

MACHAKOS MUNICIPALITY



MUNICIPAL CHARTER

CONTENTS

PREAMBLE	3
1 INCORPORATION, NAME AND BOUNDARIES	5
1.1 INCORPORATION AND NAME	5
1.2 BOUNDARIES	5
2 OBJECTS AND FUNCTIONS OF THE MUNICIPALITY	5
2.1 OBJECTS OF THE MUNICIPALITY	5
2.2 FUNCTIONS OF THE MUNICIPALITY	6
3. THE BOARD OF THE MUNICIPALITY	7
3.1 ESTABLISHMENT OF THE BOARD	7
3.2 POWERS AND FUNCTIONS OF THE BOARD OF THE MUNICIPALITY	7
3.3 COMPOSITION AND TERM OF THE BOARD OF THE MUNICIPALITY	9
3.4 ELIGIBILITY FOR APPOINTMENT AS MEMBER OF THE BOARD OF THE MUNICIPALITY	10
3.5 CHAIRPERSON OF THE BOARD	10
3.6 POWERS AND FUNCTIONS OF THE CHAIRPERSON	10
3.7 VICE-CHAIRPERSON OF THE BOARD OF THE MUNICIPALITY	10
3.8 REMOVAL OF THE CHAIRPERSON AND VICE-CHAIRPERSON	11
3.9 SECRETARY OF THE BOARD OF THE MUNICIPALITY	11
3.10 COMMITTEES OF THE BOARD OF THE MUNICIPALITY	11
3.11 REMUNERATION OF THE MEMBERS OF THE BOARD OF THE MUNICIPALITY	12
3.12 REMOVAL OF MEMBERS OF THE BOARD OF THE MUNICIPALITY	12
3.13 MEETINGS OF THE BOARD OF THE MUNICIPALITY	13
3.14 QUORUM	13
3.15 RULES OF THE BOARD MEETINGS	13
3.16 RECORD OF INFORMATION OF THE BOARD	13
3.17 CITIZEN PARTICIPATION	14
4 BY-LAWS	14
4.1 BY-LAWS	14
5 ADMINISTRATIVE AUTHORITY	14
5.1 RESOLUTIONS	14
5.2 APPROVAL OF RESOLUTIONS	14
5.3 EFFECTIVE DATE OF RESOLUTIONS	14
6 THE MUNICIPAL MANAGER	14
6.1 OFFICE OF THE MUNICIPAL MANAGER	14

6.2	APPOINTMENT AND TERM.....	15
6.3	QUALIFICATIONS.....	15
6.4	FUNCTIONS AND POWERS OF THE MUNICIPAL MANAGER.....	15
6.5	REMUNERATION.....	17
6.6	MUNICIPAL MANAGER/TEMPORARY VACANCY.....	17
7	MUNICIPAL FINANCES AND FINANCIAL MANAGEMENT.....	18
7.1	SOURCES OF THE MUNICIPALITY’S FUNDS AND REVENUE.....	18
7.2	APPOINTMENT OF THE MUNICIPALITY ACCOUNTING OFFICER.....	18
7.3	FUNCTIONS AND POWERS OF THE MUNICIPALITY ACCOUNTING OFFICER....	18
7.4	FINANCIAL YEAR.....	18
7.5	BUDGET.....	18
7.6	MANAGEMENT OF MUNICIPALITY FINANCES.....	19
7.7	BORROWING BY THE MUNICIPALITY.....	19
7.8	AUDIT.....	19
8	MUNICIPALITY PERSONNEL.....	19
8.1	MUNICIPALITY PERSONNEL.....	19
8.2	MANAGEMENT OF MUNICIPAL PERSONNEL.....	19
8.3	COMPENSATION OF MUNICIPAL PERSONNEL.....	19
9	MUNICIPALITY PROPERTY.....	20
9.1	ACQUISITION, POSSESSION AND DISPOSAL.....	20
9.2	COMPULSORY ACQUISITION.....	20
9.3	MUNICIPAL BUILDINGS.....	20
9.4	PROTECTION OF MUNICIPALITY PROPERTY.....	20
10	GENERAL PROVISIONS.....	20
10.1	OATH OF OFFICE.....	20
10.2	AMENDMENTS TO THE CHARTER.....	21
10.3	SEPARABILITY.....	21
11	TRANSITIONAL PROVISIONS.....	21

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 Machakos duly approved the request by the Machakos County Executive Committee for grant of this Charter to the now MUNICIPALITY OF MACHAKOS.

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 Machakos County **HEREBY GRANTS** the Municipality of Machakos this Municipal Charter on

This^{27th} day of^{June}2018.

NAME OF GOVERNOR. H.E Dr. ALFRED NGANGA MUTUA

THE COUNTY GOVERNOR OF MACHAKOS COUNTY

.....^{Dr. Alfred N. Mutua}.....
SIGNATURE



OFFICIAL SEAL

1 INCORPORATION, NAME AND BOUNDARIES

1.1 INCORPORATION AND NAME

- 1.1.1. This Charter is the Municipal Charter of the Municipality of Machakos, within Machakos 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 Secretary of the Board of the Municipality.
- 1.1.3 The municipality shall be an entity of the Government of Machakos County and shall be through the relevant line department.

1.2 BOUNDARIES

The boundaries of the Municipality of Machakos as now existing shall consist of the following wards: Mutituni, Mumbuni North, Machakos Central, Muvuti Kiima Kimwe, Kalama and Kola; or as may subsequently be altered shall be the boundaries of the Municipality of Machakos.

OBJECTS AND FUNCTIONS OF THE MUNICIPALITY

OBJECTS OF THE MUNICIPALITY

2.1.2. The objects of the Municipality of Machakos are to:-

- i. Oversee 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) Ensure accountability and transparency in public expenditure, and
 - c) Enjoy efficiency in service delivery.
- iii. To institute 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; and
- vii. Fostering the economic, social and environmental well-being of its community.

2.1 FUNCTIONS OF THE MUNICIPALITY

2.2.1 The Municipality of Machakos 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) Maintenance of urban roads and associated infrastructure;
- c) Maintenance of storm drainage and flood controls;
- d) Maintenance of walkways and other non-motorized transport infrastructure;
- e) Maintenance of green spaces;
- f) Maintenance of street lighting;
- g) Maintenance and regulation of municipal markets and abattoirs;
- h) Maintenance of fire stations; provision of fire-fighting services,
- i) Emergency preparedness and disaster management;
- j) Maintenance of administrative offices; and
- k) Any other functions as may be delegated by the County Executive Committee member in charge of Urban Development.

3. THE BOARD OF THE MUNICIPALITY

3.1 ESTABLISHMENT OF THE BOARD

- 3.1.1. The management of the Municipality of Machakos shall be vested in the Government of Machakos County and administered on behalf by a board.
- 3.1.2. There shall be a Board of the Municipality of Machakos to be known as the Machakos Municipality Board.
- 3.1.3. The Board of the Municipality as an entity of Government of Machakos County 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 acts 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.
- 3.1.4. There shall be a principal and agency relationship between the Board of the Municipality and the Government of Machakos County. The County government shall be the principal and the board, the agent.
- 3.1.5. The board shall be answerable to the Governor through the County Executive Committee Member in charge of Urban Development.

3.2 POWERS AND FUNCTIONS OF THE BOARD OF THE MUNICIPALITY

- 3.2.1. Except as otherwise provided for by the Constitution and other laws, all powers of the Municipality shall be vested in the Board of the Municipality as guided by the relevant County department.
- 3.2.2. Subject to the above provisions, the Board of the Municipality shall, within the boundaries of the Municipality of Machakos:
- a) executive functions as delegated by the County Executive Committee under the supervision of the relevant County Executive Committee Member in charge of Urban Development;
 - b) ensure provision of services to its residents;

- c) promote constitutional values and principles;
- d) ensure the implementation and compliance with policies formulated by both the National and County Government;
- e) initiate consultations for enactment of By-laws in other relevant regulatory frameworks;
- f) undertake other projects as may be instructed by the County Executive Committee Member in charge of Urban Development under the direction of the County Executive Committee; and
- g) ensure participation of the residents in decision making, its activities and programmes.

3.2.3. 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) implement an integrated development plan;
- d) maintaining a comprehensive database and information system of the administration;
- e) administering and regulating its internal affairs;
- f) implementing applicable National and County policies and legislation;
- g) monitoring and, where appropriate, regulating municipal services where those services are provided by service providers other than the Board of the Municipality;
- h) preparing and submitting its annual budget estimates to the County Treasury through the relevant line department for consideration and submission to the County Assembly for approval as part of the annual County Appropriation Bill;
- i) monitoring the impact and effectiveness of any services, policies, programs or plans;
- j) establishing, implementing and monitoring performance management systems;
- k) promoting a safe and healthy environment;
- l) performing such other functions as delegated by the County Executive Committee Member.

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 recommended by the County Executive Committee Member in charge of Urban Development for nomination by the Governor and approved by the County Assembly.
- 3.3.3. Five (5) members of the Board shall be recommended by the County Executive Committee Member in charge of Urban Development under 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 and appointed by the County Executive Committee with the approval of the County Assembly.
- and nominated by the Governor and approved by the County Assembly.
- 3.3.4. The following in their alternate shall be ex-officio members of the board;
- a) the Chief Officer in charge of Urban Development;
 - b) the Chief Officer in charge of Trade;
 - c) the Chief Officer in charge of Public Works;
 - d) the Chief Officer in charge of Finance; and
 - e) the Chief Officer in charge of Decentralized Units and County Administration
- 3.3.5. In appointing members of the Board of the Municipality, the County Executive Committee shall ensure gender equity, representation of persons with disability, youth and marginalised groups.
- 3.3.6. 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 for a reasonable period of time;
- c) minimum education of a diploma or a demonstrable track record in public affairs; and
- d) satisfy Chapter 6 of the Constitution of 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.

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) A majority decision of the members of Board of the Municipality at a duly convened meeting where quorum is present.
- 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 3.5 and 3.7 respectively.

3.9 SECRETARY OF THE BOARD OF THE MUNICIPALITY

- 3.9.1. The Municipal Manager shall be secretary of the Board of the Municipality.
- 3.9.2. Where the Secretary of the Board of the Municipality is absent from any meeting, the members of the Board of the Municipality shall appoint a Secretary of the Board from amongst themselves for purposes of that 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; and
 - c) include persons who are not members of the Board in any Committee.
- 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 a far as they are applicable on those provision of this Charter which govern the taking of decisions and performance of functions by the Board of the Municipality.

3.11 REMUNERATION OF THE MEMBERS OF THE BOARD OF THE MUNICIPALITY

- 3.11.1. The Board of the Municipality may be considered for a retainer depending on the workload in consideration of prudence.
- 3.11.2. Members of the Board of the Municipality shall be eligible to such allowances as the County Executive Committee shall determine, in line with the Salaries and Remuneration Commission guidelines.

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) 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 by the appointing authority under the following circumstances;
- a) is found guilty of professional misconduct by the relevant professional body;
 - b) is disqualified from holding a public office under the Constitution;
 - c) engages in any gross misconduct;
 - d) fails to declare his or her interest in any matter being considered or to be considered by the Board or Board Committees; and
 - e) Provided nothing prevents the Governor from instituting changes to the board in public interest.

- 3.12.3. The procedure for the removal by petition of a member of the Board of the Municipality under 3.12.2 above shall be provided by Regulation under the Urban Areas and Cities Act.
- 3.12.4. The regulations shall ensure fairness, due process and justice is served on the parties to avoid unnecessary witch-hunt.
- 3.12.5. 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 3.3 above.
- 3.12.6. Provided where the removal has actioned vacancy affecting quorum, the Governor may appoint qualified board members on acting capacity to ensure smooth running of the Municipality Board pending competitive recruitment.

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 shall, convene a special meeting to transact any urgent business of the Board of the Municipality.

3.13 QUORUM

- 3.14.1. The quorum shall be the Chairperson/Vice-chairperson and three other members.
- 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.

3.14 RULES OF THE BOARD MEETINGS

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

3.15 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.
- 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.

3.16 CITIZEN PARTICIPATION

- 3.17.1. The Board of the Municipality shall ensure the development of mechanisms for the participation of the residents of the Municipality of Machakos in the management and administration of the Municipality.
- 3.17.2. All recommendations from the citizen participation of the Municipality of Machakos shall be forwarded to the Board of the Municipality for consideration.
- 3.17.3. All recommendations on issues raised in the citizen participation and addressed by the Board of the Municipality shall be forwarded to the Municipal Manager for implementation.

4 BY-LAWS

4.1 BY-LAWS

- 4.1.1. The procedure for enactment of the municipal by-laws shall be as provided for under Article 185 of the Constitution of Kenya, County Government Act and other relevant laws and legislative practices and traditions applicable in Kenya.

5 ADMINISTRATIVE AUTHORITY

5.1 RESOLUTIONS

- 5.1.1. 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

- 5.3.1. 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.
- 6.1.2. The Municipal Manager shall be the administrative head of the Municipality of Machakos

6.2 APPOINTMENT AND TERM

- 6.2.1 The Municipal Manager shall be competitively recruited by the County Public Service Board and appointed by the Governor.
- 6.2.2. The Municipal Manager shall be an employee of the County Public Service Board and will be liable to all the regulations governing employees of Machakos County Public Service Board.

6.3 QUALIFICATIONS

- 6.3.1. The Municipal Manager shall:
- a) Be a citizen of Kenya;
 - b) Hold a bachelor's degree from a university recognized in Kenya or its equivalent; and
 - c) Have served and has proven experience in administration or management either in public or private sector.
- 6.3.2. In appointing the Municipal Manager, the County Public Service Board shall ensure:
- a) gender equity;
 - b) the inclusion of minorities and marginalised communities; and
 - c) satisfies the requirements of Chapter six of the Constitution of Kenya.
- 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 and the County Executive Committee Member responsible for Urban Development.
- 6.4.2 The Municipal Manager shall perform the following functions:
- a) Act on behalf of the Board of the Municipality:
 - i. In ensuring the execution of the directives of Board of the Municipality; and
 - ii. During all intervals between meetings of the Board of the Municipality.

- b) Prepare and present for approval of the Board of the Municipality, an annual estimate of revenue and expenditure to fund and carry out the programmes and operations of the Board;
- c) Be principally responsible for building and maintain a strong alliance and effective working relationships between the Board of the Municipality and the civil society, private sector and community based organizations;
- d) Cause to be prepared, transmitted to the Board of the Municipality, and distributed to the public at least an annual report on the activities and accomplishments of the departments and agencies comprising the executive branch of the Municipality;
- e) Act as a secretary of all committees of the Board of the Municipality;
- f) Such other functions as the Board may, by order, confer upon the Municipal Manager; and
- g) Any other functions as may be delegated by the County Executive Committee member in charge of Urban Development.

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 agencies of the Municipality and provide for the coordination of their activities;
- b) Enforce the provisions of this Charter, Municipal By-laws, and all applicable laws;
- c) Exercise powers granted to the Municipal Manager in this Charter, By-laws and applicable laws concerning the appointment and removal of certain officers, employees, and members of committees of the Board of the Municipality; and
- d) Exercise such other powers as may be prescribed by this Charter, by-laws 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 Municipality By-laws, resolutions, contracts , and other Municipality decisions;

- d) With the approval of the board and County Public Service Board appoint, supervise and remove Municipality employees;
- e) Prepare monthly reports to the relevant Chief Officers of the affairs of the board and the municipality;
- f) Organize Municipality departments and administrative structure;
- g) Prepare and administer the annual Municipality budget;
- h) Administer Municipality utilities and property;
- i) Encourage and support regional and intergovernmental cooperation;
- j) Promote cooperation among the Board of the Municipality, staff and citizens in developing Municipality policies and building a sense of community;
- k) Perform other duties as directed by the Board of the Municipality;
- l) 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

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

6.6 MUNICIPAL MANAGER/TEMPORARY VACANCY

6.6.1. When the Municipal Manager is temporarily disabled from acting as Municipal Manager or when the office of the Municipal Manager becomes vacant, the Governor shall appoint a qualified person to be an Acting Municipal Manager.

6.6.2. The Governor shall inform the County Public Service Board of such appointment.

6.6.3. 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 and the County Public Service Board.

6.6.4. An Acting Municipal Manager shall hold office until such a time as a new Municipal Manager shall be appointed by the Governor.

7 MUNICIPAL FINANCES AND FINANCIAL MANAGEMENT

7.1 SOURCES OF THE MUNICIPALITY'S FUNDS AND REVENUE

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

- a) monies appropriated 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.

7.2 APPOINTMENT OF THE MUNICIPALITY ACCOUNTING OFFICER

7.2.1. The Municipality Accounting Officer shall be designated by the County Executive Committee Member for Finance in the manner provided under Section 148 of the Public Finance Management Act.

7.2.2. The Municipality Manager shall be designated by the Accounting Officer in charge of Urban Development as the A.I.E holder for the Municipality.

7.3 FUNCTIONS AND POWERS OF THE MUNICIPALITY ACCOUNTING OFFICER

7.3.1. The Municipality Accounting Officer shall have all the powers and perform all the functions of accounting officers as provided under the Public Finance Management Act.

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

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 (30th) June in each year.

7.5 BUDGET

7.5.1. 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 Member for Finance, open and maintain a bank account in the name of the Municipality and subject to the applicable laws and procedures.
- 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.

7.7 BORROWING BY THE MUNICIPALITY

- 7.7.1. Subject to the Constitution of Kenya and Public Finance Management Act the Board of the Municipality may only borrow:-
- a) from the County Government;
 - b) through the County Government; and
 - c) by way of a bank overdraft.

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 PERSONNEL

8.1 MUNICIPALITY PERSONNEL

- 8.1.1. 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 any other law.
- 8.1.2. The County Executive Committee Member in charge of Public Service may in consultation with the Board of the Municipality, second officers to the Municipality.

8.2 MANAGEMENT OF MUNICIPAL PERSONNEL

- 8.2.1. The officers of Municipality of Machakos shall be covered by the medical, retirement and pension schemes applicable to employees of the Government of Machakos County.

8.3 COMPENSATION OF MUNICIPAL PERSONNEL

- 8.4.1. 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.

9 MUNICIPALITY PROPERTY

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-off any property belonging to the Municipality with the consent and approval of the Governor.
- 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.

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 to request the National Land Commission to acquire the land on its behalf.
- 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 OFFICE

- 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/ Board Member of the Municipality of Machakos ,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 Machakos , 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/ Board Member of the Municipality of Machakos or otherwise under the law. (In the case of an oath— So help me God).”

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 amend any provision of this Charter.

10.2.3. 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

10.3.1. 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 EFFECTIVE DATE OF CHARTER

11.1.1. The provisions of this Charter shall be in effect from the date of the grant of the Charter by the Governor.

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.