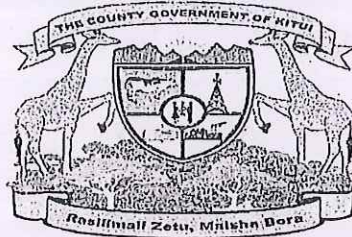


OFFICE OF THE CLERK COUNTY ASSEMBLY OF KITUI

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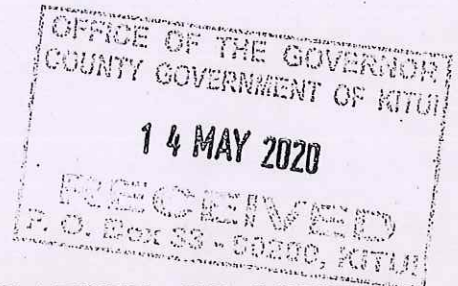
Clerk's Office,
Kitui County
Assembly,
P.O.Box 694-90200,
Kitui, Kenya.

When replying please quote;

OUR REF: CAK/4/20/Vol I/(2)

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

DATE: 14th May, 2020



**RE: APPROVED REPORT ON THE CONSIDERATION OF MWINGI
MUNICIPAL CHARTER**

The above subject matter refers.

In compliance with the provisions of Section 9 of the Urban Areas and Cities Act 2019, the County Assembly during a sitting held on Wednesday 13th May, 2020 approved the Report by the Committee Lands, Infrastructure and Urban Development on Consideration of the Mwingi Municipal Charter.

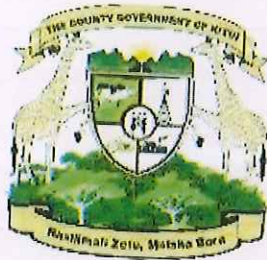
Forwarded herewith please find a copy of the approved report with recommendations for your necessary action.

The Votes and Proceedings are also attached for ease of reference.

Yours faithfully,


E.M.A. MUTAMBUKE,
CLERK OF ASSEMBLY
COUNTY ASSEMBLY OF KITUI.

THE COUNTY GOVERNMENT OF KITUI



COUNTY MINISTRY OF LANDS, INFRASTRUCTURE, HOUSING & URBAN DEVELOPMENT

MWINGI 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.

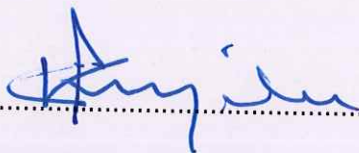
WHEREAS

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.

NOW THEREFORE IN EXERCISE of the powers conferred by section 9 (1) of the Urban Areas and Cities Act, as complemented by section 72 of the Interpretations and General Provisions Act (Chapter 2) and all other enabling provisions of law, the Governor of Kitui County HEREBY CONFERS the status of Municipality to Mwingi Town by way of grant of this Municipal Charter on this 9TH day of JUNE, 2020



.....
H.E CHARITY KALUKI NGILU

THE COUNTY GOVERNOR OF KITUI COUNTY



SEAL OF THE COUNTY GOVERNOR 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 Mwingi, within Kitui County, Kenya.

1.1.2. All processes affecting the Municipality shall be served on the Municipal Manager or the acting Municipal Manager or, in the absence of both, on the Chairperson of the Board of the Municipality.

1.2. BOUNDARIES

The boundaries of the Municipality of Mwingi shall be covering an area of approximately 492 km² or as may subsequently be altered.

2. POWERS, OBJECTS AND FUNCTIONS OF THE MUNICIPALITY

2.1. POWERS OF THE MUNICIPALITY

2.1.1. The Municipality of Mwingi 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 Bye-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 Bye-laws passed by the County Assembly of Kitui.

2.2. OBJECTS OF THE MUNICIPALITY

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

- a) Provide for efficient and accountable management of the affairs of the Municipality.
- b) Provide for a mechanism that will enable the inhabitants of the Municipality to:

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

2.3. FUNCTIONS OF THE MUNICIPALITY

The Municipality of Mwingi shall, within the boundaries of the Municipality, perform the following functions:

- a) Promotion, regulation and provision of an integrated wastes management system;
- b) Promotion and provision of water and sanitation services and infrastructure within the Municipality.
- 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 is established a Board of the Municipality of Mwingi.

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. COMPOSITION AND TERM OF THE BOARD

3.2.1. The Board of the Municipality shall be composed of ten (10) members appointed by the Governor.

3.2.2. The Board of the Municipality shall be constituted as follows:-

- a) the County Executive Committee Member for the time being responsible for cities and urban areas or their representative;
- b) three (3) members who shall be appointed by the Governor with the approval of the County Assembly;
- c) Four (4) members who shall be nominated by the following umbrella bodies and appointed by the Governor with the approval of the County Assembly:
 - i. An umbrella body representing professional associations in the area;
 - ii. An association representing the private sector in the area;
 - iii. A cluster representing registered associations of the informal sector in the area; and
 - iv. A cluster representing registered neighbourhood associations in the area;
- d) the Chief Officer for the time being responsible for urban development; and
- e) the Municipal Manager who shall be the secretary of the board and an ex- officio member of the Board.

3.2.3. The county governor shall while considering the nominated members identified by the organizations specified under clause 3.2.2 c), require the organizations to produce:

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

3.2.4. In appointing members of the Board of the Municipality, the Governor shall ensure gender equity, representation of persons with disability, youth and marginalised groups.

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

3.3. ELIGIBILITY FOR APPOINTMENT AS MEMBER OF THE BOARD

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

- a) Holds at least a diploma from an institution recognized in Kenya;
- b) Has a distinguished career in a medium level management position in either the private or public sector;
- c) Holds at least five years' post qualification professional experience;
- d) Satisfies the requirements of Chapter Six of the Constitution
- e) Is ordinarily resident or has a permanent dwelling in the Municipality;
- f) Carries on business in the Municipality; or
- g) Has lived in the municipality for at least five years.

3.3.2. A person shall not be appointed as a member of the Board if that person:

- a) is an undischarged bankrupt;
- b) has been removed from office for contravening the Constitution or any other law;
- c) is not a citizen of Kenya; or
- a) has in the conduct of his or her affairs not met any statutory obligations.

3.4. POWERS AND FUNCTIONS OF THE BOARD

3.4.1. 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, its subsequent amendments, the County Government Act and the Municipality Bye-laws.

3.4.2. Subject to the Constitution and any other written law, the Board of the Municipality shall, within the boundaries of the Municipality of Mwingi:

- 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 authorised 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) Ensure participation of the residents in decision making, its activities and programmes in accordance with the Urban Areas and Cities Act, its amendments, the County Governments Act and any other national legislation on public participation; and
- g) Exercise such other powers as may be delegated by the County Executive Committee of the County of Kitui.

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

- a) Cause to be kept all proper books and records of account of its income, expenditure, assets and liabilities;
- b) Within a period of three months after the end of each financial year, submit to the County Executive Committee its accounts for that year for transmission to the Auditor-General together with a statement of the income and expenditure of a board for that year and a statement of the assets and liabilities of a board on the last day of that financial year.
- c) Furnish the County Executive Committee and any other person as the County Executive Committee may designate, with certified copies of:
 - i. any proceedings or minutes of the board or its committees within twenty one days after the confirmation of the minutes;
 - ii. records of any of its accounts; and
 - iii. reports, statistics and documents as the County Executive Committee may require.
- d) develop or adopt policies, plans, strategies and programmes and set targets for service delivery;
- e) Within the first year of its appointment, adopt a single inclusive strategic plan for the development of the Municipality;
- f) Formulate and implement an integrated development plan;
- g) Promoting and undertaking infrastructural development and services within Municipality as delegated by the County Government of Kitui.
- h) Implementing applicable national and county legislation;

- i) Entering into contracts, partnerships or joint ventures as it may consider necessary for the discharge of its functions;
- j) 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;
- k) Collecting rates, taxes levies, duties, fees and surcharges on fees as delegated by the County Government of Kitui.
- l) Settling and implementing tariff, rates and tax and debt collection policies as delegated by the County Government of Kitui.
- m) Monitoring the impact and effectiveness of any services, policies, programs or plans;
- n) Establishing, implementing and monitoring performance management systems;
- o) Promoting a safe and healthy environment;
- p) Facilitating and regulating public transport;
- q) Performing such other functions as delegated by the County Government of Kitui.

3.5. CHAIRPERSON AND VICE 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 and a Vice Chairperson of the Board of the Municipality.
- 3.5.2. The Chairperson and the Vice-Chairperson of the Board of the Municipality shall at all times be of different gender.
- 3.5.3. The Chairperson shall have the following qualifications:
 - a) holds at least a degree from an institution recognized in Kenya;
 - b) has a distinguished career in a medium level management position in either the private or public sector;
 - c) holds at least ten years' post qualification professional experience;
 - d) satisfies the requirements of Chapter Six of the Constitution;
 - e) is ordinarily resident or has a permanent dwelling in the Municipality; and
 - f) carries on business in the Municipality or has lived in the municipality for at least five years.
- 3.5.4. The two shall hold office for a term of five (5) years.

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

- a) be the Head of the Board;
- b) chair meetings of the Board; and
- c) perform such duties as may be delegated by the Board

3.5.6. The vice chairperson shall, in the absence of the chairperson, perform the functions of chairperson and shall perform such other functions as may be delegated by the chairperson or the board.

3.6. REMOVAL OF THE CHAIRPERSON AND VICE-CHAIRPERSON

3.6.1. The Chairperson and the Vice-Chairperson of the Board of the Municipality may be removed on any of the following grounds:

- 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 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) is convicted of an offence and is sentenced to imprisonment for a term of six months or more;
- h) in any particular case, the member fails to declare his or her interest in any matter being considered or to be considered by the board or committee;
- i) engages in any gross misconduct; or
- j) dies

3.6.2. A person may be removed under clause 3.6.1:

- a) by the county governor;
- b) by the board, supported by the vote of at least two-thirds of the members of the board; or
- c) upon petition by the residents of a city or municipality.

3.6.3. A resident of the Municipality may file a written petition with the board for the removal of the Chairperson or Vice Chairperson.

3.6.4. The procedure for the removal of a Chairperson or Vice-Chairperson of the Board of the Municipality under 3.6.1 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.

3.6.5. 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 3.5.1.

3.7. MUNICIPAL MANAGER OF THE MUNICIPALITY

3.7.1. There shall be a Municipal Manager for the Municipality who shall implement the decisions and functions of the board and shall be answerable to the board.

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

3.7.3. Subject to Article 232 of the Constitution, a person shall qualify to be appointed as the Municipal Manager if the person:

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

3.7.4. In appointing the Municipal Manager under Article 3.7.2. the County Public Service Board shall ensure:

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

3.7.5. The Municipal Manager shall be the secretary of the Board of Mwingi Municipality and perform all such duties as provided for by the Urban Areas and Cities Act 2011.

3.7.6. The Municipal Manager shall be the Accounting and Authorized Officer of the Municipality as provided for under Section 148(2) of the Public Finance Management Act 2012.

3.7.7. The Municipal Manager shall:

- a) Submit to the County Executive Committee a copy of the integrated development plan as adopted by the Board within twenty one days of the adoption or amendment in accordance with the Urban Areas and Cities Act;
- b) Attend all Board of the Municipality meetings unless excused by the Chairperson of the Board or the Board of the Municipality;
- c) Make reports and recommendations to the Board of the Municipality about the needs of the Municipality;
- d) Administer and enforce all Municipality Bye-laws, resolutions, franchises, leases, contracts, permits, and other Municipality decisions;
- e) As the authorized officer, participate in the recruitment, supervision and management of Municipal employees;
- f) 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) 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;
- k) 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;
- l) Act as an ex-officio member of all committees of the Board of the Municipality; and
- m) Perform other duties as directed by the Board of the Municipality.

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

3.7.10. The County Public Service Board guided by the Salaries and Remuneration Commission shall set the compensation and benefits of the Municipal Manager like other civil servants in the County.

- 3.7.11. The Municipal Manager may be removed from office in the manner and procedure provided for the removal of civil servants by the Public Service Commission.
- 3.7.12. The Municipal Manager shall cease to hold office upon the lapse of the employment term, or if he/she:
- a) is unable to perform the functions of the office by reason of mental or physical infirmity;
 - b) Is declared or becomes bankrupt 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.
- 3.7.13. The procedure for the removal of the Municipal Manager must give regards to fair labour and administrative practices as enshrined in the Constitution and the Employment Act 2008.
- 3.7.14. Any vacancy arising in the office of the Municipal Manager may be filled in the manner provided under Article 3.7.2 above.
- 3.7.15. When the Municipal Manager is temporarily disabled from acting as a Municipal Manager or when the office of the Municipal Manager becomes vacant, the County Executive Committee Member for the time being responsible for urban development may request the County Public Service Board to appoint a qualified person to be an Acting Municipal Manager until such time that the Municipal Manager shall resume his or her duties.
- 3.7.16. The Acting Municipal Manager shall have the authority and duties of the Municipal Manager.

3.8. COMMITTEES OF THE BOARD

3.8.1. The Board of the Municipality may:

- a) Establish such Committees for any general or special purpose which, in its opinion, would regulate or manage its affairs more efficiently and as may be necessary for the performance of its functions under the Urban Areas and Cities Act;
- b) Delegate to such Committee such functions as are necessary for the efficient performance of its duties in respect to the whole or any part of the area under the jurisdiction of the Board of the Municipality; and
- c) Include resourceful persons who are not members of the Board in any Committee for the accomplishment of a particular purpose.

3.8.2. 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.

3.8.3. Any Board member heading such committees shall not exceed 4 (four) sitting in a quarter.

3.9. REMUNERATION OF THE MEMBERS OF THE BOARD

3.9.1. The Board of the Municipality shall not be entitled to a salary.

3.9.2. However, members of the Board of the Municipality shall be paid such allowances and benefits as defined by Salaries and Remuneration Commission Circular.

3.10. REMOVAL OF MEMBERS OF THE BOARD

3.10.1. A member of the Board of the Municipality shall cease to hold office if the member:

- a) Is unable to perform the functions of the office by reason of mental or physical infirmity;
- b) Is declared or becomes bankrupt or insolvent;

- c) Is convicted of a criminal offence and sentenced to a term of imprisonment of six months or more;
 - d) Resigns in writing to the County Governor;
 - e) Without reasonable cause, the member is absent from three consecutive meetings of the Board or Committee of the Board.
 - 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.
- 3.10.2. 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.
- 3.10.3. Article 3.10.2 b) and c) shall not be applicable to the ex-officio members.
- 3.10.4. The procedure for the removal or petition for removal of a member of the Board of the Municipality under Article 3.10.1 above shall be provided by Regulations under the Urban Areas and Cities Act.
- 3.10.5. 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 3.2 above.

3.11. MEETINGS OF THE BOARD

- 3.11.1. The Board of the Municipality shall hold its sittings to transact the business of the Board once every three months.
- 3.11.2. Notwithstanding Article 3.11.1, the Chairperson may, and upon request in writing by at least one-third of the members of the Board, convene a special meeting to transact any urgent business of the Board.
- 3.11.3. A board shall publish and publicise important information within its mandate affecting the Municipality.
- 3.11.4. A citizen may request for information and such request shall:

- a) be addressed to the Municipal manager or such other person as the board may for that purpose designate, and may be subject to the payment of a reasonable fee in instances where the board incurs an expense in providing the information; and
 - b) may be subject to confidentiality requirements of the board.
- 3.11.5. Subject to Article 35 of the Constitution, the board may decline to give information to an applicant where:
- a) the request is unreasonable in the circumstances;
 - b) the information requested is at a deliberative stage by the board;
 - c) the applicant fails to pay the prescribed fee; or
 - d) the applicant fails to satisfy any confidentiality requirements by the board.
- 3.11.6. The right of access to information under Article 35 of the Constitution shall be regulated in accordance with the nature and extent specified.
- 3.11.7. Every member and employee of the board shall sign a confidentiality agreement.
- 3.11.8. The board shall, in such manner as it considers appropriate, publish a notice for public information specifying:
- a) the location of all its offices; and
 - b) its address or addresses, telephone numbers and other means of communication or contact with the board.

3.12. QUORUM

- 3.12.1. A majority of the members of the Board of the Municipality is a quorum to conduct business.
- 3.12.2. 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.

3.13. RULES OF THE BOARD

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

3.14. RECORD OF INFORMATION OF THE BOARD

- 3.14.1. The minutes and other information of the Board of the Municipality shall be kept by the Secretary of the Board of the Municipality.
- 3.14.2. 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.
- 3.14.3. The Board shall furnish the County Executive Committee and any other person as the County Executive Committee may designate, with certified copies of:
- a) any proceedings or minutes of the board or its committees within twenty one days after the confirmation of the minutes;
 - b) records of any of its accounts; and
 - c) reports, statistics and documents as the County Executive Committee may require.

3.15. PROTECTION FROM PERSONAL LIABILITY

- 3.15.1. No act, matter or thing done or omitted to be done by:
- a) the chairperson or vice chairperson of the Board;
 - b) any member of the Board;
 - c) any member of staff or other person in the service of the Board; or
 - d) any person acting under the direction of the Board,
- shall, if that act, matter or thing was done or omitted to be done in good faith in the execution of a duty or under direction, render that member or person personally liable to any civil action, claim or demand.
- 3.15.2. Notwithstanding the provisions of Article 3.15.1, a person who misappropriates, or authorizes the use of funds contrary to existing law or instructions shall be accountable for any loss arising from that use and shall be required to make good the loss even if that person has ceased to hold office.

3.16. CITIZEN FORA

- 3.16.1. The Board of the Municipality shall invite petitions and representations from the citizen fora in line with the Urban Areas and Cities Act, with regard to the administration and management of affairs within the Municipality.

3.16.2. The Board shall make recommendations on the manner in which issues raised at the Citizen Fora, if any, may be addressed and shall accordingly pass the recommendations to the Municipal Manager for implementation.

3.16.3. The Municipal Manager shall make a report on the decision made in respect of a petition or presentation made by the Citizen Fora and the reasons for such decision.

4. LEGISLATIVE AUTHORITY

4.1. BY-LAWS

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

4.2. PASSING OF BY-LAWS

4.2.1. 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 one week before the meeting.

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

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

4.2.4. After adoption of a By-law, the Chairperson of the Board must endorse it with the date of adoption and its title.

4.3. EFFECTIVE DATE OF BYE-LAWS

4.3.1. Bye-laws shall take effect on the 30th day after adoption, or on a later day provided in the By-law.

4.3.2. A By-law may take effect as soon as adopted or at such other date less than 30 days after adoption if it contains an emergency clause.

5. ADMINISTRATIVE AUTHORITY

5.1. RESOLUTIONS

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

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 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

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

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 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.

6.1.2. No payment shall be made out of the funds of the Board unless it has been provided for in the approved annual or revised or supplementary estimates of expenditure.

6.2. APPOINTMENT OF THE MUNICIPALITY ACCOUNTING OFFICER

6.2.1. The Municipal Manager shall be the Accounting and Authorized Officer of the Municipality as provided for under Section 148(2) of the Public Finance Management Act 2012 and shall have all the powers and perform all the functions of accounting officers as provided under the Public Finance Management Act 2012.

6.2.2. Without prejudice to the foregoing, the Municipality Manager as the Accounting Officer shall be responsible for managing the finances of the Municipality.

6.3. FINANCIAL YEAR

6.3.1. The Municipality shall operate on an annual budget.

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

6.4. BUDGET

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.

6.5. MANAGEMENT OF MUNICIPALITY FINANCES

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

6.5.2. 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.

6.6. BORROWING BY THE MUNICIPALITY

6.6.1. The Board of the Municipality may only borrow in accordance to the Public Finance Management Act and on such terms as may be imposed by the County Assembly.

6.6.2. Over the medium term, the proceeds of borrowing shall be used only for purposes of financing development expenditure and not recurrent expenditure.

6.7. AUDIT

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

7. MUNICIPALITY PERSONNEL

7.1. MUNICIPALITY PERSONNEL

The Board of the Municipality may subject to the approval of the County Executive Committee Member for the time being responsible for urban development cause the County Public Service Board to employ such officers and employees as it deems necessary to execute the powers and duties provided by this Charter or other any other law.

7.2. MANAGEMENT OF MUNICIPAL PERSONNEL

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

7.3. RETIREMENT SYSTEMS

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.

7.4. COMPENSATION OF MUNICIPAL PERSONNEL

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

8. MUNICIPALITY PROPERTY

8.1. ACQUISITION, POSSESSION AND DISPOSAL

8.1.1. 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.

8.1.2. 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.

8.1.3. All Mwingi Town property and funds of every kind belonging to or in the possession of the Town at the time this Charter becomes effective are vested in the Municipality of Mwingi, 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 for the time being responsible for lands to request the National Land Commission to acquire the land on its behalf.

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

8.3. PROTECTION OF MUNICIPALITY PROPERTY

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

9. GENERAL PROVISIONS

9.1. OATH OF OFFICE

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

"I,.....,being called on to exercise the functions of (Municipal Manager/Member) of the Municipality of Mwingi , 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 the Constitution of Kenya and all other laws of the Republic, that except with the authority of the Board of the Municipality of Mwingi, I will not directly or indirectly reveal the nature or contents of any business, proceedings or document of the Municipality committed to my secrecy, except as may be required for the due discharge of my duties as [Municipal Manager/Member] of the Municipality of Mwingi or otherwise under the law. (In the case of an oath— So help me God."

9.1.2. The Municipal Manager shall take and subscribe to this oath or affirmation before the County Governor or before one of the sworn deputies.

9.1.3. All other persons taking and subscribing to the oath shall do so before the Municipal Manager.

9.2. AMENDMENTS TO THE CHARTER

9.2.1. 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.

9.2.2. 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.

9.3. SEPARABILITY

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.

10. TRANSITIONAL PROVISIONS

10.1. EFFECTIVE DATE OF CHARTER

The provisions of this Charter shall be in effect from and after this 9th day of JUNE, 2020.

10.2. RIGHTS AND PRIVILEGES PRESERVED

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