal Manager may be removed from office by³⁵;

(a) resolution of the Board of the Municipality supported by at least two-thirds of the members of the Board of the Municipality and in consultation with the Governor;
or

(b) Petition by the residents of the Municipality to the Governor through the board.

³⁵ This is not provided for in the Act. The provisions on removal of the Municipal Manager are of persuasive value only.

6.6.2. The Municipal Manager shall cease to hold office upon the lapse of the employment term of if he/she:

- (a) is unable to perform the functions of the office by reason of mental or physical infirmity;
- (b) is declared or becomes bankrupt or insolvent;
- (c) is convicted of a criminal offence, sentenced to and serves a term of imprisonment of six months or more;
- (d) resigns in writing to the Chairman, Municipal Board of Kajiado;
- (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.

6.6.3. The procedure for the removal of the Municipal Manager may be provided by the Regulations made under the County Government Act (No. 17 of 2012) and in the absence thereof in accordance with Kenyan law having regard to fair labor practices.

6.6.4. Any vacancy arising in the office of the Municipal Manager may be filled in the manner provided under Article 6.2 above.

6.7. ACTING MUNICIPAL MANAGER

6.7.1. When the Municipal Manager is temporarily disabled from acting as Municipal Manager or when the office of the Municipal Manager becomes vacant (by vacation or creation), the County Governor; on the recommendation of the Municipal Board or County Public Service Board (as the case may be); shall appoint a qualified person to be an Acting Municipal Manager.

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

6.7.3. The Acting Municipal Manager shall have the authority and duties of the Municipal Manager, except that the Acting Municipal Manager may appoint or remove employees only with approval of the Board of the Municipality.

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

7. MUNICIPAL FINANCES AND FINANCIAL MANAGEMENT

7.1. SOURCES OF THE MUNICIPALITY'S FUNDS AND REVENUE

11.1.1. The Board of the Municipality shall derive its revenue and funds from³⁶:

- (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.

7.2. APPOINTMENT OF THE MUNICIPALITY ACCOUNTING OFFICER

- 7.2.1. The Municipality Accounting Officer who is the Municipal Manager, shall be designated by the County Executive Committee Member for Finance in the manner provided under Section 148 of the Public Finance Management Act.³⁷
- 7.2.2. The Municipality head of Finance shall have a university degree in Accounting or Finance from a recognized university, and must be a certified public accountant duly registered by a relevant body
- 7.2.3. The head of Municipal Finance shall be answerable to the Municipal Manager on the day to day financial operations of the Municipality.

7.3. FUNCTIONS AND POWERS OF THE MUNICIPALITY ACCOUNTING OFFICER

- 7.3.2. 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.
- 7.3.3. Without prejudice to the foregoing, the Municipality Accounting Officer shall be responsible for managing the finances of the Municipality.
- 7.3.4. The Municipal head of Finance shall be answerable to the Municipal Manager for the day to day financial operations of the Municipality.

³⁶ Section 43 of the UACA and Section 172 of the Public Finance Management Act.

³⁷ Section 170 of the Public Finance Management Act.

7.4. FINANCIAL YEAR

- 7.4.1. The Municipality shall operate on an annual budget.
- 7.4.2. The financial year of the Board of the Municipality shall be the period of twelve months ending on the thirtieth June in each year.³⁸

7.5. BUDGET

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

7.6. MANAGEMENT OF MUNICIPALITY FINANCES

- 7.6.1. The Board of the Municipality shall, with the approval of the County Executive Committee, open and maintain a bank account in the name of the Municipality.
- 7.6.2. All monies received by the Board of the Municipality shall be paid into the Municipality's bank account promptly and in accordance with the Public Finance Management Act.³⁹
- 7.6.3. The board shall, within three months of its inception, establish relevant financial and administrative policies to ensure efficient and effective municipal operations.
- 7.6.4. The Municipal board shall approve the signatories of both the revenue and operational accounts of the Municipality as shall be recommended by the Municipal executive in line with prevailing principles within other government agencies and embedded in 7.6.3 above.

7.7. BORROWING BY THE MUNICIPALITY

- 7.7.1. The Board of the Municipality may only borrow from⁴⁰:-

- (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.

³⁸ Section 44 of the UACA

³⁹ Section 179 of the Public Finance Management Act.

⁴⁰ Section 177 of the Public Finance Management Act.

7.8. AUDIT

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

8. MUNICIPALITY PERSONNEL⁴¹

8.1. MUNICIPALITY PERSONNEL

- 8.1.2. The Board of the Municipality may subject to the approved Municipal establishment, employ such officers and employees as it deems necessary to execute the powers and duties provided by this Charter or any other law.

8.2. MANAGEMENT OF MUNICIPAL PERSONNEL

- 8.2.1. Employees and service provision agencies of the Municipality shall be under the general guidance of the Municipal Manager.

8.3. RETIREMENT SYSTEMS

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

8.4. COMPENSATION OF MUNICIPAL PERSONNEL

- 10.3.1. The compensation of all employees of the Municipality shall be set by the Municipal Board in Liaison with the County Executive and upon the advice of the Salaries and Remuneration Commission.

9. MUNICIPALITY PROPERTY⁴²

9.1. ACQUISITION, POSSESSION AND DISPOSAL

- 9.1.1. 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.
- 9.1.2. 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.

⁴¹ The following provisions are not provided in statute.

⁴² The following provisions are not provided in statute.

9.2. COMPULSORY ACQUISITION

- 9.2.1. Whenever the Municipality deems it necessary to acquire private land for its purposes, it shall request the County Executive Committee Member responsible for Land to request the National Land Commission to acquire the land on its behalf.⁴³
- 9.2.2. The provisions of the Land Act shall apply to any intended compulsory acquisition by the Municipality of property within the Municipality.

9.3. MUNICIPAL BUILDINGS

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

9.4. PROTECTION OF MUNICIPALITY PROPERTY

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

10. GENERAL PROVISIONS

10.1. OATH OF OFFICE⁴⁴

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

"I,, being called on to exercise the functions of [Municipal Manager/Chairperson, etc.] of the Municipality of Kajiado, 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 Kajiado, 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 Kajiado or otherwise under the law. (In the case of an oath— So help me God..⁴⁵"

⁴³ Section 107 of the Land Act.

⁴⁴ Section 18 of the Oaths and Statutory Declarations Act.

⁴⁵ The form of the oath is not provided by statute. A model from the constitution is adopted in this model Charter.

10.1.2. The Municipal Manager shall take and subscribe to this oath or affirmation before the County Governor or before one of the sworn deputies. All other persons taking and subscribing to the oath shall do so before the Municipal Manager.

10.2. AMENDMENTS TO THE CHARTER

10.2.1. The County Governor may at any time, after consultation with the Board of the Municipality, amend any provision of this Charter.

10.2.2. 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. SEPARABILITY

10.3.2. 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. EFFECTIVE DATE OF CHARTER

11.1.1. The provisions of this Charter shall be in effect from and immediately after the swearing in of the Manager and the board of the Municipality of Kajiado.

11.2. RIGHTS AND PRIVILEGES PRESERVED

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

11.3. DEPARTMENTS

11.3.1. All Town Departments shall continue to operate with the same powers, duties, activities, budgets, and employees as were in effect at the time this Charter becomes effective until changed by the Municipal Manager with the approval of the Board of the Municipality.

COUNTY GOVERNMENT OF KAJIADO



TEL: 020-2043075

Fax: 0202043075/80

Email: kajiadogovernor@gmail.com

When replying please quote

Ref: CGK/GVN.CORR/VOL.1/120

OFFICE OF THE GOVERNOR

P. O. BOX 11
KAJIADO.

Date 6th December, 2018

IN EXERCISE of the powers conferred to me by part 11, section 9 of the Urban Areas and Cities Act No. 13 of 2011 and all other enabling provisions of Law, and upon approval by the County Assembly of Kajiado in its sitting held on 5th December, 2018, I, **Joseph Jama ole Lenku**, The Governor of Kajiado County **HEREBY CONFER** Municipality Status to **KAJIADO** Municipality and **GRANT** it's Charter on this 6th DAY OF DECEMBER, 2018.

JOSEPH JAMA OLE LENKU
GOVERNOR, KAJIADO COUNTY.